



OTTAWA, May 22, 2018

## STATEMENT OF REASONS

Concerning an expiry review determination under  
paragraph 76.03(7)(a) of the *Special Import Measures Act*  
regarding

**THE DUMPING OF CERTAIN CARBON STEEL WELDED PIPE FROM  
CHINESE TAIPEI, INDIA, OMAN, THE REPUBLIC OF KOREA, THAILAND, AND  
THE UNITED ARAB EMIRATES, AND THE SUBSIDIZING OF  
CERTAIN CARBON STEEL WELDED PIPE FROM INDIA**

## DECISION

On May 7, 2018, pursuant to paragraph 76.03(7)(a) of the *Special Import Measures Act*, the Canada Border Services Agency determined that the expiry of the Canadian International Trade Tribunal's finding made on December 11, 2012, in Expiry Review No. RR-2012-003:

- i. is likely to result in the continuation or resumption of dumping of certain carbon steel welded pipe, originating in or exported from Chinese Taipei (excluding goods exported from Chinese Taipei by Chung Hung Steel Corporation and Shin Yang Steel Co. Ltd), India, Oman, the Republic of Korea, Thailand, and the United Arab Emirates (excluding goods exported from the UAE by Conares Metal Supply Ltd.); and
- ii. is likely to result in the continuation or resumption of subsidizing of certain carbon steel welded pipe originating in or exported from India.

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Cet *Énoncé des motifs* est également disponible en français.  
This *Statement of Reasons* is also available in French.

## TABLE OF CONTENTS

EXECUTIVE SUMMARY .....	1
BACKGROUND .....	3
PRODUCT DEFINITION .....	5
ADDITIONAL PRODUCT INFORMATION .....	5
CLASSIFICATION OF IMPORTS.....	6
PERIOD OF REVIEW .....	6
CANADIAN INDUSTRY .....	6
CANADIAN MARKET .....	8
ENFORCEMENT DATA.....	9
PARTIES TO THE PROCEEDINGS .....	9
INFORMATION CONSIDERED BY THE CBSA .....	10
ADMINISTRATIVE RECORD .....	10
PROCEDURAL ISSUES .....	10
POSITION OF THE PARTIES – DUMPING .....	11
<i>PARTIES CONTENDING THAT CONTINUED OR RESUMED DUMPING IS LIKELY</i> .....	11
<i>International Market Conditions</i> .....	12
<i>Chinese Taipei</i> .....	14
<i>India</i> .....	16
<i>Oman</i> .....	18
<i>Korea</i> .....	20
<i>Thailand</i> .....	21
<i>United Arab Emirates</i> .....	23
<i>Behaviour of Subject Country Exporters While the Finding has been in Effect</i> .....	24
<i>Other Factors</i> .....	26
<i>PARTIES CONTENDING THAT CONTINUED OR RESUMED DUMPING IS UNLIKELY</i> .....	26
CONSIDERATION AND ANALYSIS – DUMPING .....	26
CHINESE TAIPEI .....	27
INDIA .....	30
OMAN .....	33
KOREA .....	35
THAILAND.....	37
UNITED ARAB EMIRATES .....	41
POSITION OF THE PARTIES - SUBSIDIZING.....	44
<i>PARTIES CONTENDING THAT CONTINUED OR RESUMED SUBSIDIZING IS LIKELY</i> .....	44
<i>PARTIES CONTENDING THAT CONTINUED OR RESUMED SUBSIDIZING IS UNLIKELY</i> .....	47
<i>Government of India</i> .....	47
CONSIDERATION AND ANALYSIS – SUBSIDIZING.....	52
CONCLUSION.....	55
FUTURE ACTION.....	55
INFORMATION.....	56

## EXECUTIVE SUMMARY

[1] On December 8, 2017, the Canadian International Trade Tribunal (CITT), pursuant to subsection 76.03(3) of the *Special Import Measures Act* (SIMA), initiated an expiry review of its finding made on December 11, 2012, in Inquiry No. NQ-2012-003, concerning the dumping of certain carbon steel welded pipe originating in or exported from Chinese Taipei (excluding goods exported from Chinese Taipei by Chung Hung Steel Corporation and Shin Yang Steel Co. Ltd), India, Oman, the Republic of Korea (Korea), Thailand, and the United Arab Emirates (UAE) (excluding goods exported from the UAE by Conares Metal Supply Ltd.) and the subsidizing of certain carbon steel welded pipe originating in or exported from India.

[2] As a result of the CITT's notice of expiry review, the Canada Border Services Agency (CBSA), on December 11, 2017, initiated an investigation to determine, pursuant to paragraph 76.03(7)(a) of SIMA, whether the expiry of the finding is likely to result in the continuation or resumption of dumping and/or subsidizing of the goods.

[3] The CBSA received responses to its Expiry Review Questionnaire (ERQ) from Nova Tube Inc. / Nova Steel Inc. (Nova)<sup>1</sup> and Atlas Tube Canada ULC (Atlas)<sup>2</sup>, producers of certain carbon steel welded pipe in Canada. The submissions made by Nova and Atlas also expressed an opinion that the continued or resumed dumping and subsidizing of certain carbon steel welded pipe (CSWP) from the subject countries is likely if the CITT's finding is rescinded, and included information supporting their position.

[4] The CBSA received responses to its ERQ from the following Canadian importers of certain CSWP: CCTF Corporation,<sup>3</sup> Flocor Inc.,<sup>4</sup> Hyundai Canada Inc.<sup>5</sup> and Protin Import Ltd.<sup>6</sup> These importers vary in level of trade from distributors to traders. None of the importers expressed an opinion on the likelihood of continued or resumed dumping and/or subsidizing of subject goods if the CITT's finding is rescinded.

[5] The CBSA received one response to its ERQ from an exporter of subject goods in India, Manu International.<sup>7</sup> The submission made by Manu International did not express an opinion on the likelihood of continued or resumed dumping and/or subsidizing of subject goods if the CITT's finding is rescinded.

[6] The CBSA received a response to its ERQ from the Government of India (GOI)<sup>8</sup>. Although the GOI did submit information about subsidy programs identified by the CBSA, the GOI did not express a position in the matter of the likelihood of continued or resumed subsidizing of subject goods from India if the finding is rescinded.

[7] A case brief was received on behalf of the Canadian producer, Nova.

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<sup>1</sup> Exhibits 28 (PRO) & 29 (NC) – Response to ERQ, Nova.

<sup>2</sup> Exhibits 26 (PRO) & 27 (NC) – Response to ERQ, Atlas.

<sup>3</sup> Exhibits 24 (PRO) & 25 (NC) – Response to ERQ, CCTF Corporation.

<sup>4</sup> Exhibits 34 (PRO) & 35 (NC) – Response to ERQ, Flocor Inc.

<sup>5</sup> Exhibits 30 (PRO) & 31 (NC) – Response to ERQ, Hyundai Canada Inc.

<sup>6</sup> Exhibits 32 (PRO) & 33 (NC) – Response to ERQ, Protin Import Ltd.

<sup>7</sup> Exhibits 37 (PRO) & 38 (NC) – Response to ERQ, Manu International.

<sup>8</sup> Exhibit 36 (NC) – Response to ERQ, Government of India.

[8] No importers or exporters of the subject goods provided a case brief or reply submission.

[9] With respect to Chinese Taipei, the analysis of information on the record indicates that Chinese Taipei is a net exporter of steel products and has a substantial number of CSWP producers; anti-dumping measures have been imposed by the United States of America (USA) and by Australia with respect to similar goods from Chinese Taipei; exporters are continuing to export subject goods to Canada at dumped prices during the POR; and there has been a decreasing demand for CSWP products in Chinese Taipei's domestic market, specifically in the construction sector.

[10] With respect to India, the analysis of information on the record indicates that exporters in India have large potential production capacities; anti-dumping measures have been imposed by the US with respect to goods of the same description from India; and that exporters of CSWP from India have shown continued interest in the Canadian market during the POR despite the goods being subject to anti-dumping and countervailing duties. The information on the record also shows a continuing availability of subsidy programs to producers and exporters of CSWP in India.

[11] With respect to Oman, the analysis of information of the record indicates that there is sizable CSWP production capability in Oman; the country has experienced a slowing and fluctuating economy due to the softening of oil prices; anti-dumping measures have been imposed by the US with respect to goods of the same description from Oman; and that exporters have an inability to compete in the Canadian market at non-dumped prices during the POR.

[12] With respect to Korea, the analysis of information on the record indicates that exporters in Korea have continued to export subject goods to Canada at dumped prices during the POR; anti-dumping measures have been imposed by Canada in respect of similar goods while the finding in respect of the goods has been in effect; and Korean CSWP exporters are likely to seek other competitive markets such as Canada as trade remedies continue in the US against Korean CSWP exporters.

[13] With respect to Thailand, the analysis of information on the record indicates that exporters from Thailand have continued to export subject goods to Canada at dumped prices during the POR; anti-dumping measures have been imposed against other Thai steel pipe and tubular products in other jurisdictions during the period of review; and producers in Thailand have considerable CSWP capacity, but face competitive domestic market conditions due to Chinese imports.

[14] With respect to the UAE, the analysis of information on the record indicates that exporters from the UAE have excess capacity and exhibit a propensity to export; have been unable to compete at non-dumped prices and have either stopped exporting to Canada or have continued to export subject goods to Canada at dumped prices during the POR; and anti-dumping measures have been imposed by the US in respect of goods of the same description from the UAE.

[15] For the foregoing reasons, the CBSA, having considered the information on the record, made a determination under paragraph 76.03(7)(a) of SIMA that:

- i. The expiry of the finding in respect of the dumping of certain carbon steel welded pipe originating in or exported from Chinese Taipei (excluding goods exported from Chinese Taipei by Chung Hung Steel Corporation and Shin Yang Steel Co. Ltd), India, Oman, South Korea, Thailand, and the UAE (excluding goods exported from the UAE by Conares Metal Supply Ltd.) is likely to result in the continuation or resumption of dumping of the goods into Canada; and
- ii. The expiry of the finding in respect of the subsidizing of certain carbon steel welded pipe originating in or exported from India is likely to result in the continuation or resumption of subsidizing of the goods exported to Canada.

## BACKGROUND

[16] On May 14, 2012, following a complaint filed by Novamerican Steel Inc. and Bolton Steel Tube Co. Ltd., the CBSA initiated an investigation pursuant to subsection 31(1) of SIMA, into the dumping of certain CSWP originating in or exported from Chinese Taipei, India, Oman, Korea, Thailand, the Republic of Turkey (Turkey), and the UAE; and the subsidizing of certain CSWP from India, Oman, and the UAE.

[17] On November 9, 2012, pursuant to subsection 41(1) of SIMA, the CBSA made final determinations respecting: the dumping of certain CSWP originating in or exported from Chinese Taipei, India, Oman, Korea, Thailand, and the UAE, and the subsidizing of certain CSWP from India.<sup>9</sup>

[18] On the same date, the CBSA terminated the dumping investigation with respect to certain CSWP originating in or exported from Turkey as the margin of dumping for these goods was insignificant. Similarly, the subsidy investigations with respect to certain CSWP originating in or exported from the UAE and Oman were terminated as the goods from the UAE were not subsidized, and the goods from Oman had been subsidized, but the amount of subsidy was insignificant.

[19] On December 11, 2012, pursuant to subsection 43(1) of SIMA, the CITT found that the dumping of certain CSWP originating in or exported from Chinese Taipei, India, Oman, Korea, Thailand, and the UAE, and the subsidizing of certain CSWP originating in or exported from India, was threatening to cause injury to the domestic industry in Canada.<sup>10</sup>

[20] On May 7, 2013, the CBSA concluded a re-investigation to update the normal values and export prices of certain carbon steel welded pipe originating in or exported from Chinese Taipei, India, Oman, Korea, Thailand, and the UAE. The CBSA did not initiate a re-investigation of the amounts of subsidy in respect of subject goods originating in or exported from India.<sup>11</sup>

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<sup>9</sup> Exhibit 17 (NC) – CBSA *Statement of Reasons* issued at Final Determination – 2012-11-26.

<sup>10</sup> Exhibit 19 (NC) - Dumping and Subsidizing, Findings and Reasons issued by CITT.

<sup>11</sup> Exhibit 16 (NC) – CBSA Notice of Conclusion of Reinvestigation – 2013-05-07.

[21] On June 25, 2014, Chinese Taipei requested consultations with Canada at the World Trade Organization (WTO) with respect to anti-dumping measures imposed by Canada on certain CSWP originating in or exported from Chinese Taipei. In its request for consultations, Chinese Taipei claimed that Canada's imposition of anti-dumping measures appeared to be inconsistent with Canada's international trade obligations under the General Agreement on Tariffs and Trade 1994 and the WTO Anti-dumping Agreement.

[22] On January 22, 2015, Chinese Taipei requested the Dispute Settlement Body (DSB) of the WTO to establish a panel to examine these claims. The DSB established a panel on March 10, 2015.

[23] On December 21, 2016, the panel report in *Canada — Anti-Dumping Measures on Imports of Certain Carbon Steel Welded Pipe from The Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu* (DS482) was circulated to WTO members. In its report, the panel found certain aspects of SIMA and the CBSA's final determination of dumping in respect of certain CSWP from Chinese Taipei and the CBSA's calculation for the anti-dumping duty rates to be inconsistent with the WTO Anti-dumping Agreement. At its meeting on January 25, 2017, the DSB adopted the panel report.

[24] With regard to the DSB recommendations in DS482, and following a request from the Minister of Finance on July 28, 2017, the CBSA initiated a review of the final determination of dumping for certain CSWP originating in or exported from Chinese Taipei and the CITT initiated a review of its threat of injury finding in respect of the same goods.

[25] On September 29, 2017, pursuant to paragraph 76.1(2)(b) of SIMA the CBSA continued the final determination of dumping with respect to certain carbon steel welded pipe originating in or exported from Chinese Taipei, with the following amendments: the CBSA terminated the dumping investigation regarding certain carbon steel welded pipe exported to Canada by Chung Hung Steel Corporation and Shin Yang Steel Co. Ltd.; and revised the margins of dumping for the same goods originating in or exported from Chinese Taipei determined for all other exporters.<sup>12</sup>

[26] On July 29, 2017, pursuant to subsection 76.03(2) of SIMA, the CITT issued a notice concerning the expiry of its finding, which was scheduled to expire on December 8, 2017. Based on the information filed during the expiry process, the CITT decided that a review of the finding was warranted.

[27] On December 8, 2017, the CITT confirmed that the dumping of certain carbon steel welded pipe, excluding those goods exported by Chung Hung Steel Corporation and Shin Yang Steel Co. Ltd., had threatened to cause injury. Therefore, the CITT continued its finding made in Inquiry No. NQ-2012-003, excluding for greater certainty the goods exported by Chung Hung Steel Corporation and Shin Yang Steel Co. Ltd.

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<sup>12</sup> Exhibit 18 (NC) – CBSA *Statement of Reasons* Review of Final Determination – 2017-10-13.

[28] As well, on December 8, 2017, the CITT initiated an expiry review of its finding pursuant to subsection 76.03(3) of SIMA. In its initiation of the expiry review, the CITT decided not to initiate an expiry review in relation to certain carbon steel welded pipe exported from the UAE by Conares Metal Supply Ltd.

[29] On December 11, 2017, the CBSA commenced an expiry review investigation to determine whether the expiry of the finding is likely to result in continued or resumed dumping and/or subsidizing of the subject goods.

## **PRODUCT DEFINITION**

[30] The goods subject to the finding under review are defined as:

Carbon steel welded pipe, commonly identified as standard pipe, in the nominal size range from 1/2 inch up to and including 6 inches (12.7 mm to 168.3 mm in outside diameter) inclusive, in various forms and finishes, usually supplied to meet ASTM A53, ASTM A135, ASTM A252, ASTM A589, ASTM A795, ASTM F1083 or Commercial Quality, or AWWA C200-97 or equivalent specifications, including water well casing, piling pipe, sprinkler pipe and fencing pipe, but excluding oil and gas line pipe made to API specifications exclusively, and excluding 1 mm thick carbon steel tubing (SPCC-1, 25.6 mm in outside diameter), double coated (first coated with acrylonitrile butadiene styrene, then with polyvinyl chloride), and non-galvanized, ASTM A53, Grade B, Schedule 80 pipe, with an inside diameter of 1 1/4 inches to 1 1/2 inches, in 22-ft. lengths, with the inside weld scarfed, originating in or exported from the Republic of Korea, and produced with AISI C1022M steel with a carbon content of 0.18 percent to 0.23 percent and a manganese content of 0.80 percent to 1.00 percent, originating in or exported from Chinese Taipei (excluding goods exported from Chinese Taipei by Chung Hung Steel Corporation and Shin Yang Steel Co. Ltd), the Republic of India, the Sultanate of Oman, the Republic of Korea, Thailand and the United Arab Emirates (excluding goods exported from the United Arab Emirates by Conares Metal Supply Ltd.), and the subsidizing of the aforementioned goods originating in or exported from the Republic of India.

## **Additional Product Information**

[31] CSWP, also commonly referred to as standard pipe, covers a wide range of pipe products generally used in plumbing and heating applications for the low-pressure conveyance of water, steam, natural gas, air, and other liquids and gases. CSWP, or standard pipe, may also be used in air conditioning systems, in sprinkler systems for fire protection, as structural support for fencing, as piling, as well as for a variety of other mechanical and light load-bearing applications.

[32] The size of CSWP is generally specified by two values: a nominal pipe size (NPS) and a schedule. The NPS relates roughly to the inside diameter of the pipe while the schedule relates to the wall thickness. For a given NPS, the wall thickness will increase as the schedule number increases. For example, CSWP with an NPS of 1 inch (NPS 1) and made to ASTM A53, Schedule 40 requirements will have an outside diameter of 1.315 inches and a wall thickness of 0.133 inch while the same pipe meeting the requirements of ASTM A53, Schedule 80 will have an outside diameter of 1.315 inches and a wall thickness of 0.179 inch.

