



Canadian International  
Trade Tribunal

Tribunal canadien du  
commerce extérieur

CANADIAN  
INTERNATIONAL  
TRADE TRIBUNAL

# Dumping and Subsidizing

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## ORDER AND REASONS

Expiry review RR-2024-001

Unitized Wall Modules

*Order and reasons issued  
Wednesday, March 19, 2025*

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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 order made by the Canadian International Trade Tribunal on July 3, 2019, in expiry review RR-2018-002, continuing, without amendment, its finding made on November 12, 2013, in inquiry NQ-2013-002 concerning:

**UNITIZED WALL MODULES ORIGINATING IN OR EXPORTED FROM THE  
PEOPLE'S REPUBLIC OF CHINA**

**ORDER**

The Canadian International Trade Tribunal, pursuant to subsection 76.03(1) of the *Special Import Measures Act*, has conducted an expiry review of the order made on July 3, 2019, in expiry review RR-2018-002, continuing, without amendment, its finding made on November 12, 2013, in inquiry NQ-2013-002, concerning the dumping and subsidizing of unitized wall modules, with or without infill, including fully assembled frames, with or without fasteners, trims, cover caps, window operators, gaskets, load transfer bars, sunshades and anchor assemblies, excluding non-unitized building envelope systems, such as stick systems and point-fixing systems originating in or exported from the People's Republic of China.

Pursuant to paragraph 76.03(12)(b) of the *Special Import Measures Act*, the Tribunal continues, without amendment, its order in respect of the aforementioned goods.

Eric Wildhaber

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Eric Wildhaber

Presiding Member

Georges Bujold

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Georges Bujold

Member

Susana May Yon Lee

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Susana May Yon Lee

Member

Place of Hearing:	Ottawa, Ontario
Date of Hearing:	January 13, 2025
Tribunal Panel:	Eric Wildhaber, Presiding Member Georges Bujold, Member Susana May Yon Lee, Member

**PARTICIPANTS:****Domestic Producers**

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Aluminum Curtainwall Systems Inc./Inland Glass  
& Aluminum Ltd.  
Flynn Canada Ltd.  
BVGlazing Systems  
State Window Corporation  
Harmon Inc.  
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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*<sup>1</sup> (SIMA), has conducted an expiry review of the order made on July 3, 2019, in expiry review RR-2018-002, continuing, without amendment, its finding made on November 12, 2013, in inquiry NQ-2013-002, concerning the dumping and subsidizing of unitized wall modules (UWMs) originating in or exported from the People's Republic of China (China), referred to as the subject goods below.

[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), unless it is continued by the Tribunal following the conduct of an expiry review. The order in expiry review RR-2018-002 was due to expire on July 2, 2024.

[3] The Tribunal's mandate, under section 76.03 of SIMA, is to determine whether the expiry of the order is likely to result in injury to the domestic industry and then to make an order either continuing or rescinding the previous order with or without amendment.

### PROCEDURAL BACKGROUND

[4] The Tribunal issued its notice of expiry review on May 13, 2024.<sup>2</sup> This notice triggered the initiation of an investigation by the Canada Border Services Agency (CBSA) on May 14, 2024, to determine whether the expiry of the Tribunal's order was likely to result in the continuation or resumption of dumping and subsidizing of the subject goods.<sup>3</sup>

[5] On October 10, 2024, the CBSA determined, pursuant to paragraph 76.03(7)(a) of SIMA, that the expiry of the order was likely to result in the continuation or resumption of dumping and subsidizing of the subject goods.<sup>4</sup>

[6] Following the CBSA's determination, the Tribunal began its portion of the expiry review on October 11, 2024, pursuant to subsection 76.03(10) of SIMA, to determine whether the expiry of the order was likely to result in injury to the domestic industry.

[7] The period of review (POR) for the Tribunal's expiry review covers three full years from January 1, 2021, to December 31, 2023, as well as the period of January 1 to June 30, 2024. For comparative purposes, information was also collected and presented for the period of January 1 to June 30, 2023.

[8] During the review, the Tribunal asked domestic producers, importers and purchasers of UWMs, foreign producers of the subject goods, and trade unions that represent workers in the domestic industry to respond to questionnaires.

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<sup>1</sup> R.S.C., 1985, c. S-15.

<sup>2</sup> Exhibit RR-2024-001-01, p. 1–10.

<sup>3</sup> Exhibit RR-2024-001-02.01, p. 1.

<sup>4</sup> Exhibit RR-2024-001-02.01A, p. 1.

[9] Based on the information available to the Tribunal at the beginning of this expiry review, Siber Facade Group Inc. (Siber) was identified as a significant importer of UWMs from non-subject countries and the Tribunal considered its information to be relevant and important to the conduct of its review. Siber did not reply to the Tribunal's importers' questionnaire by the deadline of November 1, 2024, despite having been asked to by the staff of the Secretariat to the Tribunal on several occasions.

[10] On November 15, 2024, the Tribunal issued a letter to Siber, explaining the reasons why the Tribunal needed Siber's information in the context of its expiry review and further requesting the completion of the importers' questionnaire.<sup>5</sup> On November 25, 2024, in light of Siber's continued unwillingness to complete the questionnaire, the Tribunal issued a production order directing Siber to complete and submit the importers' questionnaire by December 3, 2024.<sup>6</sup> On December 3, 2024, Siber complied with the production order and submitted its completed questionnaire.<sup>7</sup>

[11] Ultimately, the Tribunal received the following responses to its questionnaires:<sup>8</sup>

- eleven replies from domestic producers of UWMs;
- three replies from importers of UWMs;<sup>9</sup>
- one reply from a purchaser of UWMs;
- one reply from a foreign producer of the subject goods, namely Shenyang Yuanda Aluminum Engineering Co., Ltd. (Shenyang Yuanda);
- one reply from a union representing workers employed in the domestic industry, namely the United Steelworkers (USW).

[12] Using the questionnaire responses and other information on the record, staff of the Secretariat to the Tribunal prepared public and protected versions of the Investigation Report (IR) and placed them on the record December 2, 2024.<sup>10</sup> On December 10, 2024, staff placed on the record final revised public and protected versions of the IR, which included newly received information from an importer.<sup>11</sup>

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<sup>5</sup> Exhibit RR-2024-001-12.19.02. The Tribunal also sent letters to three other importers or purchasers—Westbank Holdings Ltd., Cladco Limited and Axiom Builders Inc.—that, along with Siber, were identified as significant importers or purchasers of UWMs and failed to reply to the Tribunal's questionnaire by November 1, 2024 (see Exhibit RR-2024-001-12.18.01; Exhibit RR-2024-001-12.20.01; Exhibit RR-2024-001-12.21.01). Westbank Holdings Ltd. responded to the Tribunal's questionnaire, Cladco Limited indicated that it did not import the subject goods and Axiom Builders Inc. worked with Tribunal staff to gather the required information. As such, the Tribunal did not need to take additional steps regarding gathering relevant UWM import data on these other three companies.

<sup>6</sup> Exhibit RR-2024-001-12.19.04.

<sup>7</sup> Exhibit RR-2024-001-12.19B; Exhibit RR-2024-001-13.19 (protected).

<sup>8</sup> Exhibit RR-2024-001-04.A, p. 8–11.

<sup>9</sup> Twenty-two companies replied to the Tribunal's importers' questionnaire indicating that they did not import UWMs during the POR.

<sup>10</sup> Exhibit RR-2024-001-04; Exhibit RR-2024-001-05 (protected).

<sup>11</sup> Exhibit RR-2024-001-04.A; Exhibit RR-2024-001-05.A (protected).

[13] Nine domestic producers, namely Toro Aluminum/Toro Glasswall Inc. (Toro), Starline Windows Ltd. (Starline), Aluminum Curtainwall Systems Inc./Inland Glass & Aluminum Limited (IGA), Flynn Canada Ltd. (Flynn), BVGlazing Systems (BVGlazing), State Window Corporation, Harmon Inc., Quest Window Systems Inc. (Quest) and Contract Glaziers Corp. (Domestic Producers) filed submissions in support of the order being continued. The USW also filed a submission in support of the order being continued. The Tribunal did not receive any submissions in opposition to a continuation of the order.

[14] On December 16, 2024, the Tribunal advised the parties of its decision to proceed by way of a file hearing.<sup>12</sup>

[15] On December 18, 2024, the Tribunal sent requests for information (RFIs) to specific producers and to the USW. On December 30, 2024, it received public and protected replies to the RFIs that were placed on the record.<sup>13</sup>

[16] On January 13, 2025, in Ottawa, Ontario, pursuant to rule 25.1 of the *Canadian International Trade Rules*,<sup>14</sup> the Tribunal held a file hearing based on the documentary evidence filed in this matter. The Tribunal closed the record of the expiry review after the file hearing on January 13, 2025.

## PRODUCT

### Product definition

[17] The subject goods are defined as follows:

Unitized wall modules, with or without infill, including fully assembled frames, with or without fasteners, trims, cover caps, window operators, gaskets, load transfer bars, sunshades and anchor assemblies; excluding non-unitized building envelope systems such as stick systems and point-fixing systems, originating in or exported from the People's Republic of China.<sup>15</sup>

[18] The CBSA's statement of reasons includes additional information on the product and its production process.<sup>16</sup>

## LEGAL FRAMEWORK

[19] The Tribunal is required, pursuant to subsection 76.03(10) of SIMA, to determine whether the expiry of the order in respect of the subject goods is likely to result in injury or retardation for the

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<sup>12</sup> Exhibit RR-2024-001-23.06.

<sup>13</sup> See the Tribunal's requests at Exhibit RR-2024-001-31.01 and the responses at exhibits RR-2024-001-31.02 and RR-2024-001-32.02 (protected). Exhibit RR-2024-001-31.03; Exhibit RR-2024-001-31.04; Exhibit RR-2024-001-32.04 (protected); Exhibit RR-2024-001-31.05; Exhibit RR-2024-001-32.05 (protected); Exhibit RR-2024-001-31.06; Exhibit RR-2024-001-32.06 (protected).

