



Canadian International  
Trade Tribunal

Tribunal canadien du  
commerce extérieur

CANADIAN  
INTERNATIONAL  
TRADE TRIBUNAL

# Dumping and Subsidizing

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## DETERMINATION AND REASONS

Preliminary injury inquiry  
PI-2024-002

Concrete Reinforcing Bar

*Determination issued  
Tuesday, July 2, 2024*

*Reasons issued  
Wednesday, July 17, 2024*

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IN THE MATTER OF a preliminary injury inquiry, pursuant to subsection 34(2) of the *Special Import Measures Act*, respecting:

## CONCRETE REINFORCING BAR

### PRELIMINARY DETERMINATION OF INJURY

The Canadian International Trade Tribunal, pursuant to the provisions of subsection 34(2) of the *Special Import Measures Act* (SIMA), has conducted a preliminary injury inquiry into whether there is evidence that discloses a reasonable indication that the dumping of hot-rolled deformed steel concrete reinforcing bar in straight lengths or coils, commonly identified as rebar, in various diameters up to and including 56.4 millimetres, in various finishes, excluding plain round bar and fabricated rebar products, originating in or exported from the Republic of Bulgaria, the Kingdom of Thailand, and the United Arab Emirates (the subject goods), has caused injury or retardation or is threatening to cause injury, as these words are defined in SIMA. The product definition also excludes “10 mm diameter (10M) rebar produced to meet the requirements of CSA G30 18.09 (or equivalent standards) that is coated to meet the requirements of epoxy standard ASTM A775/A 775M 04a (or equivalent standards) in lengths from 1 foot (30.48 cm) up to and including 8 feet (243.84 cm)”.

This preliminary injury inquiry follows the notification, on May 3, 2024, that the President of the Canada Border Services Agency had initiated an investigation into the alleged injurious dumping of the subject goods.

Pursuant to subsection 37.1(1) of SIMA, the Tribunal determines that there is evidence that discloses a reasonable indication that the dumping of the subject goods has caused or is threatening to cause injury to the domestic industry.

Randolph W. Heggart

Randolph W. Heggart  
Presiding Member

Bree Jamieson-Holloway

Bree Jamieson-Holloway  
Member

Frédéric Seppey

Frédéric Seppey  
Member

The statement of reasons will be issued within 15 days.

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## STATEMENT OF REASONS

### INTRODUCTION

[1] On March 13, 2024, the complainants, ArcelorMittal Long Products Canada, G.P. (AMLPC), Gerdau Ameristeel Corporation (Gerdau) and AltaSteel Inc. (AltaSteel), filed a complaint with the Canada Border Services Agency (CBSA) alleging that the dumping of certain concrete reinforcing bar, commonly referred to as rebar, originating in or exported from the Republic of Bulgaria (Bulgaria), the Kingdom of Thailand (Thailand) and the United Arab Emirates (UAE) (the subject goods), has caused injury or is threatening to cause injury to the domestic industry.<sup>1</sup> The complaint is also supported by two other domestic producers, namely, Max Aicher (North America) Ltd. (MANA) and Ivaco Rolling Mills 2004 LP (Ivaco).

[2] On May 3, 2024, the CBSA initiated an investigation respecting the dumping of the subject goods pursuant to subsection 31(1) of the *Special Import Measures Act* (SIMA).<sup>2</sup>

[3] As a result of the CBSA's decision to initiate this investigation, the Canadian International Trade Tribunal began its preliminary injury inquiry pursuant to subsection 34(2) of SIMA on May 6, 2024, to determine whether the evidence discloses a reasonable indication that the dumping of the subject goods has caused injury or is threatening to cause injury to the domestic industry.<sup>3</sup>

[4] The Tribunal received notices of participation from AMLPC, Gerdau, AltaSteel, the United Steelworkers, Jebsen and Jessen Metals GmbH, and the Ministry of Economy and Industry of Bulgaria. During these proceedings, no additional submissions from any party were filed.

[5] On July 2, 2024, pursuant to subsection 37.1(1) of SIMA, the Tribunal determined that there was evidence that disclosed a reasonable indication that the dumping of the subject goods has caused injury or is threatening to cause injury to the domestic industry. The reasons for that determination are set out below.

### PRODUCT DEFINITION

[6] The CBSA defined the subject goods as follows:<sup>4</sup>

Hot-rolled deformed steel concrete reinforcing bar in straight lengths or coils, commonly identified as rebar, in various diameters up to and including 56.4 millimeters, in various finishes, excluding plain round bar and fabricated rebar products, originating in or exported from the Republic of Bulgaria, Kingdom of Thailand, and the United Arab Emirates.

Also excluded is 10-mm-diameter (10M) rebar produced to meet the requirements of CSA G30 18.09 (or equivalent standards) and coated to meet the requirements of epoxy standard ASTM A775/A 775M 04a (or equivalent standards) in lengths from 1 foot (30.48 cm) up to and including 8 feet (243.84 cm).

