



Canada Border
Services Agency

Agence des services
frontaliers du Canada

Ottawa, March 14, 2008

RR-2007-003
4366-35

STATEMENT OF REASONS

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

CERTAIN CARBON STEEL PIPE NIPPLES AND ADAPTOR FITTINGS ORIGINATING IN OR EXPORTED FROM THE PEOPLE'S REPUBLIC OF CHINA

DECISION

On February 28, 2008, pursuant to paragraph 76.03(7)(a) of the *Special Import Measures Act*, the President of the Canada Border Services Agency determined that the expiry of the finding made by the Canadian International Trade Tribunal on July 16, 2003, in Inquiry No. NQ-2002-004, as amended on June 8, 2007, in Interim Review No. RD-2006-006, concerning carbon steel pipe nipples and adaptor fittings originating in or exported from the People's Republic of China is likely to result in the continuation or resumption of dumping of the goods into Canada.

Cet énoncé des motifs est également disponible en français. Veuillez vous reporter à la section "Information"
This Statement of Reasons is also available in French. Please refer to the "Information" section.

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SUMMARY

[1] On October 31, 2007, the Canadian International Trade Tribunal (Tribunal) issued a Notice of Expiry Review¹ with respect to its finding made on July 16, 2003, in Inquiry No. NQ-2002-004, as amended on June 8, 2007, in interim Review No. RD-2006-006, on certain carbon steel pipe nipples and adaptor fittings (pipe fittings) from the People's Republic of China (China). As a result, on November 1, 2007, the Canada Border Services Agency (CBSA) initiated an investigation to determine whether the expiry of the finding is likely to result in the continuation or resumption of dumping of the goods into Canada.

[2] CANIP Industries Ltd. (CANIP), a Canadian producer of pipe fittings, provided information in support of the position that continued or resumed dumping of pipe fittings is likely if the current anti-dumping finding against China is allowed to expire.

[3] Two other parties, CB Supplies Ltd. (CB Supplies), an importer of non-subject goods, and Thorndale International Inc. (Thorndale), a Canadian importer of pipe fittings, provided information to the CBSA concerning this expiry review investigation. Thorndale, however, did not provide an adequate non-confidential version of their confidential submission. As a result, the submission was not taken into account for the purposes of this investigation. CB Supplies did not offer an opinion regarding the likelihood of continued or resumed dumping.

[4] In deciding whether the expiry of the finding is likely to result in the continuation or resumption of dumping, consideration was given to the factors set forth in subsection 37.2(1) of the *Special Import Measures Regulations* (SIMR). Evidence was placed on the administrative record with respect to the following factors:

- Whether there has been dumping of the goods while the finding was in effect;
- Performance of the exporters in respect of production, prices and exports;
- Likely future performance of the exporters in respect of production, prices and exports;
- Anti-dumping or countervailing measures in place in other countries with regard to similar products produced in China; and
- Changes in market conditions domestically or internationally, with regard to supply, demand and prices.

¹ Exhibit 9: Notice of Expiry Review of Finding, Expiry Review No. RR-2007-003.

[5] Analysis of evidence on the record demonstrated that there has been dumping of the goods while the Tribunal's finding is in effect; there has been a lack of participation by exporters in respect of the CBSA's re-investigations which may indicate, amongst other things, that exporters are unable to sell subject goods to Canada at non-dumped prices; Chinese pipe fitting exporters have a continued presence in Canada while the finding was in place and have shown renewed interest in selling into the Canadian market in spite of anti-dumping duties of 153% for pipe nipples and 117% for adaptor fittings; Chinese producers have the production capacity to supply more than 25% of the Canadian market; exporters of subject goods are continuing to sell pipe fittings into other markets at prices below those which were found to have been dumped in the original investigation and have the capacity to resume selling subject goods into Canada at such prices; there are anti-dumping and countervailing measures imposed by the authorities of other countries in respect of similar goods; and exporters of the subject goods are continuing to sell low priced steel products during a period of increasing world steel prices.

[6] For the foregoing reasons, the President of the CBSA, having considered the relevant information on the record, determined on February 28, 2008, under paragraph 76.03(7)(a) of the *Special Import Measures Act* (SIMA) that the expiry of the finding made by the Tribunal on July 16, 2003, as amended on June 8, 2007, concerning pipe fittings originating in or exported from China, is likely to result in the continuation or resumption of dumping of the goods into Canada.