<sup>14</sup> SOR/91-499.

<sup>15</sup> *Unitized Wall Modules* (July 3, 2019), RR-2018-002 (CITT) [*UWM RR*], para. 24.

<sup>16</sup> Exhibit RR-2024-001-02.01A, paras. 17–31.

domestic industry.<sup>17</sup> Pursuant to subsection 76.03(12), if the Tribunal determines that the expiry of the order is unlikely to result in injury, it is required to rescind it. However, if it determines that the expiry of the order is likely to result in injury, it is required to continue it, with or without amendment.

[20] Before proceeding with its analysis of the likelihood of injury, the Tribunal must first determine what constitutes “like goods”. Once that determination has been made, the Tribunal must determine what constitutes the “domestic industry”.

[21] The Tribunal must also determine whether it will assess the cumulative effect of the dumping and subsidizing of the subject goods, that is, whether it will cross-cumulate the effect.

## LIKE GOODS AND CLASSES OF GOODS

[22] To determine whether the likely resumed or continued dumping and subsidizing of the subject goods is likely to cause material injury to the domestic producers of like goods, the Tribunal must first determine which domestically produced goods, if any, constitute like goods in relation to the subject goods. The Tribunal must also assess whether there is, within the subject goods and the like goods, more than one class of goods.<sup>18</sup>

[23] 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.

[24] 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 their market characteristics, such as substitutability, pricing, distribution channels, end uses and whether the goods fulfill the same customer needs.<sup>19</sup> The same factors are also considered in deciding whether there is more than one class of goods.<sup>20</sup>

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<sup>17</sup> 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 order is likely to result in retardation does not arise in this expiry review.

<sup>18</sup> Should the Tribunal determine 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. See *Noury Chemical Corporation and Minerals & Chemicals Ltd. v. Pennwalt of Canada Ltd. and Anti-dumping Tribunal*, [1982] 2 F.C. 283 (FC).

<sup>19</sup> See, for example, *Copper Pipe Fittings* (19 February 2007), NQ-2006-002 (CITT), para. 48.

<sup>20</sup> To decide whether there is more than one class of goods, the Tribunal must determine whether goods potentially included in separate classes of goods (or that have previously been included in separate classes of goods) constitute “like goods” in relation to each other. If they do, they will be regarded as comprising a single class of goods. See, for example, *Certain Fasteners* (7 January 2005), NQ-2004-005 (CITT), para. 70.



[25] In its original inquiry, the Tribunal found that domestically produced UWMs defined in the same manner as the subject goods constituted “like goods” in relation to the subject goods.<sup>21</sup> The Tribunal also found that there was a single class of like goods.<sup>22</sup> The Tribunal reached the same conclusions with respect to like goods and classes of goods in its 2018 expiry review.<sup>23</sup>

[26] In this review, the Domestic Producers submitted that there is no information on the record indicating a change in production, marketing or sales of UWMs that would warrant the Tribunal to reconsider the previous determinations. Having received no arguments or evidence to the contrary, the Tribunal sees no reason to depart from its previous conclusions. Accordingly, the Tribunal continues to find that domestically produced UWMs defined in the same manner as the subject goods constitute a single class of “like goods” in relation to the subject goods.

## DOMESTIC INDUSTRY

[27] 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.

[28] The Tribunal must therefore 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.<sup>24</sup> A “major proportion” is not defined in SIMA, but it has been interpreted by the Tribunal to mean an important, serious or significant proportion and not necessarily a majority (i.e., not necessarily 50%).<sup>25</sup> The Tribunal has previously implied that in certain circumstances, a proportion of 20% or more of total domestic production may constitute a major proportion.<sup>26</sup> The Tribunal also noted that the World Trade Organization’s (WTO) Appellate Body has remarked on what may constitute a major proportion of domestic production in cases involving fragmented industries such as the Canadian UWM industry, which is composed of numerous producers. In such cases, a major proportion may in fact be a smaller proportion than what would be found in a more concentrated industry.<sup>27</sup>

<sup>21</sup> *Unitized Wall Modules* (November 12, 2013), NQ-2013-002 (CITT) [*UWM NQ*], paras. 30–34. In *UWM NQ*, the Tribunal determined that domestically produced stick systems and point-fixing systems were not like goods to the subject goods because these systems require onsite construction whereas UWMs are manufactured off-site and are ready to be installed upon delivery to the construction site.

<sup>22</sup> *UWM NQ*, paras. 35–50. The Tribunal determined that unitized window wall modules and unitized curtain wall modules have a sufficiently high degree of substitutability and share sufficient commonalities to warrant treatment as a single class of goods.

<sup>23</sup> *UWM RR*, para. 41.

<sup>24</sup> *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, para. 7.207; Appellate Body Report, *EC – Fasteners (China)*, WT/DS397/AB/R, paras. 411, 412, 419; Panel Report, *Argentina – Poultry (Brazil)*, WT/DS241/R, para. 7.341.

<sup>25</sup> *Certain Upholstered Domestic Seating* (March 8, 2021), PI-2020-007 (CITT) [*UDS PI*], para. 43.

<sup>26</sup> *UDS PI*, para. 43; *Venetian Blinds and Slats* (20 July 2004), NQ-2003-003 (CITT), paras. 66–67.

<sup>27</sup> Appellate Body Report, *EC – Fasteners (China)*, WT/DS397/AB/R, paras. 415–416.

[29] In this expiry review, the Domestic Producers' submissions did not include precise data regarding the proportion of total domestic production that they collectively represent.<sup>28</sup> Nevertheless, the Tribunal finds that the information that follows establishes that the collective production of the domestic producers that responded to the producers' questionnaire constitutes a major proportion of the total domestic production.

[30] The Tribunal received questionnaire responses, including partial ones, from 11 domestic producers. This included all domestic producers that submitted responses to the CBSA's questionnaire.<sup>29</sup> The Tribunal also received responses from two potential producers stating that they did not produce UWMs during the POR.<sup>30</sup>

[31] In comparison, at the time of the original inquiry, the Tribunal concluded that the 15 domestic producers for which data was available represented collectively a large majority of the total domestic production of the like goods.<sup>31</sup> Similarly, in the 2018 expiry review, the Tribunal found that the 11 domestic producers that were supporting parties accounted for a major proportion of the total domestic production of like goods.<sup>32</sup> In that review, the Tribunal also noted that according to the CBSA's record, "the consensus among the supporting parties was that [the supporting parties] accounted for, on average, 76 percent of total domestic production of UWMs for the Canadian market."<sup>33</sup>

[32] Similarly, the Tribunal notes that in this expiry review, the CBSA was satisfied that the eight domestic producers it received responses from represented a large majority of the total domestic production of like goods.<sup>34</sup>

[33] The Tribunal further notes that the evidence on the record shows that the composition of the domestic industry has not changed significantly over time. Notably, the majority of the domestic producers from the 2018 expiry review continued their activities over the POR, and actively participated in this expiry review.<sup>35</sup> Furthermore, the Tribunal noted from the questionnaires it received in the present expiry review that respondents' production capacity and employment levels remained largely unchanged from the previous one.<sup>36</sup>

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<sup>28</sup> The Tribunal stresses that in all investigations, domestic industries should provide as much data as possible to quantify their share of total domestic production, as this assists the Tribunal in carrying out its inquiries effectively. However, the Tribunal recognizes that because the Canadian UWM industry is fragmented, it may be difficult to do so.

<sup>29</sup> Exhibit RR-2024-001-04.A, p. 8.

<sup>30</sup> The Tribunal sent letters to 25 other potential domestic producers of UWMs in Canada asking them to complete the Tribunal's producers' questionnaire but it did not receive any responses. Seventeen of these companies are listed in Exhibit RR-2024-001-08, p. 1–2. The remaining eight are Sky Windows Ltd., Starline, State Window Corporation, Tandem Window System, Toro, Transit Glass & Aluminum Ltd., Verval Ltd. and Window City Canada.

<sup>31</sup> *UWM NQ*, para. 53.

<sup>32</sup> *UWM RR*, para. 45. In 2018, while the Tribunal sent 26 producer questionnaires to domestic producers, it received responses from only 13. See Exhibit RR-2018-002-05, p. 17.

<sup>33</sup> *UWM RR*, para. 44.

<sup>34</sup> Exhibit RR-2024-001-02.01A, paras. 37–38.

<sup>35</sup> See Exhibit RR-2024-001-04.A, p. 8; Exhibit RR-2018-002-05, p. 17. Only three domestic producers that responded to the 2018 expiry review did not respond to this review: Ferguson Neudorf Glass, Antamex Industries ULC (entered receivership in early 2024) and Integro Building Systems (filed for bankruptcy on August 31, 2023). See Exhibit RR-2024-001-A.05, p. 10–13.

<sup>36</sup> See Exhibit RR-2024-001-04.A, Table 27; Exhibit RR-2018-002-05, Table 47.

[34] Based on the information on the record and in the absence of representations to the contrary, the Tribunal finds that the collective domestic production of the domestic producers that responded to the producers' questionnaire represents a major proportion of the total domestic production of the like goods. Therefore, they constitute the "domestic industry" for this expiry review.

## CROSS-CUMULATION

[35] The Tribunal must also determine whether it will assess the cumulative effect of the likely dumping and subsidizing of the subject goods.

[36] There are no legislative provisions that directly address cross-cumulation of the effects of both dumping and subsidizing. However, as noted in previous cases, the effects of the likely dumping and subsidizing of the same goods from a particular country manifest as a single set of injurious price effects, making it impossible to isolate the effects of dumping from those of subsidizing. In reality, when dumped and subsidized goods originate from the same country, the effects are so closely intertwined that it becomes impossible to allocate discrete portions of injury to the dumping and the subsidizing.<sup>37</sup>

[37] Given that this expiry review is in respect of dumped and subsidized goods from China only, the likely effects of the resumption of dumping and subsidizing of the subject goods will likewise be manifested in a single set of prices. Therefore, the Tribunal will make a cumulative assessment of the likely impact of the continued or resumed dumping and subsidizing of the subject goods on the domestic industry.