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<sup>1</sup> Exhibit PI-2024-002-02.01.

<sup>2</sup> R.S.C., 1985, c. S-15.

<sup>3</sup> As a domestic industry is already established, the Tribunal need not consider the question of retardation.

<sup>4</sup> Exhibit PI-2024-002-05 at para. 16.

## THE CBSA'S DECISION TO INVESTIGATE

[7] On May 3, 2024, the CBSA initiated an investigation pursuant to subsection 31(1) of SIMA, as it was of the opinion that there was evidence that the subject goods had been dumped and that there was evidence that disclosed a reasonable indication that the dumping had caused and was threatening to cause injury to the domestic industry.

[8] Using information from the period of January 1, 2023, to December 31, 2023, the CBSA estimated the margins of dumping and volumes of dumped goods for each of the subject countries as follows:<sup>5</sup>

Country	Margin of Dumping (% of export price)	Volume of Dumped Imports (% of total imports)
Bulgaria	18.7	11
Thailand	31.2	8.4
UAE	13.9	29.4

## LEGISLATIVE FRAMEWORK

[9] The Tribunal's mandate in a preliminary injury inquiry is set out in subsection 34(2) of SIMA, which requires the Tribunal to determine "... whether the evidence discloses a reasonable indication that the dumping or subsidizing of the [subject] goods has caused injury or retardation or is threatening to cause injury."

### Reasonable indication

[10] The term "reasonable indication" is not defined in SIMA but has been understood to mean that the evidence need not be "conclusive, or probative on a balance of probabilities".<sup>6</sup> The reasonable indication standard is lower than the standard that applies in a final injury inquiry under section 42 of SIMA.<sup>7</sup>

[11] The evidence at the preliminary phase of proceedings tends to be significantly less detailed and comprehensive than the evidence in a final injury inquiry. Not all the evidence is available at the preliminary phase, and the evidence cannot be tested to the same extent as it would be during a final injury inquiry. At this stage of the process, the Tribunal's role is to assess whether there is sufficient evidence of injury or threat of injury caused by the subject goods for the CBSA to continue with an investigation. In the affirmative, the Tribunal will proceed to a final injury inquiry to determine whether the dumping of the subject goods has caused injury or is threatening to cause injury, which would justify the imposition of a trade remedy. Therefore, the standard of "reasonable indication" of injury or threat of injury does not require the extensive evidence needed to satisfy the higher threshold of reliability and cogency that the Tribunal needs in the context of a final injury inquiry.<sup>8</sup>

<sup>5</sup> *Ibid.* at Table 1 and para. 69.

<sup>6</sup> *Ronald A. Chisholm Ltd. v. Deputy M.N.R.C.E.* (1986), 11 CER 309 (FCTD).

<sup>7</sup> *Certain Fabricated Industrial Steel Components* (10 November 2016), PI-2016-003 (CITT) at para. 13.

<sup>8</sup> *Certain Upholstered Domestic Seating* (19 February 2021), PI-2020-007 (CITT) [*UDS PI*] at para. 15.

[12] Nonetheless, the outcome of preliminary injury inquiries must not be taken for granted.<sup>9</sup> Simple assertions are not sufficient.<sup>10</sup> Complaints, as well as the cases of parties opposed, must be supported by positive evidence that is both relevant and sufficient in that it addresses the requirements in SIMA and the relevant factors of the *Special Import Measures Regulations* (Regulations).<sup>11</sup> In previous cases, the Tribunal stated that the “reasonable indication” test is passed where, in light of the evidence presented, the allegations stand up to a somewhat probing examination, even if the theory of the case might not seem convincing or compelling.<sup>12</sup>

### **Injury factors and framework issues**

[13] In making its preliminary determination of injury, the Tribunal takes into account the injury and threat of injury factors that are prescribed in section 37.1 of the Regulations. These include the following:

- the import volumes of the dumped goods and the effects of the dumped goods on the price of like goods;
- the resulting economic impact of the dumped goods on the state of the domestic industry; and
- if the Tribunal finds that injury or a threat of injury exists, whether a causal relationship exists between the dumping of the goods and the injury or threat of injury.

[14] However, before examining whether there is evidence of injury and threat of injury, the Tribunal must address a number of framework issues. Specifically, it must identify the domestically produced goods that are “like goods” in relation to the subject goods, determine whether there is more than one class of goods, and identify the domestic industry that produces those like goods. This is required because subsection 2(1) of SIMA defines “injury” as “material injury to a domestic industry” and “domestic industry” as “... 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 ...”.

[15] Given that the subject goods in this case originate in or are exported from more than one country, the Tribunal must also determine whether it will cumulatively assess the effect of the dumping of the subject goods from all the subject countries (i.e., whether it will conduct a single injury analysis or a separate analysis for each of the three subject countries).