BACKGROUND

[7] The original anti-dumping investigation into pipe fittings originating in or exported from China was initiated on December 18, 2002, following a complaint made by Canvil, a Division of Mueller Canada Limited (Canvil), of Simcoe, Ontario.

[8] On March 18, 2003, the Commissioner of the Canada Customs and Revenue Agency (since replaced by the President of the CBSA) made a preliminary determination of dumping respecting pipe fittings from China. A final determination of dumping was made on June 16, 2003, followed by an injury finding issued by the Tribunal on July 16, 2003. Thereafter, subject imports have been monitored for anti-dumping purposes.

[9] The CBSA completed its last re-investigation to update the normal values and export prices of pipe fittings on August 17, 2007. No exporters cooperated. As a result, effective August 17, 2007, normal value was determined to be an advance of the export price of 153% for the carbon steel pipe nipples and 117% for carbon steel adaptor fittings, pursuant to a ministerial specification.

[10] On January 19, 2007, the Tribunal began an interim review (RD 2006-006) of its finding of July 16, 2003 at the request of NCI Marketing Inc. (NCI). In its request, NCI sought the rescission of the finding as it relates to carbon steel pipe nipples and threaded couplings on the basis that they are no longer available from any Canadian producer. Furthermore, NCI claimed that the carbon steel pipe nipples and threaded couplings produced by CapProducts of Canada, Ltd. (CapProducts) are exported for sale in the United States of America (United States) and are not commercially available to Canadian purchasers. NCI did not request an interim review of carbon steel adaptor fittings.

[11] On June 8, 2007, the Tribunal amended the finding made on July 16, 2003 to exclude carbon steel threaded couplings.

[12] On September 11, 2007, the Tribunal issued a notice concerning the upcoming expiry of its injury finding.² Based on the available information and the information submitted by interested parties, the Tribunal decided that a review of the finding was warranted.

[13] Accordingly, on October 31, 2007, the Tribunal, pursuant to subsection 76.03(3) of SIMA, initiated an expiry review of its finding issued on July 16, 2003, in Inquiry No. NQ 2002-004, and amended in Interim Review RD-2006-006 on June 8, 2007, concerning certain pipe fittings originating in or exported from China. The Tribunal's decision to continue or rescind the finding must be made by July 15, 2008.

[14] On November 1, 2007, the CBSA initiated an expiry review investigation to determine whether the expiry of the finding is likely to result in the continuation or resumption of dumping of the goods from China.

PRODUCT INFORMATION

Product Definition

[15] The goods subject to this expiry review are defined as:

Carbon steel pipe nipples and adaptor fittings, in nominal diameters up to and including 6 inches or the metric equivalents, originating in or exported from the People's Republic of China.

Additional Product Information

[16] The subject goods are normally produced to ASTM³, UL⁴ or CSA⁵ specifications, or specifications in other recognized designation systems, or to a proprietary specification standard.

² Exhibit 8: Notice of Expiry of Finding, Expiry No. LE-2007-002.

³ American Society for Testing and Materials

⁴ Underwriters Laboratories

⁵ Canadian Standards Association (CSA International)

[17] The subject goods include: carbon steel pipe nipples manufactured to conform with ASTM specification A733, including pipe nipples greater than 12 inches in length referred to as "ready cut pipe"; carbon steel electrical conduit nipples manufactured to conform with UL6 or CSA C22.2 No. 45-M1981 specifications and adaptor fittings consisting of combination nipples, hose menders and male adaptors. The subject goods are available in a variety of finishes.

[18] Pipe nipples are manufactured in accordance with ASTM specification A733 from carbon steel pipe complying with: ASTM A53 type F (welded), grade A; ASTM A53 type E (electric resistance welded), grades A and B; ASTM A53 type S (seamless), grades A and B; ASTM A106 (seamless), grades A and B or ASME⁶ SA53 type F (welded), grade A; ASME SA53 type E (electric resistance welded), grades A and B; ASME SA53 type S (seamless), grades A and B and ASME SA106 (seamless), grades A and B. In addition, they are manufactured in various wall thicknesses of carbon steel pipe, namely schedule 40, schedule 80, schedule 160 or standard, XS (extra strong) and XXS (double extra strong), XH (extra heavy) and XXH (double extra heavy). For further clarity, carbon steel seamless pipe nipples manufactured for high pressure applications are not covered by the definition of subject goods.

