



Canadian International
Trade Tribunal

Tribunal canadien du
commerce extérieur

CANADIAN
INTERNATIONAL
TRADE TRIBUNAL

Dumping and Subsidizing

ORDER AND REASONS

Expiry Review RR-2022-001

Carbon and Alloy Steel Line Pipe

*Order and reasons issued
Wednesday, September 6, 2023*

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IN THE MATTER OF an expiry review, pursuant to subsection 76.03(1) of the *Special Import Measures Act*, of the finding made by the Canadian International Trade Tribunal on January 4, 2018, in inquiry NQ-2017-002, concerning:

**CARBON AND ALLOY STEEL LINE PIPE ORIGINATING IN OR EXPORTED
FROM THE REPUBLIC OF KOREA**

ORDER

The Canadian International Trade Tribunal, pursuant to subsection 76.03(1) of the *Special Import Measures Act* (SIMA), has conducted an expiry review of its finding made on January 4, 2018, in inquiry NQ-2017-002, concerning the dumping of carbon and alloy steel line pipe, originating in or exported from the Republic of Korea, welded or seamless, having a nominal outside diameter from 2.375 inches (60.3 mm) up to and including 24 inches (610 mm) (with all dimensions being plus or minus allowable tolerances contained in the applicable standards), including line pipe meeting or supplied to meet any one or several of API 5L, CSA Z245.1, ISO 3183, ASTM A333, ASTM A106, ASTM A53-B or their equivalents, in all grades, whether or not meeting specifications for other end uses (e.g., single-, dual-, or multiple-certified, for use in oil and gas or other applications), and regardless of end finish (plain ends, beveled ends, threaded ends, or threaded and coupled ends), surface finish (coated or uncoated), wall thickness, or length, excluding galvanized line pipe and excluding stainless steel line pipe (containing 10.5% or more by weight of chromium), and excluding goods covered by the Tribunal's finding in inquiry NQ-2012-003.

For greater certainty, the product definition includes:

- a. unfinished line pipe (including pipe that may or may not already be tested, inspected, and/or certified to line pipe specifications) originating in the Republic of Korea and imported for use in the production or finishing of line pipe meeting final specifications, including outside diameter, grade, wall thickness, length, end finish, or surface finish; and
- b. non-prime and secondary pipes ("limited service products").

Furthermore, the Tribunal excluded from its finding, in inquiry NQ-2017-002, welded line pipe having nominal outside diameters from and including 18 inches to 24 inches (610 mm) (with all dimensions being plus or minus allowable tolerances contained in the applicable standards), regardless of grade and wall thickness, with a manganese content of no less than 16% by weight, for exclusive use in slurry, tailings, and pressure piping systems in oil sands projects, and marked "Not for CSA Z-662 Applications". For greater certainty, use in a pipeline meeting CSA Z-662 is not permitted under this exclusion.

Pursuant to paragraph 76.03(12)(b) of SIMA, the Tribunal continues its finding in respect of the aforementioned goods.

Furthermore, the Tribunal excludes the following from its order:

- Submerged arc longitudinal welded line pipe, regardless of grade, having nominal outside diameters from and including 18 inches to 24 inches (610 mm) (with all dimensions being plus or minus allowable tolerances contained in the applicable standards), with a wall thickness of 0.500 inches or above (12.700 mm or above), in lengths of 60 feet (18.288 m) with no girth welds, for exclusive use in slurry or tailings piping systems in oils sands projects and marked “For Use as Slurry/Tailings Pipe Only” and having an accompanying mill test report indicating that the pipe is certified for use in slurry or tailings applications only; for greater certainty, use in a pipeline meeting CSA Z-662 or as pressure piping meeting CSA B51 Code is not permitted under this exclusion.
- Submerged arc longitudinal welded line pipe, having nominal outside diameters from and including 18 inches to 24 inches (with all dimensions being plus or minus allowable tolerances contained in the applicable standards), regardless of wall thickness and length, for the exclusive end use of high-temperature steam distribution in Steam Assisted Gravity Drainage (SAGD) or Cyclic Steam Stimulation (CSS) processes, marked “For Steam Distribution Only (in SAGD or CSS End-Uses Only)”, and certified to meet the requirements of CSA Z662.19 Clause 14 and/or Annex I and certified to have proven fatigue/creep test properties as provided in sections I.2.3.2 and I.3.2.1 of CSA Z662.19 as established by means of a creep test of no less than 10,000 hours carried out in accordance with ASTM E139 and having an accompanying mill test report indicating that the pipe is certified for use in high-temperature steam distribution in SAGD or CSS processes only.

Eric Wildhaber

Eric Wildhaber
Presiding Member

Cheryl Beckett

Cheryl Beckett
Member

Frédéric Seppey

Frédéric Seppey
Member

The statement of reasons will be posted on the Tribunal’s website at a later date.

Place of Hearing:	Ottawa, Ontario
Dates of Hearing:	July 4 to 7, 2023
Tribunal Panel:	Eric Wildhaber, Presiding Member Cheryl Beckett, Member Frédéric Seppey, Member
Tribunal Secretariat Staff:	Kirsten Goodwin, Counsel Joel Reinhardt, Counsel Yannick Trudel, Counsel Jennifer Mulligan, Expert Paralegal Shawn Jeffrey, Lead Analyst Rhonda Heintzman, Analyst Rebecca Campbell, Analyst Félix Filiatreault, Analyst Ozanay Bozkaya, Data Services Patrick Stidwill, Data Services Geneviève Bruneau, Registrar Officer Esther Song-Ledlow, Registrar Officer Morgan Oda, Registrar Officer

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Hydril Canadian Company LP
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STATEMENT OF REASONS

INTRODUCTION

[1] The Canadian International Trade Tribunal, pursuant to subsection 76.03(1) of the *Special Import Measures Act*¹ (SIMA), has conducted an expiry review of the finding it made on January 4, 2018, in inquiry NQ-2017-002,² concerning the dumping of carbon and steel alloy line pipe originating in or exported from the Republic of Korea (South Korea) (the subject goods).

[2] Under SIMA, a finding of injury or threat of injury, and the associated protection in the form of anti-dumping or countervailing duties, expires five years from the date of the finding or, if one or more orders continuing the finding have been made, the date of the last order made under paragraph 76.03(12)(b) of SIMA, unless it is continued by the Tribunal following the conduct of an expiry review. The finding in *Line Pipe II*, issued on January 4, 2018, was due to expire on January 3, 2023.

[3] The Tribunal's mandate is to determine whether the expiry of the finding is likely to result in injury to the domestic industry and then to make an order either continuing or rescinding the finding, with or without amendment.

PROCEDURAL BACKGROUND

[4] The Tribunal issued a notice of expiry review on October 31, 2022.³ Consequently, on November 1, 2022, the Canada Border Services Agency (CBSA) initiated an investigation to determine whether the expiry of the Tribunal's finding was likely to result in the continuation or resumption of dumping of the subject goods.⁴

[5] On March 30, 2023, the CBSA determined, pursuant to paragraph 76.03(7)(a) of SIMA, that the expiry of the finding was likely to result in the continuation or resumption of dumping of the subject goods.⁵ Following the CBSA's determination, the Tribunal began its portion of the expiry review on March 31, 2023, pursuant to subsection 76.03(10), to determine whether the expiry of the finding was likely to result in injury to the domestic industry.

[6] The period of review (POR) for this expiry review covers three calendar years, from January 1, 2020, to December 31, 2022.⁶

[7] The Tribunal asked known domestic producers and certain known importers of line pipe meeting the product definition, unions and foreign producers of the subject goods to answer questionnaires. The Tribunal received 3 replies to the domestic producers' questionnaire, 22 replies to the importers' questionnaire (including one from a domestic producer-importer), 3 replies to the union questionnaire and 1 reply to the foreign producers' questionnaire.⁷

¹ R.S.C., 1985, c. S-15.

² *Carbon and Alloy Steel Line Pipe* (4 January 2018), NQ-2017-002 (CITT) [*Line Pipe II*].

³ Exhibit RR-2022-001-02. The Tribunal issued a revised notice of expiry review on May 10, 2023; Exhibit RR-2022-001-02.A.

⁴ Exhibit RR-2022-001-03.

⁵ *Ibid.*

⁶ Exhibit RR-2022-001-05.A.

⁷ *Ibid.* at 12–16.

[8] Using the questionnaire replies and other information on the record, staff of the Secretariat to the Tribunal prepared public and protected versions of the investigation report, which were placed on the record on May 23, 2023.⁸ Revised versions of the investigation report were placed on the record on May 26, 2023.⁹ Additional revisions were made to certain tables of the investigation report and placed on the record on June 5, 2023.¹⁰

[9] Domestic producers Evraz Inc. NA Canada (Evraz) and Tenaris Canada,¹¹ as well as the United Steelworkers and Unifor (collectively the Unions), filed submissions, witness statements and other evidence in support of the continuation of the finding. No submissions were filed in opposition to the continuation of the finding.