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<sup>9</sup> *Concrete Reinforcing Bar* (12 August 2014), PI-2014-001 (CITT) at paras. 18–19.

<sup>10</sup> Article 5 of the World Trade Organization (WTO) Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994 requires an investigating authority to examine the accuracy and adequacy of the evidence provided in a dumping complaint to determine whether there is sufficient evidence to justify the initiation of an investigation and to reject a complaint or to terminate an investigation as soon as an investigating authority is satisfied that there is not sufficient evidence of dumping or injury. Article 5 also specifies that simple assertions that are not substantiated with relevant evidence cannot be considered sufficient to meet the requirements of the article. Article 11 of the WTO Agreement on Subsidies and Countervailing Measures imposes the same requirements regarding subsidy investigations.

<sup>11</sup> SOR/84-927.

<sup>12</sup> *UDS PI* at para. 16.



## LIKE GOODS AND CLASSES OF GOODS

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

[17] In determining the like goods and whether there is more than one class of goods, the Tribunal typically considers a number of factors, including the physical characteristics of the goods (such as composition and appearance) and their market characteristics (such as substitutability, pricing, distribution channels, end uses and whether the goods fulfill the same customer needs).

[18] The information set out in the complaint indicates that the domestically produced goods have uses and other characteristics closely resembling those of the subject goods.<sup>13</sup> In short, they are like goods in relation to the subject goods.

[19] No opposing views have been presented.

[20] In *Rebar I*, the Tribunal found, on the basis of the above factors, that domestically produced rebar of the same description as the subject goods was “like goods” in relation to the subject goods and that there was a single class of goods.<sup>14</sup> The Tribunal arrived at the same conclusion in *Rebar II*, *Rebar I Review*, *Rebar III*, *Rebar IV* and *Rebar II Review*.<sup>15</sup> In all cases, the subject goods were defined in the same way as in the present case.

[21] Considering the above, the Tribunal finds that rebar produced in Canada that is of the same description as the subject goods is “like goods” in relation to the subject goods, and that there is one class of goods.

## DOMESTIC INDUSTRY

[22] As indicated above, subsection 2(1) of SIMA defines “domestic industry” as “... 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 ...”.

[23] The complaint indicates that there are five known producers of rebar in Canada which account for all domestic production: AltaSteel, AMLPC, Gerdau, MANA and Ivaco. These producers therefore constitute the domestic industry for the purposes of this preliminary injury inquiry. This is consistent with the Tribunal’s decisions in *Rebar I Review*, *Rebar III*, *Rebar IV* and *Rebar II Review*.<sup>16</sup>

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<sup>13</sup> Exhibit PI-2024-002-02.01 at 15–20, 24–25, 130.

<sup>14</sup> *Concrete Reinforcing Bar* (9 January 2015), NQ-2014-001 (CITT) [*Rebar I*] at paras. 47, 79.

<sup>15</sup> *Concrete Reinforcing Bar* (3 May 2017), NQ-2016-003 (CITT) [*Rebar II*] at para. 45; *Concrete Reinforcing Bar* (14 October 2020), RR-2019-003 (CITT) [*Rebar I Review*] at para. 33; *Concrete Reinforcing Bar* (4 June 2021), NQ-2020-004 (CITT) [*Rebar III*] at para. 31; *Concrete Reinforcing Bar* (2 July 2021), NQ-2020-005 (CITT) [*Rebar IV*] at para. 29; *Concrete Reinforcing Bar* (2 February 2023), RR-2021-006 (CITT) [*Rebar II Review*] at para. 35.

<sup>16</sup> *Rebar I Review* at para. 36; *Rebar III* at para. 34; *Rebar IV* at para. 32; *Rebar II Review* at para. 38.

[24] Ivaco's financial results and some information pertaining to other performance indicators are not on the record. The Tribunal will consider the impact of the subject goods on the financial results of all domestic producers except Ivaco since, according to the information available, the production of the remaining four domestic producers accounted for a very high proportion of total domestic production of the like goods between 2020 and 2023.<sup>17</sup> The financial results and other performance indicators of these four domestic producers are therefore reasonably representative of the state of the entire domestic industry for the purposes of this preliminary injury inquiry.

## CUMULATION

[25] In the context of a final injury inquiry, subsection 42(3) of SIMA requires the Tribunal to assess the cumulative effect of the dumping of goods that are imported into Canada from more than one subject country if it is satisfied that the following conditions are met:

- (i) the margin of dumping in relation to the goods from each of those countries is not insignificant and the volume of the goods imported from each of those countries is not negligible; and that
- (ii) such an assessment would be appropriate, taking into account the conditions of competition between the goods from any of those countries and the goods from any other of those countries or the domestically produced like goods.

