



CSWP3 2018 IN

OTTAWA, January 31, 2019

## STATEMENT OF REASONS

Concerning the termination of the dumping investigation in respect of

**CARBON STEEL WELDED PIPE EXPORTED FROM TURKEY BY ERBOSAN  
ERCIYAS BORU SANAYII VE TICARET A.S.**

and the final determination with respect to the dumping of

**CARBON STEEL WELDED PIPE FROM  
PAKISTAN, THE PHILIPPINES, TURKEY AND VIETNAM**

## DECISIONS

On January 16, 2019, pursuant to paragraph 41(1)(a) of the *Special Import Measures Act*, the Canada Border Services Agency terminated the dumping investigation in respect of certain carbon steel welded pipe exported to Canada from Turkey by Erbosan Erciyas Boru Sanayii ve Ticaret A.S. On the same date, pursuant to paragraph 41(1)(b) of the *Special Import Measures Act*, the Canada Border Services Agency made a final determination of dumping of certain carbon steel welded pipe from Pakistan, the Philippines, Turkey, for which the dumping investigation has not been terminated, and Vietnam.

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

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## SUMMARY OF EVENTS

[1] On May 31, 2018, the Canada Border Services Agency (CBSA) received a written complaint from Novamerican Steel Inc., on behalf of its subsidiaries Nova Tube Inc. and Nova Steel Inc. (collectively, “Nova”) (hereinafter, “the complainant”), alleging that imports of certain carbon steel welded pipe (CSWP) from the Islamic Republic of Pakistan (Pakistan), the Republic of the Philippines (the Philippines), the Republic of Turkey (Turkey) and the Socialist Republic of Vietnam (Vietnam) (hereafter “the named countries”) are being dumped.<sup>1</sup> The complainant alleged that the dumping has caused injury and is threatening to cause injury to the Canadian industry producing like goods.

[2] On June 21, 2018, pursuant to paragraph 32(1)(a) of the *Special Import Measures Act* (SIMA), the CBSA informed the complainant that the complaint was properly documented.<sup>2</sup> The CBSA also notified the governments of the named countries that a properly documented complaint had been received.

[3] The complainant provided evidence to support the allegations that CSWP from the named countries has been dumped. The evidence also disclosed a reasonable indication that the dumping has caused injury and is threatening to cause injury to the Canadian industry producing like goods.

[4] On July 20, 2018, pursuant to subsection 31(1) of SIMA, the CBSA initiated an investigation respecting the dumping of CSWP originating in or exported from the named countries.

[5] Upon receiving notice of the initiation of the investigation, the Canadian International Trade Tribunal (CITT) commenced a preliminary injury inquiry, pursuant to subsection 34(2) of SIMA, into whether the evidence discloses a reasonable indication that the alleged dumping of the above-mentioned goods has caused injury or retardation or is threatening to cause injury to the Canadian industry producing the like goods.

[6] On September 18, 2018, pursuant to subsection 37.1(1) of SIMA, the CITT made a preliminary determination that there is evidence that discloses a reasonable indication that the dumping of CSWP from the named countries has caused or is threatening to cause injury to the domestic industry.

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<sup>1</sup> Exhibits 1 (PRO) & 2 (NC) - Carbon Steel Welded Pipe Complaint

<sup>2</sup> Exhibit 6 (PRO) – Notice of Properly Documented Complaint – Complainant

[7] On October 18, 2018, as a result of the CBSA's preliminary investigation and pursuant to subsection 38(1) of SIMA, the CBSA made a preliminary determination of dumping of CSWP originating in or exported from the named countries. On the same date, pursuant to subsection 8(1) of SIMA, provisional duty was imposed on imports of dumped goods that are of the same description as any goods to which the preliminary determination applies, and that are released during the period commencing on the day the preliminary determination was made and ending on the earlier of the day on which the CBSA causes the investigation in respect of any goods to be terminated pursuant to subsection 41(1) of SIMA or the day the CITT makes an order or finding pursuant to subsection 43(1) of SIMA.

[8] On October 19, 2018, the CITT initiated an inquiry pursuant to section 42 of SIMA to determine whether the dumping of the above-mentioned goods has caused injury or retardation or is threatening to cause injury to the Canadian industry.

[9] Based on the available evidence, the CBSA is satisfied that CSWP originating in or exported from Turkey by Erbosan Erciyas Boru Sanayii ve Ticaret A.S. (Erbosan) has been dumped by an insignificant margin of dumping. As a result, on January 16, 2019, the CBSA terminated the dumping investigation in respect of the goods of this exporter pursuant to paragraph 41(1)(a) of SIMA.

[10] Based on the available evidence, the CBSA is satisfied that CSWP originating in or exported from Pakistan, the Philippines, Turkey, for which the dumping investigation has not been terminated under paragraph 41(1)(a) of SIMA, and Vietnam, has been dumped. Therefore, on January 16, 2019, the CBSA made a final determination of dumping pursuant to paragraph 41(1)(b) of SIMA in respect of those goods.

[11] The CITT's inquiry into the question of injury to the Canadian industry is continuing, and it will issue its decision by February 15, 2019. Provisional duty will continue to be imposed on the subject goods from the named countries until the CITT renders its decision. However, provisional anti-dumping duty will no longer be imposed on imports of goods of the same description as the goods in respect of which the dumping investigation has been terminated. Any provisional duty paid or security posted will be refunded, as appropriate.

#### **PERIOD OF INVESTIGATION**

[12] The Period of Investigation (POI) for the dumping investigation is July 1, 2017 to June 30, 2018.

#### **PROFITABILITY ANALYSIS PERIOD**

[13] The Profitability Analysis Period (PAP) for the dumping investigation is July 1, 2017 to June 30, 2018.

## INTERESTED PARTIES

### **Complainant**

[14] The complainant, Nova, was founded in 1979 in Montreal, Quebec as a single location steel processing company. Nova has since grown to include nine locations across North America.<sup>3</sup>

[15] Nova operates CSWP manufacturing facilities in Montreal and Baie D'Urfé, Quebec. Nova is a producer of CSWP in Canada and accounts for a major proportion of the total domestic production of like goods.

[16] The contact information of the complainant is as follows:

Novamerican Steel Inc.  
6001 rue Irwin  
Montréal, Quebec  
H8N 1A1

[17] The other manufacturers of like goods in Canada are: Atlas Tube Canada ULC (Atlas), Bolton Steel Tube Co., Ltd. (Bolton), DFI Corporation (DFI), Evraz Inc. NA Canada (Evraz), Quali-T-Tube Inc. (Quali-T), Tenaris Canada (Tenaris) and Welded Tube of Canada (Welded Tube).<sup>4</sup> Contact information for these manufacturers is as follows:

<b>Company Name</b>	<b>Address</b>
Atlas	200 Clark Street Harrow, Ontario N0R 1G0
Bolton	455A Piercey Road Bolton, Ontario L7E 5B8
DFI	2404 -51 Avenue Edmonton, Alberta T6P 0E4
Evraz (Headquarters)	200 East Randolph Drive, Suite 7800 Chicago, IL 60601
Quali-T	22, boul. De l'Aéroport Bromont, Quebec J2L 1S6
Tenaris	400, 530 – 8th Avenue SW Calgary, Alberta T2P 3S8
Welded Tube	111 Rayette Road Concord, Ontario L4K 2E9

<sup>3</sup> <https://www.novasteel.ca/en/about-us>

<sup>4</sup> Exhibits 1 (PRO) & 2 (NC), Carbon Steel Welded Pipe Complaint – Pages 9 – 12; Attachment 4.