[10] On May 29, 2023, Pusan Pipe America d.b.a. SeAH Steel America Inc. (SSA) and Cantak Corporation (Cantak) requested product exclusions.¹² On June 6, 2023, Evraz replied to the product exclusion requests made by SSA¹³ and by Cantak.¹⁴ SSA responded to those replies on June 14, 2023.¹⁵ On June 20, 2023, Evraz, Bri-Steel Manufacturing (Bri-Steel), Gateway Tubulars Ltd. (Gateway), Tenaris Canada, the Unions, SSA and Cantak notified the Tribunal that they had reached an agreement on proposed product exclusion language for the Tribunal's consideration.¹⁶

[11] On June 20 and 21, 2023, the Tribunal decided that its inquiry function warranted seeking perspectives from actors engaged in the market other than those who took an active part in this matter and, consequently, the Tribunal issued subpoenas compelling certain persons from Alberta Pipe Fittings Ltd. (Alberta Pipe), Husteel Canada Co. Ltd. (Husteel) and Salzgitter Mannesmann International (Canada) Inc. (Salzgitter) to attend the hearing and give evidence as Tribunal witnesses.¹⁷ Alberta Pipe, Husteel and Salzgitter are importers and distributors that sell either the subject goods or goods that meet the product definition in Canada.

[12] The Tribunal held an in-person and videoconference hearing with public and *in camera* sessions on July 4, 5, 6 and 7, 2023.

⁸ Exhibit RR-2022-001-05; Exhibit RR-2022-001-06 (protected).

⁹ Exhibit RR-2022-001-05.A; Exhibit RR-2022-001-06.A (protected).

¹⁰ Exhibit RR-2022-001-05.B; Exhibit RR-2022-001-06.B (protected).

¹¹ Tenaris Canada is comprised of Tenaris Global Services (Canada) Inc., Algoma Tubes Inc., Prudential Steel ULC and Hydril Canadian Company LP.

¹² SSA's product exclusion requests are in Exhibit RR-2022-001-33.01; Exhibit RR-2022-001-34.01 (protected). Cantak's product exclusion requests are in Exhibit RR-2022-001-33.02; Exhibit RR-2022-001-34.02 (protected).

¹³ Exhibit RR-2022-001-36.02; Exhibit RR-2022-001-36.01A; Exhibit RR-2022-001-37.02 (protected); Exhibit RR-2022-001-37.01A (protected).

¹⁴ Exhibit RR-2022-001-36.01; Exhibit RR-2022-001-36.01A; Exhibit RR-2022-001-37.01 (protected); Exhibit RR-2022-001-37.01A (protected).

¹⁵ Exhibit RR-2022-001-38.01; Exhibit RR-2022-001-39.01 (protected).

¹⁶ Exhibit RR-2022-001-42.

¹⁷ Exhibit RR-2022-001-43; Exhibit RR-2022-001-44; Exhibit RR-2022-001-45.

PRODUCT

Product definition

[13] The subject goods (commonly referred to as “line pipe”) are defined as:

Carbon and alloy steel line pipe originating in or exported from the Republic of Korea, welded or seamless, having a nominal outside diameter from 2.375 inches (60.3 mm) up to and including 24 inches (610 mm) (with all dimensions being plus or minus allowable tolerances contained in the applicable standards), including line pipe meeting or supplied to meet any one or several of API 5L, CSA Z245.1, ISO 3183, ASTM A333, ASTM A106, ASTM A53-B or their equivalents, in all grades, whether or not meeting specifications for other end uses (e.g. single-, dual-, or multiple-certified, for use in oil and gas or other applications), and regardless of end finish (plain ends, beveled ends, threaded ends, or threaded and coupled ends), surface finish (coated or uncoated), wall thickness, or length, excluding galvanized line pipe and excluding stainless steel line pipe (containing 10.5 percent or more by weight of chromium), and excluding goods covered by the Canadian International Trade Tribunal’s finding in Inquiry No. NQ-2012-003.¹⁸

[14] For greater certainty, the product definition includes:

- a. unfinished line pipe (including pipe that may or may not already be tested, inspected, and/or certified to line pipe specifications) originating in the Republic of Korea and imported for use in the production or finishing of line pipe meeting final specifications, including outside diameter, grade, wall-thickness, length, end finish, or surface finish; and
- b. non-prime and secondary pipes (“limited service products”).¹⁹

[15] The Tribunal also excluded from its finding in *Line Pipe II* welded line pipe having nominal outside diameters from and including 18 inches to 24 inches (610 mm) (with all dimensions being plus or minus allowable tolerances contained in the applicable standards), regardless of grade and wall thickness, with a manganese content of no less than 16% by weight, for exclusive use in slurry, tailings, and pressure piping systems in oil sands projects, and marked “Not for CSA Z-662 Applications”. For greater certainty, use in a pipeline meeting CSA Z-662 is not permitted under the exclusion.²⁰

¹⁸ Exhibit RR-2022-001-03; Exhibit RR-2022-001-04 (protected) at para. 13; Exhibit RR-2022-001-03.A at para. 14.

¹⁹ Exhibit RR-2022-001-03; Exhibit RR-2022-001-04 (protected) at para. 14; Exhibit RR-2022-001-03.A at para. 15.

²⁰ Exhibit RR-2022-001-03; Exhibit RR-2022-001-04 (protected) at para. 15; Exhibit RR-2022-001-03.A at para. 16. See also *Line Pipe II* at para. 107.

Additional product information

[16] Although not reproduced here, the CBSA set out detailed additional product information in its statement of reasons concerning its expiry review determination.²¹ Such additional information provides useful context for the Tribunal to understand the scope of the subject goods, conditions of competition in the domestic line pipe market and factors that may have a bearing on the state of the domestic industry.

LEGAL FRAMEWORK

[17] Subsection 76.03(10) of SIMA requires the Tribunal to determine whether the expiry of the finding in respect of the subject goods is likely to result in injury to, or retardation of, a domestic industry.²² If the Tribunal determines that injury is likely, it must continue the finding with or without amendment; if it determines that no injury is likely, the Tribunal must rescind the finding.²³

[18] The Tribunal must consider several matters before it analyzes the likelihood of injury. Specifically, the Tribunal must consider which domestically produced goods are “like goods” in relation to the subject goods and whether there is more than one class of goods. Then, the Tribunal must determine what constitutes the “domestic industry”.

LIKE GOODS AND CLASSES OF GOODS

[19] To determine whether resumed or continued dumping of the subject goods is likely to cause material injury to the domestic producers of like goods, the Tribunal must determine which domestically produced goods, if any, constitute like goods in relation to the subject goods. The Tribunal must also consider whether there is more than one class of goods within the subject goods and the like goods.²⁴

[20] Subsection 2(1) of SIMA defines “like goods”, in relation to any other goods, as follows:

(a) goods that are identical in all respects to the other goods, or

(b) in the absence of any goods described in paragraph (a), goods the uses and other characteristics of which closely resemble those of the other goods.

²¹ Exhibit RR-2022-001-03.A at paras. 17–22.

²² Subsection 2(1) of SIMA defines “injury” as “material injury to the domestic industry” and “retardation” as “material retardation of the *establishment* of a domestic industry” [emphasis added]. Given that there is currently an established domestic industry, the issue of whether the expiry of the finding is likely to result in retardation does not arise in this expiry review.

²³ See subsection 76.03(12) of SIMA.

²⁴ If the Tribunal determines that there is more than one class of goods in this expiry review, it must conduct a separate injury analysis and make a decision for each class that it identifies. See *Noury Chemical Corporation and Minerals & Chemicals Ltd. v. Pennwalt of Canada Ltd. and Anti-dumping Tribunal*, [1982] 2 F.C. 283 (FC).

[21] In deciding the issue of like goods when goods are not identical in all respects to the other goods, the Tribunal typically considers a number of factors, including the physical characteristics of the goods such as composition and appearance, and the goods' market characteristics such as substitutability, pricing, distribution channels, end uses and whether the goods fulfill the same customer needs.²⁵ In deciding the issue of classes of goods, the Tribunal typically considers whether goods potentially included in separate classes of goods constitute "like goods" in relation to each other.²⁶ If they do, they will be regarded as comprising a single class of goods.²⁷

[22] In *Line Pipe II*, the Tribunal found that the subject goods and domestically produced line pipe within the product definition were interchangeable, had comparable quality, competed in the domestic market and were distributed through the same channels.²⁸ The Tribunal also found no evidence suggesting that there was more than one class of goods.²⁹ The Tribunal therefore concluded that domestically produced line pipe of the same description as the subject goods constituted like goods in relation to the subject goods, and there was a single class of goods.³⁰

[23] In this expiry review, Evraz submitted that the Tribunal should again find that domestically produced line pipe constitutes like goods in relation to the subject goods. Evraz argued that there have been no material changes in the physical and market characteristics of the goods in issue that would warrant departing from the Tribunal's conclusion in *Line Pipe II*. Although Evraz did not make express arguments on classes of goods, it noted the Tribunal's finding in *Line Pipe II* without objection.³¹ The other parties agreed with Evraz's position or did not address these issues.