[19] The lengths of the pipe nipples begin at "close" through to 72 inches long. A "close" pipe nipple is the shortest length and is threaded from each end with the thread meeting in the middle. Pipe nipples up to 24 inches in length typically increase in ½ inch to 1 inch increments depending on the nominal diameter. In addition, pipe nipples greater than 12 inches in length are sometimes referred to as "ready cut pipe" and typically increase in 6 inch to 12 inch increments. However, custom lengths are available. The configuration on either end of a pipe nipple could be taper pipe threaded, square cut, reamed and chamfered, grooved or any combination of these. Threads are right hand on each end unless otherwise specified. Left hand threads or plain ends or combinations are available. All threads conform to ANSI /ASME standard B1.20.1. The pipe nipples are available in a variety of finishes, typically black or galvanized coatings.

[20] Electrical conduit nipples are manufactured to UL 6 or CSA C22.2 No. 45-M1981 specifications. They are normally produced from welded carbon steel tube. Nominal diameters range from ½ inch to 6 inches. For the electrical conduit nipples the nominal lengths begin at "close" through to 12 inches long, typically increasing in ½ inch increments and each end has a tapered pipe thread conforming to ANSI/ASME standard B1.20.1. Electrical conduit nipples are finished with a protective zinc coating or an alternative corrosion-resistant coating.

[21] Adaptor fittings consist of combination nipples, hose menders and male adaptors. Combination nipples and hose menders are manufactured from welded or seamless carbon steel tube or pipe in nominal diameters from ½ inch to 6 inches. Combination nipples have a tapered pipe thread on one end, which conforms to ANSI/ASME standard B1.20.1, the other end has hose serrations. Hose menders have hose serrations on both ends. These fittings are available in a variety of finishes, typically black or galvanized coatings.

⁶ American Society of Mechanical Engineers

[22] Male adaptors are manufactured from either welded or seamless carbon steel tube or pipe in nominal diameters ranging from ½ inch to 4 inches. Male adaptors are also referred to as "king nipples" and have a tapered pipe thread on one end, which conforms to ANSI/ASME standard B1.20.1 while the other end has tube serrations. These fittings are typically finished in a galvanized coating.

CLASSIFICATION OF IMPORTS

[23] The subject goods are usually classified under the following Harmonized System (HS) classification numbers:

7307.99.99.11 7307.99.99.19

PERIOD OF REVIEW

[24] The period of review (POR) for this expiry review investigation is January 1, 2004, to September 30, 2007. The President also considered additional information placed on the administrative record up to the closing of the record date of December 20, 2007.

CANADIAN INDUSTRY

[25] The Canadian industry, during the POR, for certain carbon steel pipe fittings production was comprised of the following producers:

- CANIP Industries Ltd., Burnaby, British Columbia
- CapProducts of Canada, Ltd., Vanastra, Ontario
- Canvil, a Division of Mueller Canada Limited, Simcoe, Ontario

CANIP

[26] CANIP Industries Ltd. of Burnaby, British Columbia was incorporated in British Columbia in 2006 and is engaged in the manufacture of pipe nipples in a variety of finishes.

[27] CANIP has the ability to produce steel pipe nipples in diameters ranging from 1/8 inch to 6 inches and in lengths from ½ inch to 21 feet (ready cut pipe). All of CANIP's production has been destined for domestic sale.⁷

⁷ Exhibit 26 (NC): CANIP response to ERQ, Pages 3-5.

CapProducts

[28] CapProducts of Canada, Ltd., of Vanastra, Ontario was a producer of pipe nipples and adaptor fittings. As of July 1, 2002, CapProducts was wholly owned by Harsco Group of the United States. CapProducts has not participated in the CBSA's most recent re-investigation of normal values and export prices, nor has it participated in this expiry review investigation. As such, information related to CapProducts is based on information from prior proceedings that has been placed on the record for this expiry review investigation.

[29] As of July 16, 2003 (the date of the Tribunal's injury finding), CapProducts manufactured certain pipe fittings, seamless nipples, stainless nipples and small forged steel fittings. CapProducts has an internal sales force that markets its products throughout Canada.⁸

Canvil

[30] Canvil, of Simcoe, Ontario, was the original complainant. On November 18, 2006, Canvil announced that it had ceased production of pipe fittings in Canada and was relocating to the United States. As such, information related to Canvil was estimated based on historical information that has been placed on the administrative record.