## **Trade Union**

[18] The complainant identified one trade union that represents persons employed in the production of CSWP in Canada:

United Steelworkers Canada  
393 Portneuf  
Longueuil, Quebec  
J4L 1E5

## **Importers**

[19] At the initiation of the investigation, the CBSA identified 26 potential importers of the subject goods based on CBSA import entry documentation, information submitted by the complainant and information provided by exporters and/or producers. Following receipt of the responses to Requests for Information (RFI), the CBSA identified an additional four importers. The CBSA sent an Importer RFI to each potential importer of the goods.<sup>5</sup> The CBSA received responses to the Importer RFI from the following seven companies:

IRIS Metalurji ve Muhendislik Pazarlama Sanayi ve Ticaret Limited Sirketi (IRIS), IMCO International Steel Trading Inc., Canada Wire & Metal Inc., State Pipe and Supply Inc. (State Pipe), SeAH Steel America Inc. (SeAH America), Intermetalink Corporation, and CCTF Corporation (CCTF).<sup>6</sup>

[20] CBSA officers conducted on-site verifications at the premises of State Pipe and SeAH America in California, United-States of America (USA).

## **Exporters**

[21] At the initiation of the investigation, the CBSA identified 60 potential exporters/producers of the subject goods from CBSA import documentation and from information submitted in the complaint. All potential exporters were sent the CBSA's Dumping RFI.<sup>7</sup>

[22] The CBSA included in its investigation a section 20 inquiry in order to determine whether the conditions set forth in paragraph 20(1)(a) of SIMA prevail in the carbon steel welded pipe sector in Vietnam. Exporters located in Vietnam were therefore also sent a Section 20 RFI.

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<sup>5</sup> Exhibit 9 (NC) – Importer RFI

<sup>6</sup> Exhibits 33 (PRO) & 34 (NC) – Response to Importer RFI (IRIS); Exhibits 39 (PRO) & 40 (NC) – Response to Importer RFI (IMCO); Exhibits 43 (PRO) & 44 (NC) – Response to Importer RFI (Canada Wire & Metal Inc.); Exhibits 45 (PRO) & 46 (NC) – Response to Importer RFI (State Pipe); Exhibits 47 (PRO) & 48 (NC) – Response to Importer RFI (SeAH America); Exhibits 101 (PRO) & 102 (NC) – Response to Importer RFI (Intermetalink); Exhibits 189 (PRO) & 190 (NC) – Response to Importer RFI (CCTF)

<sup>7</sup> Exhibit 10 (NC) – Dumping RFI

[23] Following receipt of the Dumping RFI responses, potential exporters/producers of subject goods in Turkey were sent supplemental requests for information (SRFIs) that requested information with respect to whether a particular market situation exists in the CSWP market in Turkey.

[24] The CBSA received responses to these SRFIs from three exporters/producers of subject goods in Turkey as well as one importer of subject goods located in Turkey.

[25] Thirteen companies provided responses to the CBSA's Dumping RFI.<sup>8</sup> Of these companies, eight were considered to be exporters of subject goods for SIMA purposes at the final determination, namely, International Industries Ltd. (IIL), HLD Clark Steel Pipe Co., Inc. (HLD Clark), Borusan Mannesmann Boru Sanayi ve Ticaret A.Ş. (Borusan), Cayirova Boru ve Sanayi Ticaret A.S (Cayirova), Erbosan, Hoa Phat Steel Pipe Co., Ltd. (Hoa Phat), SeAH Steel Vina Corporation (SeAH Vina) and State Pipe. See the *Dumping Investigation* section of this document for information on the results of the investigation pertaining to the responding exporters.

[26] Four companies in Vietnam provided a response to the CBSA's Section 20 RFI.<sup>9</sup>

[27] CBSA officers conducted on-site verifications at the premises of HLD Clark in the Philippines; Borusan, Cayirova, Erbosan, and IRIS in Turkey; and Hoa Phat and SeAH Vina in Vietnam. The CBSA performed a desk-audit verification, in Ottawa, of IIL.

## **Governments**

[28] For the purposes of this investigation, Government of Turkey (GOT), and Government of Vietnam (GOV) refer to all levels of government, i.e., federal, central, provincial/state, regional, municipal, city, township, village, local, legislative, administrative or judicial, singular, collective, elected or appointed. It also includes any person, agency, enterprise, or institution acting for, on behalf of, or under the authority of, or under the authority of any law passed by, the government of that country or that provincial, state or municipal or other local or regional government.

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<sup>8</sup> Exhibits 61 (PRO) & 62 (NC) – Response to Dumping RFI (SeAH Vina); Exhibits 63 (PRO) & 64 (NC) – Response to Dumping RFI (Erbosan); Exhibits 65 (PRO) & 66 (NC) – Response to Dumping RFI (State Pipe); Exhibits 67 (PRO) & 68 (NC) – Response to Dumping RFI (HLD Clark); Exhibits 73 (PRO) & 74 (NC) – Response to Dumping RFI (IIL); Exhibits 75 (PRO) & 76 (NC) – Response to Dumping RFI (SeAH America); Exhibits 83 (PRO) & 84 (NC) – Response to Dumping RFI (Hoa Phat Long An); Exhibits 85 (PRO) & 86 (NC) – Response to Dumping RFI (Borusan); Exhibits 87 (PRO) & 88 (NC) – Response to Dumping RFI (Cayirova); Exhibits 91 (PRO) & 92 (NC) – Response to Dumping RFI (Hoa Phat Da Nang); Exhibits 95 (PRO) & 96 (NC) – Response to Dumping RFI (Hoa Phat Binh Duong); Exhibits 97 (PRO) & 98 (NC) – Response to Dumping RFI (Hoa Phat Hung Yen); Exhibits 99 (PRO) & 100 (NC) – Response to Dumping RFI (IRIS)

<sup>9</sup> Exhibits 55 (PRO) & 56 (NC) – Response to Exporter Section 20 RFI (Hoa Phat Hung Yen); Exhibits 57 (PRO) & 58 (NC) – Response to Exporter Section 20 RFI (Hoa Phat Long An); Exhibits 59 (PRO) & 60 (NC) – Response to Exporter Section 20 RFI (Hoa Phat Binh Duong); Exhibits 69 (PRO) & 70 (NC) – Response to Exporter Section 20 RFI (SeAH Vina)

[29] At the initiation of the investigation, the CBSA sent a Government Section 20 RFI to the GOV.<sup>10</sup> The GOV provided a response to the RFI.<sup>11</sup>

[30] On August 31, 2018, the CBSA sent an RFI to the GOT to request information with respect to whether a particular market situation exists in the CSWP market in Turkey.<sup>12</sup> The GOT provided a response to the RFI.<sup>13</sup>

[31] CBSA officers conducted on-site verification meetings with the GOV.

[32] The government submissions are summarized under the *Dumping Investigation* section of this document.

## **PRODUCT INFORMATION**

### **Definition**

[33] For the purposes of this investigation, subject goods are defined as:

*Carbon steel welded pipe, commonly identified as standard pipe, in the nominal size range from ½ 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, originating in or exported from the Islamic Republic of Pakistan, the Republic of the Philippines, the Republic of Turkey and the Socialist Republic of Vietnam.*

### **Additional Product Information<sup>14</sup>**

[34] Steel pipe is generally classified into the following groups according to its end uses: CSWP (or standard pipe), pressure pipe, line pipe, structural pipe, mechanical pipe and oil country tubular goods (“OCTG”). The products within the scope of this definition are commonly referred to within the industry as “CSWP”.

[35] CSWP is generally produced to various industry standards such as American Society for Testing and Materials (ASTM) A53, ASTM A135, ASTM A252, ASTM A589, ASTM A795, ASTM F1083, Commercial Quality and American Water Works Association (AWWA) Standard C200-97. CSWP may also be produced to proprietary specifications rather than to an industry standard, as is often the case with fence tubing or to foreign specifications. For example, imported CSWP may be produced to British Standard (“BS”) 1387 or BS EN 10255.