[24] The Tribunal has considered the above factors and the evidence on the record, and it is satisfied that nothing in the present expiry review warrants departing from its conclusions in *Line Pipe II*. Therefore, the Tribunal finds that domestically produced line pipe constitutes like goods in relation to the subject goods and that there is a single class of goods.

DOMESTIC INDUSTRY

[25] Subsection 2(1) of SIMA defines "domestic industry" as follows:

... the domestic producers as a whole of the like goods or those domestic producers whose collective production of the like goods constitutes a major proportion of the total domestic production of the like goods except that, where a domestic producer is related to an exporter or importer of dumped or subsidized goods, or is an importer of such goods, ***domestic industry*** may be interpreted as meaning the rest of those domestic producers.

[Bold and italics in original]

²⁵ See, e.g., *Copper Pipe Fittings* (19 February 2007), NQ-2006-002 (CITT) at para. 48.

²⁶ *Aluminum Extrusions* (17 March 2009), NQ-2008-003 (CITT) [*Aluminum Extrusions* NQ] at para. 115; see also *Polyisocyanurate Thermal Insulation Board* (11 April 1997), NQ-96-003 (CITT) [*Thermal Insulation Board*] at 10.

²⁷ *Aluminum Extrusions* NQ at para. 115; see also *Thermal Insulation Board* at 10.

²⁸ *Line Pipe II* at para. 20.

²⁹ *Ibid.*

³⁰ *Line Pipe II* at para. 21.

³¹ Exhibit RR-2022-001-A-01 at para. 5.

[26] Therefore, the Tribunal must determine whether there is a likelihood of injury to the domestic producers as a whole or to those domestic producers whose production represents a major proportion of the total production of like goods.³² During the POR, there were three known domestic producers of like goods: Evraz, Tenaris Canada and Bri-Steel.³³ As these line pipe producers accounted for all known domestic production of like goods over the POR, the Tribunal finds that they constitute the domestic industry for the purposes of this expiry review.

LIKELIHOOD OF INJURY ANALYSIS

[27] An expiry review is forward-looking.³⁴ It follows that evidence from the period during which an order or a finding was being enforced is relevant insofar as it bears upon the prospective analysis of whether the expiry of the order or finding is likely to result in injury.³⁵

[28] There is no presumption of injury in an expiry review; findings must be based on positive evidence. In the context of an expiry review, positive evidence includes evidence based on past facts that tend to support forward-looking conclusions.³⁶

[29] To assess the likelihood of injury, the Tribunal typically focuses on circumstances that can reasonably be expected to exist in the near to medium term, which is generally considered to be a period of up to 24 months from the date on which the order or finding could be rescinded.³⁷ In the absence of arguments and evidence suggesting that this timeframe would be inappropriate in the circumstances of this case, the Tribunal decided to focus its analysis on the next 24 months.

[30] Subsection 37.2(2) of the *Special Import Measures Regulations*³⁸ (Regulations) lists factors that the Tribunal may consider in addressing the likelihood of injury in cases where the CBSA has determined that there is a likelihood of continued or resumed dumping. The factors that the Tribunal considers relevant in this expiry review are discussed below.

³² The term “major proportion” means an important or significant proportion of total domestic production of the like goods and not necessarily a majority of these goods: *Japan Electrical Manufacturers Assn. v. Canada* (Anti-Dumping Tribunal), [1986] F.C.J. No. 652 (FCA); *McCulloch of Canada Limited and McCulloch Corporation v. Anti-Dumping Tribunal*, [1978] 1 F.C. 222 (FCA); Panel Report, *China – Automobiles (US)*, WT/DS440/R, at para. 7.207; Appellate Body Report, *EC – Fasteners (China)*, WT/DS397/AB/R, at paras. 411, 412, 419; Panel Report, *Argentina – Poultry (Brazil)*, WT/DS241/R, at para. 7.341.

³³ Exhibit RR-2022-001-05.A at 12.

³⁴ *Certain Dishwashers and Dryers* (procedural order dated 25 April 2005), RR-2004-005 (CITT) at para. 16.

³⁵ *Copper Pipe Fittings* (17 February 2012), RR-2011-001 (CITT) at para. 56. In *Thermoelectric Containers* (9 December 2013), RR-2012-004 (CITT) [*Thermoelectric Containers*] at para. 14, the Tribunal stated that “the analytical context pursuant to which an expiry review must be adjudged often includes the assessment of retrospective evidence supportive of prospective conclusions.” See also *Aluminum Extrusions* (17 March 2014), RR-2013-003 (CITT) [*Aluminum Extrusions* RR] at para. 21.

³⁶ *Thermoelectric Containers* at paras. 13–14; *Aluminum Extrusions* RR at para. 21.

³⁷ *Hot-rolled Carbon Steel Plate and High-strength Low-alloy Steel Plate* (31 October 2019), RR-2018-007 (CITT) at para. 42; *Hot-rolled Carbon Steel Plate and High-strength Low-alloy Steel Plate* (10 November 2020), RR-2019-004 (CITT) at paras. 33–34; *Carbon Steel Screws* (2 September 2020), RR-2019-002 (CITT) [*Carbon Steel Screws*] at para. 133.

³⁸ SOR/84-927

Changes in market conditions

[31] The Tribunal considered changes in international and domestic market conditions,³⁹ including those that existed during the POR and those that are likely to occur over the next 24 months. Market conditions provide general context for the Tribunal's injury analysis.

International market conditions

[32] International market conditions over the POR can be segmented into two distinct time periods. The first half of the POR (the full year of 2020 to the end of the first half of 2021) was marked by the unprecedented economic situation created by the early months of the COVID-19 pandemic.⁴⁰

[33] In the second half of the POR (the second half of 2021 to the end of 2022), the effects of pandemic restrictions and supply chain issues eased, and the world economy strengthened to meet post-pandemic pent-up demand. Ultimately, however, the invasion of Ukraine by Russia, labour shortages in key markets and prevailing monetary policies in reaction to rising inflation rates contributed to create unstable global market conditions at the end of the POR.⁴¹

[34] The International Monetary Fund indicates that the global economy is not expected to return to its pre-pandemic rates of growth over the medium term.⁴² It estimates that global gross domestic product growth will fall from 3.4% in 2022 to 2.8% in 2023 and then rise to 3.0% in 2024.⁴³

[35] It is expected that a rebound of oil and gas prices will allow oil and gas exploration and production, the main driver of the international line pipe market,⁴⁴ to return to near pre-pandemic levels of activity. However, uncertainty remains regarding future oil and gas demand.⁴⁵ This is particularly important for Canada, given that it is the fourth-largest global producer of oil and the fifth-largest global producer of natural gas.⁴⁶ Energy sector growth is expected to be low in the medium term. The global supply of oil in January 2023 continued to exceed demand, with global inventories reaching nearly 7.8 billion barrels.⁴⁷ This excess supply is expected to increase in the near future, especially with the rise of electric vehicles and improvements in the fuel efficiency of conventional vehicles.⁴⁸ Further, the International Energy Agency forecasts demand for oil to grow only 0.8% annually through 2030 and for natural gas to grow only 0.4% annually through the same period.⁴⁹

³⁹ See paragraph 37.2(2)(j) of the Regulations.

⁴⁰ "World Economic Outlook", International Monetary Fund, April 2023, Exhibit RR-2022-001-A-09 at 131–132.

⁴¹ *Ibid.*

⁴² "World Economic Outlook", International Monetary Fund, April 2023, Exhibit RR-2022-001-A-09 at 142.

⁴³ *Ibid.* at 137, 139.

⁴⁴ Exhibit RR-2022-001-03.A at para. 63.

⁴⁵ Exhibit RR-2022-001-A-01 at paras. 35–36.

⁴⁶ Energy Fact Book 2022–2023, Natural Resources Canada, Exhibit RR-2022-001-B-03 at 129, 143.

⁴⁷ "Oil Market Report - March 2023", International Energy Agency, Exhibit RR-2022-001-17.02 at 1376.

⁴⁸ Exhibit RR-2022-001-17.02 at 655; "World Energy Outlook 2022", International Energy Agency, Exhibit RR-2022-001-17.02 at 1082.

⁴⁹ "World Energy Outlook 2022", International Energy Agency, Exhibit RR-2022-001-17.02 at 1082.