## LIKELIHOOD OF INJURY ANALYSIS

[38] An expiry review is forward-looking.<sup>38</sup> It follows that evidence from the period during which an order or a finding was enforced is relevant as far as it affects the prospective analysis of whether the expiry of the order or finding is likely to result in injury.<sup>39</sup>

[39] There is no presumption of injury in an expiry review; findings must be based on positive evidence, in compliance with domestic law and consistent with the guidance of the WTO.<sup>40</sup> In the context of an expiry review, positive evidence can include evidence based on past facts that tend to support forward-looking conclusions.<sup>41</sup>

<sup>37</sup> See, for example, *Steel Piling Pipe* (4 July 2018), RR-2017-003 (CITT), para. 42; *Certain Fabricated Industrial Steel Components* (25 May 2017), NQ-2016-004 (CITT), paras. 72–73; *Silicon Metal* (2 November 2017), NQ-2017-001 (CITT), para. 59; *Pup Joints* (7 April 2017), RR-2016-001 (CITT), paras. 30–31; *Welded Large Diameter Carbon and Alloy Steel Line Pipe* (20 October 2016), NQ-2016-001 (CITT), para. 84; *Carbon and Alloy Steel Line Pipe* (29 March 2016), NQ-2015-002 (CITT), paras. 84–85; *Aluminum Extrusions* (17 March 2014), RR-2013-003 (CITT) [*Aluminum Extrusions*], paras. 56–57.

<sup>38</sup> *Certain Dishwashers and Dryers* (procedural order dated 25 April 2005), RR-2004-005 (CITT), para. 16. See also, for example, *Flat Hot-rolled Carbon and Alloy Steel Sheet and Strip* (13 May 2022), RR-2021-001 (CITT), para. 129; *Cold-rolled Steel* (19 September 2024), RR-2023-006 (CITT), para. 32.

<sup>39</sup> *Copper Pipe Fittings* (17 February 2012), RR-2011-001 (CITT), para. 56. In *Thermoelectric Containers* (9 December 2013), RR-2012-004 (CITT) [*Thermoelectric Containers*], 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*, para. 21.

<sup>40</sup> *Flat Hot-rolled Carbon and Alloy Steel Sheet and Strip* (16 August 2006), RR-2005-002 (CITT), para. 59.

<sup>41</sup> *Thermoelectric Containers*, para. 14; *Aluminum Extrusions*, para. 21.

[40] In making its assessment of the likelihood of injury, the Tribunal has consistently taken the view that the focus should be on circumstances that can reasonably be expected to exist in the near to medium term.<sup>42</sup> In this case, the Tribunal finds it appropriate to focus its analysis on the next 24 months.

[41] Subsection 37.2(2) of the *Special Import Measures Regulations*<sup>43</sup> (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 or subsidizing. The factors that the Tribunal considers relevant in this expiry review are discussed below.

### **Changes in market conditions**

[42] To assess the likely volumes and prices of the subject goods, as well as their impact on the domestic industry if the order expires, the Tribunal first considers changes in market conditions in China and in domestic market conditions, including those that occurred during the POR and those likely to occur over the next 24 months.<sup>44</sup>

[43] The Tribunal reviewed the uncontroverted arguments and evidence submitted by the parties and found the following observations to be particularly relevant and credible.

#### International market conditions

[44] As submitted by the Domestic Producers, the Tribunal accepts that China's economic growth has weakened in recent years.<sup>45</sup> This has affected China's construction industry and real estate market, which in turn has affected the UWM industry in China. The residential and commercial low-, mid- and high-rise construction sector is the exclusive user of UWMs. As such, the health of the construction sector and of the UWM manufacturing sector are interdependent.

[45] Overall weak domestic economic performance in China and the resultant negative impacts on the construction and UWM sectors have pushed and will continue to push Chinese producers to seek whatever opportunities may exist in export markets.<sup>46</sup> China's Gross Domestic Product (GDP) growth was reported at 5.2% for 2023 and is forecast to be 4.8% in 2024, 4.5% in 2025 and 3.3% in 2029. These rates are less than the 8.4% growth that occurred in 2021. Even though the 2021 growth rate was largely a result of government economic stimulation following COVID-19, China's GDP growth rate in 2023 and its forecasted rates in 2024, 2025 and 2029 are less than pre-pandemic growth rates.<sup>47</sup>

[46] The International Monetary Fund (IMF) reports that residential construction starts were down by almost 60% by the end of 2023 compared to 2020.<sup>48</sup> Furthermore, the IMF forecasts that housing investment will continue to fall in 2025, before bottoming in 2026 at 30% to 60% below the peak in 2021, then returning to modest growth in 2026.<sup>49</sup> The IMF now qualifies China's real estate

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<sup>42</sup> See, for example, *Circular Copper Tube* (25 September 2019), RR-2018-005 (CITT), para. 35.

<sup>43</sup> S.O.R./84-927.

<sup>44</sup> See paragraph 37.2(2)(j) of the Regulations.

<sup>45</sup> Exhibit RR-2024-001-A-05, p. 43; Exhibit RR-2024-001-02.01A, para. 86.

<sup>46</sup> Exhibit RR-2024-001-A-05, p. 302–305, 316, 318–19, 321–323, 334–344.

<sup>47</sup> *Ibid.*, p. 307.

<sup>48</sup> *Ibid.*, p. 48.

<sup>49</sup> *Ibid.*, p. 49.

contraction as prolonged, and has stated that its property sector is in the midst of a correction needed to reduce inventory to a sustainable level after significant overbuilding and accumulation of excess leverage by property developers.<sup>50</sup> IMF reports are consistent with other reports of declines in residential housing starts. Statista reports showed that housing starts fell from 1,675 million m<sup>2</sup> in 2019 to 693 million m<sup>2</sup> in 2023, a decline of nearly 60%.<sup>51</sup> Likewise, China's National Bureau of Statistics reported that new residential and office building starts fell in each year of the POR.<sup>52</sup>

[47] The Tribunal noted that evidence of Chinese government economic support measures to the property sector,<sup>53</sup> or the domestic economy more broadly,<sup>54</sup> showed mixed results. For example, the high number of unsold apartments in China<sup>55</sup> reflects continued overcapacity and weak overall demand.<sup>56</sup> In addition, all major cities in China are experiencing office vacancy rates of at least 20% and up to 43%,<sup>57</sup> which are all-time highs.<sup>58</sup> It is estimated that this glut is likely to negatively impact the construction sector until at least 2030.<sup>59</sup>

[48] In this context, the Tribunal accepts that annual and semi-annual reports of UWM producers in China show that they have been directly impacted by China's property sector contraction. Several major UWM producers reported facing fierce competition in their home market and resultant less favourable financial results.<sup>60</sup> For example, Hainan showed losses on earnings before income tax in four of six years over the 2018 to 2023 period and in 2024.<sup>61</sup> A curtain wall subsidiary of the same producer filed for bankruptcy.<sup>62</sup>

[49] The Tribunal also notes that the IMF forecast of modest global GDP growth of 3.2% in 2025 and of 3.1% by 2029, its lowest in decades,<sup>63</sup> does not bode well for the global residential and commercial building construction sectors or the global UWM market, which depends on the health of that sector. In addition to China, which, as discussed above, forecasted slowdowns in its residential and commercial building construction, major markets such as the European Union (EU), the United Kingdom<sup>64</sup> and the United States<sup>65</sup> also forecast slowdowns. Likewise, countries other than China in the Asia-Pacific region have also experienced slowdowns in the private residential and non-residential sectors over Q2 2024.<sup>66</sup> In summary, the Tribunal accepts evidence that other export markets are unlikely to be capable of absorbing additional Chinese UWMs due to the unfavourable global economic outlook that is forecasted for at least the next 24 months.<sup>67</sup>

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<sup>50</sup> *Ibid.*, p. 52.

<sup>51</sup> *Ibid.*, p. 53.

<sup>52</sup> *Ibid.*, p. 54–64.

<sup>53</sup> *Ibid.*, p. 334–344.

<sup>54</sup> *Ibid.*, p. 356–358.

<sup>55</sup> *Ibid.*, p. 345–352.

<sup>56</sup> *Ibid.*, p. 343–44, 350–355; Exhibit RR-2024-001-02.01A, paras. 87–91.

<sup>57</sup> Exhibit RR-2024-001-A-05, p. 68–74.

<sup>58</sup> *Ibid.*, p. 65–67.

<sup>59</sup> *Ibid.*, p. 68–72.

<sup>60</sup> *Ibid.*, p. 77–78, 80, 84–86, 91–93, 96–7, 99, 102, 114–15, 121, 126, 128, 137, 134, 139–141, 144–146, 148, 153.

<sup>61</sup> *Ibid.*, p. 92–93.

<sup>62</sup> *Ibid.*, p. 78, 92–93.

<sup>63</sup> *Ibid.*, p. 317.

<sup>64</sup> *Ibid.*, p. 360–363.

<sup>65</sup> *Ibid.*, p. 369.

<sup>66</sup> *Ibid.*, p. 364–367.

<sup>67</sup> *Ibid.*, p. 306, 317.

[50] The Tribunal therefore finds that the economic forecast in China regarding the property and construction sectors remains weak, which may lead Chinese producers of UWMs to pursue other markets in the near to medium term, given their excess production capacity.

Domestic market conditions

[51] Consistent with the evidence in the previous expiry review,<sup>68</sup> the Domestic Producers and the USW submitted that there is a lag of about 12 to 24 months between when a sale is made or a purchase order placed and the start of UWM delivery.<sup>69</sup> As a result, the Tribunal accepts that changes in demand take time affect domestic production and domestic producers' revenues.