[31] Canvil was a producer of carbon steel pipe nipples, adaptor fittings and threaded couplings. As of 2002, Canvil produced pipe nipples, threaded couplings and adaptor fittings at its plant in Simcoe, Ontario. In addition to certain pipe fittings, Canvil manufactured seamless pipe nipples and forged steel fittings. Canvil had sales centers in Edmonton, Alberta, and Montréal, Quebec⁹. Canvil was producing carbon steel pipe fittings during the POR.

CANADIAN MARKET

[32] The estimated Canadian market for subject pipe fittings for the POR cannot be divulged because it would reveal information that is confidential to the parties. The estimated market information was derived from the import information available at the time of the closing of the record, based on Customs Commercial Systems information. The Canadian production information was based on the information provided in CANIP's submission and on historical production numbers from CapProducts and Canvil. Due to Canvil's and CapProducts' lack of participation in this expiry review, production information for these two companies was estimated based on an historical average of sales to domestic customers.

⁸ Exhibit 2: CITT Finding and Statement of Reasons, Page 5.

⁹ Ibid., Page 4.

ENFORCEMENT

[33] Detailed information regarding the anti-dumping duty liability for pipe fittings from China throughout the POR cannot be divulged for confidentiality reasons. Anti-dumping duties were imposed during the POR where applicable.¹⁰

PARTICIPANTS

[34] As part of the CBSA's expiry review investigation, an Expiry Review Questionnaire (ERQ) was sent to three Canadian producers, forty-five importers, seventeen exporters and interested parties on October 31, 2007. Any persons or governments having an interest in this investigation were also invited to provide a submission regarding the expiry of the Tribunal's finding.

[35] One Canadian producer, CANIP, provided a full response to the ERQ, in addition to a case brief, emphasizing that the dumping is likely to continue or resume should the Tribunal's finding expire.

[36] Two importers provided responses to the ERQ, namely CB Supplies, who did not import subject goods, and Thorndale. As Thorndale did not provide an adequate non-confidential version of its confidential submission, its information was not taken into account for the purposes of this expiry review investigation. In addition, any representations made solely on the basis of the information contained in Thorndale's response to the ERQ have not been taken into account.

[37] No exporters replied to the ERQ and no other person or government provided a submission with respect to this expiry review investigation.

INFORMATION USED BY THE PRESIDENT

Administrative Record

[38] The information used and considered by the President for purposes of this expiry review proceeding is contained on the administrative record. The administrative record includes the exhibits listed on the CBSA's Exhibit Listing. This is comprised of the Tribunal's administrative record at 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 is likely to continue or resume, absent the finding.

¹⁰ Exhibit 23 (PRO): Enforcement Statistics.

[39] For purposes of an expiry review investigation, the CBSA sets a date after which no “new” information may be placed on the administrative record. 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 administrative record as of the closing of the record date. For this expiry review, the administrative record closed on December 20, 2007.

Procedural Issues

[40] Thorndale did not provide an adequate non-confidential version of their submission. Therefore, pursuant to section 87 of SIMA, the information provided therein, and any arguments based on said information, were not taken into account for the purposes of this expiry review investigation, unless obtained elsewhere than from Thorndale’s submission.

POSITION OF THE PARTIES

Parties Contending that Continued or Resumed Dumping is Likely

Canadian Producer

[41] CANIP made seven key points in its case brief in support of the position that the expiry of the current finding is likely to result in continued or resumed dumping. These are summarized as follows and will be dealt with individually:

- Failure of Chinese Producers and Exporters to Respond to the CBSA Questionnaires;
- Chinese Exporters’ Efforts to Avoid Application of the Tribunal’s Finding;
- Chinese Exporters’ Inability to Compete In Canada At Non-Dumped Prices;
- The Sustained Interest and Involvement of Chinese Exporters in the Canadian Pipe Fittings Market;
- Chinese Exporters’ Performance and Pricing in Other Markets;
- Chinese Oversupply of Inputs Required for the Production of Pipe Fittings; and
- Dumping of Similar Products Produced in China and Chinese Exporters’ Tendency to Dump Products.