[26] While subsection 42(3) of SIMA applies to final injury inquiries, the Tribunal's practice has been to adopt the same framework in preliminary injury inquiries.<sup>18</sup>

[27] In this case, the Tribunal finds that the evidence available at this stage supports conducting an analysis of the cumulative effect of the dumping of the subject goods from the three subject countries.

[28] In a preliminary injury inquiry, the Tribunal generally assesses insignificance and negligibility based on the CBSA's estimated margins of dumping and import volumes for its period of investigation.<sup>19</sup> In the present case, as indicated earlier, the estimated margin of dumping for each country is not insignificant (i.e., it is not less than 2% of the export price of the goods) and the estimated import volume for each country is not negligible (i.e., it is not less than 3% of the total volume of imports from all countries).<sup>20</sup>

[29] Regarding the conditions of competition, the Tribunal has previously made its assessment based on factors such as interchangeability, quality, pricing, distribution channels, modes of transportation, timing of arrivals and geographic dispersion.<sup>21</sup>

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<sup>17</sup> Exhibit PI-2024-002-03.01 (protected) at 126.

<sup>18</sup> *Galvanized Steel Wire* (22 March 2013), PI-2012-005 (CITT) at para. 40; *Corrosion-resistant Steel Sheet* (2 February 2001), PI-2000-005 (CITT) at 4, 5.

<sup>19</sup> The CBSA's period of investigation in this case is from April 1, 2023, to March 31, 2024.

<sup>20</sup> See definitions of "insignificant" and "negligible" in subsection 2(1) of SIMA.

<sup>21</sup> The Tribunal has recognized that other factors may be considered and that no single factor may be determinative. See, for example, *Flat Hot-rolled Carbon and Alloy Steel Sheet and Strip* (17 August 2001), NQ-2001-001 (CITT) at 16; *Waterproof Footwear* (25 September 2009), NQ-2009-001 (CITT) at note 28.

[30] The Tribunal has consistently held that imported and domestically produced rebar products are fully interchangeable commodity products that compete with one another in the Canadian market on the basis of price.<sup>22</sup> The Tribunal has received no submissions or evidence that would make cumulation inappropriate in this case. In fact, the evidence on the record indicates that offers from the subject countries were being made at similar periods between 2021 and 2023. It also indicates that the subject goods are shipped to Canada via the same mode of transportation, are sold through the same channels of distribution as the like goods, and compete with the like goods in the same geographical markets across Canada.<sup>23</sup>

[31] Considering the above, the Tribunal finds that the evidence indicates that the subject goods compete under similar conditions among themselves, and between the subject goods and the like goods.

[32] Therefore, for the purposes of this preliminary injury inquiry, the Tribunal considers it appropriate to conduct a single injury analysis that will assess the cumulative effect of the dumping of rebar into Canada from all three subject countries.

## INJURY ANALYSIS

### Import volume of subject goods

[33] The Tribunal must consider whether the evidence reasonably indicates that the volume of the subject imports significantly increased in absolute terms and relative to domestic production and consumption.

[34] The complainants submitted that there has been both an absolute and relative increase in imports of the subject goods since 2020, following the Tribunal's findings in *Rebar III* and *Rebar IV*. They noted that subject goods were absent from the market in 2020, then increased to almost 400,000 tonnes in 2023.<sup>24</sup>

[35] While imports from Bulgaria were absent from the market in 2021 and 2022, given the Tribunal's decision to conduct a cumulative injury analysis, import trends were assessed in respect of imports of subject goods from the three subject countries together.

[36] The CBSA's analysis of import data supports the allegation of a significant increase in the import volume of the subject goods on an absolute basis from 2021 to 2023.<sup>25</sup> According to the CBSA, the volume of subject goods increased by 262.1% from 2021 to 2023.<sup>26</sup> When considered together with the domestic industry's production and sales volumes, there was also an increase in imports of subject goods relative to domestic production and consumption of like goods between 2021 and 2023.<sup>27</sup>

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<sup>22</sup> *Rebar I* at para. 47; *Rebar II* at paras. 67–68; *Rebar III* at paras. 44–45; *Rebar IV* at paras. 47–48.

<sup>23</sup> Exhibit PI-2024-002-02.01 at 139, 144, 156–164; Exhibit PI-2024-002-03.01 (protected) at 181–182, 193–201, 247–250, 257–309, 536, 539, 545–552, 623–671, 675–677, 683.

<sup>24</sup> Exhibit PI-2024-002-02.01 at 121.

<sup>25</sup> Exhibit PI-2024-002-03.01 (protected) at 37.

<sup>26</sup> Exhibit PI-2024-002-05 at 18.

<sup>27</sup> Exhibit PI-2024-002-03.01 (protected) at 126, 134, 1052.