South Korea

[36] Tenaris Canada submitted that South Korean domestic demand for line pipe is low because it does not have an oil and gas industry.⁵⁰ From 2020 to 2022, South Korean domestic steel pipe sales, which include line pipe sales, decreased by 9%, from 3.18 million tonnes in 2020 to 2.90 million tonnes in 2022.⁵¹ In the next 24 months, it is unlikely that demand for line pipe in South Korea will increase because South Korea's construction sector appears sluggish.⁵²

[37] According to Evraz, there are 23 facilities in South Korea that are licensed to manufacture line pipe to the standard API 5L which is used in the oil and gas industry. Evraz has estimated that the capacity of 21 of these 23 facilities is 7.63 million tonnes.⁵³ Noting that, according to industry and governmental sources, the South Korean steel pipe industry historically did not exceed approximately 60% capacity utilization,⁵⁴ and given that South Korean domestic steel pipe sales during the POR were well below the line pipe capacity of these 21 facilities, South Korea has had significant excess capacity of line pipe over the POR. For example, Evraz's analysis shows that a sampling of four API 5L certified line pipe producers, which represent approximately two thirds of South Korean API 5L capacity, indicates an excess capacity of approximately 2.7 million tonnes.⁵⁵ While this excess capacity does relate to overall steel pipe capacity, it can be used to manufacture line pipe and significantly dwarfs the total Canadian market for line pipe of 0.29 million tonnes in 2022.⁵⁶ Further, there are indications of South Korean exporters expanding steel pipe capacity in the near to medium term, which would include further capacity for line pipe production.⁵⁷

[38] Considering this excess capacity, it is not surprising that the evidence on the record indicates that South Korea is export-orientated and that total South Korean exports of line pipe increased from approximately 500,252 tonnes in 2020 to 729,891 tonnes in 2022. The top two export destinations were the United States and Canada, representing 50% of total exports in 2020 and increasing to 74% of total exports in 2022.⁵⁸

⁵⁰ Exhibit RR-2022-001-B-03 at para. 38; "Country Analysis Brief South Korea", U.S. Energy Information Administration, April 2023, Exhibit RR-2022-001-B-03 at 194.

⁵¹ Translation of an excerpt from Husteel Co., Ltd., Amended Investment Prospectus (December 1, 2022), Exhibit RR-2022-001-A-09 at 1492; Translation of an excerpt from Ferro Times, "Steel Shipments Down One After Another Following a Series of Bad News in 2022" (February 9, 2023), Exhibit RR-2022-001-A-09 at 2068. The data provided includes line pipe together with other steel pipe products. The Tribunal expects that the same trend would apply to line pipe.

⁵² Translation of Steel Daily, Steel and Metal Outlook Seminar, "Steel Pipe Market Expected to See Strong Exports of Steel Pipes for Energy in 2023" (December 6, 2022), Exhibit RR-2022-001-A-09 at 2082; "Steel Pipe Council to Focus on Responding to Carbon Neutrality and Discovering New Demand in the Energy Industry", Korea Iron & Steel Association, Steel Pipe Council (March 15, 2023), Exhibit RR-2022-001-A-09 at 2118.

⁵³ Exhibit RR-2022-001-A-01 at para. 58; Exhibit RR-2022-001-A-09 at 325–1205.

⁵⁴ Exhibit RR-2022-001-A-01 at para. 61; Exhibit RR-2022-001-A-09 at 1454–1480.

⁵⁵ Exhibit RR-2022-001-A-01 at paras. 59–60; Exhibit RR-2022-001-A-09 at 326, 359–60, 547, 852, 1207; Exhibit RR-2022-001-24.01.A at 2; Exhibit RR-2022-001-23.01.A at 19.

⁵⁶ Exhibit RR-2022-001-05.A at Table 13.

⁵⁷ Exhibit RR-2022-001-A-01 at paras. 65–67; *Transcript of Public Hearing* at 314–315.

⁵⁸ Export Data Monthly, Korea Customs Service, Exhibit RR-2022-001-A-09 at 2010–2011.

[39] In the United States, South Korean line pipe exports have been subject to a tariff rate quota (TRQ) that was imposed following the United States Section 232 measures imposed on April 18, 2018. The annual TRQ for South Korean exports of line pipe to the United States is 427,036 tonnes, with volumes exceeding this amount subject to a 25% tariff.⁵⁹ During the POR, South Korean exports of line pipe to the United States met and exceeded the quota level only in 2022, with exports of 429,295 tonnes.⁶⁰ Additionally, the United States imposed anti-dumping and countervailing duties on South Korean seamless carbon and alloy standard, line and pressure pipe in 2021, with an anti-dumping margin of 4.44% and a subsidy rate of 1.78%.⁶¹ Further, according to news reports, media releases and public company information, South Korean producers have recently constructed or will construct in the near to medium term production facilities in the United States.⁶²

Domestic market conditions

[40] Significant government pandemic support and stimulus spending allowed the Canadian economy to weather the first half of the POR relatively well compared to other countries. During the second half of the POR, the Canadian economy faced challenges like those experienced by its main trading partners. Prime concerns included heightened interest rates and persistent labour shortages. Canada's gross domestic product growth in 2022 declined compared to 2021 and is expected to continue declining in 2023. The main factor cited as affecting the Canadian economy is inflation.⁶³

[41] As the main driver of line pipe demand in Canada, the Canadian oil and gas industries were characterized by marked volatility during the POR. According to the Government of Alberta's economic data, oil prices experienced lows in 2020⁶⁴ before sharply increasing in the direct aftermath of the start of the Russian invasion of Ukraine. Oil prices later stabilized in 2022,⁶⁵ and then slightly declined from June 2022 to February 2023.⁶⁶ Oil production followed similar trends to oil prices. Production of crude oil fell in 2020 but reached pre-pandemic levels in 2022. The average number of active rigs in Canada increased from 81 in 2020 to 119 in 2021 and 168 in 2022.⁶⁷ The number of wells drilled also increased in 2022.⁶⁸ This is consistent with the 46% increase in capital expenditures related to oil and gas extraction over the POR.⁶⁹ With respect to natural gas, prices in Canada generally trended upward over the POR.⁷⁰

⁵⁹ Exhibit RR-2022-001-A-01 at paras. 87–88; U.S. Customs and Border Protection, QB 23-602 2023 Second Quarter Absolute Quota for Steel Mill Articles of Argentina, Brazil and South Korea (March 9, 2023), Exhibit RR-2022-001-A-09 at 2174.

⁶⁰ Export Data Monthly, Korea Customs Service, Exhibit RR-2022-001-A-09 at 2010.

⁶¹ United States Federal Register, Seamless Carbon and Alloy Steel Standard, Line, and Pressure Pipe From the Republic of Korea, the Russian Federation, and Ukraine: Antidumping Duty Orders (August 23, 2021), Exhibit RR-2022-001-B-07 at 270–72; United States Federal Register, Seamless Carbon and Alloy Steel Standard, Line, and Pressure Pipe From the Republic of Korea and the Russian Federation: Countervailing Duty Orders (August 23, 2021), Exhibit RR-2022-001-B-07 at 274–275.

⁶² Exhibit RR-2022-001-A-09 at 852, 1922, 1982, 1996; *Transcript of Public Hearing* at 315.

⁶³ Former Bank of Canada Governor Mark Carney and current Bank of Canada Deputy Governor Paul Beaudry, Exhibit RR-2022-E-13 at 3–18.

⁶⁴ Exhibit RR-2022-001-B-07 at 242.

⁶⁵ Exhibit RR-2022-001-17.02 at 19.

⁶⁶ Exhibit RR-2022-001-B-07 at 242.

⁶⁷ “2022 SOTI Report”, Canadian Association of Energy Contractors, Exhibit RR-2022-001-A-09 at 18.

⁶⁸ *Ibid.* at 17.

⁶⁹ Exhibit RR-2022-001-05.A at Table 48.

⁷⁰ Exhibit RR-2022-001-B-07 at 241.

[42] Over the next 24 months, there is a modestly positive outlook for Canadian natural gas exports and continued global demand for products made from petrochemicals. However, commodities price forecasts also predict significant declines in Canadian oil and natural gas prices into 2024 down from the highs of 2022.⁷¹

[43] With respect to the domestic line pipe market, one change in the composition of the domestic industry was the closure in July 2020 of Tenaris Canada's Prudential facility in Calgary, Alberta. Tenaris Canada closed the facility to move its electric resistance welding (ERW) production and consolidate pipe production at its Algoma facilities in Sault Ste. Marie, Ontario. Tenaris Canada has had challenges bringing the new ERW line in Ontario into full production but expects to make continuing improvements over 2023.⁷² This significant undertaking by Tenaris Canada dramatically impacted its production and resulting market share for line pipe during the POR. Accordingly, during the POR, the top producers of line pipe in Canada were Evraz and Bri-Steel.