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<sup>10</sup> Exhibit 13 (NC) – Government Section 20 RFI

<sup>11</sup> Exhibits 77 (PRO) & 78 (NC) – Response to Section 20 RFI (GOV)

<sup>12</sup> Exhibit 103 (NC) – Request for Information sent to the Government of Turkey

<sup>13</sup> Exhibit 146 (NC) – Response to Foreign Government RFI (Government of Turkey)

<sup>14</sup> Exhibits 1 (PRO) & 2 (NC), Carbon Steel Welded Pipe Complaint – Page 5.

## **Production Process<sup>15</sup>**

[36] Production begins with steel sheet that is cast into a more workable starting form. The steel edges are then forced together and sealed by a weld to produce a CSWP. The following provides more detailed information on the production process of CSWP.

[37] Coils of flat hot-rolled steel sheet are uncoiled and slit. That slit steel is then passed through a series of rollers that form the shape of the pipe.

[38] CSWP is produced in mills using either the electric resistance weld (“ERW”) process or the continuous weld (“CW”) process. Both processes begin with strips of steel sheet that have been slit from coils of flat hot-rolled steel sheet. The width of the slit strips is equal to the circumference of the pipe to be produced.

[39] In the ERW process, cold strips of sheet are passed through a series of rollers to form a tubular shape, and the edges of the strip are heated electrically and welded together under heat and pressure. This welding process produces a bead of “flash” which is generally trimmed from both sides of the weld.

[40] In the CW process, the strips of sheet are heated in a gas-fired furnace. The hot strips are then passed through a series of rollers to form a tubular shape. The edges are then pressed together under pressure to form a weld.

[41] CSWP can also be produced using a hot-stretch reduction process. Pipe shells are first produced using the ERW process. The shells are then heated and are passed through a stretch reduction mill. The stretch reduction process reduces the outside diameter of the pipe and can be used to change the thickness of the pipe walls.

[42] Nova produces CSWP using the ERW process.

[43] Once the basic pipe is formed using these processes, it is cut to length, straightened and tested. The ends of the pipe may be processed in a variety of ways, including cropping, facing and reaming, threading, coupling, rolling and/or cut grooving. Finishes may also be applied to the surface of the pipe such as lacquer (black) or zinc (galvanizing), depending on the intended application of the pipe. Other finishing operations include stencilling and bundling of the pipe.

[44] The size of a pipe is generally specified by two values: a nominal pipe size (“NPS”) and a schedule. For pipe in the range of diameters included in the subject goods, the NPS relates loosely to the inside diameter. The schedule relates to the wall thickness. For a given NPS, the wall thickness increases with larger schedules. For example, pipe in an NPS size of 1 inch (“NPS 1”) meeting the requirements of specification ASTM A53, Schedule 40, has an outside diameter of 1.315 inches (3.34 cm) and a wall thickness of 0.133 inches (0.338 cm). Pipe in an NPS size of 1 meeting the requirements of specification ASTM A53, Schedule 80, also has an outside diameter of 1.315 inches (3.34 cm), but has a wall thickness of 0.179 inch (0.455 cm). Common schedules for CSWP are 10, 40 and 80.

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<sup>15</sup> Exhibits 1 (PRO) & 2 (NC), Carbon Steel Welded Pipe Complaint – Pages 6-7.

## **Product Use<sup>16</sup>**

[45] CSWP applications include the low-pressure conveyance of water, steam, natural gas, air and other liquids and gases in plumbing and heating systems, air conditioning units, automatic sprinkler systems and other related uses. CSWP may also be used for light load-bearing and mechanical applications such as for fence tubing, and as an intermediate product for protection of electrical wiring, such as conduit shells.

## **Classification of Imports**

[46] Beginning January 1, 2017, under the revised customs tariff schedule, subject goods are normally classified under the following tariff classification numbers:

7306.30.00.10  
7306.30.00.20  
7306.30.00.30

[47] The listing of tariff classification numbers is for convenience of reference only. The tariff classification numbers may include non-subject goods. Also, subject goods may fall under tariff classification numbers that are not listed. Refer to the product definition for authoritative details regarding the subject goods.

## **LIKE GOODS AND CLASS OF GOODS**

[48] Subsection 2(1) of SIMA defines “like goods” in relation to any other goods as goods that are identical in all respects to the other goods, or in the absence of any identical goods, goods the uses and other characteristics of which closely resemble those of the other goods.

[49] In considering the issue of like goods, the CITT typically looks at a number of factors, including the physical characteristics of the goods, their market characteristics and whether the domestic goods fulfill the same customer needs as the subject goods.

[50] After considering questions of use, physical characteristics and all other relevant factors, the CBSA initiated its investigation under the premise that domestically produced CSWP are like goods to the subject goods. Further, the CBSA was of the opinion that subject goods and like goods constitute only one class of goods.

[51] In its preliminary injury inquiry for this investigation, the CITT reviewed the matter of like goods and classes of goods. On October 3, 2018, the CITT issued its preliminary inquiry Statement of Reasons for this investigation, indicating that “...the Tribunal finds that the domestically produced CSWP constitute like goods to the subject goods” and additionally, “...that domestically produced CSWP constitutes a single class of goods.”<sup>17</sup>

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<sup>16</sup> Exhibits 1 (PRO) & 2 (NC), Carbon Steel Welded Pipe Complaint – Page 7.

<sup>17</sup> Canadian International Trade Tribunal; Carbon Steel Welded Pipe Dumping Determination and Reasons (October 3, 2018), PI-2018-004, paragraphs 30 and 37.

## THE CANADIAN INDUSTRY

[52] The complainant, combined with the other supporting producers, account for all known domestic production of like goods.

## IMPORTS INTO CANADA

[53] During the final phase of the investigation, the CBSA refined the volume and value of imports based on information from CBSA import entry documentation and other information received from exporters and importers.

[54] The following table presents the results of the CBSA's analysis of imports of CSWP for purposes of the final determination:

**Imports of CSWP**  
(July 1, 2017 to June 30, 2018)

<b>Imports into Canada</b>	<b>% of Total Import Volume</b>
Pakistan	5.4%
The Philippines	12.9%
Turkey	15.7%
Vietnam	13.9%
All Other Countries	52.1%
<b>Total Imports</b>	<b>100.0%</b>

## INVESTIGATION PROCESS

[55] Regarding the dumping investigation, information was requested from all known and potential exporters, producers, vendors and importers, concerning shipments of CSWP exported from the named countries and/or imported into Canada during the POI.

[56] Regarding the section 20 inquiry, information was requested from all known and potential exporters and producers of CSWP in Vietnam and from the GOV. As the investigation already included countries to serve as potential "surrogates", no additional producers in countries not named in this investigation were requested to provide information for purposes of determining normal values under paragraph 20(1)(c) of SIMA. Furthermore, importers were also requested to provide information respecting re-sales in Canada of like goods imported from a third country in order to gather information to determine normal values under paragraph 20(1)(d) of SIMA.

[57] Regarding the particular market situation allegation, information was requested from the GOT. As well, requests for SRFIs sent to all potential exporters/producers of subject goods in Turkey included questions related to particular market situation.

[58] The governments and the exporters/producers were notified that failure to submit all required information and documentation, including non-confidential versions, failure to comply with all instructions contained in the RFI, failure to permit verification of any information or failure to provide documentation requested during the verification visits may result in the margin of dumping and the assessment of anti-dumping duty on subject goods being based on facts available to the CBSA. Further, they were notified that a determination on the basis of facts available could be less favorable to them than if complete, verifiable information was made available.<sup>18</sup>

[59] Several parties requested an extension to respond to their respective RFIs. The CBSA considered each request but did not grant extensions as the reasons identified in the requests did not constitute unforeseen circumstances or unusual burdens that would justify granting an extension of time. Where an extension request was denied, the CBSA informed the parties that it could not guarantee that submissions received after the RFI response deadline would be taken into consideration for purposes of the preliminary phase of the investigation.