[37] Moreover, the Tribunal notes that, while the total apparent Canadian market for rebar decreased from 2021 to 2023, imports from the subject countries increased significantly over the same period and took market share from both domestically produced goods and imports from non-subject countries.<sup>28</sup>

[38] The Tribunal finds that there is a reasonable indication that the volume of subject goods increased significantly in both absolute terms and relative to domestic production and consumption of like goods between 2021 and 2023.

### **Effects on prices of like goods**

[39] The Tribunal must also consider whether the evidence reasonably indicates that the subject goods have had significant adverse price effects on the like goods.

[40] The complainants alleged that the prices of the subject goods undercut the prices of the domestic industry, leading to lost sales, price depression and price suppression.

#### Price undercutting

[41] Both the unit values of imports provided in the complaint and calculated using information from the CBSA case analysis provide a reasonable indication that the prices of the subject goods undercut those of the like goods between 2021 and 2023.<sup>29</sup> The complainants also provided a number of examples of alleged price undercutting resulting in lost sales or price reductions, or both.<sup>30</sup>

[42] Taken together, the Tribunal finds that the evidence reasonably indicates that the subject goods undercut the price of the domestically produced like goods in 2021, 2022 and 2023 but that the extent of this undercutting could only be considered significant in 2022 and 2023.

[43] The Tribunal notes that account-specific instances of lost sales and price reductions will warrant more scrutiny in the event of a final injury inquiry should the CBSA make a preliminary determination of dumping.

#### Price depression

[44] The average selling price of like goods increased in 2022, then declined in 2023, but experienced a net increase between 2021 and 2023. The complainants submitted that they experienced price depression in 2023 when the subject goods became the largest source of imports in the Canadian market.

[45] While the evidence provides a reasonable indication that prices of the subject goods undercut those of the like goods in 2023, the Tribunal observes that the domestic industry's costs of production also appear to have declined in that year. However, as further discussed below, the price of like goods declined to a greater extent.<sup>31</sup>

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<sup>28</sup> *Ibid.* at 21, 134; Exhibit PI-2024-002-03.04 (protected) at 16.

<sup>29</sup> Exhibit PI-2024-002-02.01 at 121–123; Exhibit PI-2024-002-03.01 (protected) at 126–133; Exhibit PI-2024-002-03.04 (protected) at 26.

<sup>30</sup> Exhibit PI-2024-002-03.01 (protected) at 42–44, 193–201, 545–553.

<sup>31</sup> *Ibid.* at 45.

[46] Other evidence indicates that prices in multiple regions of the world declined in 2023 compared to 2022. The complaint contains MEPS International Steel Review and CRU market data on rebar prices in Central European countries, Singapore, and the United States which show that prices in all these regions declined in 2023, in similar proportions to those in Canada.<sup>32</sup>

[47] Considering the above, the Tribunal finds that, while the evidence indicates that prices of the like goods were lower in 2023, it does not provide a reasonable indication that this depression was largely caused by the subject goods, although it is likely a contributing factor. Therefore, the Tribunal cannot conclude that there is a reasonable indication that the subject goods, in and of themselves, significantly depressed the price of domestically produced like goods in 2023.

#### Price suppression

[48] The complainants compared their costs and prices in 2021 and 2023, and they noted that the cost of goods manufactured and the cost of goods sold increased at a rate exceeding that of the industry's net sales price. They noted that this led their gross margin to decline over that time period. Comparing 2022 and 2023, they argued that the decline in price exceeded the decline in costs, resulting in a decline in the domestic industry's gross margin.<sup>33</sup>

[49] Contrary to the approach put forward by the complainants, the Tribunal typically examines price suppression by comparing the increase in the selling price between consecutive periods with the increase in costs between consecutive periods. The question before the Tribunal is whether the subject goods prevent the domestic industry from increasing prices to cover cost increases. The Tribunal generally does not consider price suppression as occurring when costs are decreasing.

[50] As such, the evidence is insufficient to show a reasonable indication that subject goods significantly suppressed the price of domestically produced like goods.

#### **Resultant impact on the domestic industry**

[51] As part of its analysis under paragraph 37.1(1)(c) of the Regulations, the Tribunal must consider the impact of the dumped goods on the state of the domestic industry and, in particular, all relevant economic factors and indices that have a bearing on the state of the domestic industry.<sup>34</sup>

[52] In a preliminary injury inquiry, the Tribunal must determine whether the evidence discloses a reasonable indication of a causal link between the dumping of the subject goods and the injury on the basis of the resultant impact of the volume and price effects of the dumped goods on the domestic

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<sup>32</sup> Exhibit PI-2024-002-02.01 at 123; Exhibit PI-2024-002-03.01 (protected) at 128, 237; Exhibit PI-2024-03.01A (protected) at 119–120.

<sup>33</sup> Exhibit PI-2024-002-03.01 (protected) at 132–133.