[33] Although CSWP is generally produced to industry standards such as ASTM A53, ASTM A135, ASTM A252, ASTM A589, ASTM A795, ASTM F1083, Commercial Quality and AWWA C200-97, it may also be produced to foreign standards such as BS1387 or to proprietary specifications as is often the case with fencing pipe. While standard pipe may be manufactured to any of the standards mentioned above, the ASTM A53 specification is the most common as it is considered to be the highest quality and is suitable for welding, coiling, bending and flanging.

[34] Standard pipe may be sold with a lacquer finish, or a black finish as it is sometimes referred to in the industry. It may also be sold in a galvanized finish which means it has been treated with zinc. Both types of finish are intended to inhibit rust although the galvanizing process will deliver a superior result. Galvanized pipe will sell at a premium to black standard pipe because of this, and the fact that zinc costs much more than lacquer.

#### **CLASSIFICATION OF IMPORTS**

[35] The subject goods are properly normally classified under the following tariff classification numbers as of January 1, 2017:

7306.30.00.10	7306.30.00.20	7306.30.00.30
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[36] Prior to January 1, 2017, the subject goods were normally classified under the following tariff classification numbers:

7306.30.00.14	7306.30.00.24	7306.30.00.34
7306.30.00.19	7306.30.00.29	7306.30.00.39

[37] This listing of tariff classification numbers is for convenience of reference only. Refer to the product definition for authoritative details regarding the subject goods.

#### **PERIOD OF REVIEW**

[38] The POR for the CBSA's expiry review investigation is January 1, 2014, to September 30, 2017.

#### **CANADIAN INDUSTRY**

[39] Nova of Montréal, Québec, Bolton Steel Tube Co. Ltd. of Bolton, Ontario, and Quali-T-Group ULC of Bromont, Québec, are the three major producers of CSWP in Canada with Nova being the single largest producer of these goods.



[40] Besides the aforementioned CSWP producers, other companies such as Atlas Tube, Evraz inc. NA, and Welded Tube of Canada, may produce small quantities of CSWP on an irregular basis.

#### **Nova**

[41] Nova has production facilities in both Montréal and Baie-d'Urfé, Québec, which produce CSWP ranging from ½ inch up to and including 6 inches in nominal size. Nova is a wholly-owned subsidiary of Novamerican which purchases and slits hot-rolled coil used in the production of welded CSWP, and is the 100% owner of the facility in Baie-d'Urfé that produces unfinished pipe in sizes ranging from ½ inch to 2 inches using the ERW process. Nova is also a 100% owner of Delta Tube Inc. which produces unfinished pipe in sizes ranging from 2 inches to 6 inches using the ERW process.

[42] Nova estimates that their production of like goods in Canada represents over 50% of total production of like goods in Canada.<sup>13</sup>

#### **Bolton Steel Tube Co. Ltd. (Bolton)**

[43] Bolton is a producer of the like goods in Canada as it operates two pipe mills in Bolton, Ontario. Bolton manufacturers standard pipe in sizes ranging from 1 inch to 4 inches using the ERW process.

#### **Quali-T-Group ULC (Quali-T)**

[44] Quali-T is comprised of two manufacturing groups: Quali-T-Tube, which produces CSWP in sizes from 0.75 inches up to 3.5 inches; and Quali-T-Fab, which produces piling pipe and scaffolding products. Quali-T's facilities are located in Bromont, Québec.

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<sup>13</sup> Exhibit 14 (NC) – CITT's Administrative Record – Attachment 13, page 3, para. 10.

## CANADIAN MARKET

[45] The apparent Canadian market for certain CSWP during the POR is presented in **Table 1** below. The CBSA cannot release specific quantitative data for domestic producers as it would lead to the disclosure of confidential information.

**Table 1**  
**Apparent Canadian Market for the Period of Review<sup>14</sup>**  
(Value in CAD and Quantity in Metric Tonnes (MT))

Value				
Source	2014	2015	2016	2017 (Jan - Sept)
Canadian Domestic Sales	*	*	*	*
Total Subject Countries	10,878,748	5,130,508	649,465	1,527,284
All Other Countries	76,168,533	57,948,290	54,685,377	63,538,358
Total CDN Market	*	*	*	*

Quantity				
Source	2014	2015	2016	2017 (Jan - Sept)
Canadian Domestic Sales	*	*	*	*
Total Subject Countries	12,924	5,216	508	925
All Other Countries	78,175	61,401	67,077	65,017
Total CDN Market	*	*	*	*

### Canadian Production

[46] In 2015, the proportion of the Canadian producers' apparent market share saw a gradual increase compared to 2014 and continued to marginally increase in 2016. For the first nine months of 2017, the apparent market share of Canadian producers began to ease back closer to 2014 levels.

<sup>14</sup> Exhibit 47 (NC) – Final Import and Domestic Market Statistics. While goods exported from Chinese Taipei by Chung Hung Steel Corporation and Shin Yang Steel Co. Ltd. and the UAE by Conares Metal Supply Ltd. did not form part of the CBSA's analysis, their imports are included in the market statistics provided in Table 1, as all were subject to the finding during the POR.

### Imports – Subject Countries

[47] During the POR, the total value and volume of imports of subject goods from the subject countries as a percentage of the apparent Canadian market decreased from 2014 to 2016, but appears to remain flat in the first nine months of 2017 in comparison to the same period in 2016.

### Imports – Other Countries

[48] During the POR, the total value and volume of imports of CSWP from other countries (i.e., the non-named countries) as a percentage of the apparent Canadian market have decreased marginally from 2014 to 2016, but appears to be increasing in the first nine months of 2017.

### ENFORCEMENT DATA

[49] In the enforcement of the CITT's finding during the POR, as detailed in **Table 2** below, the total amount of anti-dumping and countervailing duties collected on subject imports was approximately CAD \$412,973. The quantity of subject goods, on which anti-dumping and countervailing duties were imposed, was 19,570 MT.<sup>15</sup>

**Table 2**  
**Enforcement Data – Imports of Subject Goods from Chinese Taipei, India, Oman, Korea, Thailand, and the UAE**  
**Anti-dumping and Countervailing Duties Collected during the POR<sup>16</sup>**  
(Duties in CAD)\*

Subject Countries							
2014		2015		2016		2017 (Jan - Sept)	
AD Duty	CV Duty	AD Duty	CV Duty	AD Duty	CV Duty	AD Duty	CV Duty
57,777	4,298	56,700	3,127	89,332	16,831	99,141	85,767

\*AD Duty = Anti-dumping Duty; CV Duty = Countervailing Duty

### PARTIES TO THE PROCEEDINGS

[50] On December 11, 2017, the CBSA sent a notice concerning the initiation of the expiry review investigation and ERQs to known Canadian producers, importers and exporters. The GOI was also sent an ERQ relating to subsidy.

[51] The ERQs requested information needed to consider the expiry review factors, as found in subsection 37.2(1) of the *Special Import Measures Regulations* (SIMR).

[52] Two Canadian producers, four importers, and one exporter in India participated in the expiry review investigation and responded to the ERQs.

<sup>15</sup> Exhibit 47 (NC) – Final Import and Domestic Market Statistics.

<sup>16</sup> *Ibid.*

[53] A response to the CBSA's subsidy ERQ was received from the GOI.

[54] A case brief was received on behalf of the Canadian producer Nova.

[55] No importers or exporters provided a case brief or a reply submission.

## **INFORMATION CONSIDERED BY THE CBSA**

### **Administrative Record**

[56] The information considered by the CBSA for purposes of this expiry review investigation is contained on the administrative record. The administrative record includes the exhibits listed on the CBSA's Exhibit Listing, which is comprised of the CITT's administrative record relating to the initiation of the expiry review, CBSA exhibits and information submitted by interested persons, including information which they feel is relevant to the decision as to whether dumping and/or subsidizing is likely to continue or resume, if the finding is rescinded. This information may consist of expert analyst reports, excerpts from trade magazines and newspapers, orders and findings issued by authorities of Canada or of a country other than Canada, documents from international trade organizations such as the World Trade Organization and responses to the ERQs submitted by domestic producers, importers, exporters and foreign governments.

[57] For purposes of an expiry review investigation, the CBSA sets a date after which no new information submitted by interested parties may be placed on the administrative record or considered as part of the CBSA's investigation. This is referred to as the closing of the record date. This allows participants time to prepare their case briefs and reply submissions based on the information that is on the record as of the date the record closed. For this expiry review investigation, the record closed on February 9, 2018.

### **Procedural Issues**

[58] The CBSA will normally not consider any new information submitted by participants subsequent to the closing of the record date. However, in certain exceptional circumstances, it may be necessary to permit new information to be submitted. The CBSA will consider the following factors in deciding whether to accept new information submitted after the closing of the record date:

- a) the nature, relevance, materiality and volume of the information;
- b) the difficulties encountered by the participant in obtaining or submitting the information by the date specified (for example, the availability of the information or emergence of new or unforeseen issues);
- c) whether the information can reasonably be taken into consideration by the CBSA for purposes of the proceedings including whether there is sufficient time to verify the information;
- d) whether other parties are likely to be prejudiced if the information is used (for example, the opportunity for other participants to respond to the information);
- e) whether acceptance of the information would compromise the ability of the CBSA to conduct the proceedings expeditiously; and
- f) any other factors that are relevant in the circumstances.

[59] Participants wishing to file new information after the closing of the record date, either separately or in case briefs or reply submissions, must identify this information so that the CBSA can decide whether it will be included in the record for purposes of the determination.

[60] In the current expiry review investigation, counsel for Nova submitted additional information to the CBSA subsequent to the close of record date of February 9, 2018. Counsel requested that the CBSA take the information into consideration in its deliberations. In a letter dated February 15, 2018, the CBSA advised Nova's counsel that the CBSA would not take into consideration the documents submitted on February 12, 2018, because the information submitted was available prior to the close of the record and should have been submitted prior to February 9, 2018. Furthermore, the relevance and materiality of the information submitted was not critical to the CBSA's consideration of whether the expiry of the finding is likely to result in the continuation or resumption of dumping and/or subsidizing of the goods.

## **POSITION OF THE PARTIES – DUMPING**

### *Parties Contending that Continued or Resumed Dumping is Likely*

#### **Nova**

[61] Nova made a representation through its case brief in support of its position that dumping from Chinese Taipei, India, Oman, Korea, Thailand, and the UAE is likely to continue or resume in the event the present finding is rescinded. Accordingly, Nova argues that the measures should remain in place.

[62] The main factors identified by Nova can be summarized as follows:

#### **International Market Conditions**

- Global economic conditions
- Global overcapacity and capacity increases
- China's impact on Asian steel

#### **Chinese Taipei**

- Chinese Taipei's CSWP capacity and steel production
- Chinese Taipei's economic slowdown and propensity to export
- Exports to other markets

#### **India**

- India's CSWP capacity and steel production
- India's propensity to export
- Exports to other markets

## **Oman**

- Oman's CSWP capacity
- Oman's economic slowdown and propensity to export
- Export to other markets

## **Korea**

- Korea's CSWP capacity and steel production
- Korea's economic forecast propensity to export
- Exports to other markets

## **Thailand**

- Thailand's CSWP capacity and steel industry
- Thailand's economic outlook and propensity to export
- Exports to other markets

## **UAE**

- UAE's steel production and CSWP overcapacity
- UAE's propensity to export

## **Behaviour of Subject Country Exporters While the Finding has been in Effect**

- Subject countries' presence in the Canadian non-subject pipe market
- Exports of similar products made on the same equipment
- Subject countries' recent export and domestic pipe prices

## **Other Factors**

- Anti-dumping and countervailing duty measures by Canada and other countries in respect of goods of the same description or in respect of similar goods
- Competition with low-priced new offshore sources

## **International Market Conditions**

[63] Nova submits that the international market conditions provide important context for macro-economic trends effecting CSWP. Several global developments are currently affecting the market for CSWP which would make the Canadian domestic industry susceptible to resumed injury if the finding is rescinded. These developments are further explained below.

## **Global Economic Conditions**

[64] Nova contends that structural imbalances along with the increased production, coupled with high operating costs significantly outweigh the recent modest improvement in the global steel industry.<sup>17</sup>

[65] As noted by the Chair of the OECD Steel Committee in late September 2017, despite the modest recovery in the global steel market, structural imbalances continue to be a challenge. Although moderate demand growth is expected in 2017 and 2018, it will not eliminate concerns about supply-demand imbalance in the global market.<sup>18</sup>

[66] Nova referred to the “Steel Market Developments” publication issued by the OECD for Q2 2017 indicating that crude steel production is seeing growth in all major regions of the world, with double-digit growth in several regions.<sup>19</sup>

[67] Nova also noted that a contributing factor to the difficulties of the steel industries is the increase in operating costs for producing steel in the past year. Many steel makers continue to have large liabilities weighing on their balance sheets and the sector is still underperforming most other industries in terms of profitability.<sup>20</sup>

## **Global Overcapacity and Capacity Increases**

[68] Nova points to a report issued by US law firm Wiley Rein LLP in April 2016, stating that global overcapacity continues to affect the profitability of the steel industry, as its financial situation is weaker than it has been in years. From 2000 to 2015, the global steel industry added more than 1.2 billion MT of crude steel production capacity, meanwhile, demand growth over that time is estimated at 700 million MT.<sup>21</sup>

[69] Nova noted that in the OECD’s “Steel Market Developments” publication that steel capacity utilization fell to slightly below 70% in 2015-2016. In September 2017, the OECD Steel Committee chairperson noted that while global capacity is showing signs of adjusting to lower levels of demand, the alleviation of global excess capacity is still well below acceptable levels.<sup>22</sup>

[70] In addition to the OECD’s report on excess capacity, a report from the Global Forum on Steel Excess Capacity (GFSEC) notes that the current steel production capacity levels significantly exceed global consumption and capacity closures continue to be partially offset by capacity expansions. In 2016, the excess capacity surplus was estimated to be 737 million MT, the highest in the history of the industry.<sup>23</sup>

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<sup>17</sup> Exhibit 51 (NC) - Case Brief Filed on Behalf of Nova Tube Inc. / Nova Steel Inc., para. 21.

<sup>18</sup> *Ibid.*, para. 23.

<sup>19</sup> *Ibid.*, para. 26.

<sup>20</sup> *Ibid.*, para. 27.

<sup>21</sup> *Ibid.*, para. 29.

<sup>22</sup> *Ibid.*, para. 30.

<sup>23</sup> *Ibid.*, para. 31.

[71] Furthermore, the GFSEC data shows that approximately 137 million MT of steel production capacity was reportedly shut down from 2014 to 2016, while over the same period, 82 million MT of steel production capacity was added. The GFSEC concluded a meaningful reduction of the structural imbalance had not been achieved and “further significant reductions in global excess capacity will be needed in order to avoid a prolonged structural crisis in the steel industry.”<sup>24</sup>

### **China’s Impact on Asian Steel**

[72] Nova submits that China’s massive steel capacity and production continues to be the most important cause of distress to the global steel industry. As China’s demand continues to weaken, and overcapacity and excess supply fail to decline at a reciprocating pace, cheap Chinese steel will continue to be pushed onto the global market. China as the world’s largest steel exporter, accounted for 57.9 million MT of steel exports from January through to September 2017. In this time period, four of the subject countries (Chinese Taipei, India, Korea and Thailand) are among China’s top ten steel markets, representing 53% of China’s steel export volume.<sup>25</sup>

[73] The Government of China’s announced in 2016 that its goal is to cut steelmaking capacity by 100 to 150 million tonnes by 2020. Nova submits that, due to capacity creep<sup>26</sup>, idle capacity, exceptions granted to steel mills by the government, and China’s history of past efforts, the likelihood of the Government of China from reaching its goal is questionable. Additionally, in light of the aforementioned planned cuts to capacity, Chinese steel production has continued to grow with crude steel production in the first half of 2017 increasing by 4.2% in comparison to the same period the previous year.<sup>27</sup>

[74] Additionally, Nova states that the gap between production and apparent consumption, which was almost non-existent in 2009, has grown steadily larger as Chinese production outpaced the country’s demand by 67.9 million MT during the period of January and September 2017. Nova stresses, reduced demand in China is presently, and will continue to, have an impact in the global steel market.<sup>28</sup>

### **Chinese Taipei**

#### Chinese Taipei’s CSWP Capacity and Steel Production

[75] Nova states that, although Chinese Taipei’s production of crude steel decreased from 23.2 million MT in 2014 to 21.4 million MT in 2015, it increased to 21.8 million MT in 2016. In 2016 the gap between production and demand widened to a peak of 4.3 million MT and, in the first half of 2017, the production value of Chinese Taipei’s steel sector grew by about 30% as compared to the same period in 2016. Based on this, Nova concludes that Chinese Taipei has a significant volume of steel available for export.<sup>29</sup>

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<sup>24</sup> *Ibid.*, para. 32.

<sup>25</sup> *Ibid.*, paras. 35-36.

<sup>26</sup> *Ibid.*, footnote 23. Capacity creep refers to an effect whereby steel producers tend to increase their effective capacity by 1.5 to 2 percent each year as a result of process improvements.

<sup>27</sup> *Ibid.*, paras. 39-40.

<sup>28</sup> *Ibid.*, para. 41.

<sup>29</sup> *Ibid.*, paras. 75-76.