[44] Overall, the average market selling prices for line pipe in the Canadian market increased over the POR, with the domestic industry's average selling prices following a similar trend. The domestic industry's average selling prices were less than the average market prices in 2020 and 2021, and then increased to slightly above the average market price in 2022. Conversely, importers' average selling prices in 2020 and 2021 were above the average market prices. In 2022, average import selling prices for the subject goods and imports from India (and to a lesser extent Japan and Türkiye) were lower than the average market selling prices.⁷³

[45] The Canadian line pipe market experienced a resurgence in demand over the POR due in large part to a recovery from pandemic-related suppression of energy demand and delayed projects.⁷⁴ The domestic market increased from 128,301 tonnes in 2020 to 205,434 tonnes in 2021—a 60% increase. It then increased further to 289,778 tonnes in 2022—a 41% increase above 2021 volumes.⁷⁵

[46] As such, the size of the Canadian line pipe market grew consistently and significantly over the POR. However, there were significant shifts in the market shares of some market participants over the POR. In 2021, the volume of domestic sales by the domestic industry outpaced market growth by increasing 141%, while the volume of sales of the subject goods remained flat and the volume of sales of non-subject imports increased 7%. Then in 2022, with the overall market volumes increasing, the volume of domestic sales by the domestic industry decreased slightly by 1% and the volume of sales of the subject goods increased by 617% and the volume of sales of non-subject imports increased by 73%.⁷⁶ Consequently, the domestic industry lost significant market share to both subject and non-subject imports during 2022.⁷⁷

⁷¹ “The Goods - Commodities Caught in Fog of Uncertainty”, Bank of Montreal, May 2023, Exhibit RR-2022-001-B-07 at 260.

⁷² Exhibit RR-2022-001-B-03 at paras. 12–16.

⁷³ Exhibit RR-2022-001-05.A at Table 27; Exhibit RR-2022-001-06.A (protected) at Table 27.

⁷⁴ Exhibit RR-2022-001-45.A at 1.

⁷⁵ Exhibit RR-2022-001-05.A at tables 13–14.

⁷⁶ *Ibid.* at Table 14.

⁷⁷ *Ibid.* (protected) at Table 15.

[47] Similar trends were observed when examining the import volumes of the subject goods relative to volumes of domestic production and volumes of sales from domestic production. Those ratios decreased by 4% and 5% respectively in 2021, and then increased by 23% for both ratios in 2022.⁷⁸

[48] The Tribunal notes that the extent to which the subject goods were present in Canada during the POR is a highly unusual occurrence. In its review, the CBSA found that the subject goods still represented a significant share of the total apparent market even with anti-dumping duties in place, and that subject goods were exported to Canada in greater quantities when normal values did not reflect market conditions.⁷⁹ The CBSA conducted a re-investigation in 2022 that determined that certain exporters had failed to notify it in a timely manner of changes to certain conditions as required, and therefore had failed to adjust their selling prices accordingly.⁸⁰

Conclusion: international and domestic market conditions will remain uncertain, with significant South Korean excess supply of line pipe

[49] The evidence indicates that global economic conditions, including the economic conditions in the global oil and gas industry, will continue to be unstable over the next 24 months. Domestic market conditions are expected to mirror international market conditions. Further, the domestic line pipe market has remained of interest to Korean exporters of the subject goods over the POR. This is especially the case given the significant excess of Korea's production over its domestic demand. The Tribunal concludes that these foreseeable challenging market conditions in conjunction with the continued attractiveness of the Canadian market to Korean exporters will leave the domestic industry vulnerable to any dumping of the subject goods over the next 24 months.

Likely price effect and import volume of the subject goods if the finding expires

[50] To determine whether the expiry of the finding is likely to result in injury, the Tribunal may consider whether the resumption or continuation of dumping of the subject goods is likely to depress, suppress or significantly undercut the prices of like goods by preventing increases in those prices that would likely have otherwise occurred.⁸¹ In this regard, the Tribunal distinguishes the price effect of the dumped goods from any price effects that would likely result from other factors.

[51] The Tribunal may also consider whether there is likely to be a significant increase in the volume of imports of the dumped goods.⁸² In the present case, the Tribunal's assessment of the likely volumes of dumped imports encompasses the likely performance of the foreign industry, the potential for the foreign producers to produce line pipe in facilities that are currently used to produce other goods, evidence of the imposition of anti-dumping and/or countervailing measures in other jurisdictions, and whether measures adopted by other jurisdictions are likely to cause diversion of the subject goods to Canada.⁸³

⁷⁸ *Ibid.* at Table 12.

⁷⁹ Exhibit RR-2022-001-03A at paras. 89–90.

⁸⁰ *Ibid.* at para. 46.

⁸¹ Paragraph 37.2(2)(b) of the Regulations.

⁸² Subsection 37.2(2) of the Regulations provides, in part, the following: "In making a determination under subsection 76.03(10) of the Act, the Tribunal may consider (a) the likely volume of the dumped or subsidized goods if the order or finding is allowed to expire, and, in particular, whether there is likely to be a significant increase in the volume of imports of the dumped or subsidized goods, either in absolute terms or relative to the production or consumption of like goods".

⁸³ Paragraphs 37.2(2)(a), (d), (f), (h) and (i) of the Regulations.

Price undercutting is likely to continue or worsen if the finding expires

[52] Evraz argued that “Korean exporters have demonstrated consistent aggressive behaviour over the life of the Finding, seizing every opportunity to increase exports to Canada. Each time that normal values became outdated due to changing market conditions, imports of Korean line pipe increased. Korean exporters have continued to demonstrate their opportunistic and aggressive behaviour in 2023.”⁸⁴ Evraz and Tenaris Canada claimed that the degree of undercutting by the subject goods in 2022 was significant and should the finding be allowed to expire, this degree of undercutting will be even more significant over the next 24 months.

[53] The Tribunal finds that price remains the primary factor in purchasing decisions. In *Line Pipe II*, the Tribunal agreed with previous findings that “once certain pre-conditions are met and qualitative factors are comparable, price becomes the determining factor in purchasing decisions.”⁸⁵ The evidence in this expiry review indicates that this is still the case. Mr. Quinton of Gateway testified that price is becoming more important to its end users and customers. He stated that the difference of one or two percent can mean winning or losing the bid, regardless of where the pipe is sourced from.⁸⁶

[54] As indicated above, South Korean line pipe entered the domestic market in every period of the POR. There was no price undercutting by the subject goods in both 2020 and 2021. However, in 2022, the subject goods’ selling price significantly undercut both the domestic industry’s selling price and the average market unit value of \$2,700 per tonne. Indeed, the subject goods’ selling price in 2022 was only slightly higher than the selling price of line pipe imported from India, which was the price leader in the Canadian market that year. The degree of undercutting between the like goods and the subject goods was approximately 8% in that year.⁸⁷

[55] Other evidence further indicates the presence of significant undercutting by the subject goods during the latter part of the POR and into 2023. Mr. Coffin of Evraz testified that the selling prices in 2022 for non-subject goods were up 41%, while the South Korean selling pricing was down 21%. Additionally, South Korean import prices were down by another 16% in 2023, which meant they became the price leader in the Canadian market.⁸⁸ Furthermore, Mr. Coffin testified that this significant drop occurred at a time when Evraz was experiencing tremendous cost increases, including, but not limited to, electricity, labour, logistics and steel costs.⁸⁹ In addition, several importers in their response to the Tribunal’s importers’ questionnaire also stated that South Korean imports historically have been priced lower than the like goods.⁹⁰

⁸⁴ Exhibit RR-2022-001-A-01 at para. 1.

⁸⁵ *Line Pipe II* at para. 34, citing NQ-2015-002 at para. 105.

⁸⁶ *Transcript of Public Hearing* at 219.

⁸⁷ Exhibit RR-2022-001-06.A (protected) at Table 27.

⁸⁸ *Transcript of Public Hearing* at 155, 159, 189–190.

⁸⁹ *Ibid.* at 202–203.

⁹⁰ Exhibit RR-2022-001-20.06C at 5; Exhibit RR-2022-001-20.13B at 5; Exhibit RR-2022-001-20.14A at 5; Exhibit RR-2022-001-20.20C at 5.