[52] In this context, despite overall growth in the total volume of sales in the market over the POR,<sup>70</sup> the Tribunal accepts the evidence that some domestic producers experienced fluctuation in demand for UWMs.<sup>71</sup> Certain domestic producers stated that demand for commercial high-rise space declined since the onset of COVID, largely due to high vacancy rates in high-rise office buildings, and more recently, higher interest rates.<sup>72</sup>

[53] The period of high interest rates that began in early 2022 contributed to weak demand in the condominium/residential sector.<sup>73</sup> In 2024, many condominium projects did not obtain the required funding to begin construction primarily due to pre-construction sales for condominium projects reaching "historically low levels".<sup>74</sup>

[54] According to the witnesses, although interest rates have been coming down, the reduction in borrowing costs alone is not likely to bring back demand to the condominium/residential market due to high building costs, falling prices and supply chain issues.<sup>75</sup>

[55] This weak demand also contributed to reduced backlog sales. Paul Arnold of Starline Windows Ltd. explained that purchase orders are placed in "backlog" until they are scheduled for production and that a certain number of frames is needed per month to sustain a reasonable backlog and workflow. However, backlog sales for 2025 are lower than in previous years, illustrating the challenging market and soft demand in the Canadian market.<sup>76</sup>

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<sup>68</sup> UWM RR, para. 64.

<sup>69</sup> Exhibit RR-2024-00-H-03, para. 20; Exhibit RR-2024-00-E-03, para. 27; Exhibit RR-2024-001-D-03, para. 10; Exhibit RR-2024-001-C-03, para. 13; Exhibit RR-2024-001-F-03, para. 30; Exhibit RR-2024-001-A-03, para. 22. See also, for example, Exhibit RR-2024-001-09.07B, p. 8.

<sup>70</sup> Exhibit RR-2024-001-04.A, tables 15, 16, p. 19–20; Exhibit RR-2024-001-05.A (protected), tables 15, 16, p. 19–20.

<sup>71</sup> Exhibit RR-2024-001-A-04 (protected), paras. 13–16; Exhibit RR-2024-001-B-03, paras. 25–31; Exhibit RR-2024-001-C-04 (protected), paras. 15–166; Exhibit RR-2024-001-H-04 (protected), paras. 23–26; Exhibit RR-2024-001-K-03, paras. 11–14.

<sup>72</sup> Exhibit RR-2024-001-C-03, paras. 15, 17. See also, for example, Exhibit RR-2024-001-09.09B, p. 10; Exhibit RR-2024-001-09.07B, p. 8; Exhibit RR-2024-001-09.09B, p. 10.

<sup>73</sup> Exhibit RR-2024-001-K-03, para. 12; Exhibit RR-2024-001-E-03, para. 27.

<sup>74</sup> Exhibit RR-2024-001-A-05, p. 14–17.

<sup>75</sup> Exhibit RR-2024-001-A-03 paras. 20; Exhibit RR-2024-001-F-03, para. 19.

<sup>76</sup> Exhibit RR-2024-001-B-04 (protected), paras. 32–33. Exhibit RR-2024-001-B-03, paras. 32–33. Exhibit RR-2024-001-A-04 (protected), paras. 22–23; Exhibit RR-2024-001-F-04 (protected), paras. 29–31.

[56] The Domestic Producers submitted that the downturn in the market caused several UWM producers to exit the market. This included Oldcastle BuildingEnvelope, which ceased operations in 2024, and Integro Building Systems, which declared bankruptcy in 2023.<sup>77</sup>

[57] The Domestic Producers submitted, and the USW agrees, that actual demand is also likely to remain weak over the next 12 to 24 months,<sup>78</sup> particularly in the condominium market.<sup>79</sup> For instance, in the Greater Toronto Area's condominium market, developers have been regularly issuing delay notices. In addition to pushing back the start dates for those projects, developers have also been delaying requests for proposals (RFPs) that are already in progress on the basis that they do not have sufficient presales and financing for those projects.<sup>80</sup> The Domestic Producers are not aware of any government policies that will soon be implemented to alleviate the standstill of new residential sector developments.<sup>81</sup>

[58] The Domestic Producers also submitted evidence of a standstill in new high-rise commercial office construction. Due to excess vacancy in many offices in Canada since the onset of COVID, new office tower developments are on hold. As such, sales are now primarily to institutional developments such as hospitals, hotels and residential towers that include curtain wall components.<sup>82</sup>

[59] In addition to these factors that had and are likely to have an impact on the market for UWMs in Canada, the Domestic Producers also identified in their questionnaire responses additional factors negatively impacting demand, such as the so-called "foreign homebuyers tax"<sup>83</sup> or the so-called BC "Flipper Tax".<sup>84</sup> In terms of factors that may positively impact demand, BV Glazing Systems responded in the producer questionnaire that immigration increased demand for places to live and work.<sup>85</sup> Furthermore, the Canadian market outlook is also complicated by the fact that building codes in Canada will be changing over the next 15 years. This may increase demand for UWMs.<sup>86</sup> Nevertheless, the Tribunal finds the impact of these developments to be uncertain and unquantifiable for the next 24 months, especially given the lag that exists in the industry.

[60] Based on this evidence, the Tribunal finds that demand for UWMs in the Canadian market is unlikely to increase and will therefore remain weak in the near to medium term.

### **Likely import volume of dumped and subsidized goods**

[61] Paragraph 37.2(2)(a) of the Regulations directs the Tribunal to consider the likely volume of the dumped or subsidized goods if the order is allowed to expire. In particular, it calls for consideration of whether there is likely to be a significant increase in the volume of imports of the

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<sup>77</sup> Exhibit RR-2024-001-D-03, para. 27.

<sup>78</sup> Exhibit RR-2024-001-K-03, paras. 15–17; Exhibit RR-2024-001-31.03, p. 1.

<sup>79</sup> Exhibit RR-2024-001-E-04 (protected), para. 27. Exhibit RR-2024-001-E-03 (protected), para. 27.

<sup>80</sup> Exhibit RR-2024-001-A-03, para. 19; Exhibit RR-2024-001-E-04 (protected), para. 29; Exhibit RR-2024-001-F-03, para. 31.

<sup>81</sup> Exhibit RR-2024-001-A-03, para. 21.

<sup>82</sup> Exhibit RR-2024-001-E-03, para. 26; Exhibit RR-2024-001-C-03, para. 16; Exhibit RR-2024-001-D-03, para. 26. See also, Exhibit RR-2024-001-A-05, p. 18–21.

<sup>83</sup> Exhibit RR-2024-001-09.07B, p. 8.

<sup>84</sup> Exhibit RR-2024-001-09.08, p. 10.

<sup>85</sup> Exhibit RR-2024-001-09.09B, p. 10.

<sup>86</sup> Exhibit RR-2024-001-F-03, para. 34.

dumped or subsidized goods, either in absolute terms or relative to the production or consumption of like goods.

[62] The Tribunal's assessment of the likely volumes of dumped and subsidized imports encompasses the likely performance of the foreign industry, the potential for the foreign producers to produce goods 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 a diversion of the subject goods to Canada.<sup>87</sup>

#### Import volumes during the POR

[63] The Domestic Producers submitted that the duties effectively reduced the presence of unfairly priced Chinese UWMs in Canada during the POR. Indeed, the CBSA's enforcement data for the POR suggests that negligible volumes of the subject goods were imported in only two periods, 2023 and H1 2024, and represented less than 1% of imports in each of those periods.<sup>88</sup> While not determinative, in the absence of contrary evidence, the Tribunal finds that the negligible import volumes of the subject goods suggest that Chinese UWM producers cannot compete at non-dumped and non-subsidized prices in the Canadian market.<sup>89</sup>

#### Likely performance of the Chinese industry

[64] The Domestic Producers argued that the difficulties present in the Chinese economy identified above will continue to have adverse effects on Chinese UWM producers in the next 24 months. Existing government stimulus measures for the property sector have had mixed results, with tepid demand likely to continue keeping capacity utilization rates low, especially as additional planned capacity comes online. Stagnant or soft domestic demand in that context is expected to fuel Chinese UWM producers' need to increasingly seek export markets as an outlet for overproduction. Consequently, Canada will remain an attractive market, particularly because of existing business relationships<sup>90</sup> and a relatively secure business environment. In the paragraphs that follow, the Tribunal assesses the evidence presented by the Domestic Producers in support of their contention that large volumes of dumped and subsidized UWMs will enter the Canadian market if the order expires.

#### **Chinese excess capacity**

[65] The Tribunal acknowledges that, like the Canadian UWM industry, the precise size of the Chinese UWM industry is difficult to determine. The Domestic Producers submitted that the production volume specified in a report by Zhiyan Consulting on the Chinese curtain wall industry is likely representative of the subject goods' production volume in China. The report states that China was the world's largest curtain wall producer as of December 2023 with production of

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<sup>87</sup> Paragraphs 37.2(2)(a), (d), (f), (h) and (i) of the Regulations.

<sup>88</sup> Exhibit RR-2024-001-04.A, tables 6, 13.

<sup>89</sup> The Tribunal has previously drawn similar conclusions. See, for example, *Cold-Rolled Steel* (19 September 2024), RR-2023-006 (CITT), p. 13.

<sup>90</sup> For example, Yuanda Canada Enterprises Ltd. and Canada Yuanda Aluminum Corporation are two Canadian importers who are associated with Shenyang Yuanda Aluminium Industry Engineering Co., Ltd., a wholly owned subsidiary of Yuanda China Holdings Limited. Shenyang Yuanda Aluminium Industry Engineering Co., Ltd., is a foreign producer of subject UWMs from China. See Exhibit RR-2024-001-15.01A, p. 3.