Failure of Chinese Producers and Exporters to Respond to the CBSA Questionnaires

[42] CANIP noted that Chinese exporters had not submitted questionnaire responses for the 2006 re-investigation or the 2007 expiry review investigation.

[43] CANIP concluded that the Chinese exporters’ unwillingness to cooperate is based on the fear that a full response would have revealed their interest in re-entering the Canadian market at dumped price levels, following the expiry of the finding.

Chinese Exporters' Efforts to Avoid Application of the Tribunal's Finding

[44] CANIP has alleged in their case brief that Chinese exporters are avoiding application of the finding by various means such as substituting non-subject goods for the previously subject goods, such as high-pressure seamless carbon steel pipe nipples (i.e. non-subject goods).¹¹

Chinese Exporters' Inability to Compete In Canada At Non-Dumped Prices

[45] In its brief, CANIP stated that, by 2005, imports of subject goods fell substantially from the level of imports in 2002 as a result of the finding¹². CANIP noted that the Tribunal's Pre-Hearing Staff Report (Confidential) prepared for the original investigation showed that, in the period prior to the finding, Chinese exports of subject goods swiftly increased between 2001 and 2002.¹³ After the finding import patterns changed. Citing the most recent import statistics, CANIP noted that by 2005, Chinese imports fell dramatically from what they were in 2002.¹⁴ CANIP further noted that, although more recently Chinese imports have increased in 2006 over 2005, and the volume for part of 2007 rose considerably over the 2006 volumes, they are minor amounts when compared to the quantities that were imported from China before the finding.¹⁵ CANIP has further stated that "the data showed that, as a general rule, subject goods cannot be sold into the Canadian market unless they are dumped."¹⁶

The Sustained Interest and Involvement of Chinese Exporters in the Canadian Pipe Fittings Market

[46] CANIP argued that two major Chinese exporters remained active in the Canadian plumbing industry through sales of other non-subject goods such as cast iron fittings, malleable fittings and brass fittings and valves.¹⁷ CANIP believes that if the finding is allowed to expire, these exporters are in a position to resume selling carbon steel pipe nipples to existing customers at dumped prices and injurious volumes.

Chinese Exporters' Performance and Pricing in Other Markets

[47] CANIP provided information on the price of Chinese pipe fittings in the United States market.¹⁸ Absent the finding, CANIP believes that if Chinese pipe nipples entered the Canadian market at similar price levels, master distributors, wholesalers and retailers would resume purchases of the subject goods from China.¹⁹

¹¹ Exhibit 32 (NC): CANIP Case Brief, Page 6, Paragraph 18.

¹² Exhibit 33 (PRO): CANIP Case Brief, Pages 6-7, Paragraphs 21, 22.

¹³ Ibid., Paragraph 21.

¹⁴ Ibid., Paragraph 21, 22.

¹⁵ Ibid., Paragraph 22.

¹⁶ Exhibit 32 (NC): CANIP Case Brief, Page 7, Paragraph 22.

¹⁷ Ibid., Paragraph 24.

¹⁸ Exhibit 33(PRO): CANIP Case Brief, Page 8.

¹⁹ Exhibit 32 (NC): CANIP Case Brief, Pages 8-9.

Chinese Oversupply of Inputs Required for the Production of Pipe Fittings

[48] CANIP asserts that China is over producing steel in such volume that their domestic consumption is exceeded by production to a level that is three times Canada's total annual finished steel output. CANIP states that Chinese steel manufacturers are looking for markets to unload this excess production.²⁰

[49] With findings in place for upstream products to pipe nipples, such as the possible finding on circular welded pipe in the United States, CANIP argues that Chinese producers will be looking for new markets for finished steel products, possibly in further finished downstream products such as pipe fittings.

Dumping of Similar Products Produced in China and Chinese Exporters' Tendency to Dump Products

[50] CANIP stated that "China is *the* most prolific trade offender when measured by the number of new and completed investigations. According to WTO reports, from 1995 to 2006, China was subject to 375 anti-dumping measures around the world."²¹

[51] As well, on November 6, 2007, the United States Department of Commerce found that China was subsidizing circular welded carbon-quality steel pipe, the kind of pipe from which carbon steel pipe nipples are produced.²² According to an International Trade Administration Fact Sheet, the United States Department of Commerce made a preliminary determination that Chinese producers/exporters have received net countervailable subsidies ranging from 0% to 264.98%.