[56] The price undercutting observed at the macro level in 2022 and into 2023 is supported by account-specific lost sales allegations. Evraz submitted evidence of lost sales allegations to support its claim of South Korean exporters' aggressive pricing behaviour in the Canadian market.⁹¹ Additionally, Ms. Blair of Evraz testified that the three examples of lost sales allegations amounted to 10,000 metric tonnes.⁹² This amount represents a significant proportion of the total volume of domestic sales.⁹³ Additionally, Ms. Clark of Tenaris Canada submitted lost sales allegations due to low-priced subject goods in 2022.⁹⁴ Mr. Quinton also provided evidence that Gateway lost sales from April 2022 to April 2023, due to low-priced subject goods.⁹⁵

[57] The Tribunal takes note of Evraz's arguments suggesting continued aggressive behaviour by Korean exporters of the subject goods which continue to enter the Canadian market in 2023. Evraz submitted evidence of a "two-tier" pricing model that is based on whether a line pipe product of a specific size and grade has been assigned a normal value as defined by the CBSA and published on the CBSA's website.⁹⁶ Evraz further submitted that the pricing model allows certain subject goods to enter the market at below normal values. The Tribunal notes that the CBSA launched a re-investigation into this matter on July 6, 2023.⁹⁷

[58] Ms. Blair of Evraz and Mr. Quinton of Gateway provided the Tribunal with specific examples of offerings by South Korean line pipe distributors to customers of higher-grade line pipe at lower prices than comparable lower-grade line pipe. This appears to be counter-intuitive because evidence on the record indicated that, in the normal course of business, higher-grade line pipe ought to be priced higher than lower-grade products. The explanation provided by Ms. Blair and Mr. Quinton of this situation satisfied the Tribunal that the South Korean distributors were able to offer a lower price for the higher grade due to higher grades not having model-specific normal values assigned by the CBSA.⁹⁸ Without model-specific normal values, higher-grade South Korean subject goods could be imported at prices which would include an anti-dumping duty of 4.1%⁹⁹ and still have a value lower than the normal value assigned by the CBSA on lower-grade products. Thus, if the finding were rescinded, it is likely that South Korean line pipe distributors would be able to offer all grades of the subject goods at those prices (or potentially lower prices) witnessed in 2023 by Evraz and Gateway. The Tribunal accepts that continued imports of the subject goods in 2023 (pursuant to a two-tier pricing model) indicates continued interest in the Canadian market by one or more Korean line pipe exporters and provides a realistic preview of how market behaviour would unfold if the finding were rescinded.

⁹¹ Exhibit RR-2022-001-A-06 (protected) at paras. 32–41.

⁹² *Transcript of Public Hearing* at 209–210.

⁹³ Exhibit RR-2022-001-06.A (protected) at Table 13.

⁹⁴ Exhibit RR-2022-001-B-06 (protected) at paras. 16, 18.

⁹⁵ *Transcript of Public Hearing* at 216; Exhibit RR-2022-001-D-02 (protected) at para. 17, 21–37.

⁹⁶ "Normal value model ID table: Line Pipe 2 (LP2)", Exhibit RR-2022-001-46 at 4–32.

⁹⁷ Case LP2 2023 UP1; Exhibit RR-2022-001-48 at 2–3.

⁹⁸ *Transcript of In Camera Hearing* at 86–88, 150–153.

⁹⁹ *Ibid.* at 87.

[59] The increase in the volume of imports of the subject goods and the associated pricing occurred in the period during which the CBSA determined that previously established normal values for South Korean exporters no longer reflected current market conditions. In the Tribunal's opinion, the increased volume of low-priced subject goods in those circumstances provides a plausible description of the likely dynamics that would occur if the finding were to be rescinded. The Tribunal finds that without a finding in place, it is likely that the average price of the subject goods will be at similar levels of price undercutting of the like goods as the level experienced in 2022, or worse.

Likely import volume of the subject goods if the finding expires

[60] The Tribunal views the volume of subject goods in the domestic market in 2022 as a proxy for likely minimum import volumes of the subject goods in the next 24 months. The evidence before the Tribunal indicates that the year 2022 saw significantly increased import volumes of the subject goods because, as found by the CBSA and noted above, "normal values did not reflect market conditions". As such, the 2022 experience predicts how the Canadian market would likely see a significant increase in volumes of the subject goods if the finding were to expire.

[61] The Tribunal notes that several conditions that existed in 2022 will remain essentially the same in the next 24 months. Notably, domestic demand in South Korea for line pipe is low given a lack of an oil and gas industry in that country, South Korean line pipe producers are export-oriented, South Korean steel pipe producers have significant excess capacity, and trade measures in the United States impact the volume of South Korean exports to that country. The Tribunal finds that these conditions are likely to incentivize South Korean producers of line pipe to export significant quantities of line pipe to Canada if the finding expires.

[62] In addition, some of the South Korean producers have announced capacity expansions expected to come online in the next 24 months. As well, the evidence shows that various South Korean producers have decided to establish production facilities in the United States as a consequence of the United States' Section 232 measure. If the finding in this expiry review were to expire, these two factors are likely to combine to cause a redirection of South Korean product previously intended for the U.S. market to the Canadian market instead.

[63] For these reasons, the Tribunal finds that if the finding expires, there would likely be a significant increase in the volume of imports of the subject goods into Canada over the next 24 months.

There is a likelihood of future price depression if the finding expires

[64] The Tribunal finds that the likely increased volumes of subject goods at undercutting prices would likely result in depressed prices of domestic like goods. Given the price-sensitive nature of this market, it is foreseeable that the domestic industry would have no choice but to lower its own prices to maintain sales.

[65] During the POR, the subject goods had the lowest prices in the domestic market only in 2022. Recent import data from Global Affairs Canada suggest that the trend of very low-priced Indian line pipe has grown more pronounced in the first five months of 2023. This is clearly noticeable for ERW line pipe that is less than 16", a segment of the market where South Korean and Indian line pipe compete the most. In looking at March and April 2023, the unit values for South Korean ERW subject goods were \$1,995 per tonne and \$1,404 per tonne, respectively. However, imports of ERW line pipe from India were priced significantly lower for March and April 2023 at \$1,093 per tonne and \$1,233 per tonne, respectively.¹⁰⁰

[66] According to Ms. Clark of Tenaris Canada, Global Affairs Canada's steel import data shows that Indian line pipe is coming in at lower prices than South Korean line pipe.¹⁰¹ The Tribunal finds that South Korean exporters would likely match the Indian line pipe prices to maintain or increase market share. Without the normal values and anti-dumping duties in place, South Korean exporters would be poised to match or beat the Indian line pipe prices. Indeed, given the well-established presence and channels of distribution of the subject goods in Canada, the Tribunal finds that any temptation for importers to switch to other even lower-priced non-subject imports will likely be effectively curtailed by South Korean exporters.¹⁰² The Tribunal concludes that the result would likely be price depression over the next 24 months if the finding were to expire, due to enhanced efforts by Korean exporters to maintain or increase market share through aggressive price lowering behaviour.

Likelihood of price suppression if the finding expires is difficult to predict

[67] There is no strong positive evidence to allow the Tribunal to make a finding of likelihood of price suppression over the next 24 months. Scrap prices may increase in the next 24 months as a consequence of market-driven environmental concerns (i.e., the increased use of electric arc furnaces and general push to green steel),¹⁰³ and dwindling stocks of hot rolled coil that are depleting from line pipe producers' inventories.¹⁰⁴ Should these events occur, it is likely that material input costs in the next 24 months will increase.

[68] In addition, labour costs increased over the POR and are foreseen to increase over the next 24 months (or at least significant pressures to increase them will be manifested by inflation which will be considered during the collective bargaining process with the Unions slated for the next 24 months).¹⁰⁵

[69] Although the Tribunal understands that input costs for line pipe may increase over the next 24 months, there is not enough evidence on the record that has satisfied the panel that prices will not also follow an upward trend, as many of these factors impact the global industry and not just the domestic industry.

¹⁰⁰ Exhibit RR-2022-001-B-07 at 239. While Global Affairs Canada import data may include non-subject goods, the data is credible, relevant and is the best available evidence.

¹⁰¹ *Transcript of Public Hearing* at 16–17.

¹⁰² Exhibit RR-2022-001-06.A (protected) at tables 25, 27.

¹⁰³ *Transcript of In Camera Hearing* at 93, 137.

¹⁰⁴ *Transcript of Public Hearing* at 330–333.

¹⁰⁵ Exhibit RR-2022-001-05.A at Table 39; *Transcript of Public Hearing* at 112–113.