182.5 million m<sup>2</sup> in 2022 and growth of 40% between 2015 and 2021.<sup>91</sup> The Domestic Producers contended that the reported production volumes might include non-subject goods but would still include significant volumes of the subject goods, as the report refers to automated manufacturing processes.<sup>92</sup> The Tribunal acknowledges that while automated manufacturing processes are used to manufacture curtain wall—unlike stick wall, which is built onsite<sup>93</sup>—the report also mentions other types of curtain wall, including non-subject point-supported curtain wall,<sup>94</sup> which may not meet the definition of the goods covered by this expiry review. Therefore, while the Tribunal is prepared to accept that China was the world's largest curtain wall producer in 2023, it finds that it cannot rely on the production volumes specified in the report as accurate estimations of China's production volumes of the subject goods.

[66] However, the Tribunal is satisfied that the Domestic Producers established that China has massive notional capacity that dwarfs the size of the domestic industry's domestic sales volumes during the POR. The Domestic Producers recalled that the Tribunal identified over 200 UWM producers in China at the time of the finding.<sup>95</sup> The Tribunal notes that no evidence was provided to support that this number remains current. Nevertheless, the Tribunal accepts the evidence provided by the Domestic Producers, which identified a subset of 14 Chinese UWM producers whose combined production capacity is itself 18 times larger than the domestic industry's 2023 domestic sales volumes. The Domestic Producers provided evidence from company websites showing the combined production capacity of 13 of these Chinese UWM producers to be in the range of 23.2<sup>96</sup> to 23.5 million m<sup>2</sup>.<sup>97</sup>

[67] The Domestic Producers further identified four Chinese UWM producers, each of whose production capacity is between 1 and 10 times larger than the size of the domestic industry's 2023 domestic sales volume. Shenyang Yuanda reported a production capacity of 13 million m<sup>2</sup>;<sup>98</sup> Fangda Group Co., Ltd. reported 5 million m<sup>2</sup>;<sup>99</sup> Anhui New Horizon Doors, Windows and Curtain Wall Engineering Co., Ltd. reported 2 million m<sup>2</sup>,<sup>100</sup> and Shandong Huada Doors, Windows and Curtain Wall Co., Ltd. reported 1.5 million m<sup>2</sup>.<sup>101</sup>

[68] The Tribunal notes that the Domestic Producers were unable to demonstrate what proportion of the Chinese UWM producers' capacities are allocated to UWM production compared to other products, such as aluminum doors and windows. Nevertheless, the Tribunal agrees that only a small

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<sup>91</sup> Exhibit RR-2024-001-A-05, p. 220–221.

<sup>92</sup> *Ibid.*, p. 213–224.

<sup>93</sup> *UWM NQ*, para. 33.

<sup>94</sup> Exhibit RR-2024-001-A-05, p. 214.

<sup>95</sup> *UWM NQ*, para. 145.

<sup>96</sup> Approximately 330,000 m<sup>2</sup> of the capacity reported by the Domestic Producers was not sufficiently supported by evidence to substantiate that it is used to produce UWMs. Therefore, the Tribunal found that a more accurate production capacity would be 23.2 million m<sup>2</sup>. However, this change is minimal and does not impact the Domestic Producers' arguments. The Domestic Producers also identified an additional producer that reported 600,000 MT of capacity.

<sup>97</sup> Exhibit RR-2024-001-A-01, p. 46–47, Table 6; Exhibit RR-2024-001-A-05, p. 233, 246, 252, 253, 256, 258, 264, 268, 269, 278, 285, 286, 287, 288.

<sup>98</sup> Exhibit RR-2024-001-A-05, p. 286.

<sup>99</sup> *Ibid.* p. 254.

<sup>100</sup> *Ibid.*, p. 246.

<sup>101</sup> *Ibid.*, p. 287.

percentage of the total combined Chinese production capacity would have been sufficient to supply the entire Canadian market at its highest point in 2023.<sup>102</sup>

[69] Furthermore, the Tribunal acknowledges the lack of evidence regarding the capacity utilization of the Chinese UWM producers during the POR. Although Shenyang Yuanda completed the foreign producers' questionnaire, the Tribunal finds that its reported capacity utilization data is unreliable. The Tribunal finds that Shenyang Yuanda incorrectly reported its total production volume of the subject goods for each period instead of its practical plant capacity volumes.<sup>103</sup> However, given the evidence outlined above of the forecasted weak Chinese UWM demand over the next two years, the significant UWM production capacity in China and Government of China policies encouraging further production, the Tribunal finds it reasonable to infer that a significant excess of Chinese UWMs will be available for export to other markets, including to Canada, if the order expires.

[70] The Tribunal is also prepared to recognize, as submitted by the Domestic Producers, that at least one policy of the Government of China, the Technology-Supported Carbon Peak Carbon Neutral Implementation Plan (2022–2030), may be contributing to further growth in China's "building decoration industry", which includes UWM production. However, the Tribunal was not able to ascertain the precise extent of this policy's influence and accordingly grants it limited weight.<sup>104</sup>

### **Attractiveness of the Canadian market**

[71] The Tribunal accepts the Domestic Producers' submissions that the Canadian market is attractive to Chinese exporters because of its relative stability, resilient construction industry and reliable judicial system. The Domestic Producers submitted that while the Canadian market is soft, there is still limited demand for UWMs over the short to medium term. Responses to the producers' questionnaire indicate bidding activity for projects late in H2 2024 and planned bids for projects in 2025.

[72] The Tribunal recognizes, as submitted by the Domestic Producers, that three important Canadian UWM markets—Montréal, the Greater Toronto Area and Vancouver—are easily accessible by ocean freight, and that harsh Canadian winters could favour off-site UWM production as opposed to on-site production of other types of building envelopes for portions of the year. However, the Tribunal is unconvinced that these factors tip the scale in any substantive manner toward foreign UWM producers, including Chinese UWM producers. Indeed, the Tribunal is of the view that the foregoing considerations balance out with the Domestic Producers' close geographic and logistical proximity to these markets, and the likely benefit derived from this, as identified at the time of the original inquiry and the first review. In addition, whether UWMs are produced off-site in China or off-site in Canada during the winter months would only seem to affect overall demand as opposed to increasing demand for them from China specifically.

[73] Having considered the evidence as a whole, the Tribunal is willing to accept that the Canadian market will likely remain an attractive market to Chinese exporters of UWMs over the next 24 months. While demand in the Canadian market is not expected to increase significantly during

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<sup>102</sup> Exhibit RR-2024-001-05.A (protected), Table 15, p. 19.

<sup>103</sup> Exhibit RR-2024-001-16.01.A (protected), p. 1–2.

<sup>104</sup> Exhibit RR-2024-001-A-05, p. 216.

this period, the fact remains that the Canadian market will nevertheless likely provide certain reliable opportunities for those in the UWM industry. Should the order expire, it is therefore reasonable to infer that the Canadian UWM market will be attractive to Chinese producers and exporters.

### Existing relationships and corporate positioning

[74] The Tribunal found in the initial inquiry and first expiry review that Chinese producers were export-oriented. It accepts the Domestic Producers' contention that this remains the same today due to market conditions in China and their ever-increasing overcapacity. Indeed, several Chinese UWM producers acknowledge that exporting to other markets forms part of their business strategies.<sup>105</sup>

[75] Furthermore, the Tribunal accepts the importance afforded to existing or past relationships in this industry, notably because of the bespoke technical nature of UWMs, purchasers will be inclined to turn again to known suppliers, including foreign ones, with whom they have had favourable business dealings. The Domestic Producers submitted that because many producers of the Chinese subject goods won contracts prior to the finding, it is likely that they will be able to quickly re-enter the Canadian market if the order expires, as they already have market knowledge and had previously established a strong foothold.

[76] The Tribunal accepts that the evidence that follows supports the Domestic Producers' submissions on this issue. The original inquiry found that several contracts were awarded to both Shenyang Yuanda and Jangho Curtain Wall Canada Co., Ltd. (Jangho) over the course of the period of inquiry (POI).<sup>106</sup> The Tribunal notes that while Shenyang Yuanda, which owns Canada Yuanda Aluminium Corporation, did not export UWMs to Canada during the POR, it did export UWMs to the United States. In its questionnaire response, Shenyang Yuanda stated that "[a]s the impact of COVID-19 is vanishing, the economies of various countries are recovering, and the demand [for] curtain wall products [is] growing."<sup>107</sup> Jangho, for its part, also submitted questionnaire responses and indicated that it did not purchase or import UWMs from any country during the POR.<sup>108</sup> However, its parent company, Jangho Group, stated in both its 2023 annual report and its 2024 semi-annual report that it plans to return its curtain wall business to the international market, including America.<sup>109</sup>

[77] The Domestic Producers also noted that China State Construction Development Holdings Limited (formerly known as Far East Global), a state-owned UWM producer in China, has been involved in numerous building projects in Canada.<sup>110</sup> It owns Gamma Windows and Walls International Inc. (Gamma), a UWM producer with a production facility located in Quebec.<sup>111</sup> Gamma did not respond to the Tribunal's request to complete either a producers' questionnaire or an importers' questionnaire. Nonetheless, the Tribunal notes that this ownership structure will offer an already established conduit for the subject goods to immediately re-enter the Canadian market if the order expires.

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<sup>105</sup> *Ibid.*, p. 33, 41, 65, 127, 199.

<sup>106</sup> *UWM NQ*, para. 142.

<sup>107</sup> Exhibit RR-2024-001-15.01A, p. 8.

<sup>108</sup> Exhibit RR-2024-001-12.01, p. 1; Exhibit RR-2024-001-21.01, p. 1.

<sup>109</sup> Exhibit RR-2024-001-A-05, p. 98, 101, 108.

<sup>110</sup> *Ibid.*, p. 199, 203, 204.

<sup>111</sup> *Ibid.*, p. 212.

[78] In the absence of contradictory evidence, the Tribunal accepts the Domestic Producers' argument that Chinese UWM producers will likely re-engage in behaviour seen prior to the imposition of SIMA measures if the order is allowed to expire. Without the constraints of SIMA duties, they will be able to resume offering the subject goods at unfairly low prices to developers that are familiar with these past marketing practices and interested in lowering their UWM costs. The Tribunal further accepts the uncontradicted statements of evidence received from the following individuals from the domestic industry in support of this view.