[76] Nova points out that Chinese Taipei's steel-making capacity remains significantly higher than production and refers to an OECD report listing the country's crude steel-making capacity as 28.5 million MT during the period 2014-2016.<sup>30</sup>

[77] According to the Simdex Metal Tube Manufacturers Worldwide Guide, there are 11 companies in Chinese Taipei that produce various types of carbon steel welded pipe. Nova estimates the total capacity of CSWP production in Chinese Taipei to be more than 764,000 MT and notes that its estimate is conservative given that production capacity information for all 11 companies is not publicly available.<sup>31</sup>

#### Chinese Taipei's Economic Slowdown and Propensity to Export

[78] Nova notes that Chinese Taipei's GDP growth rate is low, at 1.5% in 2016 and 2.0% in 2017. Nova also notes that the increase in the rate of growth of the GDP in 2017 is attributed in major part to the country's export orders, which increased 14.84% compared to 2016.<sup>32</sup>

[79] Nova states that Chinese Taipei is the world's 12<sup>th</sup> largest exporter of steel with 11.1 million MT of steel being exported in 2015 and 12.2 million MT exported in 2016. Of this total, 200,000 MT to 400,000 MT of steel was directed to Canada.<sup>33</sup>

[80] Nova provides examples of four pipe producers in Chinese Taipei who, it claims, are export-oriented. According to Nova, the enthusiasm exhibited by CSWP producers in Chinese Taipei to export indicates a likelihood that these producers and exporters will look to Canada if the finding were to expire.<sup>34</sup>

#### Exports to Other Markets

[81] Nova makes reference to a report issued by the International Trade Administration (ITA) of the US Department of Commerce showing Chinese Taipei's main trading partners for pipe and tube products to be the US, Australia, and China.<sup>35</sup>

[82] Nova notes that there are a number of measures presently in place in the US against various pipe products from Chinese Taipei, including a recent decision by the International Trade Commission (ITC) continuing its anti-dumping and countervailing duty orders on circular welded pipe and tube (CWP) from several countries including Chinese Taipei. Nova further notes that, in the aforementioned decision, the ITC made reference to Global Trade Atlas data showing that for tariff subheading 7306.30, a category that includes CWP and may also include non-subject goods, Chinese Taipei exports of CWP to the US market increased from 3,321 tonnes in 2012 to 21,633 tonnes in 2016. Despite the measures in place, the US remains Chinese Taipei's most important market for pipe and tube products, demonstrating to Nova the country's focus on export markets.<sup>36</sup>

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<sup>30</sup> *Ibid.*, para. 77.

<sup>31</sup> *Ibid.*, paras. 79-80.

<sup>32</sup> *Ibid.*, paras. 81 & 83.

<sup>33</sup> *Ibid.*, para. 84.

<sup>34</sup> *Ibid.*, paras. 85-86.

<sup>35</sup> *Ibid.*, para. 87.

<sup>36</sup> *Ibid.*, paras. 88-89.

[83] Nova notes that Australia imposed anti-dumping measures on hollow structural sections from Chinese Taipei in 2011 and continued the measures in July 2017. Nova cites the above examples as evidence of export trends and practices utilized by steel and pipe exporters in Chinese Taipei, reinforcing the domestic industry's concern that dumping will resume should the finding be allowed to expire.<sup>37</sup>

## **India**

### India's CSWP Capacity and Steel Production

[84] Nova states that India has significant crude steel-making capacity. The country's crude steel production increased 65% between 2009 and 2016 and in 2017 it grew to 101.4 million MT, a 6.2% increase compared to 2016. In the first nine months of 2017 production outpaced apparent consumption by approximately 5 million MT.<sup>38</sup>

[85] Nova makes reference to an OECD report listing India's crude steel-making capacity as 108 million MT in 2014, 114.5 million MT in 2015 and 125.8 million MT in 2016. Nova also notes that India's steel secretary is on record stating that the country's steel capacity is targeted to reach 150 million tonnes by 2020 and that the country's National Steel Policy 2017 encourages capacity additions.<sup>39</sup>

[86] Nova states that India has significant CSWP making capacity and that most of India's top steel producers also produce tube and pipe. As examples, Nova offers Tata Steel, whose 24.5 million MT of production includes tube, and Steel Authority of India Ltd., whose 14.4 million MT of production includes tubular products.<sup>40</sup>

[87] Nova also states that there are numerous pipe and tube producers in India that produce CSWP. According to the Simdex Metal Tube Manufacturers Worldwide Guide, 53 companies produce various forms of carbon welded pipe in India. Based on these identified producers, Nova conservatively estimates their CSWP capacity to be in excess of 4.9 million MT.<sup>41</sup>

[88] Nova notes that the CBSA, through its independent research, has identified a number of other companies that produce CSWP in India, in addition to those identified by Simdex. Meanwhile, certain of the companies identified by both the CBSA and Simdex report production capacity figures greater, as per the CBSA's research, than those reported by Simdex.<sup>42</sup>

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<sup>37</sup> *Ibid.*, paras. 90-91.

<sup>38</sup> *Ibid.*, paras. 45-46.

<sup>39</sup> *Ibid.*, para. 47.

<sup>40</sup> *Ibid.*, para. 49.

<sup>41</sup> *Ibid.*, para. 50.

<sup>42</sup> *Ibid.*, para. 52.

## India's Propensity to Export

[89] Nova refers to Surya Roshni Limited's Annual Report 2016-2017 which states that, to boost steel demand, the Government of India launched the National Steel Policy 2017 (NSP) to propel higher spending on infrastructure and construction through government initiatives. According to the company, the NSP sets targets of 225 million MT for crude steel production and 300 million MT for crude steel capacity by 2030 and provides preference to domestic Indian manufacturers by stipulating a 15% minimum value addition in bidding on government procurements. As a result, imports of steel have declined and the export of steel from India has boosted. Furthermore, Surya Roshni reports that, due to the "Make in India" concept by the Prime Minister, drastic steps have been taken by the government to improve overall steel production, consumption and exports. As a result, production and exports of steel and its subsidiary products, especially steel pipes, have started increasing during the year 2016-17.<sup>43</sup>

[90] Nova states that exports are an important part of the Indian steel and CSWP industry. According to an ITA report, India is the world's fourteenth largest steel exporter with exports of 11.8 million MT in the first three quarters of 2017 valued at \$US 7.8 billion. As compared to the same period in 2016, steel exports increased 68% on a volume basis and 75% on a value basis. Exports as a share of production rose to 15.6% in that time period compared to 9.9% in 2016.<sup>44</sup>

[91] According to the same ITA report, in the first three quarters of 2017 exports of pipe and tube products from India amounted to 1.1 million MT, representing 9% of all steel exports from that country. During that period, India's top five export markets for pipe and tube products include Canada along with the US, Saudi Arabia, the UAE and Thailand.<sup>45</sup>

[92] Nova points to UN Comtrade trade data showing Indian pipe exports (HS tariff code 730630) as 223,066 MT in 2014, 211,591 MT in 2015 and 188,790 MT in 2016. Nova claims that India's exports of CSWP have remained consistently elevated over time despite the imposition of anti-dumping measures against the country's exports by the US in 2016. The ITC's decision, concerning circular welded pipe and tube (CWP) from several countries including India, makes reference to GTA data indicating that Indian exports of CWP increased from 110,646 tonnes in 2012 to 209,268 tonnes in 2016.<sup>46</sup>

[93] Nova states that further evidence of the disposition to export by CSWP producers in India is found in company policies and websites, such as those of Bhandari Foils and Tubes, Good Luck India Limited, Jindal Saw Ltd., Rama Steel Tubes, and Technocraft. Nova concludes that the enthusiasm of Indian CSWP producers for export markets indicates the likelihood of these producers and exporters to look to Canada if the finding were to expire.<sup>47</sup>

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<sup>43</sup> *Ibid.*, paras. 54-56.

<sup>44</sup> *Ibid.*, paras. 58-59.

<sup>45</sup> *Ibid.*, para. 60.

<sup>46</sup> *Ibid.*, paras. 61-62.

<sup>47</sup> *Ibid.*, paras. 63-64.

## Exports to Other Markets

[94] Nova states that, according to UN Comtrade data, India's most significant export markets for pipe are as follows: UAE, UK, US and Belgium. With regards to the US, imports of pipe from India increased from 2014 to 2016 despite an anti-dumping case and preliminary duties imposed on Indian pipe producers in November 2015, and final duties in September 2016. The export volumes demonstrate, according to Nova, that Indian pipe producers are producing pipe products in quantities and at prices that withstand the imposition of duties.<sup>48</sup>

[95] Nova states that volumes of Indian pipe products to the UK have fallen from 2014 – 2016 in part due to the recent economic and political instabilities in the country, including a suffering construction sector and the Brexit vote. The UK's construction Purchasing Managers' Index plunged in June 2017 while forecasts for 2018 look bleak, with growth prospects for the UK construction industry being downgraded. Based on this Nova concludes that Indian pipe producers will be forced to seek alternative markets for their products.<sup>49</sup>

## **Oman**

### Oman's CSWP Capacity

[96] Nova states that there are two CSWP producers in Oman and estimates their combined pipe capacity to be 500,000 MT. Nova notes that its estimate is conservative and it understates the full capacity of the Omani industry, given that information regarding all companies is not publicly available.<sup>50</sup>

[97] With regard to one producer, TMK Gulf International Pipe Industry, Nova states that the company boasts a 240,000 square metre facility. In the second half of 2016 the company announced the completion of a mill expansion by way of a press release. Nova says that the press release states that a deliverable of the expansion will be to increase 'the export of local quality products to other markets with fair and competitive prices.'<sup>51</sup>

[98] With respect to the other producer, Al Jazeera Steel Products Company SAOG (Jazeera), Nova notes that, although Oman experienced a downturn in demand for steel and pipe in 2016 due to depressed oil prices and prudent spending by government, the company reported its highest production volumes ever, with tube mill volumes climbing from 162,872 MT in 2015 to 167,757 MT in 2016.<sup>52</sup>

[99] Considering the weak demand in Oman, Nova attributes the increased production to a disregard for market forces and a strong indication that the production will be exported.<sup>53</sup>

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<sup>48</sup> *Ibid.*, paras. 65-66.

<sup>49</sup> *Ibid.*, paras. 67-68.

<sup>50</sup> *Ibid.*, paras. 93-94.

<sup>51</sup> *Ibid.*, para. 95.

<sup>52</sup> *Ibid.*, paras. 96-97.

<sup>53</sup> *Ibid.*, para. 98.

## Oman's Economic Slowdown and Propensity to Export

[100] Nova refers to an October 2017 report from the World Bank stating that growth in Oman continued to be held back by lower oil production and weaker consumption and investment. According to the report, real GDP is projected to slow down to 0.1% in 2017 from 2.8% in 2016 but is forecasted to increase to 3.4% in 2018 and 2.9% in 2019. When Oman joined most Organization of the Petroleum Exporting Countries (OPEC) non-members in participating in oil production cuts in 2017, its hydrocarbon sector contracted by 2.8%. Non-hydrocarbon GDP growth was also estimated to contract to 2.5% in 2017 from 3.4% in 2016 due to public spending declines with knock-on effects on consumption and investment.<sup>54</sup>

[101] Nova submits that, as Oman attempts to move closer to a post-oil economy by diversifying its economy, including manufacturing, such diversification will be felt in its export market. Nova points out that Jazeera's 2016 Annual Report states that "...we have diversified to other export markets in 2016 and hope to build on this in 2017" while the company's website states that it markets its products to countries across the globe, including North America.<sup>55</sup>

[102] Nova points to a March 2017 online article reporting that, despite sluggish demand in the gulf region and an anti-dumping finding by the US, Jazeera recorded robust growth in sales and net profit as it diversified into other export markets. Nova states that this clearly signifies Jazeera's focus on export orientation and its business practice of export diversification when trade measures are imposed. Based on this, Nova submits, Canada will become Jazeera's target "other export market" should the measures be permitted to expire.<sup>56</sup>

### Exports to Other Markets

[103] According to UN Comtrade data, Oman's most significant export markets for pipe products are the US and Kuwait. Nova asserts that, due to anti-dumping duty being imposed on Omani pipe products in the US market, Omani producers have shifted their export focus to alternative markets. Nova also asserts that it is likely Omani producers will look to markets other than Kuwait because OPEC-related oil production cuts have depressed GDP growth while a poor business environment and the large size of the public sector have hampered the development of the private non-oil sector. Nova submits that, as Oman looks to diversify its export markets in the face of trade barriers abroad and reduced demand in the Gulf area, the Canadian market will be attractive to low price exports should the finding be allowed to expire.<sup>57</sup>

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<sup>54</sup> *Ibid.*, paras. 99-100.

<sup>55</sup> *Ibid.*, paras. 101-103.

<sup>56</sup> *Ibid.*, paras. 104-105.

<sup>57</sup> *Ibid.*, paras. 106-110.

## Korea

### Korea's CSWP Capacity and Steel Production

[104] Nova submits that between 2009 and 2012, Korea's crude steel production grew by 42%, and since then, production has fluctuated and averaged 69 million MT per year through to 2016. Additionally, the nominal crude steelmaking capacity in Korea remains high at 85.7 million MT and Nova believes domestic producers will be looking to use this significant excess steel capacity.<sup>58</sup>

[105] According to the Simdex Metal Tube Manufacturers Worldwide Guide, there are 23 companies that produce various types of CSWP in Korea. Based on the information available, Nova has estimated a total capacity of CSWP production in Korea to be more than 3,972,000 MT. The complainant notes that this production capacity is conservative since information regarding all companies is not publicly available.<sup>59</sup>

[106] Furthermore, Nova states that Korea is constantly under expansion. Hyundai Hysco, one of the largest pipe producers in Korea has made multiple capacity investments since 2010, including the addition of two blast furnaces in 2010, followed by an additional third blast furnace in 2013.<sup>60</sup>

### Korea's Economic Forecast and Propensity to Export

[107] According to Nova, the propensity of Korean CSWP producers to export remains unchanged in light of a stable economy. Nova states, Korea's real GDP growth is projected to remain flat at 3% in 2017 and 2018 and a rebound in international trade and greater fiscal support are projected to sustain this growth through 2019. However, construction investment is projected to slow following tighter regulations on housing and mortgage lending. An OCED report underpinned exports as a contributor to economic growth as construction investment is slowing.<sup>61</sup>

[108] Nova provided reports from the Federal Steel Supply Inc. and the Korean Iron and Steel Association that indicated that the future of Korean steel looks bright due to export opportunities and Korea's steel product exports from January through to August of 2017 increased by 72.2% from the same period the previous year.<sup>62</sup>

[109] As documented in the International Trade Administration's Steel Export Reports, Korea is the world's fourth largest steel exporter and in the first three quarters of 2017, Korea exported 23.7 million MT, a 5% increase from 22.5 million MT in the same time period in 2016. With respect to pipe and tube products, Canada is among Korea's top five export markets along with the US, Kuwait, Japan, and the UAE.<sup>63</sup>

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<sup>58</sup> *Ibid.*, paras. 112-113.

<sup>59</sup> *Ibid.*, para. 114.

<sup>60</sup> *Ibid.*, para. 116.

<sup>61</sup> *Ibid.*, para. 117.

<sup>62</sup> *Ibid.*, paras. 118-119.

<sup>63</sup> *Ibid.*, para. 120.

[110] Nova provided several examples of Korean CSWP producers proclaiming their established practices and continued interest in export markets. Nova states, the enthusiasm of Korean CSWP producers to enter export markets establishes if the finding were to expire, they would seek to continue/resume dumping in Canada.<sup>64</sup>

### Exports to Other Markets

[111] As noted above, Korea's primary export markets for pipe and tube products are the US and Japan. Nova submits that there are presently multiple trade findings against a variety of types of Korean pipe in the US. It was determined on January 4, 2018 by the US ITC that the revoking of the existing anti-dumping measures on circular welded pipe and tube from Korea would likely lead to the continuation of material injury within a reasonable foreseeable time.<sup>65</sup>

[112] In light of the above, an article in the Metal Bulletin states that in late 2017, imports of Korean standard pipe to the US has increased compared to the previous year.<sup>66</sup> Nova submits that these increases continue to incur notwithstanding duties in place against Korean circular welded pipe.

[113] With regards to Korean exports to Japan, Nova submits that the Japan's GDP growth is projected to remain stagnant with only a marginal increase in 2017 attributed to international trade and fiscal stimulus. Furthermore, Japan has its own robust CSWP industry with 15 producers of CSWP. One of these producers has a capacity of 3,900,000 MT, the estimated size of the CSWP capacity of Korea.<sup>67</sup> According to UN Comtrade Data, the volume of Korean pipe exports to Japan have decreased year-on-year since 2014 with a 25% decrease from 2014 to 2016.<sup>68</sup>

[114] Nova submits, as trade sanctions increase in the US and markets such as Japan face decreased demand for CSWP, Korean pipe exporters will be seeking alternative markets such as the Canadian market, if the finding were to expire.

## **Thailand**

### Thailand CSWP Capacity and Steel Industry

[115] Nova submits that the crude steel production and capacity in Thailand is increasing as the most recent report by the Iron and Steel Institute of Thailand states that production in 2016 increased by 23%. Nova also provides data from an OCED Report in 2017 indicating that Thailand's crude steelmaking capacity has increased by 3.42 million tonnes between 2006 and 2016 representing a 53% increase. Furthermore, in the first three quarters of 2017, Thailand's steel imports decreased by 18% with the majority of imports being flat products, while pipe and tube imports are lower, at less than 500,000 MT.<sup>69</sup>

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<sup>64</sup> *Ibid.*, paras. 123-127.

<sup>65</sup> *Ibid.*, para. 130.

<sup>66</sup> Exhibit 21 (PRO) – Article 4: US steel imports rise in October, with tube and pipe products fueling gains.

<sup>67</sup> Exhibit 51 (NC) - Case Brief Filed on Behalf of Nova Tube Inc. / Nova Steel Inc., para. 133.

<sup>68</sup> *Ibid.*, para. 134.

<sup>69</sup> *Ibid.*, paras. 137-139.