<sup>34</sup> Such factors and indices at paragraph 37.1(1)(c) of the Regulations include the following:  
(i) any actual or potential decline in output, sales, market share, profits, productivity, return on investments or the utilization of industrial capacity, (i.1) any actual or 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, (ii) any actual or potential negative effects on cash flow, inventories, employment, wages, growth or the ability to raise capital, (ii.1) the magnitude of the margin of dumping or amount of subsidy in respect of the dumped or subsidized goods...

industry. The standard is whether there is a reasonable indication that the dumping of the subject goods has, *in and of itself*,<sup>35</sup> caused injury.

[53] While subsection 2(1) of SIMA defines “injury” as “material injury to the domestic industry”, the word “material” itself is not defined. In the past, the Tribunal has considered this to mean something that is more than *de minimis* but not necessarily serious injury.<sup>36</sup> Ultimately, the Tribunal determines the materiality of any injury on a case-by-case basis, having regard to the extent (i.e., severity), timing and duration of the injury.<sup>37</sup>

[54] The evidence on the record indicates that the domestic industry’s market share decreased in 2022 and increased by a lesser extent in 2023, for an overall decline over the 2021 to 2023 period. Meanwhile, the subject goods increased their market share over that same period, while all other imports’ market share remained stable in 2022 from 2021 and decreased in 2023.<sup>38</sup>

[55] Although it seems like the domestic industry may have lost market share to the subject countries in 2022, the Tribunal notes that the market share gains by subject imports in 2023 appear to have been at the expense of the *Rebar I* and *Rebar III* countries. Indeed, the market share for these countries was in decline in 2023, while the domestic industry’s market share was increasing. However, looking at the 2021–2023 period, it seems that the market share loss of the domestic industry could also have been largely the result of adjustment in the import mix, with an increased combined market share of imports from the United States and countries other than the *Rebar I* to *Rebar IV* countries almost perfectly matching the decrease in the market share of the domestic industry over that same period.<sup>39</sup>

[56] The evidence on the record shows that the domestic industry’s domestic sales volume and production decreased significantly between 2021 and 2023, while capacity utilization in metric tonnes decreased overall between 2021 and 2023. Meanwhile, market demand decreased significantly between 2021 and 2023, as evidenced by the data on the total market.<sup>40</sup>

[57] With regard to the domestic industry’s financial performance, there was a marked increase in gross margin and net income between 2021 and 2022.<sup>41</sup> The complainants indicated that this significant increase was the result of the findings in *Rebar III* and *Rebar IV*, as well as the market recovery following the easing of public health restrictions related to the COVID-19 pandemic. In addition, the war in Ukraine sparked a rise in steel prices in early to mid 2022 as concerns of further

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<sup>35</sup> *Gypsum Board* (5 August 2016), PI-2016-001 (CITT) at para. 44. See, for example, *Galvanized Steel Wire* (22 March 2013), PI-2012-005 (CITT) at para. 75.

<sup>36</sup> *ABS Resin* (15 October 1986), CIT-3-86; *Unitized Wall Modules* (12 November 2013), NQ-2013-002 (CITT) at para. 58.

<sup>37</sup> *Rebar II* at para. 184. See also *Certain Hot-rolled Carbon Steel Plate* (27 October 1997), NQ-97-001 (CITT) at 13, where the Tribunal suggested that the concept of materiality could entail both temporal and quantitative dimensions.

<sup>38</sup> Exhibit PI-2024-002-02.01 at 22, 38–40; Exhibit PI-2024-002-03.01(protected) at 21, 37–39, 134; Exhibit PI-2024-002-03.04 (protected) at 16.

<sup>39</sup> Exhibit PI-2024-002-02.01 at 22, 38–40; Exhibit PI-2024-002-03.01(protected) at 21, 37–39, 134; Exhibit PI-2024-002-03.04 (protected) at 16.

<sup>40</sup> Exhibit PI-2024-002-02.01 at 22, 38–40; Exhibit PI-2024-002-03.01 (protected) at 21, 134; Exhibit PI-2024-002-03.04 (protected) at 16.

<sup>41</sup> Exhibit PI-2024-002-03.01 (protected) at 132.

supply chain disruptions and availability of raw materials led to “panic buying”.<sup>42</sup> According to the complainants, the true effect of the subject goods is evidenced by their net loss position in 2023.