[60] After reviewing the RFI responses, SRFIs were sent to several responding parties to clarify information provided in the responses and request any additional information considered necessary for the investigation, including the section 20 inquiry and particular market situation.

[61] On-site importer verifications were conducted at the premises of two importers in the USA. CBSA officers also conducted on-site verifications at the premises of one exporter in the Philippines, three exporters and one importer in Turkey, and two exporters in Vietnam. An on-site verification was also conducted with the GOV in Vietnam. A desk audit was conducted for one exporter in Pakistan.

[62] Details pertaining to the information submitted by the exporters in response to the Dumping RFI as well as the results of the CBSA's dumping investigation, including the section 20 inquiry and Particular Market Situation, are provided in the *Dumping Investigation* section of this document.

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<sup>18</sup> Exhibits 10 (NC), 11 (NC), 13 (NC), 20 (NC), 21 (NC) – Requests for Information and initiation letters.

[63] Under Article 15 of the World Trade Organization (WTO) Anti-dumping Agreement, developed countries are to give regard to the special situation of developing country members when considering the application of anti-dumping measures under the Agreement. Possible constructive remedies provided for under the Agreement are to be explored before applying anti-dumping duty where they would affect the essential interests of developing country members. As Pakistan, the Philippines and Vietnam are listed in the least developed countries, other low income countries or lower middle income countries or territories section on the Development Assistance Committee List of Official Development Assistance Recipients, the President recognizes these countries are developing countries for purposes of actions taken pursuant to SIMA.<sup>19</sup>

[64] Accordingly, the obligation under Article 15 of the WTO Anti-dumping Agreement was met by providing the opportunity for exporters to submit price undertakings. In this particular investigation, the CBSA did not receive any undertaking proposals from exporters in Pakistan, the Philippines or Vietnam.

[65] As part of the final phase of the investigation, case arguments were received in the form of additional submissions on the administrative record and/or in case briefs from counsel representing the following parties: the complainant, Borusan, Çayırova, HLD Clark, Hoa Phat, IIL, IRIS, SeAH Vina, State Pipe and SeAH America, as well as from the Government of Pakistan. The CBSA received reply submissions on behalf of the complainant, Borusan, Çayırova, Erbosan, HLD Clark, Hoa Phat, IIL, IRIS, SeAH Vina, State Pipe and SeAH America. Details of the representations are provided in **Appendix 2**.

## **DUMPING INVESTIGATION**

### **NORMAL VALUE**

[66] Normal values are generally determined based on the domestic selling prices of like goods in the country of export, in accordance with section 15 of SIMA, or on the aggregate of the cost of production of the goods, a reasonable amount for administrative, selling and all other costs, plus a reasonable amount for profits, in accordance with paragraph 19(b) of SIMA.

[67] If, in the opinion of the President, a particular market situation exists such that the sale of like goods in the country of export do not permit a proper comparison with the sale of the goods to the importer in Canada, as alleged in the case of Turkey, the sale of such goods, in accordance with paragraph 16(2)(c) of SIMA, will not be taken into account in determining the normal value under section 15. A particular market situation can be found to exist in respect of any goods of a particular exporter or of a particular country.

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<sup>19</sup> [http://www.oecd.org/dac/financing-sustainable-development/development-finance-standards/DAC\\_List\\_ODA\\_Recipients2018to2020\\_flows\\_En.pdf](http://www.oecd.org/dac/financing-sustainable-development/development-finance-standards/DAC_List_ODA_Recipients2018to2020_flows_En.pdf)

[68] In the case of a prescribed country such as Vietnam, if, in the opinion of the CBSA, the government of that country substantially determines domestic prices and there is sufficient reason to believe that the domestic prices are not substantially the same as they would be in a competitive market, the normal values are generally determined on the basis of section 20 of SIMA using either the selling prices or the full cost and profits of like goods in a “surrogate” country, or using re-sales in Canada of goods imported from a “surrogate” country.

[69] Where, in the opinion of the CBSA, sufficient information has not been furnished or is not available, normal values are determined pursuant to a ministerial specification in accordance with subsection 29(1) of SIMA.

#### **EXPORT PRICE**

[70] The export price of goods sold to importers in Canada is generally determined in accordance with section 24 of SIMA based on the lesser of the adjusted exporter’s sale price for the goods or the adjusted importer’s purchase price. These prices are adjusted where necessary by deducting the costs, charges, expenses, duties and taxes resulting from the exportation of the goods as provided for in subparagraphs 24(a)(i) to 24(a)(iii) of SIMA.

[71] Where there are sales between associated persons or a compensatory arrangement exists, the export price may be determined based on the importer’s resale price of the imported goods in Canada to non-associated purchasers, less deductions for all costs incurred in preparing, shipping and exporting the goods to Canada that are additional to those incurred on the sales of like goods for use in the country of export, all costs that are incurred in reselling the goods (including duties and taxes) or associated with the assembly of the goods in Canada, and an amount representative of the average industry profit in Canada, pursuant to paragraphs 25(1)(c) and 25(1)(d) of SIMA. In any cases not provided for under paragraphs 25(1)(c) and 25(1)(d) of SIMA, the export price is determined in such a manner as the Minister specifies, pursuant to paragraph 25(1)(e).

[72] Where, in the opinion of the CBSA, sufficient information has not been furnished or is not available, export prices are determined pursuant to a ministerial specification under subsection 29(1) of SIMA.

#### **MARGIN OF DUMPING**

[73] The margin of dumping by exporter is equal to the amount by which the total normal value exceeds the total export price of the goods, expressed as a percentage of the total export price. All subject goods shipped to Canada during the POI are included in the margins of dumping of the goods. Where the total normal value of the goods does not exceed the total export price of the goods, the margin of dumping is zero.

## **RESULTS OF THE DUMPING INVESTIGATION**

### **Pakistan**

#### **International Industries Limited (IIL)**

[74] IIL is a manufacturer and exporter of subject goods located in Karachi, Pakistan and is a publicly traded company that produces a variety of steel pipe. IIL exported subject goods to Canada during the investigation.

[75] IIL provided a response to the CBSA's Dumping RFI. The CBSA used information from that response to estimate normal values and export prices for IIL at the preliminary determination in the investigation.

[76] During the final phase of the investigation, the CBSA received additional information from IIL in response to four SRFIs, including revised cost of production information. The cost of production information provided by IIL did not meet the requirements of the CBSA for the purposes of determining the cost of production of subject goods exported to Canada by IIL or of like goods sold by IIL in its domestic market. As a result, the CBSA considers the information provided by IIL to be insufficient and did not use information provided by IIL to determine normal values and export prices.

[77] Accordingly, the CBSA determined normal values and export prices for the subject goods exported to Canada by IIL in accordance with subsection 29(1) of SIMA, based on the methodology described below for "All Other Exporters".

[78] For purposes of the final determination, the total normal value compared to the total export price results in a margin of dumping of 66.8% for IIL, expressed as a percentage of the export price.

### **The Philippines**

#### **HLD Clark Steel Pipe Co., Inc. (HLD Clark)**

[79] HLD Clark is a manufacturer and exporter of subject goods located in the Philippines. HLD Clark was established in 2009 and is privately held. HLD Clark has one production facility in the Philippines, located in Clark Field. All subject goods shipped to Canada during the POI were produced at this facility. The company headquarters is also located in Clark Field.