Likely impact of the subject goods on the domestic industry if the finding expires

[70] The Tribunal assessed the likely impact of the subject goods on the domestic industry if the finding expires. It took into consideration the likely price effect and import volume of the subject goods, and the recent performance of the domestic industry.¹⁰⁶ The Tribunal also considered the impacts on workers employed in the domestic industry.¹⁰⁷ Finally, the Tribunal sought to distinguish the likely impact of the dumped goods from any likely impact of any other factors affecting or likely to affect the domestic industry.¹⁰⁸

Recent performance of the domestic industry

[71] During the POR, total domestic production increased by 131% in 2021 over 2020, then decreased by 16% in 2022 over 2021, an overall 95% increase over the POR.¹⁰⁹ Domestic production for domestic sales followed a similar trend, increasing by 198% in 2021 then decreasing by 11% in 2022, with an overall increase of 166% over the POR.¹¹⁰

[72] Domestic sales from domestic production increased year over year (on a \$/tonne basis) during the POR.¹¹¹ The domestic industry's market share increased in 2021 over 2020 but decreased in 2022 over 2021 almost back to the 2020 level.¹¹²

[73] Practical plant capacity decreased over the POR.¹¹³ The evidence on the record indicates that Tenaris Canada's closure of the Prudential facility is responsible for this decrease. The capacity utilization rate for total domestic production and for domestic sales increased in 2021 over 2020, then decreased slightly in 2022 over 2021.¹¹⁴

¹⁰⁶ Paragraph 37.2(2)(c) of the Regulations provides that "In making a determination under subsection 76.03(10) of the Act, the Tribunal may consider ... the likely performance of the domestic industry, taking into account that industry's recent performance"

¹⁰⁷ Subsection 2(11) of SIMA states: "In any assessment of injury under this Act, any impacts on workers employed in the domestic industry shall be taken into account."

¹⁰⁸ Paragraph 37.2(2)(k) of the Regulations provides that in making a determination under subsection 76.03(10) of SIMA, the Tribunal may consider "any other factor pertaining to the current or likely behaviour or state of the domestic or international economy, market for goods or industry as a whole or in relation to workers or individual producers, exporters, brokers or traders." Therefore, the Tribunal may consider factors unrelated to the dumping of the subject goods that could adversely affect the domestic industry in the next 24 months to avoid attributing the effect of such factors to the possible expiry of the finding. See, for example: *Carbon Steel Screws* at para. 215.

¹⁰⁹ Exhibit RR-2022-001-05.A at Table 39.

¹¹⁰ *Ibid.*

¹¹¹ *Ibid.*

¹¹² Exhibit RR-2022-001-06.A (protected) at Table 15.

¹¹³ Exhibit RR-2022-001-05.A at Table 39.

¹¹⁴ Exhibit RR-2022-001-06.A (protected) at Table 38.

[74] There is evidence on the record that suggests that the volumes of subject goods that entered the Canadian market in the lead-up to the CBSA's most recent reinvestigation¹¹⁵ led to an inventory overhang of the subject goods. This appears due, in part, to distributors' stock that will not be depleted until mid or late 2023, resulting in lingering negative market effects.¹¹⁶ Moreover, Mr. Coffin testified that South Korean importers are bringing in line pipe not just for quoted projects but are also having their distribution partners stock the line pipe at Canadian yards for a later sale.¹¹⁷ This suggests that there are subject goods in inventory and available for sale in the domestic market.

[75] Overall, the domestic industry's net income (loss) before taxes from domestic sales improved over the POR. At the beginning of the POR in 2020, the domestic producers' cost of goods sold exceeded the net sales value resulting in poor financial performance.¹¹⁸ However, 2020 was an unusual year as the domestic industry had to confront the unique challenges posed by the onset of the COVID-19 pandemic. In 2021 and 2022, the gross margin and net income increased year over year.¹¹⁹ That said, the domestic industry lost market share in 2022 when there were increased volumes of low-priced subject goods in the domestic market.

Likely impact on the domestic industry if the finding expires

[76] The Tribunal's assessment of the likely impact on the domestic industry if the finding expires focuses upon the second half of 2022 (H2 2022).¹²⁰ In the absence of normal values that reflected true market conditions for that part of 2022, increased volumes of low-priced subject goods entered the domestic market.

[77] If the finding is rescinded, these factors are likely to persist and negatively affect the domestic industry's performance over the next 24 months. Witnesses from Evraz, Tenaris Canada, Gateway and Salzgitter provided credible and cogent testimony regarding how negative price effects will adversely impact a range of performance indicators, including domestic sales volumes, investments and employment levels.¹²¹

[78] Evraz estimated the likely impact on the domestic industry using a "but-for" comparative model based on evidence on the record.¹²² The best-case scenario, making conservative assumptions, illustrates that the negative impacts of even a relatively modest loss of market share would result in an unsustainable net margin over the next 24 months. This would in turn result in a situation where return on investment would be unattractive.

¹¹⁵ "Normal value model ID table: Line Pipe 2 (LP2)", Exhibit RR-2022-001-46.

¹¹⁶ Exhibit RR-2022-001-05.A at Table 10; Exhibit RR-2022-001-06.A (protected) at Table 9; *Transcript of Public Hearing* at 37–38, 156, 190–191, 217.

¹¹⁷ *Transcript of Public Hearing* at 156.

¹¹⁸ Exhibit RR-2022-001-06.A (protected) at Table 33.

¹¹⁹ *Ibid.* at Table 34.

¹²⁰ The Tribunal notes that while the investigation report shows an overall pricing increase for 2022 over 2021, as discussed above, there is evidence regarding pricing (and import volume) for the latter part of the POR.

¹²¹ See, for example, Exhibit RR-2022-001-A-06 at para. 27; *Transcript of Public Hearing* at 23, 201, 225–226, and 224.

¹²² Exhibit RR-2022-001, *Aid to Argument* (protected) at 54.

[79] Tenaris Canada's performance in the next 24 months is difficult to gauge because it is in the process of ramping up production at its Algoma facility. However, according to Tenaris Canada, if production occurs as planned, it is likely that rescission of the finding would have a negative impact on its return on investment.¹²³ Tenaris also prepared a comparative model showing the negative impact that a minor price decrease would have on its financial performance.¹²⁴ The Tribunal analyzed the models and the assumptions used, and concluded that they were cautious and reliable. Although the Tribunal did not have a comparative analysis for each domestic producer, it is satisfied that the evidence is representative of the domestic industry.

[80] The Tribunal finds that the evidence indicates that a decrease in domestic prices or domestic sales volumes (or both) would have a negative impact on the domestic industry's financial performance and investments.

Impacts on workers employed in the domestic industry

[81] In an expiry review under subsection 76.03(10), SIMA requires, through subsection 2(11), that "[i]n any assessment of injury under this Act, any impacts on workers employed in the domestic industry shall be taken into account." Furthermore, subparagraph 37.2(2)(e)(iii) and paragraph 37.2(2)(g) of the Regulations provide guidance to that effect.¹²⁵

[82] The Tribunal takes note of the Unions' submissions on the interpretation of subsection 2(11) of SIMA for the purposes of the definition of "injury" in subsection 2(1). The Tribunal considers that the circumstances of this case do not warrant an examination of that issue. The Regulations require the Tribunal to consider the potential negative effects on workers employed in the domestic industry in the assessment of whether the expiry of the finding is likely to result in injury to the domestic industry. This is an exercise consisting of ascertaining and assessing facts.

¹²³ See, for example, Exhibit RR-2022-001-B-04 at para. 14; *Transcript of Public Hearing* at 349.

¹²⁴ Exhibit RR-2022-001-B-02 (protected) at paras. 78–80.

¹²⁵ "(iii) any potential negative effects on employment levels or the terms and conditions of employment of the persons employed in the domestic industry, including their wages, hours worked, pension plans, benefits or worker training and safety; ... (g) the potential negative effects of the dumped or subsidized goods on existing development and production efforts, including effects on hiring and on efforts to produce a derivative or more advanced version of like goods"

[83] The Unions submitted that the workers employed in the domestic industry will be vulnerable over the next 18 to 24 months if the finding expires. They submitted that unfairly traded imports take work away from the workers, and severely impact employment levels and the terms and conditions of employment. The Unions gave evidence of past bargaining concessions,¹²⁶ shift reductions,¹²⁷ idling of mills,¹²⁸ and layoffs during the POR¹²⁹ as a sign of even worse times ahead if the finding were to expire. They are concerned that a rescinded finding would occur when workers are already facing decreases in real wages caused by inflation and would make future collective bargaining negotiations more challenging for workers. The Tribunal also heard evidence on how, in the Unions' view, the expiry of the finding would negatively affect worker hiring and retention,¹³⁰ and health and safety.¹³¹

[84] The current job levels, as well as terms and conditions of employment, are attributable, in part, to developments that occurred prior to the POR, and did not improve during the POR. The prospects in the event of a rescission of the finding are not positive. For example, there is evidence that when the domestic industry's orders decreased because of lost sales to dumped or subsidized subject goods, it resorted to laying off workers. This occurred during the POI for the original inquiry concerning dumped imports from Korea,¹³² and during and following the period of investigation (POI) in *Carbon and Alloy Steel Line Pipe* (the initial inquiry concerning dumped and subsidized imports from China).¹³³ As discussed above, there is evidence that subject imports during 2022 and into 2023 when normal values did not reflect market conditions have also contributed to layoff decisions. The Tribunal concludes that a similar pattern of layoffs may arise in the next 24 months if the finding is rescinded given the likelihood of increased import volumes of low-priced subject goods.