[52] CANIP stated further that, "As steel pipe is the primary ingredient in steel pipe nipples, it is reasonable to believe that Chinese pipe producers will be seeking somewhere to off load any excess production the U. S. dumping penalties [*sic*] create. If the duties on steel pipe nipples were lifted, it is conceivable that Chinese steel pipe exporters would see this as an opportunity to channel steel pipe for further processing to make steel pipe nipples and resume shipments to Canada. Put simply, U. S. duties on steel pipe plus removal of the Canadian duties on steel pipe nipples is likely to result in resumed dumping at injurious levels."²³

Parties Contending that Continued or Resumed Dumping is Not Likely

[53] No party made representations that the finding should be allowed to expire, nor did any party argue that there is no likelihood of continued or resumed dumping.

²⁰ Ibid., Pages 9-10.

²¹ Ibid., Page 13, Paragraph 40.

²² Ibid., Appendix F, H.

²³ Ibid., Page 13, Paragraph 39.

CONSIDERATION AND ANALYSIS

Likelihood of Continued or Resumed Dumping

[54] In deciding whether the expiry of the finding is likely to result in the continuation or resumption of dumping, the President may consider any factor specifically identified in paragraphs (a) to (i) of subsection 37.2(1) of SIMR, as well as any other factors relevant in the circumstances in rendering a determination pursuant to paragraph 76.03(7)(a) of SIMA.

[55] The CBSA received limited cooperation from interested parties with regard to this expiry review investigation. Similarly, the CBSA found very little information concerning the global pipe fitting industry in the public domain. There is, also, limited information in business or industry publications regarding carbon steel pipe fittings.

[56] Based on an examination of the factors found under subsection 37.2(1) of SIMR and of the information on the administrative record, the following factors were considered during the course of this investigation:

- Whether there has been dumping of the goods while the finding was in effect;
- Performance of the exporters in respect of production, prices and exports;
- Likely future performance of the exporters in respect of production, prices and exports;
- Anti-dumping or countervailing measures in place in other countries with regard to similar products produced in China; and
- Changes in market conditions domestically or internationally, with regard to supply, demand and prices.

Whether there has been dumping of the goods while the finding was in effect

[57] On June 16, 2003, the final results of the investigation found that carbon steel pipe nipples and adaptor fittings had been dumped.²⁴ Only one exporter provided information in response to the CBSA's Exporter Request for Information (RFI) that could be used in the investigation. The information from this exporter was only for carbon steel pipe nipples. A margin of dumping was calculated for this exporter in accordance with a ministerial specification under section 29 of SIMA. For this exporter, the margins of dumping ranged from 59% to 158%, with a weighted average margin of dumping for the subject carbon steel pipe nipples of 96%, when expressed as a percentage of the export price.

²⁴ The CBSA also found that carbon steel threaded couplings were dumped. The Tribunal excluded carbon steel threaded couplings from the finding on June 8, 2007 [Interim Review (RD2006-006)].

[58] On July 16, 2003, the Tribunal issued a finding of material injury with respect to the goods. Subsequently, subject goods were monitored for anti-dumping purposes. For the one exporter that had cooperated with the CBSA, specific normal values for the subject carbon steel pipe nipples were issued for future importations. For all other exporters, normal values were calculated by advancing the export price of carbon steel pipe nipples by 153 %, threaded couplings by 74% and adaptor fittings by 117%, in accordance with a ministerial specification under section 29 of SIMA.²⁵

[59] On June 8, 2007, the Tribunal concluded the interim review (RD 2006-006) of its finding of July 16, 2003, and amended the finding to exclude carbon steel threaded couplings. The CBSA completed its last re-investigation to update the normal values and export prices of pipe fittings on August 17, 2007. Periodic re-investigations are necessary to ensure that these values reflect current market conditions. However, the CBSA received no responses to the RFI from any of the exporters and, therefore, the CBSA was unable to update the case information. Accordingly, on August 17, 2007, all concerned parties were advised that normal values would be determined in accordance with a ministerial specification. The specification states that normal values would be calculated by advancing the export price of carbon steel pipe nipples by 153% and adaptor fittings by 117%.