[80] HLD Clark provided substantially complete responses to the CBSA's Dumping RFI<sup>20</sup> and SRFI<sup>21</sup>, and an on-site verification of HLD Clark was conducted in November 2018<sup>22</sup>. The company did not have any domestic sales of CSWP during the PAP. As such, it was not possible to determine normal values pursuant to section 15 of SIMA, using domestic sales of like goods. Furthermore, no other producers/exporters of subject goods in the Philippines provided a response to the CBSA's Dumping RFI. As such, normal values could not be determined pursuant to paragraph 19(b) of SIMA because a reasonable amount for profits could not be determined under paragraph 11(1)(b) of the *Special Import Measures Regulations* (SIMR).

[81] Normal values were determined pursuant to subsection 29(1) of SIMA, based on the methodology of paragraph 19(b) of SIMA. The cost of production of the goods and the amount for administrative, selling and all other costs were calculated using HLD Clark's verified information.

[82] The amount for profits was determined based on domestic sales of CSWP by producers located in Turkey and Vietnam, within the same general category as the subject goods sold to Canada, during the PAP.

[83] For subject goods exported to Canada by HLD Clark during the POI, export prices were determined pursuant to section 24 of SIMA, based on the lesser of the exporter's selling price and the importer's purchase price, adjusted by deducting the costs, charges and expenses incurred in preparing the goods for shipment to Canada and resulting from the exportation and shipment of the goods.

[84] For purposes of the final determination, the total normal value compared to the total export price results in a margin of dumping of 18.1% for HLD Clark, expressed as a percentage of the export price.

## **Turkey**

### **Particular Market Situation**

[85] The amendments to SIMA and the SIMR that came into force on April 26, 2018, included provisions to address particular market situations, which requires the CBSA to disregard certain sales when determining normal values in a dumping investigation.

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<sup>20</sup> Exhibits 67 (PRO) and 68 (NC) – Response to Dumping RFI – HLD Clark

<sup>21</sup> Exhibits 147 (PRO) and 148 (NC) – Response to SRFI#1 – HLD Clark

<sup>22</sup> Exhibits 201 (PRO) and 202 (NC) - Verification Exhibits – HLD Clark

[86] The complaint contained allegations that a particular market situation exists in the CSWP market in Turkey and that domestic sales in Turkey do not permit a proper comparison with the sales to the importers in Canada. Specifically, the complainant argued that Turkish producers are unable to price CSWP above their production costs and as such, normal values should not be estimated in accordance with section 15 of SIMA. Further to this, the complainant alleged that the difference in the pricing of hot-rolled coil (HRC) and CSWP in Turkey is not sufficient to cover the cost of converting HRC to CSWP and that this price difference constitutes a particular market situation in Turkey, as described in paragraph 16(2)(c) of SIMA. The complainant further alleges that the depreciation of the Turkish Lira by the Government of Turkey (GOT) results in price distortions in the domestic CSWP market. The complainant suggested that a full investigation would determine whether the depreciation of Turkish Lira has had a significant impact on the Turkish producers' production costs and selling prices.<sup>23</sup>

[87] Subsequent to the initiation of the investigation, the complainant made additional representations concerning the existence of a particular market situation in the CSWP market in Turkey. These representations reiterated some of the points included in the complaint and also introduced new allegations such as the existence of trade barriers in other jurisdictions and support programs offered by the GOT, and argued that these factors have a significant impact on the CSWP market in Turkey.<sup>24</sup>

[88] The CBSA also received representations from Erbosan, an exporter of subject goods in Turkey. Erbosan submitted that no particular market situation exists in the CSWP market in Turkey and provided arguments and information in support of this claim.<sup>25</sup>

[89] Subsequent to the close of the record, the CBSA received case briefs and reply submissions from the complainant<sup>26</sup>, as well as from cooperative exporters in Turkey<sup>27</sup>, concerning the allegations that a particular market situation exists in the CSWP market in Turkey.

[90] In general, the complainant argued that a particular market situation does exist and noted concerns regarding the cost of production information provided by exporters in Turkey. In addition, the complainant again noted issues related to the depreciation of the Turkish Lira, support programs offered by the GOT, as well as the existence of trade barriers in other jurisdictions, and argued that these factors have a significant impact on the CSWP market in Turkey.

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<sup>23</sup> Exhibits 1 (PRO), 2 (NC) - Complaint Submitted by Novamerican Steel Inc. on behalf of Nova Steel Inc. and Nova Tube Inc.

<sup>24</sup> Exhibits 29 (PRO), 30 (NC) - Brief memorandum discussing the Particular Market Situation in Turkey - Nova Tube Inc. / Nova Steel Inc., Exhibits 49 (PRO), 50 (NC) - Brief addendum to the memorandum discussing the Particular Market Situation in Turkey - Nova Tube Inc. / Nova Steel Inc.

<sup>25</sup> Exhibit 71 (PRO), 72 (NC) - Submission in response to Particular Market Situation - Erbosan Erciyas Boru Sanayli ve Ticaret A.S

<sup>26</sup> Exhibit 268 (PRO), 269 (NC) - Case brief filed on behalf of Nova Tube Inc. / Nova Steel Inc., Exhibit 276 (PRO), 277 (NC) - Reply Submissions from Nova Tube Inc., and Nova Steel Inc

<sup>27</sup> Exhibits 264, 268, 270, 276, 285 (PRO), 265, 269, 271, 272, 277, 278, 286 (NC)

[91] The exporters from Turkey argued that no particular market situation exists and that the CSWP market in Turkey operates under normal market conditions. These exporters provided arguments and information in support of this claim.

*Responses to the CBSA's Requests for Information and Verification*

[92] The CBSA sent SRFIs to all exporters/producers of subject goods in Turkey that provided a response to the CBSA's Dumping RFI. These SRFIs included questions intended to gather additional information pertaining to the involvement of the GOT in the CSWP market in Turkey, as well as other issues such as the purchase of raw materials from state owned enterprises (SOE). Responses to the SRFI were received from three producers/exporters and one importer of subject goods located in Turkey.<sup>28</sup>

[93] In addition, the CBSA also sent an RFI to the GOT to determine any possible impact that the GOT may have on the production and/or sale of CSWP in that country. The GOT provided a response to the RFI.<sup>29</sup>

[94] During the final stage of the investigation the CBSA conducted on-site verifications of all three Turkish exporters/producers of CSWP that responded to CBSA's Dumping RFI. As part of this process the CBSA confirmed the veracity of the costing, sales, and other financial information provided by these exporters. In the opinion of the CBSA this information was found to reflect the costs of purchasing raw materials and converting these materials into CSWP. Further, as discussed in the exporter specific section of this document, the CBSA was able to determine an amount for profits pursuant to the SIMR for each of the responding exporters based on their own information.

*Applicability of Paragraph 16(2)(c)*

[95] In determining the normal value of any goods under section 15 of SIMA, paragraph 16(2)(c) of SIMA states that there shall not be taken into account any sale of like goods for use in the country of export if, in the opinion of the President, a particular market situation exists which does not permit a proper comparison with the sale of the goods to the importer in Canada. A particular market situation can be found to exist in respect of any goods of a particular exporter or of a particular country.

[96] In determining whether paragraph 16(2)(c) of SIMA is applicable, the CBSA will consider whether there are any circumstances in the market affecting the sales of like goods for use in the country of export, such that a proper comparison is not possible.

[97] The CBSA has identified a number of circumstances that may indicate the presence of a particular market situation such that domestic sales of like goods in the country of export do not permit a proper comparison.