[85] Likewise, with respect to terms and conditions of employment, the Tribunal accepts the evidence provided by the Unions that a resumption of imports of dumped subject goods resulting from a rescission of the finding will likely make collective bargaining more challenging for workers, especially with respect to improvements in wages or in retirement benefits. Evraz's Camrose and Regina plants, and Tenaris Canada's plant in Sault Ste. Marie, will be in collective bargaining in the next 24 months.¹³⁴ If Evraz's plant in Red Deer does not ratify a recently concluded memorandum of agreement, it may also be engaged in collective bargaining over the next 24 months.¹³⁵ That said, collective bargaining negotiations are complex and are affected by a wide range of factors. The

¹²⁶ See, for example, the testimony of Mr. De Feyter (Exhibit RR-2022-001-E-09 at paras. 40–41); and the Algoma Tubes Inc. Collective Agreement (Exhibit RR-2022-001-E-09 at 127–212).

¹²⁷ See, for example, the testimony of Ms. Servais (*Transcript of Public Hearing* at 71); and the testimony of Mr. Day (Exhibit RR-2022-001-E-03 at paras. 14–15).

¹²⁸ See, for example, the testimony of Mr. Day (*Transcript of Public Hearing* at 54); Exhibit RR-2022-001-E-03 at paras. 17–19).

¹²⁹ See, for example, the testimony of Mr. Day (Exhibit RR-2022-001-E-03 at paras. 17–19, 23).

¹³⁰ See, for example, the testimony of Mr. Day (*Transcript of Public Hearing* at 63–64, 85–86); the testimony of Ms. Servais (*Transcript of Public Hearing* at 83–84, 88–89); and the testimony of Mr. De Feyter (*Transcript of Public Hearing* at 123–124).

¹³¹ See, for example, the testimony of Mr. De Feyter (*Transcript of Public Hearing* at 124–126; Exhibit RR-2022-001-E-09 at paras. 46–52); and the testimony of Mr. Day (Exhibit RR-2022-001-E-03 at paras. 42–44).

¹³² *Line Pipe II* at paras. 83–84.

¹³³ (29 March 2016), NQ-2015-002 (CITT) at para. 161.

¹³⁴ Testimony of Ms. Servais (*Transcript of Public Hearing* at 53); testimony of Mr. Day (*Transcript of Public Hearing* at 57); testimony of Mr. De Feyter (*Transcript of Public Hearing* at 113).

¹³⁵ Testimony of Mr. La (*Transcript of Public Hearing* at 58).

Tribunal, nevertheless, accepts that the presence of dumped subject goods may contribute to new collective agreements with lower wages and reduced retirement benefits.

Conclusion on injury to the domestic industry

[86] The Tribunal found above that if the finding expires, there would likely be price undercutting, increased import volumes of the subject goods at low prices, and price depression over the next 24 months. The Tribunal has also found that rescinding the finding would have potential negative effects on workers, including in respect of employment, and terms and conditions of employment. Finally, the Tribunal has considered the circumstances at the end of the POR when the domestic industry lost market share in 2022 following increased volumes of the subject goods sold at low prices in the domestic market at a time when certain Korean exporters were benefitting from normal values that did not reflect market conditions. Those circumstances provided a strong indication of how South Korean exporters would respond to the rescission of the finding. The Tribunal finds that taken together, these factors demonstrate that if the finding expires, the domestic industry will likely experience material injury.

[87] In terms of factors other than dumping that could cause injury to the domestic industry over the next 24 months, the parties did not expressly identify any factors. The Tribunal reviewed the record and determined that there is no evidentiary basis to conclude that any likely future injury would be due to such other factors to any material extent.

[88] The Tribunal concludes that the continuation or resumption of dumping of the subject goods would likely result, in and of itself, in material injury to the domestic industry over the next 24 months.

EXCLUSION REQUESTS

[89] The Tribunal received four requests to exclude certain products from any order continuing the finding. SSA and Cantak each sought two exclusions: one for certain slurry/tailings line pipe, and one for certain steam line pipe.¹³⁶

[90] SIMA implicitly authorizes the Tribunal to grant exclusions from the scope of an order or finding.¹³⁷ Exclusions are an extraordinary remedy that may be granted at the Tribunal's discretion (i.e., when the Tribunal is of the view that such exclusions will not cause injury to the domestic industry).¹³⁸ The rationale for exclusions in expiry reviews is that despite the general conclusion that all goods covered by an order are likely to cause injury to the domestic industry, there may be imported products within the definition of the subject goods that are not likely to cause injury.¹³⁹

¹³⁶ Exhibit RR-2022-001-042; Exhibit RR-2022-001-042.

¹³⁷ *Hetex Garn A.G. v. The Anti-dumping Tribunal*, [1978] 2 F.C. 507 (FCA); *Sacilor Aciéries v. Anti-dumping Tribunal* (1985) 9 C.E.R. 210 (CA); Binational Panel, *Induction Motors Originating in or Exported From the United States of America (Injury)* (11 September 1991), CDA-90-1904-01; Binational Panel, *Certain Cold-Rolled Steel Products Originating or Exported From the United States of America (Injury)* (13 July 1994), CDA-93-1904-09.

¹³⁸ *Carbon Steel Screws* at para. 222; *Photovoltaic Modules and Laminates* (25 March 2021), RR-2020-001 (CITT) [*Photovoltaic Modules and Laminates*] at para. 128; *Hot-rolled Carbon Steel Plate* (13 March 2020), RR-2019-001 (CITT) [*Steel Plate*] at para. 163. See also the Tribunal's *Guidelines on product exclusion requests*.

¹³⁹ *Photovoltaic Modules and Laminates* at para. 128; *Steel Plate* at para. 163.

[91] In determining whether an exclusion is likely to cause injury to the domestic industry, the Tribunal considers several factors such as whether the domestic industry produces, actively supplies or is capable of producing like goods in relation to the subject goods for which the exclusion is requested.¹⁴⁰ The onus is on the requester to demonstrate that imports of the goods for which the exclusion is requested are not likely to cause injury to the domestic industry.¹⁴¹

[92] SSA, Cantak, Evraz, Bri-Steel, Gateway, Tenaris Canada and the Unions reached an agreement on the requested product exclusions. For certain slurry/tailings pipe, the proposed language is as follows:

Submerged arc longitudinal welded line pipe, regardless of grade having nominal outside diameters from and including 18 inches to 24 inches (610 mm) (with all dimensions being plus or minus allowable tolerances contained in the applicable standards), with a wall thickness of 0.500 inches or above (12.700 mm or above), in lengths of 60 feet (18.288 m) with no girth welds, for exclusive use in slurry or tailings piping systems in oils sands projects and marked “For Use as Slurry/Tailings Pipe Only” and having an accompanying mill test report indicating that the pipe is certified for use in slurry or tailings applications only; for greater certainty, use in a pipeline meeting CSA Z-662 or as pressure piping meeting CSA B51 Code is not permitted under this exclusion.¹⁴²

[93] For certain steam pipe, the proposed language is as follows:

Submerged arc longitudinal welded line pipe, having nominal outside diameters from and including 18 inches to 24 inches (with all dimensions being plus or minus allowable tolerances contained in the applicable standards), regardless of wall thickness and length, for the exclusive end-use of high-temperature steam distribution in Steam Assisted Gravity Drainage or Cyclic Steam Stimulation processes, marked “For Steam Distribution Only (in SAGD or CSS End-Uses Only)”, and certified to meet the requirements of CSA Z662.19 Clause 14 and/or Annex I and certified to have proven fatigue/creep test properties as provided in sections I.2.3.2 and I.3.2.1 of CSA Z662.19 as established by means of a creep test of no less than 10,000 hours carried out in accordance with ASTM E139 and having an accompanying mill test report indicating that the pipe is certified for use in high temperature steam distribution in SAGD or CSS processes only.¹⁴³

[94] The exclusions are granted. Given the agreement between the parties, the Tribunal is satisfied that the subject goods covered by the requested exclusions are not likely to cause injury to the domestic industry.

¹⁴⁰ *Certain Fasteners* (6 January 2010), RR-2009-001 (CITT) [*Fasteners*] at para. 245.

¹⁴¹ *Fasteners* at para. 243.

¹⁴² Exhibit RR-2022-001-042 at 1.

¹⁴³ *Ibid.* at 1–2.

CONCLUSION

[95] Pursuant to paragraph 76.03(12)(b) of SIMA, the Tribunal continues its finding in respect of carbon and alloy steel line pipe from South Korea, excluding the products as described in the order.

Eric Wildhaber

Eric Wildhaber
Presiding Member

Cheryl Beckett

Cheryl Beckett
Member

Frédéric Seppey

Frédéric Seppey
Member