[60] Although there were no significant volumes of subject goods imported during the POR, certain importers and known exporters of subject goods have continued their relationships respecting similar plumbing products. This indicates a sustained interest in the Canadian market, although Chinese exporters seem unable to compete in Canada at non-dumped prices. However, should the finding be allowed to expire, it is likely that importations of subject goods into the Canadian market would increase significantly and almost immediately.

[61] Exporters of Chinese goods have maintained a presence in Canada, as is evident through continuous shipments of subject goods throughout the POR. Recent shipments in the first half of 2007 are of particular interest as they show a renewed interest in doing business in the Canadian market. In the first nine months of 2007, there was a substantial increase in pieces shipped over 2006. Based on volume, this represents an increase from 1.4% of all imports of like goods in 2006 to 5.51% in 2007. It is also noteworthy that these goods entered the Canadian market despite the 153% anti-dumping duty on subject pipe nipples and 117% on subject adaptor fittings.²⁶

²⁵ Exhibit 1: CBSA Statement of Reasons.

²⁶ Exhibit 29 (PRO): CBSA Finalized Import Statistics.

Performance of the exporters in respect of production, prices and exports

[62] The performance of the Chinese exporters since the finding came into effect is another factor in the analysis of whether the dumping will continue or resume should the finding be allowed to expire. According to submissions received, China has production capacity to supply more than 25 % of the Canadian market.

[63] As indicated by CB Supplies, pipe fittings are mainly used in the North American market.²⁷ CANIP provided confidential estimates of the Canadian market for carbon steel pipe nipples. The evidence indicates that Chinese exporters have the capacity to supply at least 25% of the Canadian market and have sustained the relationships necessary to supply the Canadian market should the Tribunal's finding expire.

[64] CB Supplies indicated that price, quality and delivery time are the main factors influencing their buying decisions.²⁸ In this regard, the CBSA performed a comparison of prices for Chinese pipe fittings offered to United States importers, to Chinese export prices from the original investigation. In some instances the prices offered to importers in the United States are lower than the export prices from the original investigation, which were found to be dumped prices.²⁹

[65] CANIP has argued that Chinese exporters are selling seamless pipe nipples to importers who previously imported welded nipples. These seamless pipe nipples usually sell at a 20% premium to subject pipe nipples.³⁰ Currently, high-pressure seamless pipe nipples from China are less expensive than subject goods made from welded pipe, considering the importers' obligation to pay anti-dumping duty on imports of nipples for low-pressure applications.

[66] In addition, the one exporter that did cooperate in the original investigation and had specific normal values for carbon steel pipe nipples did not ship in commercial quantities during the POR. Furthermore, the exporter did not participate in the most recent re-investigation to have normal values and export prices updated nor did they participate in this expiry review. This lack of participation in respect of the CBSA's re-investigation may indicate, among other things, that exporters are unable to sell subject goods to Canada at non-dumped prices.

²⁷ Exhibit 24 (NC) CB Supplies Response to ERQ, Response to B14.

²⁸ Ibid., Response to B6.

²⁹ Exhibit 13 (PRO) Tribunal Pre Hearing Staff Report Carbon Steel Pipe Fittings, Vol. 2.1, pg 12, Table 11.

³⁰ Exhibit 32 (NC), CANIP *Case Brief*, Paragraph 18.

Likely future performance of the exporters in respect of production, prices and exports

[67] Price, quality and delivery terms are the three most critical factors involved in an importer's decision to purchase. Evidence on the record indicates that Chinese exporters of the subject goods continue pipe fittings production, that their production volumes and capacity outweigh Chinese demand, that the North American market is the most important in the world, that Chinese exporters have maintained relationships with certain importers in Canada throughout the POR and that they compete on the world market at low price levels. Should the finding be allowed to expire, Chinese exporters of the subject goods have the ability to immediately re-enter the Canadian market and resume selling the subject goods, of similar quality to the Canadian goods, with similar delivery terms, at prices which were found to be dumped prices in the original investigation.

[68] With respect to prices, information on the record provides no indication that the pricing behaviour of the Chinese exporters, in respect of the subject goods, has changed since the Tribunal issued the finding on July 16, 2003. In fact, no parties, including the exporters of the subject goods, submitted information to support the position that the expiry of the Tribunal's finding is unlikely to result in a continuation or resumption of dumping. Based on the information available respecting prices to importers in the United States, it is reasonable to conclude that, absent the Tribunal's finding, Chinese exporters would be able to resume selling the subject goods to Canada at prices below those which were determined to be dumped prices in the original investigation.