[116] Based on the information provided by Nova, there is an estimated total capacity of CSWP production in Thailand of 913,000 MT. Nova submits that the estimate of CSWP capacity is conservative and does not represent the full capacity of the Thai CSWP industry due to information on all companies not being publicly available.<sup>70</sup>

#### Thailand Economic Outlook and Propensity to Export

[117] Nova submits that Thailand's GDP growth is expected to increase to 3.7% in 2017 from 3.2% in 2016. However, it is forecasted to decrease slightly to 3.5% in 2019. This forecast is in light of Bloomberg's report that Thailand will show strong growth next year with growth being fueled by exports and tourism.<sup>71</sup>

[118] Data provided by Nova indicates that pipe exports from Thailand under tariff classification number 7306.30 has increased substantially from 74,023 MT in 2014 to 103,797 MT in 2016, representing a 40% increase.<sup>72</sup>

[119] Nova also notes that Thai steel and pipe markets have also been impacted by Chinese and Japanese imports which has prompted anti-dumping measures against China. Due to the rising import share held by China combined with domestic Thai pipe and tube producers' inability to compete with Chinese prices, anti-dumping measures were imposed by Thailand's government against China in 2015. Nova states that if Thailand continues to face low-priced imports while simultaneously expanding its own industry, the CSWP producers will be looking to other markets for export.<sup>73</sup>

#### Exports to Other Markets

[120] According to the data provided by Nova, Thailand's primary export markets for pipe products are the US, Australia, and Indonesia. Nova notes that the US continues to be a primary export market in light of the anti-dumping duties in force against Thailand since 1985 and continued on January 4, 2018.<sup>74</sup>

[121] Nova states that Australia also has enforced anti-dumping measures in 2015 on Thai imports of hollow structural sections. The companies found to be dumping included known CSWP producers, Samchai Steel Industries Public Company Limited and Pacific Pipe Public Company Limited. Notwithstanding the measures imposed on Thailand, exporters continue to ship various pipe and tube products for which the complainant indicates that the producers are able to withstand these duties and/or change production when necessary.<sup>75</sup>

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<sup>70</sup> *Ibid.*, paras. 140-141.

<sup>71</sup> *Ibid.*, para. 142.

<sup>72</sup> *Ibid.*, para. 143.

<sup>73</sup> *Ibid.*, para. 144.

<sup>74</sup> *Ibid.*, paras. 146-147.

<sup>75</sup> *Ibid.*, para. 148.



[122] With regards to Indonesia, Nova reports that the country has nine known domestic producers of CSWP with the largest pipe producer in the country, Steel Pipe Industry, reported to have a production capacity of 588,600 MT, and is presently investing in new plant facilities. Nova believes that with the development of the Indonesian CSWP market, there will be reduced need for voluminous imports of pipe products from Thailand which will be redirected to other attractive markets such as Canada.<sup>76</sup>

## United Arab Emirates

### UAE Steel Production and CSWP Overcapacity

[123] Nova submits that crude steel capacity and production continues to increase in the UAE, notwithstanding, the instability in the region in recent times. From 2014 to 2016, crude steel production alone grew 30% and capacity developments over the years is outlined in the table below.<sup>77</sup>

**Table 3**  
**Nominal crude steelmaking capacity in million tonnes<sup>78</sup>**

	2006	2012	2013	2014	2015	2016
<b>Capacity</b>	0.18	2.95	2.95	3.65	3.65	3.65

[124] Nova notes that similar to the developments of crude steel, pipe capacity in the UAE continues to grow as well. Citing a pipe producer ADPICO's webpage, one of UAE's largest CSWP producers, ADPICO states that with its future additions it will become one of the largest and most diversified ERW mills in the world with an overall production capacity of almost 1.5 million tonnes. Furthermore, US pipe producer Epic Piping is reported to be opening a 400,000 square foot facility in Abu Dhabi.<sup>79</sup>

[125] With respect to CSWP capacity in the UAE, Nova presents an estimate of total CSWP capacity based on several companies' publicly available information, as well as the Simdex Metal Tube Manufacturers Worldwide Guide. Based on this information, Nova estimates that the total capacity of CSWP production in the UAE to be 1,981,000 MT. Nova believes this may not represent the full capacity of the UAE industry and submits that the actual capacity is likely higher.<sup>80</sup>

<sup>76</sup> *Ibid.*, para. 149.

<sup>77</sup> *Ibid.*, para. 151.

<sup>78</sup> *Ibid.*, para. 152.

<sup>79</sup> *Ibid.*, para. 153.

<sup>80</sup> *Ibid.*, para. 154.

## UAE's Propensity to Export

[126] According to Nova, exports of pipe products from the UAE to the global market have increased year-on-year since 2014 and clearly underpins the country's focus on exporting.<sup>81</sup> Nova provides several examples from producers in the UAE proclaiming their stature as a global market pipe and tube distributor.<sup>82</sup>

[127] Nova pointed out that UAE's primary export markets for pipe products are the US, Oman, and Saudi Arabia according to UN Comtrade Data.<sup>83</sup>

[128] Nova expressed concern that Canada would likely see the export of UAE's substantial excess production due to economic and political uncertainty in its primary export markets, particularly Saudi Arabia. With respect to Saudi Arabia, Nova submits, in 2016 its economy grew at a moderate rate of 1.7% due to oil prices, and in 2017, real GDP growth is forecasted to decrease to 0.3%. Furthermore, construction activity in Saudi Arabia remains sluggish despite the government's ongoing commitment to vision 2030, and construction output is estimated to have fallen by 2% in real terms in 2017.<sup>84</sup>

[129] With respect to the UAE's primary export markets, Nova also pointed out that the US ITC went on to find anti-dumping duties against the UAE in regards to circular welded carbon-quality steel pipe, notwithstanding, the Financial Controller of the Universal Group's testimony to the ITC stating that the Universal Group (an UAE producer) focus is on the UAE markets.<sup>85</sup>

[130] Overall, due to the factors listed above, Nova submits, with the increasing exports since 2014, the enthusiasm of CSWP in the UAE, and the ongoing conditions in the UAE's largest export markets, that the resumption and/or continuation of dumping in Canada is likely if the CITT's finding were to expire.<sup>86</sup>

## **Behaviour of Subject Country Exporters While the Finding has been in Effect**

### Subject Countries' Presence in the Canadian Non-Subject Pipe Market

[131] Nova maintains that while the finding has been in place against subject countries, exporters from these countries continue to have a significant presence in Canada's pipe market by selling high volumes of non-subject pipe at low prices. Nova points to CBSA's import statistics data, indicating the continued interest in the Canadian market for non-subject CSWP, which by implication must be CSWP above 6 inches.<sup>87</sup>

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<sup>81</sup> *Ibid.*, para. 156.

<sup>82</sup> *Ibid.*, para. 157.

<sup>83</sup> *Ibid.*, para. 158.

<sup>84</sup> *Ibid.*, paras. 159-161.

<sup>85</sup> *Ibid.*, para. 162.

<sup>86</sup> *Ibid.*, para. 163.

<sup>87</sup> *Ibid.*, paras. 165-169.

[132] Nova submits that not only have the subject countries been selling this non-subject pipe in high volumes, but have been doing so at low prices. Import statistics for the SIMA Measures in Force indicates that in 2016 the subject countries shipped over 11,000 MT of non-subject diameter CSWP at an average value for duty of \$857 per MT.<sup>88</sup> Nova contends that even with a \$150 per MT amount added to the average value of duty to cover ocean freight and brokerage fees, the price of non-subject CSWP was below Nova's average 2016 selling price.<sup>89</sup>

[133] Nova asserts that the aforementioned demonstrates that exporters of subject goods have remained interested in the Canadian market for CSWP and related products, and is indicative that these exporters will resume dumping CSWP into Canada if the finding expires or is rescinded.

#### Exports of Similar Products Made on the Same Equipment

[134] Nova submits that similar tube products such as hollow structural sections (HSS) are made from the same feedstock (hot-rolled sheet), by the same mills on the same equipment using the same production process. Nova indicated that three of the subject countries (Chinese Taipei, India and the UAE) have exporters that have continued to demonstrate a keen interest in the Canadian market and are willing and able to ship significant volumes to Canada in the absence of a finding.<sup>90</sup>

[135] Nova references import permit data maintained by Global Affairs Canada to indicate the high volumes of imported HHS from Chinese Taipei, India and the UAE which were 9,239 MT, 15,969 MT, and 3,156 MT respectively in 2017. Nova points to the average pricing of imports of HSS from the US to Canada to demonstrate how the average cost of imports of HHS from Chinese Taipei, India, and the UAE are significantly below US pricing. Nova submits that Canadian and US producers tend to price at similar levels, therefore, significant undercutting of US prices by exporters from these three countries supports an inference that these exporters of CSWP would also undercut US and Canadian producer pricing if they resumed exporting to Canada.<sup>91</sup>

#### Subject Countries' Recent Export and Domestic Pipe Prices

[136] Nova submitted information in their case brief outlining its methodology in determining normal values during the POR for the subject goods to demonstrate that the available pricing evidence indicates that exporters from the subject countries would resume dumping if the finding were to expire in Canada. The values determined by Nova were calculated on the basis of Nova's cost of production as well as publicly available information on major CSWP producers in each of the subject countries. Based on Nova's analysis, they contend that the calculated margins of dumping for each subject country are significant considering the conservative approach taken in calculating both normal values and export prices.<sup>92</sup>

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<sup>88</sup> Exhibit 45 (NC) – Documents submitted at the Close of the Record by Nova Tube Inc.: 103 Import Statistics for SIMA Measures in Force.

<sup>89</sup> Exhibit 51 (NC) - Case Brief Filed on Behalf of Nova Tube Inc. / Nova Steel Inc., para. 171.

<sup>90</sup> *Ibid.*, paras. 175-182.

<sup>91</sup> *Ibid.*, paras. 175-182.

<sup>92</sup> *Ibid.*, paras. 183-195.

## Other Factors

### Anti-Dumping and Countervailing Duty Measures by Canada and Other Countries in Respect of Goods of the Same Description or in Respect of Similar Goods

[137] Nova states that the propensity of subject country exporters to dump CSWP in Canada is further evidenced by the numerous anti-dumping and countervailing measures imposed against them by Canada and other countries.

[138] Nova points out with regards to pipe products under HS code 7306.30, all the subject countries are subject to anti-dumping measures in at least one other major jurisdiction. India, Oman, Korea, Thailand, and the UAE are all subject to US imposed CSWP anti-dumping measures. Australia presently has measures imposed against Chinese Taipei, Korea, and Thailand. Furthermore, Thailand has initiated proceedings regarding CSWP against Korea. Nova maintains that with the restriction of access to major markets due to anti-dumping measures, the likelihood that subject countries will look toward the Canadian CSWP market will increase if the finding is permitted to expire.<sup>93</sup>

### Competition with Low-Priced New Offshore Sources

[139] Nova submits that new offshore sources have become significant sources of low-priced imports in Canada in recent years. Nova referenced import statistics compiled by the CBSA which demonstrates that new offshore sources have been selling high volumes of CSWP in the Canadian market at prices well below the average for other imports. The CBSA data indicates that collectively, these countries increased their export volume to Canada by 9,231 MT in 2016 and continue to remain at 49% of all imports in January through September 2017.<sup>94</sup>

[140] Nova states if the finding were to expire, subject country exporters would need to compete on the basis of price with the new offshore sources for market share in Canada. This would substantially increase the likelihood of resumed dumping by the subject countries, as it demonstrates the attractiveness of the Canadian market.<sup>95</sup>

### *Parties Contending that Continued or Resumed Dumping is Unlikely*

[141] None of the parties contended that resumed or continued dumping of subject goods from Chinese Taipei, India, Oman, Korea, Thailand and the UAE is unlikely if the finding is rescinded.

## CONSIDERATION AND ANALYSIS – DUMPING

[142] In making a determination under paragraph 76.03(7)(a) of SIMA whether the expiry of the finding is likely to result in the continuation or resumption of dumping of the goods, the CBSA may consider the factors identified in subsection 37.2(1) of the SIMR, as well as any other factors relevant under the circumstances.

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<sup>93</sup> *Ibid.*, paras. 198-200.

<sup>94</sup> *Ibid.*, paras. 204-205.

<sup>95</sup> *Ibid.*, paras. 208-209.

## Chinese Taipei

[143] The CBSA did not receive any ERQ responses, case briefs, or reply submissions from exporters in Chinese Taipei. The CBSA, therefore, relied on information submitted from participating parties, as well as other information on the administrative record, for the purposes of the expiry review investigation with respect to CSWP originating in or exported from Chinese Taipei. While goods exported from Chinese Taipei by Chung Hung Steel Corporation and Shin Yang Steel Co. Ltd were subject to the finding during the POR, due to their exclusion from the CITT's finding, the goods did not form part of CBSA's analysis.

[144] During the first three years of the CBSA's POR of January 1, 2014 to September 30, 2017, Chinese Taipei's domestic steel market experienced a decrease in production and an even greater decrease in consumption. According to a report issued in May 2017 by the International Trade Administration (ITA) of the US Department of Commerce, Chinese Taipei's production of crude steel decreased from 23.2 million MT in 2014 to 21.8 million MT in 2016 while consumption decreased from 19.9 million MT to 17.4 million MT. As a result, the gap between supply and demand widened from 3.3 million MT in 2014 to 4.4 million MT in 2016.<sup>96</sup>

[145] While Chinese Taipei's crude steel production dropped from 2014 to 2016 due to a global supply glut,<sup>97</sup> the country's steel exports increased slightly from 12.0 million MT to 12.2 million MT.<sup>98</sup> Expressed as a percentage of total steel production, Chinese Taipei's exports rose from 51.9% to 55.9% during this three year period.<sup>99</sup> The fact that Chinese Taipei's steel exports rose in a period defined as a 'global supply glut' is testament to the country's competitiveness in steel pricing.

[146] Chinese Taipei is a net exporter of steel products and, in fact, the world's twelfth largest steel exporter.<sup>100</sup> According to Chinese Taipei's Ministry of Economic Affairs, the country's steel exports grew 30.2% in the first seven months of 2017 with China absorbing 13% of the exports, followed by the US at 12.3% and Japan at 8.3%.<sup>101</sup> With respect to the US, Chinese Taipei's steel exports to that market surged 42.3% from a year earlier, and represented the highest growth recorded for all export markets.<sup>102</sup>

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<sup>96</sup> Exhibit 45 (NC) – Documents submitted by Nova Tube Inc.: Attachment 34 – ITA Steel Exports Report – Taiwan, page 6.

<sup>97</sup> Exhibit 45 (NC) – Documents submitted by Nova Tube Inc.: Attachment 35 – Focus Taiwan news article.

<sup>98</sup> Exhibit 45 (NC) – Documents submitted by Nova Tube Inc.: Attachment 34 – ITA Steel Exports Report – Taiwan, page 6.

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

<sup>100</sup> *Ibid.*, page 1.

<sup>101</sup> Exhibit 45 (NC) – Documents submitted by Nova Tube Inc.: Attachment 35 – Focus Taiwan news article.

<sup>102</sup> *Ibid.*

[147] According to the May 2017 ITA report referred to above, Vietnam, Thailand and the Philippines were the only markets for Chinese Taipei's steel exports to show an increase in value between 2015 and 2016; all other top export markets, including the US, saw value decreases.<sup>103</sup> Considering that Chinese Taipei produces more steel than it consumes and, for a number of years, has exported more than half of all the steel it produces, it is not surprising that steel products from Chinese Taipei would be very competitively-priced in these export markets, including North America.

[148] In 2013 the country's crude steel-making capacity increased from 26.5 million MT to 28.5 million MT and has remained at this level ever since. A comparison of Chinese Taipei's crude steel production of 21.8 million MT in 2016 to the country's steel-making capacity of 28.5 million MT indicates that the country's steel mills were operating at a 76.5% capacity utilization rate.

[149] While production volumes and production capacities of crude steel producers in Chinese Taipei is somewhat easy to come by, the same information with respect to CSWP producers is not. Being smaller-sized, secondary steel producers, many of whom are not publicly-traded, CSWP manufacturers tend not to divulge commercially sensitive information such as production capacities, sales volumes or selling prices on their websites. Nonetheless, based on both confidential and non-confidential information on the record, the CBSA found that there are eight companies that are capable of producing various types of carbon steel welded pipe in Chinese Taipei<sup>104</sup> and that those CSWP producers considerably outnumber the producers of the same products in Canada.

[150] The May 2017 ITA report, referred to previously, states that the US was the largest market for Chinese Taipei's exports of pipe and tube products in 2016 at 42% (93.5 thousand metric tonnes).<sup>105</sup> This is a notable fact given the recent decision on January 4, 2018, by the ITC continuing its anti-dumping and countervailing duty orders on circular welded pipe and tube (CWP) from several countries including Chinese Taipei.<sup>106</sup>

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<sup>103</sup> Exhibit 45 (NC) – Documents submitted by Nova Tube Inc.: Attachment 34 – ITA Steel Exports Report – Taiwan, page 3.

<sup>104</sup> Exhibit 43 (NC) – Supplementary research with respect to Chinese Taipei, India and Oman; and Exhibit 44 (Pro) – Documents submitted by Nova Tube Inc.: Attachment 36 – Simdex Metal Tube Manufacturers Worldwide Guide.

<sup>105</sup> Exhibit 45 (NC) – Documents submitted by Nova Tube Inc.: Attachment 34 – ITA Steel Exports Report – Taiwan, page 4.

<sup>106</sup> Exhibit 45 (NC) – Documents submitted by Nova Tube Inc.: Attachment 42 – USITC Makes Determination in Five-Year (Sunset) Review Concerning Circular Welded Pipe and Tube from Brazil, India, Korea, Mexico, Taiwan, Thailand and Turkey.

[151] Similarly, according to the ITA report, Australia was Chinese Taipei's second largest export market for pipe and tube products in 2016, notwithstanding the fact that Australia imposed anti-dumping measures on hollow structural sections from Chinese Taipei in 2011 and continued these measures in 2017.<sup>107</sup> The fact that exporters in Chinese Taipei would remain focused on two foreign markets, the US and Australia, despite having anti-dumping measures in place on similar carbon steel tubular products, indicates that the country's steel producers are heavily reliant on exports.

[152] Based on confidential information on the administrative record, exporters in Chinese Taipei remained active in exporting subject goods to Canada during the POR of January 1, 2014 to September 30, 2017. Based on quantity, imports of subject goods from Chinese Taipei represented more than half of all subject imports during the POR.<sup>108</sup> As well, in each of the three years of the POR, as well as in the first nine months of 2017, anti-dumping duty was assessed by the CBSA against subject CSWP imports from Chinese Taipei.<sup>109</sup> The CBSA's confidential enforcement data suggests a pattern of exporters from Chinese Taipei pursuing sales in Canada through low prices.