[58] In terms of employment, the evidence indicates that, on a consolidated basis, the number of direct employees for AMLPC, AltaSteel, Gerdau and MANA decreased between 2021 and 2023, as did the number of hours worked and wages paid.<sup>43</sup>

[59] Overall, the Tribunal finds that the evidence available indicates that the domestic industry was injured to a certain degree over the 2021 to 2023 period, including in the form of lost market share in 2022 and reduced profitability in 2023. However, the Tribunal finds that, although the subject goods appear to have caused some of the declines in the domestic industry’s performance over the 2021 to 2023 period, several factors appear to have been at play over that period. While the increase in the volume of subject imports combined with the price undercutting observed appear to be contemporaneous with a negative evolution of the domestic industry’s financial results, which decreased significantly from 2022 to 2023, the Tribunal finds no reasonable indication that the injury attributable to the dumping of the subject goods, in and of itself, can be characterized as material.

[60] The other factors mentioned above should be explored in more detail in the full inquiry stage, should the CBSA make a final determination of dumping.

## THREAT OF INJURY ANALYSIS

[61] The Tribunal must now consider whether the evidence discloses a reasonable indication that the dumping of the subject goods is threatening to cause injury to the domestic industry, taking into account the factors prescribed in subsection 37.1(2) of the Regulations. The Tribunal must also have regard to the factors prescribed in subsection 37.1(3) in order to assess whether the requisite causal relationship exists between the dumping of the subject goods and any threat of injury.

[62] Relevant in the Tribunal’s threat of injury analysis is subsection 2(1.5) of SIMA, which indicates that a threat of injury finding cannot be made unless the circumstances in which the dumping of the goods would cause injury are clearly foreseen and imminent. Although this requirement applies to findings made in final injury inquiries, the Tribunal considers that, in the context of a preliminary injury inquiry, the evidence must at least disclose a reasonable indication that the aforementioned circumstances are clearly foreseen and imminent.

[63] As set out below, the Tribunal finds that the evidence on the record reasonably indicates that the dumping of the subject goods poses an imminent and foreseeable threat of injury.

### Likely substantial increase in import volume of dumped goods

[64] As noted above, the subject goods have been increasing their presence in the Canadian market year over year since 2020.<sup>44</sup> Over the CBSA’s period of investigation (namely, April 2023 to March 2024), imports of subject goods accounted for a little over 50% of total imports.<sup>45</sup> With the Bulgarian goods only entering the Canadian market in 2023, doing so at a volume higher than either

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<sup>42</sup> *Ibid.* at 175–176, 220, 227–228.

<sup>43</sup> *Ibid.* at 135.

<sup>44</sup> Exhibit PI-2024-002-03.04 (protected) at 16.

<sup>45</sup> Exhibit PI-2024-002-05 at 11.

the UAE and Thailand in 2021, the Tribunal expects to see a further increase in the volume of subject goods in the near to medium term.<sup>46</sup>

[65] There is evidence of significant excess capacity with respect to the production of rebar, both globally and in the subject countries. CRU data indicate that global rebar production will increase in 2024 and 2025. There is also evidence of a slowdown of the post-pandemic economic rebound going into 2024, leading to forecasted relative stagnation in rebar demand internationally between 2024 and 2026. As further discussed below, taken together, this increases the likelihood that producers in the subject countries will export larger volumes of dumped goods to Canada, which is an attractive market.<sup>47</sup>

[66] Trends regarding rebar production of the “Other EU-27” countries, of which Bulgarian production represents one fifth, show that there continues to be significant production and excess capacity. According to the complainants, Bulgarian excess production is likely to be exported due to Bulgarian long products producers’ export orientation and Bulgaria’s soft demand and soft prices for rebar. In addition, the complainants submitted that, as Bulgaria’s traditional export markets are experiencing subdued demand, it is likely to search for new outlets for its exports.<sup>48</sup>

[67] The complainants noted that Thailand also faces excess capacity for rebar mills, with utilization rates forecasted to remain at lower than half capacity between 2024 and 2026, and it faces soft demand and soft prices for rebar. They noted that Thailand is therefore also likely to search for export markets as it has in the past.<sup>49</sup>

[68] Again, the complainants noted that the UAE has significant excess capacity for rebar, with soft demand below pre-pandemic levels into 2026 and soft prices. In addition, the UAE’s exports have been increasing since 2020, with exports to Canada having increased to the point where Canada has become its largest rebar market in 2022.<sup>50</sup>

[69] The Tribunal also finds that there is a reasonable indication that the Canadian market will be attractive to exporters in the subject countries due to projected increases in demand for rebar and higher pricing relative to other international markets. The complainants submitted that the construction industry stabilized in 2023 and is expected to grow by an average of 2.7 percentage points between 2025 and 2027, mostly supported by public project growth and the fulfillment of

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<sup>46</sup> Exhibit PI-2024-002-03.01 (protected) at 126, 539.

<sup>47</sup> *Ibid.* at 55, 57, 176, 213, 228, 521–527, 738, 749–750, 773, 775–776, 779–780; Exhibit PI-2024-002-03.01A (protected) at 596.