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<sup>28</sup> Exhibits 109, 111, 114 (PRO), 110, 112, 113, 115 (NC)

<sup>29</sup> Exhibit 146 (NC) - Response to Foreign Government RFI - Government of Turkey

*Government regulations which have an effect on domestic selling prices such as price floors, price ceilings, production quotas, import and export controls.*

[98] The complainant has pointed to specific GOT economic plans such as the 10<sup>th</sup> Development Plan (2014-2018) and the Input Supply Strategy and Action Plan (2013-2015) and argued that these documents indicate the GOT's intention to intervene in the steel industry. The complainant argued that this alleged intervention has contributed to the conditions of a particular market situation in Turkey.<sup>30</sup>

[99] The Government RFI sent to the GOT on August 31, 2018, contained questions regarding policies and regulations issued by the GOT that may impact the CSWP market in Turkey. The CBSA also requested information from exporters in Turkey concerning certain policies and regulations issued by the GOT.

[100] In its response to the CBSA's RFI the GOT stated:

There has been no laws, decrees, promulgation, regulations, policies, decisions, directives, measures, formal plans etc. put into effect during the POI that specifically targets hot-rolled steel or CSWP industries.<sup>31</sup>

[101] The CBSA has examined the information provided by the complainant, the GOT, as well as the information provided by the responding exporters, and finds that there is insufficient evidence to establish the presence of government policies or regulations affecting the domestic selling prices such that a proper comparison is not possible.

*Taxation policies that distort domestic selling prices.*

[102] Certain allegations made by the complainant may be considered to relate to both taxation policies and government support programs. However, the CBSA does not find that the complainant made any allegations which are singularly categorized as taxation policies that distort domestic selling prices. As such, where appropriate, the CBSA examined allegations of these taxation policies in the context of government support programs.

[103] The CBSA finds that information on the administrative record does not indicate the presence of taxation policies in Turkey which distort domestic selling prices of CSWP such that a proper comparison is not possible.

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<sup>30</sup> Exhibit 29 (PRO), 30 (NC) - Brief memorandum discussing the Particular Market Situation in Turkey - Nova Tube Inc. / Nova Steel Inc.

<sup>31</sup> Exhibit 146 (NC) - Response to Foreign Government RFI - Government of Turkey

*Government support programs (financial or otherwise) that distort domestic selling prices.*

[104] The complainant made allegations with respect to government support programs provided by the GOT that distort domestic selling prices of CSWP in Turkey. In support of its allegations, the complainant provided information regarding certain support programs allegedly offered by the GOT.<sup>32</sup>

[105] In its response to the CBSA Government RFI the GOT stated that it “does not offer any program that include a financial contribution or any kind of income or price support that are specifically available to CSWP producers or hot-rolled steel producers in Turkey.”<sup>33</sup> In addition, none of the exporters/producers that responded to the CBSA’s dumping RFI indicated that the domestic CSWP market was impacted by government support programs.

[106] As the CBSA is not conducting an investigation respecting allegations of subsidizing of CSWP from Turkey at this time, the analysis of government support programs was limited to information related to the potentially distortive impact of these programs on the domestic prices of CSWP in Turkey.

[107] The CBSA has examined the information on the administrative record and finds that there is insufficient evidence to demonstrate the existence of government support programs in Turkey that distort domestic selling prices such that a proper comparison is not possible.

*The presence and activities of state-owned or state-controlled enterprises in the domestic market as suppliers or purchasers of the like goods (also including other state-owned or state-controlled enterprises such as financial institutions).*

[108] No allegations have been made concerning the presence or activities of state-owned or state-controlled enterprises in the domestic market as suppliers or purchasers of the like goods.

[109] In its response to the CBSA’s Government RFI, the GOT listed all known producers of CSWP in Turkey and noted “There is no state ownership in any of the companies listed above.”<sup>34</sup>

[110] The CBSA has not found any other information which would suggest that the CSWP in Turkey is impacted by the presence and activities of state-owned or state-controlled enterprises in the domestic market as suppliers or purchasers of the like goods.

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<sup>32</sup> Exhibit 268 (PRO), 269 (NC) - Case brief filed on behalf of Nova Tube Inc. / Nova Steel Inc.

<sup>33</sup> Exhibit 146 (NC) - Response to Foreign Government RFI - Government of Turkey

<sup>34</sup> Exhibit 146 (NC) - Response to Foreign Government RFI - Government of Turkey

*The acquisition of production inputs or processing services that do not reflect market-based costs because they are acquired from suppliers which are state-owned or state-controlled or that are affected by government influence or control.*

[111] The complainant made allegations that prices of CSWP in Turkey have been distorted by the GOT's direct involvement in the sale of HRC in Turkey. Specifically, the complainant has identified two main producers of HRC, Ereğli Demir Çelik Fabrikalari T.A.Ş. (Erdemir), and Isdemir Demir Çelik FB A.Ş. (Isdemir), which they allege are state-owned or state-controlled enterprises.<sup>35</sup>

[112] The complainant notes that Erdemir, the parent company of Isdemir, is partially owned by the Turkish military pension fund, Ordu Yardımlaşma Kurumu (OYAK), through a wholly-owned holding company, Ataer Holding A.S. Further, the complainant noted that the U.S Department of Commerce (DOC) has previously found that the GOT exercises meaningful control over Erdemir and Isdemir through OYAK.<sup>36</sup>

[113] In its response to the CBSA Government RFI, the GOT indicated that there were no state-owned or state-controlled producers of HRC or CSWP in Turkey.<sup>37</sup> In addition, all of the exporters/producers in Turkey who responded to the CBSA's Dumping RFI identified Erdemir and Isdemir as not being state-owned or state-controlled enterprises.

[114] The CBSA has previously examined the involvement of the GOT in the operations of Erdemir and Isdemir in the 2015 Oil Country Tubular Goods investigation (*OCTG2*) and found that "the evidence does not disclose that OYAK is exercising any government function or directing Erdemir to operate in any manner inconsistent with normal commercial operations."<sup>38</sup>

[115] On December 18, 2018, the World Trade Organization released *DS523 Report to the Panel - United States – Countervailing Measures on Certain Pipe and Tube Products from Turkey*. Among other issues, this report addressed the U.S DOC's determination with respect to GOT control of Erdemir and Isdemir. The report noted:

7.48. Based on our review above, we therefore find that the USDOC failed to establish based on evidence on the record that OYAK is under the meaningful control of the GOT, or that OYAK is part of the GOT in either the broad sense or the narrow sense. We are therefore not persuaded that OYAK's control over Erdemir and Isdemir justifies attributing the actions of those entities to the GOT.<sup>39</sup>

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<sup>35</sup> Exhibits 29 (PRO), 30 (NC) - Brief memorandum discussing the Particular Market Situation in Turkey - Nova Tube Inc. / Nova Steel Inc., Exhibits 49 (PRO), 50 (NC) - Brief addendum to the memorandum discussing the Particular Market Situation in Turkey - Nova Tube Inc. / Nova Steel Inc.

<sup>36</sup> Exhibits 29 (PRO), 30 (NC) - Brief memorandum discussing the Particular Market Situation in Turkey - Nova Tube Inc. / Nova Steel Inc., Exhibits 49 (PRO), 50 (NC) - Brief addendum to the memorandum discussing the Particular Market Situation in Turkey - Nova Tube Inc. / Nova Steel Inc.

<sup>37</sup> Exhibit 146 (NC) - Response to Foreign Government RFI - Government of Turkey

<sup>38</sup> Certain Oil Country Tubular Goods, Preliminary Determination Statement of Reasons.

<sup>39</sup> Exhibit 291 (PRO) - CSWP3 IN FD Particular Market Situation Memo – Attachment 1

[116] The CBSA conducted an analysis of HRC prices in Turkey based on the complainant's allegation that Erdemir and Isdemir were state-owned or state-controlled enterprises. The CBSA compared the monthly average per metric tonne purchase price of HRC from the alleged state-owned enterprises, Erdemir and Isdemir, to the same information for HRC producers not alleged to be state-owned enterprises. The analysis was conducted for the purchases of HRC reported by certain responding exporters in Turkey.<sup>40</sup> Based on this analysis, the CBSA notes that, on average, the monthly average prices of HRC purchased from companies not alleged to be SOE's were lower than the monthly average prices of HRC purchased from the alleged SOE's. Further, this analysis also demonstrates that the price of imported HRC was, on average, lower than the price of domestically produced HRC.