[153] According to a May 2017 report by the Taiwan Steel & Iron Industry Association, the country's GDP growth rate was 0.7% in 2015, 1.5% in 2016, and was forecasted to be 1.9% in 2017. This is lower than the global GDP growth rates for the same periods of 3.1%, 3.0% and 3.3% (forecasted). The report also shows that, of all steel-consuming sectors, demand in the construction sector fell from 39.2% in 2014 to 33.3% in 2016. The drop in the construction sector is attributed to rising taxes, a slow economic recovery and an oversupplied housing market.<sup>110</sup> According to the Taiwan Institute of Economic Research, the country's GDP is forecasted to grow by 2.34% in 2018, attributed in large part to a healthy increase in export orders (14.84% increase in 2017).<sup>111</sup> Based on all of the above, it is reasonable to assume that CSWP producers in Chinese Taipei will have to rely more heavily on exports in the near term given the country's economic performance and the current issues facing the construction sector.

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<sup>107</sup> Exhibit 45 (NC) – Documents submitted by Nova Tube Inc.: Attachment 43: World Trade Organization, Integrated Trade Intelligence Portal “Detailed Query: Withdrawn Anti-dumping Measures: Australia and Chinese Taipei; and Attachment 44 – Australian Anti-Dumping Commission *Hollow Structural Sections Exported from the People's Republic of China, the Republic of Korea, Malaysia and Taiwan*, Dumping Commodity Register.

<sup>108</sup> Exhibit 46 (PRO) – CBSA's Final Import and Domestic Market Statistics.

<sup>109</sup> *Ibid.*

<sup>110</sup> Exhibit 45 (NC) – Documents submitted by Nova Tube Inc.: Attachment 39 – Report by Taiwan Steel & Iron Industry Association, May 2017.

<sup>111</sup> Exhibit 45 (NC) – Documents submitted by Nova Tube Inc.: Attachment 39 – Taiwan News article, *TIER cautiously revises 2018 Taiwan growth up*.

## Determination Regarding Likelihood of Continued or Resumed Dumping for Chinese Taipei

[154] Based on information on the record showing Chinese Taipei to be a net exporter of steel products and having a sizable number of CSWP producers; the imposition of anti-dumping measures by the US in respect of goods of the same description (i.e., circular welded pipe) and by Australia in respect of similar goods (hollow structural sections) from Chinese Taipei; exporters continuing to export subject goods to Canada at dumped prices during the POR; and decreasing demand for CSWP products in the construction sector in Chinese Taipei, the CBSA determined that the expiry of the finding is likely to result in the continuation or resumption of dumping into Canada of certain carbon steel welded pipe originating in or exported from Chinese Taipei (excluding goods exported from Chinese Taipei by Chung Hung Steel Corporation and Shin Yang Steel Co. Ltd).

### **India**

[155] The CBSA received an ERQ response from one exporter in India, Manu International. The exporter did not express an opinion regarding whether the continued or resumed dumping and/or subsidizing of CSWP would be likely or unlikely if the CITT's finding were to expire. Additionally, no case briefs or reply submissions were received from exporters of CSWP originating in or exported from India. The CBSA, therefore, relied on information submitted from the participating parties, as well as other information on the administrative record, for the purposes of the expiry review investigation with respect to CSWP originating in or exported from India.

[156] India, with 95.5 million MT of steel produced in 2016, is ranked as the world's third largest steel-producing country, behind only China and Japan.<sup>112</sup> The country's production of steel, as well as its steel-making capacity, have both increased dramatically in the past four years. During the period 2012 to 2016, India's steel production grew from 77.3 million MT to 95.5 million MT,<sup>113</sup> an increase of 23.5%, while its steel-making capacity expanded from 96.5 million MT to 125.8 million MT, an increase of over 30%.<sup>114</sup> The country's impressive growth in its steel sector is further encouraged by the Government of India in its National Steel Policy 2017. The National Steel Policy seeks to increase steel consumption in major segments such as infrastructure, automobiles and housing; seeks to increase per capita steel consumption to 160 kg by 2030 from the existing level of 60, and; aspires to achieve 300 million MT of steel-making capacity by 2030.<sup>115</sup> Given India's increasing pace of steel production in the past few years, and its ambitious future goals, the country will soon surpass Japan to become the world's second largest steel producer.

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<sup>112</sup> Exhibit 45 (NC) – Documents submitted by Nova Tube Inc.: Attachment 102 – World Steel Association, *World Crude Steel Production – Summary, January 24, 2018*.

<sup>113</sup> Exhibit 45 (NC) – Documents submitted by Nova Tube Inc.: Attachment 12 – ITA Steel Exports Report – India, page 6.

<sup>114</sup> Exhibit 22 (NC) – CBSA Research – Articles, *Capacity Developments in the World Steel Industry, OECD Report* August 2017, page 9.

<sup>115</sup> Exhibit 45 (NC) – Documents submitted by Nova Tube Inc.: Attachment 14 – Press Information Bureau, Government of India, Cabinet, *Cabinet approves National Steel Policy 2017*, May 3, 2017.



[157] India ranks as the world's fourteenth largest exporter of steel products. In the first nine months of 2017 the country exported 11.8 million MT of steel valued at \$US 7.8 billion. The exports in the first three quarters of 2017 represent a 68% increase in volume and a 75% increase in value over the country's steel exports in the same period in 2016. Also in the first nine months of 2017, India's steel exports as a share of production rose to 15.6% as compared to 9.9% in the same period in 2016. In terms of pipe and tube products, a product category that includes CSWP, India exported 1.1 million MT of these goods in the first nine months of 2017 (extrapolated to 1.5 million MT for full year 2016). During this time the US was ranked as India's largest export market for pipe and tube products and Canada was ranked as fourth largest.<sup>116</sup>

[158] While the administrative record for the CBSA's expiry review investigation does not contain definitive information as to the total production capacity of CSWP producers in India, the CBSA is nonetheless satisfied that there is significant CSWP production capacity in India. The Simdex Metal Tube Manufacturers Worldwide Guide identifies 53 companies that are capable of producing various carbon steel welded pipe products in India.<sup>117</sup> Based on the production capacities listed by Simdex as well as its own internet research, Nova estimates the total carbon steel welded pipe capacity in India to be in excess of 4.9 million MT.<sup>118</sup>

[159] However, CBSA research revealed that a number of the 53 companies identified by Simdex as being producers of carbon steel welded pipe are not. For example, three of the first four companies listed by Nova in its case brief do not produce carbon steel welded pipe at all; Apex Tube and Bhandari Foils and Tubes produce stainless steel pipes and tubes while Arcee Group produces PVC pipes.<sup>119</sup>

[160] Therefore, based on its research, the CBSA conservatively estimates that the total production capacity of all carbon steel welded pipe producers in India to be slightly in excess of four million metric tonnes. However, the CBSA also recognizes that this figure is made up of many carbon steel pipe products that fall outside of the product definition, such as structural tubing products as well as standard pipe and line pipe products with outside diameters greater than six inches. That being said, if the CBSA were to conservatively estimate India's CSWP capacity to be only one-tenth of that amount, or 400,000 MT, this would still be greater than that of the total Canadian CSWP market.<sup>120</sup>

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<sup>116</sup> Exhibit 45 (NC) – Documents submitted by Nova Tube Inc.: Attachment 12 – ITA Steel Exports Report – India, pages 1,2 & 4.

<sup>117</sup> Exhibit 44 (PRO) – Documents submitted by Nova Tube Inc.: Attachment 15 – Simdex Metal Tube Manufacturers Worldwide Guide.

<sup>118</sup> Exhibit 51 (NC) – Case brief filed on behalf of Nova Tube Inc./Nova Steel Inc.

<sup>119</sup> Exhibit 43 (NC) - Supplementary Research with respect to Chinese Taipei, India & Oman, Internet research on India at pages 1, 2, 6 and 15-17.

<sup>120</sup> Exhibit 40 (PRO) – Response to Supplemental RFI #1 sent to Nova Tube Inc.

[161] Information on the record suggests that India exports steel to more than 200 countries and territories<sup>121</sup> and the country's CSWP producers also export their product extensively. APL Apollo Tubes Limited, which claims to be the largest producer of electric resistance welded steel pipes and sections in India, states that it caters extensively to the region and exports to over 20 countries globally.<sup>122</sup> Asian Group of Companies states on its website that its 'client footprint practically spans the entire globe covering continents of America, Europe, Africa, Asia and the Middle East.'<sup>123</sup> Manu International states on its website that it is an eminent manufacturer, supplier and exporter of a number of products, including pipe and tube products.<sup>124</sup> Surya Global Steel Ltd. states on its website that its state-of-the-art pipe making facility at Anjar is just 35 kilometres away from the port of Mundra, 'thus giving it a strategic advantage of being a highly cost efficient option, to cater to the large export market.'<sup>125</sup>

[162] Based on information on the administrative record, exporters in India remained active in exporting subject goods to Canada during the POR of January 1, 2014 to September 30, 2017, despite the fact that subject goods from that country were subject to both anti-dumping duty and countervailing duty.<sup>126</sup> Exporters of CSWP from India have continued to show an interest in the Canadian market despite the goods being subject to anti-dumping duty and a countervailing duty rate of 3,577 rupees/MT for subject goods exported by Manu International, and 23,872 rupees/MT for all other exporters. Although no anti-dumping duty was assessed against imports of subject goods originating in or exported from India in 2014, 2015 and 2016, anti-dumping duty was assessed against subject imports in the first nine months of 2017.

[163] In addition to Canada having anti-dumping measures in place against CSWP from India, the US has had anti-dumping measures in place since 1986 against certain welded carbon steel pipes and tubes from India.<sup>127</sup> These measures were recently reaffirmed by the US ITC on January 4, 2018 when it decided to continue its anti-dumping and countervailing duty orders on circular welded pipe and tube from several countries including India.<sup>128</sup> Despite these measures being in place, the ITA notes in its December 2017 report that the US accounted for 37% of India's pipe and tube exports (414,000 metric tonnes) in the first three quarters of 2017.<sup>129</sup> The fact that such a significant share of Indian pipe and tube products are destined to the US market and to the Canadian market (India's fourth largest export market for these goods) signifies the great importance that producers in that country place in the North American market.

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<sup>121</sup> Exhibit 45 (NC) – Documents submitted by Nova Tube Inc.: Attachment 12 – ITA Steel Exports Report – India, page 1.

<sup>122</sup> Exhibit 43 (NC) - Supplementary Research with respect to Chinese Taipei, India & Oman, Internet research on India at page 3.

<sup>123</sup> *Ibid.*, p. 8.

<sup>124</sup> *Ibid.*, p. 26.

<sup>125</sup> *Ibid.*, p. 49.

<sup>126</sup> Exhibit 47 (NC) – CBSA's Final Import and Domestic Market Statistics.

<sup>127</sup> Exhibit 45 (NC) – Documents submitted by Nova Tube Inc.: Attachment 121 – US ITC determination re. *Certain Circular Welded Pipe and Tube from Brazil, India, Korea, Mexico, Taiwan, Thailand, and Turkey*, January 2018, p. 3.

<sup>128</sup> Exhibit 45 (NC) – Documents submitted by Nova Tube Inc.: Attachment 42 – USITC Makes Determination in Five-Year (Sunset) Review Concerning Circular Welded Pipe and Tube from Brazil, India, Korea, Mexico, Taiwan, Thailand and Turkey.

<sup>129</sup> Exhibit 45 (NC) – Documents submitted by Nova Tube Inc.: Attachment 34 – ITA Steel Exports Report – India, page 4.

## **Determination Regarding Likelihood of Continued or Resumed Dumping for India**

[164] Based on information on the record regarding the large number of carbon steel welded pipe producers in India and their potential production capacities; the imposition of anti-dumping measures by the US in respect of goods of the same description from India; and the fact that exporters of CSWP from India have shown continued interest in the Canadian market during the POR despite the goods being subject to anti-dumping and countervailing duties, the CBSA determined that the expiry of the finding is likely to result in the continuation or resumption of dumping into Canada of certain carbon steel welded pipe originating in or exported from India.

### **Oman**

[165] The CBSA did not receive any ERQ responses, case briefs, or reply submissions from exporters in Oman. The CBSA, therefore, relied on information submitted from participating parties, as well as other information on the administrative record, for the purposes of the expiry review investigation with respect to CSWP originating in or exported from Oman.

[166] Evidence on the record points to there being two potential producers of CSWP products in Oman. However, a closer examination of the information reveals that one of the companies, TMK Gulf International Pipe Industry, produces ERW pipe products with outside diameters greater than six inches,<sup>130</sup> which are not subject to the finding. The other company, Al Jazeera Steel Products Co. SAOG (Jazeera Steel), does produce the subject goods. The company's 2016 Annual Report states that its tube mill division has a production capacity of 300,000 MT and produces the following products: black pipes, galvanized pipes and hollow sections.<sup>131</sup> It should be noted that, although there is only one company in Oman identified as producing CSWP, this company's production capabilities is greater than the total subject and non-subject countries' imports of CSWP into Canada during the POR.<sup>132</sup>

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<sup>130</sup> Exhibit 43 (NC) - Supplementary Research with respect to Chinese Taipei, India & Oman, Internet research on Oman at page 2.

<sup>131</sup> Exhibit 45 (NC) – Documents submitted by Nova Tube Inc.: Attachment 47 -2016 Annual Report – Al Jazeera Steel Products Co. SAOG, page 7.

<sup>132</sup> Exhibit 47 (NC) – CBSA's Final Import and Domestic Market Statistics.

[167] Jazeera Steel notes in its annual report that 2016 was a challenging year with sluggish demand in Gulf Corporation Council countries on account of depressed oil prices and local governments showing prudence in spending.<sup>133</sup> A World Bank report in October 2017 concurs with this assessment, stating that protracted low oil prices and fiscal austerity continue to weigh on Oman's economy.<sup>134</sup> According to the IMF's World Economic Outlook report for October 2017, oil prices fell by 8.1% between February and August, even as OPEC and some non-OPEC oil exporters announced in May that they would extend oil production cuts through the first quarter of 2018.<sup>135</sup> Jazeera Steel states in its Annual Report that its tube mill volumes were affected by lower demand and increased competition. These factors may help account for the fact that the company's sales of black pipes and galvanized pipes decreased slightly from 140,205 MT in 2015 to 138,101 MT in 2016.<sup>136</sup>

[168] According to Jazeera Steel's website the company markets its products to countries across the globe, including North America, and "aims at being a leading tubing supplier in the world."<sup>137</sup> Meanwhile, the company's 2016 Annual Report states that "...we have diversified to other export markets in 2016 and hope to build on this in 2017."<sup>138</sup> Based on these statements, it is evident that the company is determined to market its tubular products to export markets in hopes of becoming a world leader in these goods.

[169] Similar to carbon steel pipe products from Chinese Taipei and India being subject to anti-dumping measures in the US, Oman's exports of circular welded carbon-quality steel pipe products are also subject to these same measures in the US. In its final determination of dumping issued on October 28, 2016, the US Department of Commerce established a dumping margin of 7.24% on exports of circular welded carbon-quality steel pipes from Jazeera Steel as well as for all other exporters in Oman.<sup>139</sup>

[170] Furthermore, Oman exporters of CSWP have stopped exporting to Canada during the POR indicating an inability to compete in the Canadian market at non-dumped prices.

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<sup>133</sup> Exhibit 45 (NC) – Documents submitted by Nova Tube Inc.: Attachment 47 -2016 Annual Report – Al Jazeera Steel Products Co. SAOG, page 4.

<sup>134</sup> Exhibit 45 (NC) – Documents submitted by Nova Tube Inc.: Attachment 50 – World Bank report – *Oman's Economic Outlook – October 2017*.

<sup>135</sup> Exhibit 45 (NC) – Documents submitted by Nova Tube Inc.: Attachment 30 – IMF World Economic Outlook, October 2017, page 3.

<sup>136</sup> *Ibid*, page 7.

<sup>137</sup> Exhibit 45 (NC) – Documents submitted by Nova Tube Inc.: Attachment 110 - Al Jazeera Steel Products Co. SAOG website.

<sup>138</sup> Exhibit 45 (NC) – Documents submitted by Nova Tube Inc.: Attachment 47 -2016 Annual Report – Al Jazeera Steel Products Co. SAOG, page 4.

<sup>139</sup> Exhibit 22 (NC) – CBSA Research – Article 3, *Notice of final determination in the antidumping duty investigation of circular welded carbon-quality steel pipe from the Sultanate of Oman*.

## **Determination Regarding Likelihood of Continued or Resumed Dumping for Oman**

[171] Based on information on the record regarding the sizable CSWP production capability in Oman; the indications of a slowing and adjusting domestic economy due to the softening of oil prices; the ambitious export goals set out by Jazeera Steel for its products; the imposition of anti-dumping measures by the US in respect of goods of the same description (i.e., circular welded pipe) from Oman; and the inability of exporters to compete in the Canadian market at non-dumped prices during the POR, the CBSA determined that the expiry of the finding is likely to result in the continuation or resumption of dumping into Canada of certain carbon steel welded pipe originating in or exported from Oman.

### **Korea**

[172] The CBSA did not receive any ERQ responses, case briefs, or reply submissions from Korean exporters. The CBSA, therefore, relied on information submitted from participating parties, as well as other information on the administrative record, for the purposes of the expiry review investigation with respect to Korea.

[173] Due to the fact that no exporters or manufacturers provided information during the CBSA's investigation, a margin of dumping of 54.2% was determined at the final determination in accordance with a ministerial specification.<sup>140</sup> In addition, no exporters or producers provided information in the subsequent re-investigation and as a result normal values are determined by advancing the export price of the goods by 54.2 % under the ministerial specification. Non-cooperation in both the CBSA's original investigation and reinvestigation may indicate that Korean exporters are unable to compete in the Canadian market at non-dumped prices.

[174] During the POR, although imports of subject goods from Korea were minimal, anti-dumping duties were still assessed.<sup>141</sup> The limited amount of imports can be attributed to the high normal values that have been in effect during the POR. Nevertheless, the fact that duties were assessed indicates that the subject goods from Korea were dumped during the POR. Therefore, this suggests a likelihood that future exports to the Canadian market will be made at dumped prices in the absence of the CITT's finding.