<sup>48</sup> Exhibit PI-2024-002-03.01 (protected) at 521, 523, 775–780, 825, 959; Exhibit PI-2024-002-03.01A (protected) at 71–82, 84–93, 97, 102–103, 107–109, 119–132, 699–703. The complainants use Czechia (similar rebar capacity to Bulgaria) and Poland (larger producer than Bulgaria) as proxies for price trends in Bulgaria, because MEPS does not track rebar prices in Bulgaria.

<sup>49</sup> Exhibit PI-2024-002-02.01 at 82–85; Exhibit PI-2024-002-03.01 (protected) at 507, 521, 526, 775–780, 782–783; Exhibit PI-2024-002-03.01A (protected) at 124–132, 161–175, 178–179, 227–228, 231–234, 241–243, 266–274. The complainants rely on CRU forecasts for prices in Asia and the Metal Bulletin prices for Singapore as proxies for Thailand.

<sup>50</sup> Exhibit PI-2024-002-03.01 (protected) at 521, 775–780, 782–783; Exhibit PI-2024-002-03.01A (protected) at 124–132, 282, 285, 304, 309–310.



long-term investment plans in the industrial, energy and transportation sectors. Therefore, Canadian rebar consumption is forecasted to increase over the 2024 to 2026 period.<sup>51</sup>

[70] Furthermore, Canada is attractive due to its relatively higher prices for rebar, and even more so as the subject countries are under either U.S. anti-dumping duties, section 232 tariffs, or both, in addition to measures in other countries such as the United Kingdom, Australia, Vietnam, and in the European Union.<sup>52</sup> In addition, the subject countries should not have to compete at dumped or subsidized prices with China, Turkey, Vietnam and other large rebar producing countries in Canada, as exporters from these countries are subject to anti-dumping and/or countervailing measures in the country at present.<sup>53</sup>

[71] Having regard to all the above, the Tribunal finds that the evidence reasonably indicates a likelihood of substantially increased imports of subject goods into Canada in the near to medium term.

### **Likely price effects of dumped goods**

[72] As noted above, the evidence indicates that the subject goods undercut domestic average selling prices between 2020 and 2023, and that there was some price depression in 2023.

[73] U.S. Midwest rebar prices are expected to remain among the highest internationally between 2024 and 2026,<sup>54</sup> with prices in other regions remaining significantly lower than the U.S. Midwest price. Having regard to this evidence as well as the recent trends from 2020 to 2023, there is a reasonable indication that the price of the subject goods is likely to continue to undercut the like goods in the near future.

[74] The Tribunal finds that there is a reasonable indication that the continued presence of low-priced subject goods in the domestic market is likely to increase demand for further imports of the subject goods, which can be reasonably expected to undercut the prices of the like goods and have a depressing, and possibly suppressing, effect on the prices of like goods in the near to medium term.

### **Likely impact on the domestic industry**

[75] In its injury analysis above, the Tribunal found that the injury suffered by the domestic industry could not entirely be attributed to the dumping of subject goods. Given its findings of a reasonable indication of a likely substantial increase in imports of subject goods and associated significant price effects in the near to medium term, the Tribunal is of the view that there is a reasonable indication that the domestic industry will likely experience further lost sales and decreased profitability, effectively accelerating the trends observed in 2023. The Tribunal is therefore

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<sup>51</sup> Exhibit PI-2024-002-03.01 (protected) at 222, 235, 775–778; Exhibit PI-2024-002-03.01A (protected) at 644–645, 655–658, 660–661.

<sup>52</sup> Exhibit PI-2024-002-03.01 (protected) at 93–96, 180–181, 424–429, 452, 782–783; Exhibit PI-2024-002-03.01A (protected) at 315–319, 322–634, 662–684, 686–692. The complainants submit that the CRU Steel Long Products Market Outlook’s pricing of rebar for the U.S. Midwest is a reasonable proxy for Canadian pricing trends.

<sup>53</sup> See *Rebar I*, *Rebar I Review*, *Rebar II*, *Rebar III* and *Rebar IV*.

<sup>54</sup> Exhibit PI-2024-002-03.01 (protected) at 229, 237, 782.

of the view that the domestic industry will suffer injury due to the dumping of the subject goods in and of itself, which can reasonably be expected to become material within the meaning of SIMA.

[76] For the reasons above, the Tribunal finds that, taken as a whole, the evidence provided by the complainants is sufficient to conclude that there is a reasonable indication that the dumping of the subject goods is threatening to cause injury to the domestic industry.

## CONCLUSION

[77] On the basis of the foregoing analysis, the Tribunal determines that there is evidence that discloses a reasonable indication that the dumping of the subject goods has caused or is threatening to cause injury to the domestic industry.

Randolph W. Heggart  
Randolph W. Heggart  
Presiding Member

Bree Jamieson-Holloway  
Bree Jamieson-Holloway  
Member

Frédéric Seppey  
Frédéric Seppey  
Member