[79] Michel Cornacchia of BVGlazing stated that “[p]rior to the duties, Chinese producers established a significant foothold in Canada and are known to developers. Developers are extremely price sensitive, particularly in the present market. All of the projects we anticipate bidding on in 2025 and 2026 are likely to be attractive to Chinese producers and are at risk of being targeted by Chinese UWM suppliers if the order is rescinded.”<sup>112</sup> The Tribunal sees no reason to doubt Mr. Cornacchia's market analysis.

[80] In addition, Paul Arnold of Starline stated that “Chinese producers remain known in the Canadian market and remembered for their past work. If the order is rescinded, Canadian UWM purchasers would immediately demand price concessions based on the availability of Chinese imports.”<sup>113</sup>

[81] Jody Cash of Quest shared similar views, stating that “[d]espite recent soft demand, Canada remains an attractive market for Chinese producers. Chinese UWM producers have past business relationships in Canada and a proven track record of supplying low-priced UWMs to Canada.” If the order is rescinded, Jody Cash submitted that there is no reason they would not resume their past marketing practices, particularly given the reported downturn in China's construction and property markets.<sup>114</sup>

[82] Finally, Donald Delaney of Flynn stated that “[p]rior to the imposition of the Order, Subject Good producers engaged in very significant price undercutting in order to secure major Canadian projects. There is no reason to believe they would not engage in the same behaviour again if provided with the opportunity.”<sup>115</sup> He also referenced institutional projects that he considers to be particularly vulnerable if the order expires, as they will be attractive to Chinese UWM producers given their size, value and duration. In his estimation, developers will be interested in Chinese UWMs given the potential price reduction they will be able to offer.<sup>116</sup> Further, he points to cancellation clauses that are typically included in UWM contracts that could allow current projects won by domestic producers to be at risk of being retendered, allowing Chinese producers to quickly regain a foothold in the Canadian market, particularly those Chinese producers with previous experience in Canada.<sup>117</sup>

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<sup>112</sup> Exhibit RR-2024-001-E-03, p. 13.

<sup>113</sup> Exhibit RR-2024-001-B-03, p. 12.

<sup>114</sup> Exhibit RR-2024-001-H-03, p. 10.

<sup>115</sup> Exhibit RR-2024-001-D-03, p. 13–14.

<sup>116</sup> *Ibid.*, p. 12.

<sup>117</sup> *Ibid.*, p. 9–10.

### Potential for diversion

[83] The Domestic Producers submitted that trade remedy measures imposed by Canada, the United States and other countries against Chinese aluminum extrusions are likely to result in the diversion of Chinese UWMs to Canada if the order expires.

[84] First, the Domestic Producers submitted that Canada's current anti-dumping and countervailing duties on imports of aluminum extrusions from China,<sup>118</sup> as well as its 25% surtax on aluminum products from China,<sup>119</sup> divert aluminum extrusions intended for export to the production of other downstream products for export. According to the Domestic Producers, this will include UWMs for export to Canada if the order expires.

[85] The Tribunal accepts that it is possible that some aluminum extrusions could be diverted to the production of UWMs for export to Canada if the order expires. However, because UWMs are custom products designed for specific projects, it is also possible that aluminum extrusions intended for export would not be able to be used in highly specialized UWMs.

[86] Second, the Domestic Producers submitted that the current U.S. trade remedy measures against Chinese aluminum extrusions are also likely to divert Chinese aluminum extrusions to UWM production for export to Canada if the order expires. These measures include the United States International Trade Commission order on aluminum extrusions, which was continued in October 2022 (also applies to curtain wall),<sup>120</sup> as well as the 25% Section 301 and 10% Section 232 measures against Chinese aluminum extrusions.<sup>121</sup>

[87] Third, the Domestic Producers submitted that current trade remedy measures against Chinese aluminum extrusions in Australia, Colombia, the EU, Trinidad and Tobago, and Vietnam<sup>122</sup> similarly push Chinese aluminum extrusions intended for export to downstream products like UWMs, which will likely be diverted to Canada if the order expires.

[88] For the second and third allegations on this issue, the Tribunal finds that it was not presented with evidence of a sufficiently compelling nature for it to ascertain that domestic or foreign trade measures will have a direct effect on the volumes of subject goods likely to be exported to Canada if the order expires. In short, the nexus between the allegations and the likely occurrence of events has not been sufficiently demonstrated.<sup>123</sup>

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<sup>118</sup> Exhibit RR-2024-001-A-05, p. 370–380.

<sup>119</sup> *Ibid.*, p. 381–403.

<sup>120</sup> United States International Trade Commission, Aluminum Extrusions from China - Investigation Nos. 701-TA-475 and 731-TA-1177 (Second Review), Publication 5375 (October 2022), see Exhibit RR-2024-001-A-05, p. 411, 414.

<sup>121</sup> Exhibit RR-2024-001-A-05, p. 431–487.

<sup>122</sup> *Ibid.*, p. 486–488.

<sup>123</sup> The Tribunal notes that the record in this expiry review closed on January 13, 2025. As the Tribunal needs to make its order in this review based on the record, the Tribunal has decided not to consider any global or domestic economic developments that have occurred between the date of the closing of the record and the issuance of the Tribunal's order and statement of reasons in this matter.

### Likely import volumes if the order expires

[89] On the basis of the elements discussed above—China’s economy and UWM market, its continuing massive production capabilities and export ambitions, including those that manifested themselves prior to the initial inquiry, and Chinese producers’ existing relationships and corporate positioning in the Canadian market that remains attractive—the Tribunal concludes that substantial volumes of subject goods are likely to be offered for sale to, and purchased by, Canadian customers if the order expires.

### **Likely price effect of dumped and subsidized goods**

[90] The Tribunal may consider whether, if the order is allowed to expire, the likely dumped and subsidized goods are likely to significantly undercut the prices of like goods, depress those prices, or suppress them by preventing increases in those prices that would likely have otherwise occurred.<sup>124</sup> In this regard, the Tribunal distinguishes the price effect of the likely dumped and subsidized goods from any price effects that would likely result from other factors affecting prices.

[91] The Domestic Producers argue that allowing the subject goods to enter the Canadian market at dumped and subsidized prices will undercut their prices and depress UWM prices in Canada.

### Price importance in the UWM market

[92] The Domestic Producers submitted that price is an important determinant in the decision to purchase UWMs, as was found in the initial inquiry. Likewise, in *UWM RR*, the Tribunal concluded that it “has no doubt that once bids have been levelled, price may become a decisive consideration in sourcing decisions.”<sup>125</sup> The Tribunal is of the view that in this expiry review, the evidence in the Domestic Producers’ witness statements supports the same conclusion, namely that “UWM customers are highly price sensitive. While quality and scheduling reliability are important considerations for customers, cost is the key determining factor.”<sup>126</sup>

### Price undercutting

[93] The Domestic Producers submitted that if the order expires, the prices of Chinese UWMs will significantly undercut domestic prices for three main reasons. First, the CBSA concluded that if the order expires, Chinese UWM producers will resume exporting UWM to Canada at dumped prices that will significantly undercut domestic prices. Second, there is no contradictory evidence on the record to suggest that the marketing strategy of Chinese UWM producers has changed from the time of the inquiry, where many examples of price undercutting were provided showing significant amounts of undercutting. Third, Chinese UWM producers will need to price their UWMs lower than imports of UWMs offered from other countries due to purchasers’ price sensitivities.

[94] The CBSA’s statement on whether Chinese UWM producers will significantly undercut domestic prices is not determinative or binding on the Tribunal. However, the Tribunal gives weight to the Domestic Producers’ submissions that the undercutting which occurred before the initial finding is still relevant and that there is no indication of changed circumstances suggesting likely

<sup>124</sup> Paragraph 37.2(2)(b) of the Regulations.

<sup>125</sup> *UWM RR*, para. 88.

<sup>126</sup> Exhibit RR-2024-001-F-03, p. 5. See also Exhibit RR-2024-001-A-03, p. 5–6; Exhibit RR-2024-001-D-03, p. 5; Exhibit RR-2024-001-E-03, p. 7.

behaviour other than what occurred during the POI, as also determined by the CBSA. Furthermore, as examined above, market conditions in China will likely encourage producers of the subject goods to maintain their current pricing strategy or potentially adopt even more aggressive price undercutting to surpass non-subject price offerings.

[95] The Tribunal finds that there is little evidence of current Chinese prices on the record because of the lack of participation from Chinese UWM producers in the Canadian market and in this proceeding. Nevertheless, the Tribunal accepts the Domestic Producers' submissions that UWM purchasers remain price sensitive and that subject imports will likely compete to overtake low-priced imports from non-subject countries to become the new price leader in the market.<sup>127</sup> The Tribunal notes that the IR shows increasing import competition over the POR, particularly in the first half of 2024, and that volumes of imports from other countries, reported by three importers, increased in each period of the POR. These imports were from Thailand, Korea and one or more unknown countries.<sup>128</sup>

[96] The Domestic Producers submitted that it is necessary to compare prices for the same project, instead of average prices, as was determined in the inquiry.<sup>129</sup> The Tribunal agrees and notes that the custom nature of UWMs, which are manufactured to meet the specific characteristics of each project and where price is normally derived from cost plus a profit margin,<sup>130</sup> can differ substantially from one project to another. The Tribunal also recognizes that almost all domestic producers use the RFP method as their primary way to sell UWMs.<sup>131</sup>

[97] Consequently, the Tribunal finds the Domestic Producers' estimated range of undercutting by the subject goods if the order expires credible and likely, based on the comparisons of quotes for the same projects. Specifically, the evidence provided by Paul Arnold of Starline in respect of Korean imports provides a glimpse into the baseline against which Chinese UWM producers would be competing.<sup>132</sup> There is no evidence to indicate that Chinese producers would be unable or unwilling to match or surpass that percentage of undercutting.