[175] The propensity of Korean exporters to dump CSWP into Canada is further demonstrated by the numerous anti-dumping measures imposed against Korean exports by Canada in respect of similar goods while the finding in respect of the goods has been in effect.

[176] As of May 22, 2018, the CBSA has anti-dumping measures in force for the following steel pipe products originating in or exported from Korea:<sup>142</sup>

- Carbon and Alloy Steel Line Pipe
- Hollow Structural Sections
- Oil Country Tubular Goods (OCTG)

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<sup>140</sup> Exhibit 17 (NC) – CBSA Statement of Reasons issued at Final Determination – 2012-11-26.

<sup>141</sup> Exhibit 46 (PRO) – CBSA Final Import and Domestic Market Statistics.

<sup>142</sup> <http://www.cbsa-asfc.gc.ca/sima-lmsi/mif-mev-eng.html> - Measures in Force.

[177] In addition to these measures, information on the record indicates that there have been at least 10 other measures in five jurisdictions other than Canada, on steel pipe products from Korea since 2002.<sup>143</sup>

[178] Furthermore, according to the ITA's Steel Exports Report for Korea, as of December 2017, there are a total of 51 anti-dumping and/or countervailing measures currently in effect in various countries against steel mill products from Korea.<sup>144</sup>

[179] The number of anti-dumping measures in other jurisdictions against Korea steel pipe products over the last 16 years, as well as the CBSA's own dumping determinations concerning steel pipe products, demonstrates a pattern by Korean exporters to continue to export these steel products at dumped prices.

[180] In the five-year review for the Circular Welded Pipe and Tube (CWP) investigation, the US ITC determined that the revocation of the anti-dumping duty order on CWP from Brazil, India, Korea, Mexico, Taiwan, Thailand, and Turkey would be likely to lead to continuation or recurrence of material injury to an industry in the US within a reasonably foreseeable time.<sup>145</sup>

[181] In the CWP decision, the ITC's Global Steel Trade data indicated that Korea was the fourth-largest global exporter of CWP (behind China, Italy, and Turkey) each year from 2013 to 2016. In fact, between the years 2012 and 2016, Korean exports of CWP into the US market increased from 108,983 short tonnes to 143,341 short tonnes<sup>146</sup>, representing a 32% increase in only four years. Hence, Korean CWP exporters' interest in the US market not only remained present but increased notwithstanding duties in place against Korean CWP.

[182] Korea's interest in the North American tube and pipe market is further supported in an article published by the Metal Bulletin in November 2017. The article describes the rise of US steel imports being fueled by tube and pipe products posting large year-on-year gains.<sup>147</sup>

[183] The aforementioned supports the notion that CSWP exporters in Korea have well established distribution channels for steel products in North America and have a continued interest in the North American market despite the numerous anti-dumping measures imposed on them. For these reasons, as trade remedies continue in the US, Korean CSWP exporters are likely to seek other competitive markets such as Canada, should the CITT's finding be rescinded.

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<sup>143</sup> Exhibit 45 (NC) – Documents submitted at the Close of the Record by Nova Tube Inc.: 105 i-tip report for subject countries.xlsb.

<sup>144</sup> Exhibit 42 (NC) – CBSA's supplemental research with respect to South Korea, Thailand, and the UAE: Korea – Global Steel Trade (Dec 2017).

<sup>145</sup> Exhibit 45 (NC) – Documents submitted at the Close of the Record by Nova Tube Inc.: 121 Certain Circular Welded Pipe and Tube from Brazil, India, Korea, Mexico, Taiwan, Thailand and Turkey, page 1.

<sup>146</sup> *Ibid*, page 14.

<sup>147</sup> Exhibit 21 (PRO) – Article 4: US steel imports rise in October, with tube and pipe products fueling gains.

## **Determination Regarding Likelihood of Continued or Resumed Dumping for Korea**

[184] Based on evidence on the record regarding Korean exporters continuing to export subject goods to Canada at dumped prices during the POR; the imposition of anti-dumping measures by authorities of Canada in respect of similar goods while the finding in respect of the goods has been in effect; and the likelihood of Korean CSWP exporters to seek other competitive markets such as Canada as trade remedies continue in the US against Korean CSWP exporters, the CBSA determined that the expiry of the finding is likely to result in the continuation or resumption of dumping into Canada of certain carbon steel welded pipe originating in or exported from Korea.

### **Thailand**

[185] The CBSA did not receive any ERQ responses, case briefs or reply submissions from exporters of CSWP originating in or exported from Thailand. The CBSA, therefore, relied on information submitted from participating parties, as well as other information on the administrative record for the purposes of the expiry review investigation with respect to CSWP originating in or exported from Thailand.

[186] During the CBSA's original investigation, two manufacturers/exporters, Pacific Pipe Company and Saha Thai Steel Pipe, cooperated and received normal values based on the information received and verified by the CBSA. It was determined that Pacific Pipe Company and Saha Thai Steel Pipe were both found to be dumping CSWP into the Canadian market and the margins of dumping were not insignificant.<sup>148</sup>

[187] In 2013, the CBSA concluded a reinvestigation to update normal values and export prices of CSWP originating in or exported from subject countries. Both participating exporters from Thailand received updated normal values in the reinvestigation.<sup>149</sup>

[188] During the POR, although imports of subject goods from Thailand were minimal in respect of the total Canadian market, anti-dumping duties were assessed on Thai imports.<sup>150</sup> The limited amount of imports may be attributed to exporters' inability to compete in the Canadian market at non-dumped prices. Yet, the fact that duties were assessed demonstrates that the subject goods from Thailand were dumped during the POR and exporters continue to remain interested in the Canadian market for CSWP.

[189] As discussed above, exporters of CSWP from Thailand continued to dump CSWP into Canada during the POR. As such, there is a strong likelihood that future exports to the Canadian market will be made at dumped prices if the CITT's finding were to be rescinded.

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<sup>148</sup> Exhibit 17 (NC) – CBSA's Statement of Reasons issued at Final Determination, 2012-11-26.

<sup>149</sup> Exhibit 16 (NC) – CBSA Notice on Conclusion of Reinvestigation, 2013-05-07.

<sup>150</sup> Exhibit 46 (PRO) – CBSA's Final Import and Domestic Market Statistics.

[190] The information on the record documents numerous anti-dumping measures put in place by authorities in other jurisdictions respecting pipe and tubular products from Thailand, including CSWP.<sup>151</sup> A list of these measures is provided in **Table 4** below and is separated into two sections, measures specifically relating to CSWP, and measures pertaining to other pipe and tubular products.

**Table 4  
Anti-dumping Actions Imposed by Other Jurisdictions<sup>152</sup>**

Country Imposing Anti-dumping Action	Description of Subject Goods
<b>CSWP Products Originating in Thailand</b>	
United States	Certain Circular Welded Carbon steel Pipe
<b>Other Pipe and Tubular Products Originating in Thailand</b>	
Australia	Hollow Structural Sections
Brazil	Seamed Tubes and Austenitic Stainless Steel*
European Union	Malleable Tube Fittings
Turkey	Tube or Pipe Fittings
United States	Carbon Steel Butt-Weld Pipe Fittings
United States	Welded Stainless Pressure Pipe

\*Investigation initiated on April 24, 2017.

[191] In light of the measures in force listed above, data from UN Comtrade International Trade Statistics indicates that Thailand’s primary export markets for pipe products are the US, Australia and Indonesia.<sup>153</sup> Export volumes to these primary export markets are provided in table below.

**Table 5  
Thailand Exports in MT of HS 730630<sup>154</sup>**

	2014	2015	2016
United States	44,116	46,830	59,016
Australia	14,668	14,179	24,352
Indonesia	5,076	2,774	3,019

<sup>151</sup> Exhibit 45 (NC) – Documents submitted at the Close of the Record by Nova Tube Inc.: 105 i-tip report for subject countries.xlsb.

<sup>152</sup> *Ibid.*

<sup>153</sup> Exhibit 45 (NC) – Documents submitted at the Close of the Record by Nova Tube Inc.: 70 Thai \_ UN Comtrade\_ International Trade Statistics.

<sup>154</sup> *Ibid.*



[192] As of January 4, 2018, the US ITC determined that the revocation of the anti-dumping duty order with respect to certain CWP exported from Thailand into the US, would likely have an adverse impact on the domestic industry. Therefore, the US continues to impose its anti-dumping duties with respect to certain CWP from Thailand that has been in force since 1985.<sup>155</sup>

[193] Since August 20, 2015, the Australian Anti-dumping Commission has applied anti-dumping measures on hollow structural sections against Thai exporters with rates of duties ranging from 5.7% to 29.7%. It is important to note, exporters and manufacturers that were found to be dumping in Australia's anti-dumping investigation include known CSWP producers, Saha Thai Steel Pipe Company<sup>156</sup>, Samchai Steel Industries Public Company Limited<sup>157</sup>, and Pacific Pipe Public Company Limited<sup>158, 159</sup>.

[194] The volumes represented in the table above continue to increase despite anti-dumping duties in force against Thailand by the US and Australia. Thailand has a propensity to export various steel pipe products to certain countries notwithstanding measures against them. This indicates that their producers are able to withstand these duties and/or change production when necessary.

[195] The numerous measures currently in place by other jurisdictions demonstrates Thai exporters' propensity to dump CSWP and other pipe and tubular products. Furthermore, the continued dumping which took place in Canada during the POR indicates that Thailand's aggressive pricing behavior respecting the subject goods continues to persist in today's markets. Should the current finding be rescinded, it appears reasonable to expect that Thai exporters would not only continue to dump CSWP into the Canadian market, but given the continuation of the US ITC's anti-dumping orders on Thai CWP, the volume of dumped goods would likely be much higher than the volumes imported into Canada during the POR.

[196] In regards to Thailand's domestic market conditions, according to a report by the Economic Intelligence Centre (EIC) of the Siam Commercial Bank Public Company Ltd., a rapid increase of steel pipe imports from China has had a significant impact on Thailand's steel pipe industry as Chinese imports are gaining market share by undercutting prices of domestic Thai steel pipe. In 2014, the share of Chinese producers in the steel pipe import market increased by 40% from the previous year. This trend continued in 2015, increasing by 16% in the first six months in comparison to the same period in 2014.<sup>160</sup>

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<sup>155</sup> Exhibit 45 (NC) – Documents submitted at the Close of the Record by Nova Tube Inc.: 121 Certain Circular Welded Pipe and Tube from Brazil, India, Korea, Mexico, Taiwan, Thailand and Turkey.

<sup>156</sup> Exhibit 17 (NC) – CBSA's Statement of Reasons issued at Final Determination, 2012-11-26.

<sup>157</sup> Exhibit 42 (NC) – CBSA's supplemental research with respect to South Korea, Thailand, and the UAE: Thailand Research – Articles and Company Information, page 8.

<sup>158</sup> *Ibid*, page 3.

<sup>159</sup> Exhibit 42 (NC) – CBSA's supplemental research with respect to South Korea, Thailand, and the UAE: Thailand – AND 2015-102 Findings in relation to an investigation.

<sup>160</sup> Exhibit 42 (NC) – CBSA's supplemental research with respect to South Korea, Thailand, and the UAE: Thailand – Thai steel makers struggling, page 1.

[197] Due to the heavy influx of Chinese steel pipe imports into Thailand's domestic market, the Government of Thailand implemented anti-dumping measures against China for welded stainless steel pipe. The EIC expects that the anti-dumping measures imposed by Thailand against China will benefit domestic producers in the short term, but would eventually have to face price competition in the future.<sup>161</sup> Prior to the implementation of the anti-dumping measures in September 2015, products imported from China under the investigation grew 177% in the first half of 2015 from the same period the previous year.<sup>162</sup>

[198] Meanwhile, the CBSA's import data during the POR indicates that there has been a steady increase of subject goods from Thailand since 2015. In 2016, imports from Thailand represented a 22% increase from the previous year. In the first nine months of 2017, imports increased further, representing a 106% increase compared to the full year imports of 2016.<sup>163</sup> This demonstrates that Thai steel pipe producers are looking to export markets in order to displace excess capacity due to the rapid increase of imports of cheaper Chinese steel pipe products into Thailand.

[199] With respect to production capacity in Thailand, Nova identified five firms believed to be producers of CSWP and estimated their production capacity to be 913,000 MT.<sup>164</sup> Nova submits that the data provided in their case brief is a conservative estimate and actual capacity of Thai CSWP producers may in fact be significantly higher since information regarding all companies is not publicly available.

[200] Although information regarding all companies is not publicly available, CBSA research has determined that Nova overstated production capacity for Able Industries by 59,000 MT<sup>165</sup> and potentially understated production capacity for Samchai Steel Industries by approximately 226,000 MT. Samchai Steel Industries 2016 annual report indicates that the company has two factories with a combined annual production of 376,000 tons.<sup>166</sup> If the CBSA were to conservatively estimate Thailand's CSWP capacity based on the available information, the production capacity would still significantly exceed the total Canadian CSWP market.<sup>167</sup>

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<sup>161</sup> *Ibid*, page 3.

<sup>162</sup> *Ibid*, page 2.

<sup>163</sup> Exhibit 46 (PRO) – CBSA's Final Import and Domestic Market Statistics.

<sup>164</sup> Exhibit 51 (NC) – Case Briefs filed on behalf of Nova Tube Inc., para. 140.

<sup>165</sup> Exhibit 42 (NC) – CBSA's supplemental research with respect to South Korea, Thailand, and the UAE: Thailand Research – Articles and Company Information, page 2.

<sup>166</sup> Exhibit 42 (NC) – CBSA's supplemental research with respect to South Korea, Thailand, and the UAE: Thailand – Samchai Steel Annual-Report-2016, page 6.

<sup>167</sup> Exhibit 46 (PRO) – CBSA's Final Import and Domestic Market Statistics.

[201] According to ITA's Steel Imports Report respecting Thailand, in the first nine months of 2017 imports of pipe and tube products reached 471,000 MT<sup>168</sup>. With tube and pipe imports representing 52% of the estimated capacity of the Thai CSWP industry, producers' capacity utilization will be significantly impacted unless there are feasible foreign markets to export CSWP. In its 2016 annual report, Pacific Pipe, a producer of CSWP in Thailand, states that its company plans to expand its coverage to all over the world and to aggressively develop their product quality in order to be internationally recognized and accepted as a world class steel pipe manufacturer.<sup>169</sup>

### **Determination Regarding Likelihood of Continued or Resumed Dumping for Thailand**

[202] Based on evidence on the record in respect of Thailand exporters continuing to export subject goods to Canada at dumped prices during the POR; the anti-dumping measures concerning Thai steel pipe and tubular products in other jurisdictions; the domestic market conditions and CSWP capacity in Thailand, the CBSA determined that the expiry of the finding is likely to result in the continuation or resumption of dumping into Canada of certain carbon steel welded pipe originating in or exported from Thailand.

### **United Arab Emirates**

[203] The CBSA did not receive any ERQ responses, case briefs or reply submissions from exporters of CSWP originating in or exported from the UAE. The CBSA, therefore, relied on information submitted from participating parties, as well as other information on the administrative record for the purposes of the expiry review investigation with respect to CSWP originating in or exported from the UAE. While goods exported from the UAE by Conares Metal Supply Ltd. were subject to the finding during the POR, due to their exclusion from the CITT's finding, the goods did not form part of CBSA's analysis.

[204] The issue surrounding excess capacity in the UAE was broached by Nova in their case brief as they estimated the production capacity of CSWP to be in excess of 1,981,000 MT.<sup>170</sup> Nova submitted that their estimate is likely conservative since information regarding all companies is not publicly available. In estimating the total capacity of CSWP production in the UAE, the complainant relied upon the data provided in the Simdex Metal Tube Manufacturers Worldwide Guide along with industry brochures and website information publicly available.

[205] According to the testimony before the US ITC by Mervyn D'Cunha, Financial Controller of the Universal group, the UAE is composed primarily of four producers of standard pipe: Universal, Ajmal Steel Tubes and Pipes Industries, Conares Metal Supply, and KD Industries.<sup>171</sup> Information on the administrative record provides estimates for three of the four primary producers in the UAE.

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<sup>168</sup> Exhibit 42 (NC) – CBSA's supplemental research with respect to South Korea, Thailand, and the UAE: UAE – Testimony of Mervyn D'Cunha, para. 3.

<sup>169</sup> Exhibit 42 (NC) – CBSA's supplemental research with respect to South Korea, Thailand, and the UAE: Thailand – Pacific Pipe Annual Report 2016, pages 3 & 17.

<sup>170</sup> Exhibit 51 (NC) – Case Briefs filed on behalf of Nova Tube Inc., para. 154.

<sup>171</sup> Exhibit 42 (NC) – CBSA's supplemental research with respect to South Korea, Thailand, and the UAE: UAE – Testimony of Mervyn D'Cunha, para. 2.

[206] As noted in Marvyn D’Cunha’s testimony, Universal Tube and Pipe Industries produces a wide range of standard and non-standard pipe including square and rectangular, line pipe, conduit, and OCTG, most of which is non-subject to the original finding.<sup>172</sup> Furthermore, data provided in the Simdex Metal Tube Manufacturers Worldwide Guide indicates that producers of CSWP in the UAE produce a large range of pipe products that do not meet the product definition in the original finding.<sup>173</sup>

[207] As noted above, it appears that many of the known producers of CSWP in the UAE produce a wide range of product lines outside the scope of the product definition in the original finding. Therefore, although the estimated CSWP capacity in the UAE alone is significantly higher than the total Canadian market, the production that competes with Canadian CSWP is believed to be lower.<sup>174</sup>

[208] In light of this, there continues to be a growing interest for UAE pipe producers to explore export markets in spite of Marvyn D’Cunha’s testimony stating that demand within the UAE is strong.<sup>175</sup> This growing propensity to export notwithstanding strong domestic market demand, indicates that UAE producers are dealing with excess capacity and have to look to the global export markets to maintain high levels of production.

[209] According to UN Comtrade Data, there has been a significant growth in the export market of pipe producers in the UAE since 2014, as seen in the table below.