[117] Based on the CBSA's analysis of the information on the administrative record, the CBSA does not find that there is sufficient evidence to determine that Erdemir or Isdemir are state-owned or state-controlled enterprises. Further, based on the HRC price information on the administrative record, there is no indication that Turkish CSWP producers are benefitting from production inputs or processing services that do not reflect market-based costs

*Any other circumstances in which normal market conditions or patterns of supply and demand do not prevail and have an impact on domestic selling prices or terms and conditions of sale.*

[118] As discussed above, the complainant alleged that changes in the value of the Turkish Lira have led to distortions in the price of CSWP in Turkey. The complainant argued that the Turkish Lira has been the subject of extreme volatility due to government interference, and therefore, the CBSA may consider the impact of changes in the value of a currency as a relevant factor that may indicate the presence of a particular market situation. As such, the CBSA has examined the relationship between the changes in the value of the Turkish Lira, the costs of production for producers in Turkey, and domestic selling prices of CSWP in Turkey.

[119] HRC is the main raw material used in the production of CSWP. Based on information on the administrative record, HRC accounts for a substantial portion of the overall cost of producing CSWP. As such, the CBSA finds that examining the costs associated with all HRC purchases would be a reasonable approach to assess changes in the cost of producing CSWP during the POI. As such, the CBSA has compiled the average monthly per metric tonne cost of HRC for certain Turkish producers during the POI. These findings demonstrate a consistent trend of increasing HRC unit costs during the POI.<sup>41</sup>

[120] The CBSA has also examined changes in the domestic selling prices of CSWP in Turkey during the POI. The CBSA reviewed the average monthly domestic selling prices of CSWP in Turkey as reported by all of the responding exporters/producers. These findings demonstrate a consistent trend of increasing domestic prices of CSWP in Turkey during the POI.<sup>42</sup>

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<sup>40</sup> Exhibit 291 (PRO) - CSWP3 IN FD Particular Market Situation Memo – Attachment 2

<sup>41</sup> Exhibit 291 (PRO) - CSWP3 IN FD Particular Market Situation Memo – Attachment 3

<sup>42</sup> Exhibit 291 (PRO) - CSWP3 IN FD Particular Market Situation Memo – Attachment 4

[121] As discussed above, during the POI, the CBSA has observed changes in the costs of production for producers in Turkey, and in the domestic selling prices of CSWP in Turkey. Specifically, the CBSA has observed increases in the monthly average purchase prices of HRC by Turkish producers, as well as increases in the monthly average domestic selling prices of CSWP in Turkey. These changes coincide with the devaluation of the Turkish Lira relative to the U.S Dollar.<sup>43</sup>

[122] The CBSA finds that the devaluation of the Turkish Lira may be reasonably linked to changes in the costs of production and to the domestic selling prices of CSWP in Turkey. The CBSA also finds that these changes may reasonably represent a normal market reaction associated with the devaluation of the domestic currency. As such, the CBSA does not find that changes in the value of the Turkish Lira have distorted domestic prices of CSWP in Turkey such that a proper comparison is not possible.

*CBSA Conclusion Regarding the Applicability of Paragraph 16(2)(c) of SIMA*

[123] Based on the information on the record, the CBSA has not formed the opinion that the conditions of a particular market situation, as described in paragraph 16(2)(c) of SIMA, existed in the CSWP market in Turkey during the period of investigation.

*Borusan Mannesmann Boru Sanayi ve Ticaret A.Ş. (Borusan)*

[124] Borusan was established in 1958 and is a publicly traded company. Borusan is a manufacturer of various steel pipe products, with production facilities located in Turkey, Italy and the United States. All of the subject goods shipped to Canada were produced at the Gemlik mill facility, located in Gemlik, Turkey. The company headquarters is located in Istanbul.

[125] Borusan provided substantially complete responses to the CBSA's Dumping RFI<sup>44</sup> and SRFIs<sup>45</sup>, and an on-site verification of Borusan was conducted in November 2018<sup>46</sup>. Borusan provided a database of domestic sales of CSWP; however, there were insufficient sales of goods that were identical or similar to the subject goods exported to Canada. As such, it was not possible to determine normal values pursuant to section 15 of SIMA, using domestic sales of like goods.

[126] Normal values were determined pursuant to paragraph 19(b) of SIMA, as the aggregate of the cost of production of the goods, a reasonable amount for administrative, selling and all other costs, and a reasonable amount for profits. The cost of production was determined in accordance with paragraph 11(1)(a) of the SIMR, based on Borusan's verified cost data associated with the subject goods shipped to Canada. The amount for profits was determined in accordance with subparagraph 11(1)(b)(ii) of the SIMR, based on Borusan's sales of CSWP in their domestic market, during the PAP, of the same general category as the subject goods sold to Canada.

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<sup>43</sup> Exhibit 291 (PRO) - CSWP3 IN FD Particular Market Situation Memo – Attachment 5

<sup>44</sup> Exhibits 85 (PRO) and 86 (NC) – Response to Dumping RFI – Borusan Mannesmann Boru Sanayi ve Ticaret A.Ş.

<sup>45</sup> Exhibits 111, 137, 220 (PRO) and 112, 138, 221 (NC) – Responses to SRFIs– Borusan Mannesmann Boru Sanayi ve Ticaret A.Ş.,

<sup>46</sup> Exhibits 224 (PRO) and 225 (NC) - Verification Exhibits – Borusan Mannesmann Boru Sanayi ve Ticaret A.Ş.

[127] For subject goods exported to Canada by Borusan during the POI, export prices were determined pursuant to section 24 of SIMA, based on the lesser of the exporter's selling price and the importer's purchase price, adjusted by deducting the costs, charges and expenses incurred in preparing the goods for shipment to Canada and resulting from the exportation and shipment of the goods.

[128] For purposes of the final determination, the total normal value compared to the total export price results in a margin of dumping of 3.3% for Borusan, expressed as a percentage of the export price.

#### Cayırova Boru ve Sanayi Ticaret A.S. (Çayırova)

[129] Çayırova is a manufacturer and exporter of tubular products located in Kocaeli, Turkey. Çayırova manufactures oil pipes, natural gas pipes, water pipes, boiler pipes, general purpose pipes and structural hollow. Çayırova's headquarters is located in Istanbul, Turkey. The company's only manufacturing plant in Turkey is located in Kocaeli. All goods shipped to Canada during the POI were manufactured in this location.

[130] During the POI, Çayırova exported subject goods to Canada with the assistance of an unrelated company, Iris. Based on information available at the time of the Preliminary Determination, the CBSA considered Iris to be the exporter of subject goods during the preliminary phase of the investigation. In the final phase of the investigation, the CBSA continued to analyze information provided by the parties and conducted on-site verifications at the premises of both Çayırova and Iris. After considering all information available on the administrative record, including the information gathered during the on-site verifications, the CBSA has determined that Çayırova was the exporter of subject goods to Canada, while Iris acted as the importer for SIMA purposes.

[131] Çayırova provided substantially complete responses to the CBSA's Dumping RFI<sup>47</sup> and an SRFI<sup>48</sup>, and an on-site verification of Çayırova was conducted in October 2018<sup>49</sup>. The company had domestic sales of CSWP during the PAP. However, there were insufficient sales of goods that were identical or similar to the subject goods exported to Canada. As such, it was not possible to determine normal values pursuant to section 15 of SIMA, using domestic sales of like goods.