[98] Moreover, Patrick Daniels discussed recent import competition with Korean UWMs in his statement of evidence. He described Toro's experience on several projects in Western Canada in which he believes Toro's pricing was undercut by the Korean UWM prices.<sup>133</sup> Mr. Daniels' testimony provides insight into the percentage of undercutting that may have allowed Korean UWMs to prevail on those tenders. Likewise, Mr. Cash provided insight into the expected likely percentage of undercutting that the market will experience if the order expires.<sup>134</sup> Considering the price sensitivity of UWM purchasers, the Tribunal accepts that the percentage of undercutting Mr. Daniels and Mr. Cash identified can be qualified as significant in nature. Based on this evidence, the Tribunal finds that Chinese producers and exporters would have to offer their UWMs at prices that significantly undercut the prices of the like goods to re-enter the Canadian market.

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<sup>127</sup> Exhibit RR-2024-001-B-03, p. 11–12; Exhibit RR-2024-001-D-03, p. 10.

<sup>128</sup> Exhibit RR-2024-001-04-A, Table 12, p. 16. A domestic producer also reported that one RFP had been won by a company in the United States in 2021, see Exhibit RR-2024-001-10.11D (protected), p. 27.

<sup>129</sup> *UWM NQ*, para. 80.

<sup>130</sup> Exhibit RR-2024-001-D-03, p. 5; Exhibit RR-2024-001-F-03, p. 5; Exhibit RR-2024-001-H-03, p. 6.

<sup>131</sup> Exhibit RR-2024-001-04.A, Table 8, p. 14.

<sup>132</sup> Exhibit RR-2024-001-B-03, p. 10–11.

<sup>133</sup> Exhibit RR-2024-001-A-03, p. 5, 9.

<sup>134</sup> Exhibit RR-2024-001-H-03, p. 12.

[99] The Tribunal also agrees with the views of Kieran Boyd from the Globizen Group, a Toronto-based developer of mixed-use spaces, who anticipates that the expiry of the order will lead to significant demand for the subject goods. According to Mr. Boyd, “developers are looking for any options available to cut costs to make their projects feasible” and “[i]f a Chinese producer can meet the specification requirements and standards and provide a lower price, I believe many developers would find them highly attractive.”<sup>135</sup> The Tribunal is of the view that Mr. Boyd’s approach is likely to be widespread and representative of other UWM purchasers’ expected market behaviour if the order expires.

[100] On this basis the Tribunal accepts that the domestic industry would lose sales due to significant price undercutting by the subject goods upon expiry of the order.

#### Price depression

[101] The Domestic Producers submitted that if the order expires, competition from the subject goods will force domestic producers to lower their prices to levels that will remain depressed. The Tribunal accepts the evidence of the Domestic Producers to support this argument. According to Mr. Delaney, upon expiry of the order, “developers would demand immediate price concessions from Flynn and other domestic producers. Flynn would have no choice but to try and lower its prices to compete.” He expects domestic prices to depress to levels similar to those before the finding, potentially aligning closely with import prices, with only minor differences to account for logistics and delivery risks of imported goods.<sup>136</sup> Brad Russell of IGA believes that expiry of the order will cause a 30% decline in the Canadian UWM price.<sup>137</sup>

[102] Nikki Carvalho of State, Mr. Delaney of Flynn and Mr. Arnold of Starline expect that Canadian UWM purchasers would reissue tenders to seek Chinese pricing and demand significant concessions from current producers. Because many existing purchase orders include cancellation clauses, even they could be at risk of renegotiations or cancellations if exporters from China can meet delivery timelines.<sup>138</sup>

[103] In fact, Mr. Cash stated that “[e]ven projects that are not being pursued by Chinese competition would see price depression as domestic producers would be desperately fighting for any projects not taken by Chinese imports and developers would expect lower pricing given market conditions.”<sup>139</sup>

[104] While the Tribunal finds it most credible when account-specific allegations are supported by written documentation, it accepts as credible the likely price depression scenarios submitted by the sworn witness statements of the Domestic Producers in this expiry review, even in the absence of supporting documents in certain instances. In addition to the evidence being uncontested, the Tribunal accepts the Domestic Industry’s submission that its market intelligence on lost sales for UWMs is usually gathered through oral conversations rather than written communications between industry players.<sup>140</sup> Several domestic producers recounted to the Tribunal their experiences prior to the finding on a number of specific projects. Others detailed the price depression they encountered

<sup>135</sup> Exhibit RR-2024-001-D-05, p. 3.

<sup>136</sup> Exhibit RR-2024-001-D-03, p. 10.

<sup>137</sup> Exhibit RR-2024-001-C-03, p. 8–9.

<sup>138</sup> Exhibit RR-2024-001-D-03, p. 9–10; Exhibit RR-2024-001-F-03, p. 11; Exhibit RR-2024-001-B-03, p. 12.

<sup>139</sup> Exhibit RR-2024-001-H-03, p. 11.

<sup>140</sup> See, for example, Exhibit RR-2024-001-31.05, p. 1.



based on the competition they faced from non-subject countries during the POR. In all instances, price depression was observed at comparable levels.<sup>141</sup> The Tribunal accepts that these experiences signal the likely price depression that the domestic industry would face if the order expires. The Tribunal is of the view that this constitutes, even at the lower end of the estimated range, significant likely price depression.

### **Likely impact of the subject goods on the domestic industry if the order expires**

[105] The Tribunal will assess the likely impact of the above likely volumes and prices of the subject goods on the domestic industry if the order were to expire,<sup>142</sup> taking into consideration the domestic industry's recent performance.<sup>143</sup> In its analysis, the Tribunal distinguishes the likely impact of the likely dumped and subsidized goods from that of any other factors affecting or likely to affect the domestic industry.<sup>144</sup>

#### Recent performance of the domestic industry

[106] The Tribunal finds that during the POR, with the benefit of the order, the domestic industry generally performed well in terms of several metrics such as production, capacity utilization, sales, employment, and despite fluctuations in market demand, profitability.

[107] The domestic industry's total production volume increased by 17% from 2021 to 2023 but declined by 9% in H1 2024 when compared to H1 2023.<sup>145</sup>

[108] The domestic industry's practical plant capacity is reported to have increased each year between 2021 and 2023, then remained unchanged in H1 2024.<sup>146</sup> Its capacity utilization for total production increased from 59% to 65% between 2021 and 2023 before falling slightly to 58% in H1 2024.<sup>147</sup> Capacity utilization for domestic sales increased from 48% in 2021 to 55% in 2023, then slightly decreased to 52% in H1 2024.<sup>148</sup>

[109] The domestic industry held an important to commanding share of the Canadian market during the POR.<sup>149</sup> The domestic industry's total domestic sales values, expressed in dollars, increased in each period of the POR<sup>150</sup>; however, its share of the market decreased in 2022 and H1 2024, increasing only in 2023. Most of the remainder of the market was occupied by non-subject

<sup>141</sup> Exhibit RR-2024-001-A-04 (protected); Exhibit RR-2024-001-B-04 (protected), p. 13; Exhibit RR-2024-001-C-04 (protected), p. 8–9; Exhibit RR-2024-001-D-04 (protected), p. 7, 11; Exhibit RR-2024-001-E-04 (protected), p. 11–12; Exhibit RR-2024-001-F-03, p. 9–10; Exhibit RR-2024-001-H-04 (protected), p. 11–12.

<sup>142</sup> Paragraphs 37.2(2)(e) and (g) of the Regulations.

<sup>143</sup> See paragraph 37.2(2)(c) of the Regulations; *Hot-Rolled Carbon Steel Plate and High-Strength Low-Alloy Steel Plate* (7 January 2014), RR-2013-002 (CITT), para. 85. In *Thermoelectric Containers*, the Tribunal stated the requirement in an expiry review is that the Tribunal draw logical conclusions from the relevant information before it, and that information will often appropriately include the performance of the domestic and foreign industries during the POR, when anti-dumping and countervailing duties were in place (para. 14). See also *Aluminum Extrusions*, para. 21.

<sup>144</sup> See paragraph 37.2(2)(k) of the Regulations.

<sup>145</sup> Exhibit RR-2024-001-04.A, tables 9, 10, p. 14–15.

<sup>146</sup> *Ibid.*, tables 27, 28, p. 30–31.

<sup>147</sup> *Ibid.*, tables 27, 28, p. 30–31.

<sup>148</sup> *Ibid.*, tables 27, 28, p. 30–31.

<sup>149</sup> Exhibit RR-2024-001-05.A (protected), Table 17, p. 21.

<sup>150</sup> Exhibit RR-2024-001-04.A, Table 7, p. 13.

imports meeting the same product definition of subject UWMs, with subject imports remaining insignificant in the Canadian market (less than 0.5%).<sup>151</sup>

[110] Gross margins for the domestic industry's domestic sales were positive in all periods of the POR and also increased in every period with the exception of 2022.<sup>152</sup> Net income from domestic sales decreased from 2021 to 2022 but increased in 2023 and H1 2024 when compared to H1 2023.<sup>153</sup>

[111] Direct employment, wages paid to direct employees and hours worked by direct employees increased every year between 2021 and 2023, then slightly decreased during H1 2024 compared with H1 2023.<sup>154</sup>

[112] The domestic industry continued to make investments in their facilities during the POR.<sup>155</sup> For instance, State opened two new facilities and purchased new machinery to support backward integration and product development.<sup>156</sup>

#### Likely impact of the expiry of the order on the domestic industry

[113] The Tribunal has already found that if the order expires, there will likely be a significant increase in volume of imports of the subject goods and that the domestic industry will likely face significant undercutting by the subject goods, which will likely lead to price depression and lost sales.

[114] According to the Domestic Producers, the evidence on the record shows that the expiry of the order will likely lead to injury to the domestic industry, with declines in gross margins and net income.