**Table 6**  
**UAE Total Exports of HS Code 730630<sup>176</sup>**

	2014	2015	2016
<b>Exports (MT)</b>	11,535	14,180	28,587

[210] The data provided above indicates that exports of pipe products from the UAE to the global market have increased year-on-year with an increase of 23% in 2015 and 102% in 2016. The recent hike in exports of pipe products is in spite of the testimony of Marvyn D’Cunha indicating that demand within the UAE is strong.<sup>177</sup>

<sup>172</sup> *Ibid*, para. 3.

<sup>173</sup> Exhibit 44 (PRO) – Documents submitted at the Close of the Record by Nova Tube Inc.: CONF 79\_UAE Metal Tube Manufacturers.

<sup>174</sup> Exhibit 42 (NC) – CBSA’s supplemental research with respect to South Korea, Thailand, and the UAE: UAE Research – Articles and Company Information.

<sup>175</sup> Exhibit 42 (NC) – CBSA’s supplemental research with respect to South Korea, Thailand, and the UAE: UAE – Testimony of Mervyn D’Cunha, paras. 4 and 5.

<sup>176</sup> Exhibit 45 (NC) – Documents submitted at the Close of the Record by Nova Tube Inc.: 82 UAE and World \_ UN Comtrade International Trade Statistics.

<sup>177</sup> Exhibit 42 (NC) – CBSA’s supplemental research with respect to South Korea, Thailand, and the UAE: UAE – Testimony of Mervyn D’Cunha, para. 4.

[211] Information from UN Comtrade Data also indicates that exports of pipe and tube products from the UAE to one of its primary export markets, Saudi Arabia, has seen a considerable decrease since 2015. Exports of pipe and tube products from the UAE to Saudi Arabia has decreased from 5,752 MT in 2015 to 3,794 MT in 2016, representing a 34% decrease.<sup>178</sup>

[212] The World Construction Network states that economic growth in Saudi Arabia has slowed to 1.4% in 2016, far below the 4% average growth rate achieved in the past decade.<sup>179</sup> Many projects in Saudi Arabia, more specifically, large public transport infrastructure projects and commercial developments have stalled in 2016 due to the government's ongoing initiative to diversify the economy away from oil as part of Vision 2030.<sup>180</sup> The slowing of the aforementioned projects and developments indicates that the demand for CSWP would also decrease, supporting the data from UN Comtrade of the recent decline of exports from the UAE to Saudi Arabia in 2016.

[213] The rapid increase of UAE exports of pipe and tube products to the global market demonstrates CSWP producers' enthusiasm and interest in competing internationally. With the recent economic downturn of Saudi Arabia, one of the UAE's primary pipe and tube export markets, it is reasonable that producers will begin to seek alternative markets such as Canada.

[214] Furthermore, UAE exporters of CSWP have been unable to compete at non-dumped prices and have either stopped exporting to Canada or have continued to export subject goods to Canada at dumped prices while the finding has been in place.<sup>181</sup>

[215] The volume of imports into Canada of CSWP during the POR initially indicated a continued interest in the Canadian market. Despite the imposition of anti-dumping duties, UAE exporters continued to sell below normal values or without specific normal values. Near the end of the POR, the imports of CSWP steadily declined as anti-dumping duties continued to be assessed.<sup>182</sup>

[216] The decline in imports during the POR demonstrates that UAE exporters remained interested in the Canadian marketplace for CSWP, but were unable to compete in the market while the finding has been in place. This indicates an inability to compete in the Canadian market at non-dumped prices.

[217] The propensity of UAE exporters to dump CSWP in Canada is further demonstrated by the similar anti-dumping measures imposed against them by the US. On October 24, 2016, the Department of Commerce announced its affirmative final determination in the anti-dumping investigation of imports of circular welded carbon-quality steel pipe from the UAE.<sup>183</sup>

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<sup>178</sup> Exhibit 45 (NC) – Documents submitted at the Close of the Record by Nova Tube Inc.: 87 UAE Exports \_ UN Comtrade International Trade Statistics.

<sup>179</sup> Exhibit 45 (NC) – Documents submitted at the Close of the Record by Nova Tube Inc.: 90 Saudi Arabia's slow recovery – World Construction Network, page 2.

<sup>180</sup> *Ibid*, page 3.

<sup>181</sup> Exhibit 46 (PRO) – CBSA's Final Import and Domestic Market Statistics.

<sup>182</sup> *Ibid*.

<sup>183</sup> Exhibit 22 (NC) – CBSA Research – Articles and Reports: factsheet-multiple-circular-welded-carbon-quality-steel-pipe-ad-cvd-final-102416.

[218] In the testimony of Mervyn D’Cunha before the US ITC, it is noted that US purchasers of CSWP have a strong preference for domestic product over imports because lead times are reduced due to proximity, and customers have access to technical services, warranty and product liability concerns. Due to these factors, domestic producers can command a price premium over imports.<sup>184</sup> Nevertheless, the US Department of Commerce (USDOC) imposed anti-dumping measures against the UAE in regards to circular welded carbon-quality steel pipe.<sup>185</sup>

#### **Determination Regarding Likelihood of Continued or Resumed Dumping for the UAE**

[219] Based on evidence on the record in respect of the UAE’s excess CSWP capacity; the propensity of CSWP producers in the UAE to export; the UAE exporters inability to compete at non-dumped prices in Canada resulting in either the stoppage of exports or the continuation of exports to Canada at dumped prices while the finding has been in place; and the imposition of anti-dumping measures by the US in respect of goods of the same description, the CBSA determined that the expiry of the finding is likely to result in the continuation or resumption of dumping into Canada of certain carbon steel welded pipe originating in or exported from the UAE (excluding goods exported from the UAE by Conares Metal Supply Ltd.).

#### **POSITION OF THE PARTIES - SUBSIDIZING**

##### ***Parties Contending that Continued or Resumed Subsidizing is Likely***

##### **Nova**

[220] Nova states that CSWP producers in India benefit from substantial subsidies conferred by both the federal and sub-federal levels of government and that if the finding were to expire there is a strong likelihood that the subsidies would resume or continue. Nova points to a recent CBSA Statement of Reasons issued on December 22, 2015, concerning the final determination of subsidizing of certain hot-rolled plate from India. Nova stated that in that case the CBSA found that 55 subsidy programs were countervailable but because the Government of India (GOI) and exporters such as JSPL and SAIL did not furnish sufficient information, the CBSA had to determine an amount of subsidy under a ministerial specification. The CBSA calculated the amount of subsidy to be equal to 7,844 rupees per MT (approx. C\$160 per MT), equal to about 20% of the export price of the goods.<sup>186</sup>

[221] Nova notes that the US Department of Commerce determined that countervailable subsidies were provided to Indian producers and exporters of welded stainless steel pressure pipe in 2016 and to producers and exporters of cold-drawn mechanical tubing of carbon and alloy steel in 2017. Nova submits that many of the subsidy programs in the US investigations are similar to those identified by the CBSA in its investigation.<sup>187</sup>

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<sup>184</sup> Exhibit 42 (NC) – CBSA’s supplemental research with respect to South Korea, Thailand, and the UAE: UAE – Testimony of Mervyn D’Cunha, para 9.

<sup>185</sup> Exhibit 22 (NC) – CBSA Research – Articles and Reports: CBSA Research - Non-Confidential Articles, page 6.

<sup>186</sup> Exhibit 51 (NC) - Case Brief Filed on Behalf of Nova Tube Inc. / Nova Steel Inc., paras. 210, 212-213.

<sup>187</sup> *Ibid.*, paras. 214-215.

[222] Nova states that, although the GOI responded to the CBSA's subsidy questionnaire in the current expiry review investigation, the responses do not address whether there have been changes to the subsidy programs since September 2014 that would affect access to the programs or the amounts of benefits available under the programs. With respect to Special Economic Zones (SEZ), Nova notes that the GOI provides background information and rules for approval into SEZs but does not address the specific programs applicable under the SEZs nor whether there have been changes to the programs. As the Indian Ministry of Commerce & Industry has outlined the same programs in regards to SEZs, Nova submits that the programs under the SEZ remain actionable subsidies.<sup>188</sup>

[223] With respect to Export Oriented Units (EOU), Nova notes that the GOI also did not provide any new information with regards to the programs under this category or their application to CSWP producers. As the Export Promotion Council for EOUs and SEZs continue to outline the same features of EOUs, Nova submits that these programs remain actionable subsidies.<sup>189</sup>

[224] Nova contends that benefits under the following grants continue to exist: Assistance to States for Developing Export Infrastructure and Allied Activities (ASIDE); Market Access Initiative (MAI) and Market Development Assistance (MDA) schemes; Towns of Export Excellence (TEE), and; Brand Promotion and Equality, Export Trading Houses, Focus Market Scheme and Focus Product Scheme. These are presented below.

[225] With respect to the ASIDE grant, Nova notes that, although the GOI indicates in its response to the ERQ that this program has been discontinued in the new Foreign Trade Policy of 2015-2020, the GOI Department of Commerce website provides a detailed outline of the scheme and its current availability. Nova also submits that the Industries Commissionerate of the Government of Gujarat indicates that this program is still in application. Based on the above, Nova concludes that the GOI has provided no substantive evidence in regards to changes to the ASIDE grant's content or its availability to CSWP producers.<sup>190</sup>

[226] With respect to the MAI and MDA grants, Nova states that, while the GOI indicates that the MAI and the MDA are not contingent on export performance and that the benefit is not directly provided to the exporters, the GOI's Ministry of Commerce and Industry specifically states that the MAI Scheme is an export promotion scheme envisaged to act as a catalyst to promote India's export on a sustained basis.<sup>191</sup>

[227] Similarly, Nova refers to the Federation of Indian Export Organisations which describes the MDA scheme as assisting exporters for export promotion activities abroad. Nova contends that, even if the benefits of the above programs were not directly provided to the exporters, the programs would nonetheless qualify as an upstream subsidy that has been 'passed-through' to the exporters. Furthermore, Nova submits that the GOI has not indicated whether these programs have changed since September 1, 2014 and, therefore, they continue to be actionable subsidies.<sup>192</sup>

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<sup>188</sup> *Ibid.*, paras. 216-218.

<sup>189</sup> *Ibid.*, paras. 219-220.

<sup>190</sup> *Ibid.*, paras. 221-222.

<sup>191</sup> *Ibid.*, paras. 223-224.

<sup>192</sup> *Ibid.*, paras. 225-226.

[228] With regards to the TEE program, Nova notes that, while the GOI states that no assistance is given to any specific industries directly under this program, the GOI has also not commented on whether any component of this program has changed since September 1, 2014. According to Nova, the program allows towns, which are identified for their potential growth in exports, to provide financial assistance under the MAI scheme to recognized associations. Nova also notes that, as per the Highlights of the Foreign Trade Policy 2015-2020 issued by the GOI, two additional towns were added to this program. Based on the reasons above and in the MAI scheme, Nova submits that this program also remains an actionable subsidy.<sup>193</sup>

[229] Nova notes that the GOI's Highlights of the Foreign Trade Policy 2015-2020 states that the Merchandise Exports from India Scheme (MEIS) has replaced five different schemes of the earlier foreign trade policy (i.e., Focus Product Scheme, Market Linked Focus Product Scheme, Focus Market Scheme, Agri. Infrastructure Incentive Scrip, VKGUY). Nova argues that this does not mean the programs are discontinued; at present all five schemes have been merged into a single scheme, but there is no conditionality attached to the scrips under the scheme. The programs supported under this program include iron, steel, and base metal product. Based on this, Nova submits that the benefits under these programs continue to exist and constitute an actionable subsidy.<sup>194</sup>

[230] Nova makes note that Surya Roshni has received various government grants according to the company's Annual Report 2016-2017.<sup>195</sup>

[231] Nova submits that the Reserve Bank of India continues to provide preferential loan programs and that the preferential lending rate is available to exporters for domestic and imported inputs of exported goods. As the GOI does not identify whether preferential loan programs have changed in the relevant period and whether such change would affect access by CSWP producers, Nova submits that these programs continue to be actionable.<sup>196</sup>

[232] Nova notes that, while the GOI provided a detailed description of the Export Promotion Capital Goods (EPCG) scheme in its response to the subsidy questionnaire including a statement that benefits availed under the EPCG scheme in its entirety are not countervailable, the GOI also concedes that the excess exemption or remission of duties and taxes accrued on an exported product constitutes a countervailable subsidy. Nova submits that the EPCG scheme allows for the import of certain capital goods at zero customs duty while capital goods imported under the EPCG scheme for physical exports are also exempt from all of the integrated tax and compensation cess (i.e., a tax or levy) leviable.<sup>197</sup>

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<sup>193</sup> *Ibid.*, paras. 227-229.

<sup>194</sup> *Ibid.*, paras. 230-232.

<sup>195</sup> *Ibid.*, para. 233.

<sup>196</sup> *Ibid.*, paras. 234-236.

<sup>197</sup> *Ibid.*, paras. 237-238.



[233] With respect to the Advance Authorisation (AA) scheme and the Duty Free Import Authorisation (DFIA) scheme, Nova again notes that, while the GOI submits that they are not countervailable, the GOI also admits that these schemes can constitute an export subsidy if they result in the exemption, remission, deferral or refund of indirect taxes or import charges in excess of the amount of such taxes or charges actually levied on inputs that are consumed in the production of the exported product. Nova points out that the GOI has provided no comment that this is not the case for CSWP producers. As the GOI's Ministry of Commerce and Industry indicates that the AA scheme and DFIA scheme are still in effect, Nova submits that these programs remain actionable subsidies.<sup>198</sup>

[234] With respect to goods and services provided by the GOI at less than fair market value, Nova submits that the GOI continues to own Steel Authority of India Limited as well as National Mineral Development Corporation, the country's largest producer of iron ore, and therefore, there have been no changes to the CBSA's initial investigation in this regard.<sup>199</sup>

[235] Although the GOI argues that there is no element of specificity in subsidy programs provided by the State Government of Maharashtra (SGOM), Nova points out that the GOI outlines the subsidy programs provided by the SGOM as countervailable in its most recent notification to the WTO.<sup>200</sup>

[236] In its most recent notification to the WTO, the GOI has indicated several subsidy programs that are in force, according to Nova. Based on the above, Nova submits that there is a high likelihood of continued or resumed subsidization by the GOI if the finding were allowed to expire.<sup>201</sup>

### *Parties Contending that Continued or Resumed Subsidizing is Unlikely*

#### **Government of India**

[237] In its response to the CBSA's ERQ the Government of India (GOI) provided information regarding a broad range of programs that the CBSA identified as possibly conferring a benefit to exporters of CSWP in India, such as special economic zones, export oriented units, grants, preferential loan programs, etc.<sup>202</sup>

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<sup>198</sup> *Ibid.*, paras. 239-241.

<sup>199</sup> *Ibid.*, para. 242.

<sup>200</sup> *Ibid.*, para. 243.

<sup>201</sup> *Ibid.*, paras. 244-245.

<sup>202</sup> Exhibit 36 (NC) – Response to Subsidy ERQ – Government of India.

[238] The GOI states that, “With respect to programs under Special Economic Zone investigating authority should take into consideration that Special Economic Zones are deemed to be a foreign territory for the purposes of trade operations and duties and tariffs.” The GOI further states that duty free imports in SEZs cannot be disposed of in the Domestic Tariff Area without payment of applicable duty and that the GOI conducts regular inspections to ensure that SEZ units meet the obligations under the provision of the WTO Agreement on Subsidies and Countervailing Measures. The GOI provides information regarding the administrative structure of SEZs, the approval process for applicants, and general terms and conditions for companies conducting business in an SEZ. Specifically mentioned sections of the SEZ Act are as follows: Section 7, which prescribes the terms and conditions whereby goods that enter an SEZ may be exempt from the payment of taxes, duties or cess, and; Section 30, which prescribes that any goods removed from an SEZ to the Domestic Tariff Area shall be charged duty, including anti-dumping, countervailing, and safeguard duties, and specifies the applicable duty rate.<sup>203</sup>

[239] With respect to a number of identified programs falling under the heading ‘export oriented units’ (EOU), the GOI states that the underlining idea of the WTO is that a member should export goods and not duties. The GOI further states that, “These units are allowed to import or procure locally, without payment of duty, all types of goods including capital goods, raw materials, components, packing materials, consumables, spares and various other specified categories of equipment’s including material handling equipment’s in terms of the Article XVI of GATT, required for export production or in connection therewith. Therefore to assume if EOU has any additional benefits is preposterous and Export Oriented Units are not countervailable as per the provisions of Agreement on Subsidies and Countervailing Measures.”<sup>204</sup>

[240] The GOI, in its response to the Subsidy ERQ, provided a number of responses to the 11 programs identified by the CBSA as grants. With respect to the grant program identified as ‘Assistance to states for developing export infrastructure and allied activities’ (ASIDE), the GOI notes that the program has been discontinued in the new Foreign Trade Policy of 2015-2020. The objective of program was to establish a mechanism for involving the State Governments to participate in funding of infrastructure critical for growth of exports by providing export performance linked financial assistance to them. Funds under the program were disbursed only to state government / government agencies; there was no provision to provide financial assistance to private firms/companies and, accordingly, no assistance was provided to the producers of the product under consideration.<sup>205</sup>

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<sup>203</sup> *Ibid*, pages 4-6.

<sup>204</sup> *Ibid*, page 6.

<sup>205</sup> *Ibid*, page 6.