Anti-dumping or countervailing measures in place in other countries with regard to similar products produced in China

[69] Another factor in assessing the likelihood of continued or resumed dumping of Chinese exports of pipe fittings is the existence of anti-dumping or countervailing actions against Chinese exports in jurisdictions other than Canada. While there are no actions specifically against Chinese carbon steel pipe fitting exports, there are numerous trade actions against Chinese steel products that are produced and marketed under similar conditions. Further there are findings in place against other plumbing fittings from China such as copper pipe fittings in Canada and iron and steel pipe fittings in the European Union. As well, there is a trade action in progress for circular welded steel pipe in the United States.³¹

[70] The CBSA placed documents relating to these actions on the record for this expiry review. Specifically, these relate to anti-dumping or countervailing measures imposed by countries other than Canada, or trade actions in progress against Chinese pipe and pipe fittings used in plumbing applications (other than the subject goods). While not specific to the subject pipe fittings, this information does indicate a propensity to dump by both Chinese steel exporters and Chinese exporters of fittings for plumbing applications.

³¹Exhibit 20: United States Department of Commerce Fact Sheet and Official Journal of European Union 1.12.2004.

Changes in market conditions domestically or internationally with regard to supply, demand and prices

[71] Changes in international market conditions since the finding was initially put in place may also provide some guidance in assessing whether the expiry of the finding would result in continued or resumed dumping.

[72] Despite a finding in place respecting pipe fittings, the largest producer in Canada, Canvil, closed and moved its operations to the United States. This leaves a void in Canadian supply that other Canadian producers could potentially fill, absent dumped goods. Information on the record does not indicate that Canadian producers would be unable to meet demand.

[73] The one change in the market, that would likely affect the price levels of subject goods sold in the future, is the demand for steel. Evidence on the record indicates that there has been a slight increase in the price of pipe fittings due to the increase in the price of steel,³² which is the principal input in the production of carbon steel pipe fittings.

CONCLUSION

[74] In summary, there has been dumping of the goods while the Tribunal's finding is in effect; there has been a lack of participation in respect of the CBSA's re-investigation which may indicate, amongst other things, that exporters are unable to sell subject goods to Canada at non-dumped prices; Chinese pipe fitting exporters have a continued presence in Canada while the finding was in place and have shown renewed interest in selling into the Canadian market in spite of anti-dumping duties of 153% for pipe nipples and 117% for adaptor fittings; Chinese producers have the production capacity to supply more than 25% of the Canadian market; exporters of subject goods are continuing to sell pipe fittings into other markets at prices below those which were found to have been dumped in the original investigation and have the capacity to resume selling subject goods into Canada at such prices; there are anti-dumping and countervailing measures imposed by the authorities of other countries in respect of similar goods; and exporters of the subject goods are continuing to sell low priced steel products in a time of increasing world steel prices.

[75] 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 SIMR. Based on the foregoing consideration of pertinent factors and an analysis of the evidence on the record, on February 28, 2008, pursuant to paragraph 76.03(7)(a) of SIMA, the President of the CBSA determined that the expiry of the finding made by the Tribunal on June 16, 2003, in Inquiry No. NQ-2002-004, and amended on June 8, 2007 in Interim Review No. RD-2006-006, concerning certain carbon steel pipe nipples and adaptor fittings originating in or exported from China is likely to result in the continuation or resumption of dumping of the goods into Canada.

³² Exhibit 21: Presentation by David Phelps, President, American Institute for International Steel.

FUTURE ACTION

[76] On February 29, 2008, the Tribunal commenced its inquiry to determine whether the expiry of the finding is likely to result in injury or retardation with respect to goods from China. The Tribunal must make its decision by July 15, 2008.

[77] If the Tribunal determines that the expiry of the finding with respect to the goods is likely to result in injury or retardation, the finding will be continued in respect of those goods, with or without amendment. If this is the case, the CBSA will continue to levy anti-dumping duties on dumped importations of pipe fittings from China.

[78] If the Tribunal determines that the expiry of the finding with respect to the goods is not likely to result in injury or retardation, the finding will be rescinded in respect of those goods. Anti-dumping duties will no longer be levied on importations of pipe fittings from China beginning on the date the finding is rescinded.

INFORMATION

[79] For further information, please contact Ian Gallant.

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