[115] As previously mentioned, several witnesses for the Domestic Producers provided evidence that prior to the finding, they lost sales to subject goods or were forced to lower their prices to compete with the subject goods.<sup>157</sup>

[116] Most Domestic Producers also claimed that they have already been forced to make strategic business decisions when bidding due to current soft market conditions. The evidence submitted by some Domestic Producers shows that they are currently engaging in such action.<sup>158</sup>

[117] In addition, to support its claim that likely price depression would have a significant impact on its financial results, Brad Russell, General Manager of IGA submitted evidence showing the effect of likely price depression on the company's income statements over the POR.<sup>159</sup> Jody Cash, President of Quest, stated that the Tribunal's order has had a stabilizing effect on the Canadian market, which

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<sup>151</sup> *Ibid.*, Table 17, p. 21.

<sup>152</sup> *Ibid.*, Table 22, p. 25.

<sup>153</sup> *Ibid.*, Table 7, p. 13.

<sup>154</sup> *Ibid.*, tables 27, 28, p. 30–31.

<sup>155</sup> Exhibit RR-2024-001-E-03, paras. 9, 24; Exhibit RR-2024-001-A-03, para. 41; Exhibit RR-2024-001-K-04 (protected), para. 19; Exhibit RR-2024-001-B-03, paras. 18–19.

<sup>156</sup> Exhibit RR-2024-001-F-03, para. 20.

<sup>157</sup> Exhibit RR-2024-001-E-03, paras. 38–40; Exhibit RR-2024-001-C-03, paras. 24, 26; Exhibit RR-2024-001-D-03, paras. 21–23; Exhibit RR-2024-001-B-03, paras. 16–17.

<sup>158</sup> See, for example, Exhibit RR-2024-001-D-03, para. 13.

<sup>159</sup> Exhibit RR-2024-001-C-04 (protected), para. 27.

allowed Quest to have positive performance throughout the POR.<sup>160</sup> However, based on a similar analysis to that of Mr. Russell, stated that even a minimal amount of price depression would have caused significant injury to Quest.<sup>161</sup> The Tribunal notes that already weaker demand is impacting financial performance for some producers, even without the subject goods being present in any meaningful quantity in the Canadian market during the POR.<sup>162</sup>

[118] To illustrate the impact that the subject goods will have on the domestic industry, the Domestic Producers submitted analyses that applied a 15% price depression estimate to their financial results over the POR.<sup>163</sup> This estimate was based on the Domestic Producers' experiences with undercutting by the subject goods prior to the finding. The Domestic Producers argued that at least this amount of price depression will likely occur again if the order expires. They further argued that it would cause lost sales and impact their capacity utilization and employment, their ability to raise capital, their efforts to sustain production developments, their return on investments and their growth. BVGlazing's evidence showed specific impacts the expiry of the order would have on its business.<sup>164</sup>

[119] The Tribunal finds the Domestic Producers' analyses of the likely impact of the subject goods on their future results, where an estimated likely price depression of 15% is applied if the order expires, to be credible. In particular, the Tribunal is satisfied that the 15% used by the Domestic Producers in these analyses is a conservative estimate of the amount of likely price depression, in light of the levels of price depression that occurred before the order was in place. Nevertheless, these conservative analyses, even without accounting for lost sales, all show results that are indicative of likely material injury to the domestic industry. The Tribunal thus finds that if the subject goods re-enter the market, the domestic producers would be forced to lower their prices to compete with the subject goods. This lowering of prices would negatively impact the domestic industry's profitability, as demonstrated in the above conservative financial scenario presented by the Domestic Producers. Should the domestic industry be unable to compete at these depressed prices, sales volumes would be lost, which would have a negative impact on the domestic industry's profitability.

[120] In this context, the Tribunal accepts that the Domestic Producers have serious and credible cause for concern regarding the impact on their order books—and subsequently their profitability—if the subject goods are permitted to re-enter the market at dumped and subsidized prices. The Tribunal finds credible Flynn's, Toro's and State's descriptions of the important negative impacts they could face from lost opportunities, both for future and already competed opportunities.<sup>165</sup> The Tribunal finds that the subject goods are likely to cause these impacts over the next 12 to 24 months, if not earlier, if the order expires.

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<sup>160</sup> Exhibit RR-2024-001-H-03, para. 28.

<sup>161</sup> *Ibid.*, para. 37–38.

<sup>162</sup> Exhibit RR-2024-001-H-04 (protected), para. 38; Exhibit RR-2024-001-B-04 (protected), para. 23.

<sup>163</sup> Exhibit RR-2024-001-C-03, p. 9; Exhibit RR-2024-001-H-03, p. 12; Exhibit RR-2024-001-E-03, p. 12, Exhibit RR-2024-001-D-03, p. 11; Exhibit RR-2024-001-B-03, p. 13–14; Exhibit RR-2024-001-F-03, p. 10; Exhibit RR-2024-001-A-03, p. 10.

<sup>164</sup> Exhibit RR-2024-001-E-04 (protected), para. 45.

<sup>165</sup> Exhibit RR-2024-001-D-04 (protected), paras. 28, 42–43; Exhibit RR-2024-001-10.11D (protected), p. 5; Exhibit RR-2024-001-D-04 (protected), paras. 40, 48; Exhibit RR-2024-001-A-04 (protected), para. 28; Exhibit RR-2024-001-F-03, para. 43.

### Likely impact on workers in the domestic industry

[121] Pursuant to subsection 76.03(10) of SIMA, the Tribunal must consider the impact on workers as a factor when assessing whether there is an injury or a threat of injury to the domestic industry.<sup>166</sup> Subparagraph 37.2(2)(e)(iii) and paragraph 37.2(2)(g) of the Regulations provide guidance to that effect.

[122] With respect to employment levels, hours worked and wages, the evidence shows that these indicators increased from 2021 to 2023 but stalled during the first half of 2024.

[123] Moreover, the USW argued that global and domestic market conditions are already putting pressure on the domestic industry's workers, which will only worsen if the order expires.

[124] In this context, Richard Owusu, President of the USW bargaining unit at Quest, stated that Quest has been shifting from a majority of temporary and agency workers to mostly full-time workers since 2017.<sup>167</sup> However, slowdowns in production caused by the reintroduction of subject UWMs in the market would put full-time positions at risk.

[125] Additionally, the USW submitted that the purchase of BVGlazing by Quest's parent company and the amalgamation of the two companies means that Quest's workforce will be moving to BVGlazing's Vaughan facility. The move has already caused considerable disruptions associated with moving from one site to another. Combining operations has also meant some reassignment of work.<sup>168</sup> The move has also effectively "frozen" the expired 2021–2024 collective bargaining agreement and related wage increases.<sup>169</sup> In addition, given that many workers at BVGlazing are agency workers,<sup>170</sup> any losses in full-time positions are likely to be replaced by workers in less secure positions. According to Mr. Owusu, the effects of these changes are already materializing.<sup>171</sup> Therefore, if the subject goods re-enter the market, these effects will likely only increase.

[126] Furthermore, most Domestic Producers submitted that the expiry of the order would negatively impact their employment levels.<sup>172</sup> The Tribunal accepts that the evidence provided by the USW and the Domestic Producers reflects the likely impact on workers in the domestic industry if the order expires.

### Conclusion on likely impact

[127] Pursuant to paragraph 37.2(2)(k) of the Regulations, the Tribunal may consider other relevant factors.<sup>173</sup> The Tribunal notes that no evidence was submitted to suggest that factors other than the subject goods could cause injury to the domestic industry.

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<sup>166</sup> Subsection 2(11) of SIMA.

<sup>167</sup> Exhibit RR-2024-001-I-03, paras. 22–24.

<sup>168</sup> *Ibid.*, para. 27.

<sup>169</sup> *Ibid.*, para. 35.

<sup>170</sup> *Ibid.*, para. 28.

<sup>171</sup> Exhibit RR-2024-001-I-04 (protected), para. 30.

<sup>172</sup> Exhibit RR-2024-001-E-04 (protected), para. 45; Exhibit RR-2024-001-C-03, para. 29; Exhibit RR-2024-001-H-04 (protected), para. 40; Exhibit RR-2024-001-B-04 (protected), para. 33; Exhibit RR-2024-001-10.16A (protected), p. 23; Exhibit RR-2024-001-09.21C, p. 12.

<sup>173</sup> Paragraph 37.2(2)(k) refers to "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."

[128] In light of the evidence submitted by the Domestic Producers of a recent downturn in the market and suggestions that demand is likely to remain weak over the next 24 months,<sup>174</sup> the Tribunal cannot ignore that the domestic industry will face less than ideal market conditions in the near to medium term. However, these challenging circumstances do not eliminate the likely substantial negative impact that the expiry of the order would have on the domestic industry. Put another way, the Tribunal finds that even if the domestic industry faces difficult market conditions in the next 24 months, the evidence indicates that the domestic industry's already vulnerable situation would be materially worse if the order expires.

[129] In fact, the expiry of the order would likely cause in the next 24 months a nullification of the effects of any market recovery during the POR by exerting downward pressure on prices of like goods and on their sales and production volumes. The injury that will likely be caused by the subject goods, if the order expires, is expected to amount, *in and of itself*, to material injury and will be in addition to any negative impact on the domestic industry resulting from the foreseen weak demand.

[130] Accordingly, for the above reasons, the Tribunal finds that the evidence supports a finding that the likely resumption of dumping and subsidizing of the subject goods, *in and of itself*, will likely result in material injury to the domestic industry over the next 24 months.

## CONCLUSION

[131] On the basis of the foregoing analysis, the Tribunal continues its order, without amendment, in respect of unitized wall modules from China, pursuant to paragraph 76.03(12)(b) of SIMA.

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Eric Wildhaber

Eric Wildhaber  
Presiding Member

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Georges Bujold

Georges Bujold  
Member

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Susana May Yon Lee

Susana May Yon Lee  
Member

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<sup>174</sup> Exhibit RR-2024-001-D-03, para. 27; Exhibit RR-2024-001-K-03, paras. 15–17.