[241] With respect to the Market Access Initiative (MAI) program, the GOI submits that it was established to facilitate exporters or potential exporters to access new markets or increase market share in the existing markets through activities promoted by respective export promotion organizations / trade promotion organizations/ national level institutions / research institutions / universities / laboratories, etc. The GOI states that the MAI program is not contingent upon export performance nor is there any definitive relation between exports made by an exporter and the assistance provided under this program. The GOI further states that, as it does not offer any financial benefit directly to the exporters under this program, the program cannot be countervailed under the WTO's Agreement on Subsidies and Countervailing Measures (ASCM).<sup>206</sup>

[242] With respect to the Market Development Assistance (MDA) scheme, the GOI states that it was established to facilitate various measures aimed to stimulate and diversify India's export trade through marketing activities of the eligible agencies i.e. the Exports Promotion Councils (EPCs), the Federation of Indian Export Organization (FIEO), etc. The GOI submits that the MDA scheme is not contingent on export performance nor is there any definitive relation between the activities supported by EPCs or FIEO and the volume of exports made by an exporter. The GOI further states that, as the government does not confer any benefit directly to the exporters under the MDA scheme, it is not countervailable under the ASCM.<sup>207</sup>

[243] With respect to the 'Towns of Export Excellence' program, the GOI states that no assistance is given to any specific industries directly under this program. The GOI further states that, as per Paragraph 1.35 of the FTP 2015-2020, the objective of this program is the development and growth of export production centres. This program provides the following:

- (i) Recognized associations of units will be provided financial assistance under MAI scheme, on priority basis, for export promotion projects for marketing, capacity building and technological services.
- (ii) Common Service Providers in these areas shall be entitled for Authorisation under EPCG scheme.<sup>208</sup>

[244] The GOI states that, while the following programs were provided for in FTP 2009-15, they have been discontinued in the present FTP 2015-20 and, therefore, cannot be held countervailable in the present review: Brand Promotion and Quality, Test Houses, and Export and Trading Houses.<sup>209</sup>

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<sup>206</sup> *Ibid.* page 7.

<sup>207</sup> *Ibid.* page 7.

<sup>208</sup> *Ibid.* pages 7 & 8.

<sup>209</sup> *Ibid.* page 8.

[245] With respect to the Focus Market Scheme and the Focus Product Scheme, the GOI states the following:

The FMS and FPS program have been discontinued in the present FTP of 2015-20. Certain Scrip's are issued to the exporters after the expiry of the program in view of the paragraph 9.02 of the Handbook of Procedure 2015-20 for the exports made during the period 2009-14 after applying cut to the entitlement as application couldn't be made in time.<sup>210</sup>

[246] With respect to the program identified by the CBSA as 'Meeting expenses for statutory compliances in buyer country for trade related matters,' the GOI states that there is no such scheme. As for the 'Research & development financial assistance' grant program, the GOI states that this program has been discontinued in the present FTP 2015-20.<sup>211</sup>

[247] In terms of preferential loan programs categorized as 'Pre-shipment, post-shipment and other preferential financing,' the GOI notes that Pre-shipment and Post-shipment Export Finance are short term loans sanctioned by banks to exporters for their working capital needs and are available for a maximum period of 360 days. According to the GOI, no benefit or financial contribution is granted to any person availing loan under this program by the GOI or any public body within the meaning of Article 1 of the ASCM in view of the deregulation of interest rates.

[248] Interest rates on advances have been deregulated since October 18, 1994, and these interest rates are determined by commercial banks with the approval of their boards. Effective July 1, 2010, banks are required to determine their actual lending rate on loans and advances with reference to the Base Rate and all categories of loans are priced only with reference to the Base Rate, which is announced by banks after seeking approval from their respective boards. Since the Base Rate is the minimum rate for all loans, banks are not permitted to resort to any lending below the Base Rate, including export credit advances. Under the earlier scheme in force up to June 30, 2010, banks could lend below the Benchmark Prime Lending Rate (BPLR).<sup>212</sup>

[249] In its response to the CBSA's Subsidy ERQ, the GOI addresses a number of programs related to 'Relief of Duties and Taxes on Materials and Machinery.' In terms of the 'Export Promotion Capital Goods (EPCG) scheme, the GOI notes that it allows for the import of capital goods for pre-production, production and post-production without payment of customs duty. The objective of the EPCG Scheme is to facilitate import of capital goods for producing quality goods and services to enhance India's manufacturing competitiveness.<sup>213</sup>

[250] The GOI submits that the benefits availed under EPCG Scheme in its entirety is not countervailable within the meaning of the ASCM and that only the excess exemption or remission of duties and taxes accrued on an exported product constitutes a subsidy and is liable to be countervailed under the WTO subsidies framework.<sup>214</sup>

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<sup>210</sup> *Ibid*, page 8.

<sup>211</sup> *Ibid*, pages 7 & 8.

<sup>212</sup> *Ibid*, pages 8 & 9.

<sup>213</sup> *Ibid*, page 9.

<sup>214</sup> *Ibid*, page 9.

[251] The GOI explains what duties and taxes are exempted under the EPCG scheme, what capital goods qualify under the scheme, and the export obligations which must be fulfilled with respect to the scheme. The GOI submits that the countervailing duty (CVD), the special additional duty (SAD) and the cess waived on imports of capital goods under the EPCG Scheme does not confer a countervailable benefit on the recipient of the assistance provided by this program.<sup>215</sup>

[252] With respect to programs relating to the 'Relief of Duties and Taxes on Materials and Machinery,' the GOI submits that both the Advance Authorisation Scheme (AAS) and the Duty Free Import Authorisation (DFIA) scheme are not countervailable in terms of the WTO's ASCM for the following reasons:

- (i) In Annex II of the ASCM it states that indirect tax rebate schemes and substitution drawback schemes can allow for the exemption, remission, deferral or refund of indirect taxes or import charges levied on inputs that are consumed in the production of the exported product.
- (ii) Annex II also states that both indirect tax rebate schemes and substitution drawback schemes can constitute an export subsidy only to the extent that they result in exemption, remission, deferral or refund of indirect taxes or import charges in excess of the amount of such taxes or charges actually levied on inputs that are consumed in the production of the exported product. However, normal allowance for waste must be made in findings regarding consumption of inputs in the production of the exported product.
- (iii) Furthermore, Annex II provides guidelines for an investigating authority to determine whether inputs are consumed in the production of the exported product; whether the government of the exporting country has in place and applies a system or procedure to confirm which inputs are consumed in the production of the exported product and in what amounts; and whether the claimed allowance for waste is 'normal' taking into account the production process, the average experience of the industry in the country of export, and other technical factors.
- (iv) The GOI states that it has in place and applies a system to confirm which inputs are consumed in the production of the exported product and in what amounts, including a Norms Committee responsible for the formulation of Standard Input Output Norms (SION) and, therefore, the AAS & DFIA schemes are not countervailable as per the ASCM.<sup>216</sup>

[253] With respect to the 'Duty Entitlement Pass Book' (DEPB) scheme, the last program identified by the CBSA as falling under the heading 'Relief of Duties and Taxes on Materials and Machinery,' the GOI submits that this scheme has been discontinued as per Notification No. 51/2011 – Customs dated June 22, 2011.<sup>217</sup>

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<sup>215</sup> *Ibid*, pages 11 & 12.

<sup>216</sup> *Ibid*, pages 12 & 13.

<sup>217</sup> *Ibid*, page 18.

[254] With respect to the following three programs described in general in the Subsidy ERQ as ‘Goods/Services provided by GOI at Less Than Fair Market Value,’ the GOI states that, as no details are provided by the CBSA, the “GOI would reserve its rights to comment on the same”:

- i. Purchase of hot-rolled steel from state-owned enterprises for less than fair market value
- ii. Provision of captive mining rights for minerals including iron ore and coal
- iii. Purchase of iron ore from state-owned enterprises for less than fair market value<sup>218</sup>

[255] Lastly, with respect to a number of potential subsidy programs provided by the State Government of Maharashtra, the GOI submits that, “. . . in order to encourage establishment of industries in lesser developed areas of the State, has been giving package of incentives to New Industrial Units / Expansion Units set up in the developing regions to ensure sustained growth through various initiatives and to obtain higher and sustainable economic growth with emphasis on balanced regional development and employment generation through greater private and public investment in industrial sector. Since the purpose of introducing the above schemes is to create employment and overall development of the region, such schemes cannot be considered to be countervailable. Therefore there is no element of Specificity as per the provision of Article 2 of the SCM.”<sup>219</sup>

#### CONSIDERATION AND ANALYSIS – SUBSIDIZING

[256] In the CBSA’s original subsidy investigation, the CBSA determined that one exporter from India, Manu International, received benefits from three programs which were deemed to be actionable subsidies. It was determined that Manu International received subsidies in an amount equal to 3,577 rupees per metric tonne.<sup>220</sup>

[257] In the original investigation, the GOI responded to the CBSA’s subsidy questionnaire by providing general descriptions of the alleged subsidy programs identified by the CBSA and submitting copies of the relevant supporting laws, regulations and policies. Of the 36 alleged subsidy programs identified at the initiation of the investigation, the GOI confirmed the existence of 32 of them. During the final phase of the investigation, the CBSA sought additional information and clarification on the previously-identified subsidy programs. In its supplemental response, the GOI submitted additional information on certain programs, but did not provide all the information that was requested in regard to the previously-identified programs. Given that the GOI did not provide sufficient information to eliminate any of the originally-identified programs, the CBSA determined that 36 potentially actionable subsidy programs were available to exporters of certain carbon steel welded pipe in India.<sup>221</sup>

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<sup>218</sup> *Ibid*, page 18.

<sup>219</sup> *Ibid*, page 18.

<sup>220</sup> Exhibit 17 (NC) – CBSA *Statement of Reasons* Issued at Final Determination 2012-11-26, page 23.

<sup>221</sup> *Ibid*.

[258] In the present expiry review, the GOI again provided general information on the alleged subsidy programs identified by the CBSA, including copies of relevant policies and regulations such as the Foreign Trade Policy 2015-2020 and the Handbook of Procedures 2015-2020.<sup>222</sup> However, as was the case in the original subsidy investigation, the GOI failed to provide sufficient information to the CBSA with respect to each of the 36 identified programs. For example, while the GOI provided general information with respect to special economic zones (SEZ) such as the administrative structure of SEZs and the general terms and conditions for companies conducting business in an SEZ, the GOI did not provide information with respect to the seven specific programs identified as potentially being offered to companies located within an SEZ, such as discounted electricity rates and discounted land fees and leases for SEZ units. The same holds true for Export Oriented Units (EOU); the GOI provided a general statement about EOUs and contended that EOUs are not countervailable as per the provisions of the ASCM but did not provide information on any one of the six programs identified as falling under the EOU category, such as duty free importation of capital goods and other materials, and exemption from income tax as per Section 10A and 10B of the Income Tax Act.

[259] The purpose of the expiry review investigation is to determine whether the expiry of the finding is likely to result in the continuation or resumption of subsidizing previously determined with respect to the subject goods. To this point, it should be noted that there is insufficient information on the administrative record to conclude that all 36 of the afore-mentioned programs are not countervailable subsidies. While the GOI states that a number of programs or schemes have been discontinued in the present FTP of 2015-20, the GOI also states that many of the 36 programs identified by the CBSA continue to exist (e.g., programs under the 'Export Oriented Units' category, programs provided by the State Government of Maharashtra, etc.).<sup>223</sup> Furthermore, in response to Question 7 of the Subsidy ERQ which asks in part, "In your response to this question you are encouraged to submit any other information which you believe supports your position with respect to the likelihood of continued or resumed subsidizing if the finding expires." The GOI responded, "Not applicable."<sup>224</sup>

[260] Subsequent to the CBSA making a final determination of subsidizing with respect to CSWP from India on November 9, 2012, the CBSA made final determinations of subsidizing with respect to two other steel-related products from India thereafter. On March 3, 2015, the CBSA made a final determination of subsidizing with respect oil country tubular goods (OCTG) from a number of countries including India<sup>225</sup> and on December 7, 2015, the CBSA made a final determination of subsidizing with respect to hot-rolled carbon steel plate from India.<sup>226</sup> In the OCTG investigation, the two cooperating exporters from India each were found to have benefited from six subsidy programs, while in the hot-rolled plate investigation the CBSA investigated 55 alleged subsidy programs.

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<sup>222</sup> Exhibit 36 (NC) – Response to Subsidy ERQ – Government of India.

<sup>223</sup> Exhibit 36 (NC) – Response to Subsidy ERQ – Government of India.

<sup>224</sup> *Ibid*, page 3.

<sup>225</sup> *Certain Oil Country Tubular Goods Originating in or Exported from Chinese Taipei, the Republic of India, the Republic of Indonesia, the Republic of the Philippines, the Republic of Korea, the Kingdom of Thailand, the Republic of Turkey, Ukraine and the Socialist Republic of Vietnam*, Statement of Reasons for Final Determinations dated March 18, 2015.

<sup>226</sup> *Certain Hot-Rolled Carbon Steel Plate And High-Strength Low-Alloy Steel Plate Originating In Or Exported From The Republic Of India And The Russian Federation*, Statement of Reasons for Final Determinations dated December 22, 2015.

[261] In 2016, the USDOC determined that producers and exporters of welded stainless pressure pipe in India received countervailable subsidies<sup>227</sup> and in 2017 the USDOC preliminarily determined that producers and exporters of cold-drawn mechanical tubing of carbon and alloy steel in India received countervailable subsidies.<sup>228</sup> The subsidy determinations made by the respective investigating authorities in Canada and the US in 2015, 2016 and 2017 point to ongoing subsidy programs being offered by the GOI, including to producers of CSWP.

[262] In accordance with the notification procedures outlined in Article XVI:1 of the GATT 1994 and Article 25 of the Agreement on Subsidies and Countervailing Measures, the GOI notified the WTO on August 31, 2017, of some of the subsidy schemes granted or maintained at the level of State Governments in India. The GOI states that the information provided in the notification is for transparency purposes in order to clarify the operation of programmes and that the notification does not prejudice the legal status, nature or effects of Government assistance programs under the ASCM and GATT 1994, including as to whether or not the programmes notified are specific within the meaning of the ASCM. The notification lists programs offered by the following state governments: Andhra Pradesh, Bihar, Jharkhand, Maharashtra, Punjab, and West Bengal.

[263] A manufacturer of CSWP in India, Surya Roshni Ltd. (Surya), who responded to the CBSA's Subsidy RFI in the original investigation, states in its annual report that the company received grants from various state governments, including from the state government of Andhra Pradesh.<sup>229</sup>

#### **Determination Regarding Likelihood of Continued or Resumed Subsidizing for India**

[264] Based on information on the record regarding the GOI's acknowledgement that many of the 36 programs identified by the CBSA in the original subsidy investigation continue to exist; the GOI's recent notification to the WTO of some of the subsidy schemes granted or maintained at the level of State Governments in India; and the recent imposition of countervailing measures by both Canada and the US in respect of a number of steel-related goods (e.g., OCTG, steel plate, pressure pipe and mechanical tubing) from India, the CBSA determined that the expiry of the finding is likely to result in the continuation or resumption of subsidizing into Canada of certain carbon steel welded pipe originating in or exported from India.

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<sup>227</sup> Exhibit 45 (NC) – Documents submitted by Nova Tube Inc.: Attachment 93 – Welded Stainless Pressure Pipe from India, United States Department of Commerce, Issues and Decision Memorandum dated September 22, 2016.

<sup>228</sup> Exhibit 42 (NC) - Supplementary Research with respect to South Korea, Thailand and the UAE, Certain Cold-Drawn Mechanical Tubing of Carbon and Alloy Steel from India.

<sup>229</sup> Exhibit 42 (NC) - Supplementary Research with respect to South Korea, Thailand and the UAE, Surya Roshni Annual Report 2016-2017, page 96.



## CONCLUSION

[265] For the purpose of making a determination in this expiry review investigation, the CBSA conducted its analysis within the scope of the factors found under subsection 37.2(1) of the SIMR. Based on the foregoing consideration of pertinent factors and an analysis of the evidence on the record, on May 7, 2018, the CBSA made a determination pursuant to paragraph 76.03(7)(a) of SIMA that the expiry of the CITT's finding made on December 11, 2012, in Inquiry No. NQ-2012-003, is likely to result in:

- i. the continuation or resumption of dumping of certain carbon steel welded pipe originating in or exported from Chinese Taipei (excluding goods exported from the Chinese Taipei by Chung Hung Steel Corporation and Shin Yang Steel Co. Ltd), India, Oman, Korea, Thailand, and the UAE (excluding goods exported from the UAE by Conares Metal Supply Ltd.); and
- ii. the continuation or resumption of subsidizing of certain carbon steel welded pipe originating in or exported from India.

## FUTURE ACTION

[266] On May 8, 2018, the CITT commenced its inquiry to determine whether the expiry of the finding with respect to the dumping of certain CSWP from Chinese Taipei (excluding goods exported from the Chinese Taipei by Chung Hung Steel Corporation and Shin Yang Steel Co. Ltd), India, Oman, Korea, Thailand, and the UAE (excluding goods exported from the UAE by Conares Metal Supply Ltd.), and the subsidizing of these goods from India, is likely to result in injury. The CITT's Expiry Review schedule indicates that it will make its decision by October 15, 2018.

[267] If the CITT determines that the expiry of the finding with respect to the goods is likely to result in injury, the CITT will make an order continuing the finding in respect of those goods, with or without amendment. If this is the case, the CBSA will continue to levy anti-dumping and/or countervailing duties on dumped and/or subsidized importations of the subject goods.

[268] If the CITT determines that the expiry of the finding with respect to the goods is not likely to result in injury, the CITT will make an order rescinding the finding in respect of those goods. Anti-dumping and/or countervailing duties would then no longer be levied on importations of the subject goods, and any anti-dumping and/or countervailing duties paid in respect of goods that were released after the date that the finding was scheduled to expire will be returned to the importer.

## INFORMATION

[269] For further information, please contact the officers listed below:

**Mail:** SIMA Registry and Disclosure Unit  
Trade and Anti-dumping Programs Directorate  
Canada Border Services Agency  
100 Metcalfe Street, 11<sup>th</sup> floor  
Ottawa, Ontario K1A 0L8  
Canada

**Telephone:** Aaron Maidment 613-948-4415  
Pat Mulligan 613-952-6720

**E-mail:** [simaregistry@cbsa-asfc.gc.ca](mailto:simaregistry@cbsa-asfc.gc.ca)

**Web site:** [www.cbsa-asfc.gc.ca/sima-lmsi](http://www.cbsa-asfc.gc.ca/sima-lmsi)



Doug Band  
Director General  
Trade and Anti-dumping Programs Directorate