[132] Normal values were determined pursuant to paragraph 19(b) of SIMA using the aggregate of the cost of production of the goods, a reasonable amount for administrative, selling and all other costs, and a reasonable amount for profits. The cost of production was determined in accordance with paragraph 11(1)(a) of the SIMR, based on Cayirova's verified cost information associated with the subject goods shipped to Canada.

[133] The amount for profits was determined in accordance with subparagraph 11(1)(b)(ii) of the SIMR, based on Çayırova's domestic sales of goods of the same general category as the subject goods sold to Canada, during the PAP.

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<sup>47</sup> Exhibits 87 (PRO) and 88 (NC) – Response to Dumping RFI – Cayirova

<sup>48</sup> Exhibits 109 (PRO) and 110 (NC) – Response to SRFI #1 – Cayirova

<sup>49</sup> Exhibits 222 (PRO) and 223 (NC) – Verification Exhibits – Cayirova

[134] For subject goods exported to Canada by Çayırova during the POI, export prices were determined pursuant to section 24 of SIMA, based on the lesser of the exporter's selling price and the importer's purchase price, adjusted by deducting the costs, charges and expenses incurred in preparing the goods for shipment to Canada and resulting from the exportation and shipment of the goods.

[135] For purposes of the final determination, the total normal value compared to the total export price results in a margin of dumping of 8.8% for Çayırova, expressed as a percentage of the export price.

Erbosan Erciyas Boru Sanayii ve Ticaret A.S. (Erbosan)

[136] Erbosan is a manufacturer and exporter of subject goods located in Turkey. Erbosan was established in 1974 as a joint stock company and has been publicly held on the Istanbul Stock Exchange since 1995.

[137] Erbosan is a manufacturer of various steel pipe, with two production facilities and one recycling plant in Kayseri, Turkey. One pipe production plant is located at Anbar Mahallesi, Kayseri and another plant is located in the free zone branch in Kayseri. The plant located in the free zone area produces cold rolled structural tubing (non-subject goods), exclusively. The recycling plant produces zinc oxide from the residue of steel production. All of the subject goods shipped to Canada were produced at the facility located at Anbar Mahallesi in Kayseri. The company headquarters is also located at their Anbar Mahallesi address.<sup>50</sup>

[138] Erbosan provided substantially complete responses to the CBSA's Dumping RFI<sup>51</sup> as well as several SRFIs<sup>52</sup>. An on-site verification of Erbosan was conducted in October 2018.<sup>53</sup> Erbosan provided a database of domestic sales of CSWP during the PAP. However, there were insufficient sales of goods that were identical or similar to the subject goods exported to Canada. As such, it was not possible to determine normal values pursuant to section 15 of SIMA, using domestic sales of like goods.

[139] Normal values were determined pursuant to paragraph 19(b) of SIMA, as the aggregate of the cost of production of the goods, a reasonable amount for administrative, selling and all other costs, and a reasonable amount for profits. The cost of production was determined in accordance with paragraph 11(1)(a) of the SIMR, based on Erbosan's verified cost data associated with the subject goods shipped to Canada. The amount for profits was determined in accordance with subparagraph 11(1)(b)(ii) of the SIMR, based on Erbosan's sales of CSWP in their domestic market, during the PAP, of the same general category as the subject goods sold to Canada.

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<sup>50</sup> Exhibits 63 (PRO) and 64 (NC) – Response to Dumping RFI – Erbosan.

<sup>51</sup> Exhibits 63 (PRO) and 64 (NC) – Response to Dumping RFI – Erbosan

<sup>52</sup> Exhibits 114 (PRO) and 115 (NC) – Response to SRFI#1 – Erbosan; Exhibits 144 (PRO) and 145 (NC) – Response to SRFI#2 – Erbosan and Exhibits 231 (PRO) and 232 (NC) – Response to SRFI#3 – Erbosan

<sup>53</sup> Exhibits 199 (PRO) and 200 (NC) – Verification Exhibits – Erbosan

[140] For subject goods exported to Canada by Erbosan during the POI, export prices were determined pursuant to section 24 of SIMA, based on the lesser of the exporter's selling price and the importer's purchase price, adjusted by deducting the costs, charges and expenses incurred in preparing the goods for shipment to Canada and resulting from the exportation and shipment of the goods.

[141] For purposes of the final determination, the total normal value compared to the total export price results in a margin of dumping of 0.6% for Erbosan, expressed as a percentage of the export price. As the margin of dumping determined for Erbosan is less than 2% of the export price, the margin of dumping is considered to be insignificant.

## **Vietnam**

### **Section 20 Inquiry**

[142] Section 20 is a provision of SIMA that may be applied to determine the normal value of goods in a dumping investigation where certain conditions prevail in the domestic market of the exporting country. Where goods are sold to an importer in Canada from a prescribed country where, in the opinion of the CBSA, domestic prices are substantially determined by the government of that country and there is sufficient reason to believe that they are not substantially the same as they would be in a competitive market, the normal value of the goods is to be determined in accordance with either paragraph 20(1)(c) or 20(1)(d) of SIMA, where possible. Section 17.1 of the SIMR states that Vietnam is a prescribed country.

[143] The provisions of section 20 are applied on a sector basis rather than on the country as a whole. The sector reviewed will normally only include the industry producing and exporting the goods under investigation.

[144] A section 20 inquiry refers to the process whereby the CBSA collects information from various sources in order to assess whether the conditions described under subsection 20(1)(a) of SIMA exist in the sector under investigation.

[145] The CBSA is required to examine whether the government of that country substantially determines domestic prices. The CBSA is also required to examine the price effect resulting from substantial government determination of domestic prices and whether there is sufficient information on the record for the CBSA to have reason to believe that the resulting domestic prices are not substantially the same as they would be in a competitive market.

[146] The complainant alleged that the conditions described in section 20 prevail in the carbon steel welded pipe sector, which includes CSWP, in Vietnam. That is, the complainant alleged that this industry sector in Vietnam does not operate under competitive market conditions and consequently, prices established in the Vietnamese domestic market for carbon steel welded pipe are not reliable for determining normal values.

[147] The complaint provided information to support these allegations concerning the carbon steel welded pipe sector. The complainant cited specific GOV policies such as the Steel Master Plan 2007-2015, the Steel Master Plan 2015-2025 and Industrial Development Strategy through 2025. The complaint included evidence of price stabilization and state-ownership in the steel industry and the carbon steel welded pipe sector.

[148] At the initiation of the investigation, the CBSA considered evidence supplied in the complaint and from its own research to be sufficient to initiate the section 20 inquiry. The purpose of the inquiry was to examine the extent of the GOV's involvement in pricing in the carbon steel welded pipe sector in Vietnam. Consequently, the CBSA sent Section 20 RFIs to producers and exporters of CSWP in Vietnam, as well as to the GOV, to obtain information on the extent to which the government is involved with the determination of domestic prices in the carbon steel welded pipe sector.

### Responses to the Section 20 Inquiry

#### *Exporter Responses*

[149] Two substantially complete responses to the Section 20 RFI were received from SeAH Vina<sup>54</sup> and Hoa Phat<sup>55</sup> during the preliminary phase of the investigation. Each of the three branches of Hoa Phat individually submitted a similar response to the Section 20 RFI. Most responses to the questions in the RFI are similar or in line with the GOV's response.

#### *Government of Vietnam Response*

[150] A substantially complete response to the Section 20 RFI was received from the GOV during the preliminary phase of the investigation.<sup>56</sup>

[151] In the submission, the GOV states that it has not issued or implemented any laws or regulations that exclusively address the steel industry or the sector producing carbon steel welded pipe. The GOV responded to each question in the Section 20 RFI and provided relevant government policies and documents with explanations and summaries.

### Analysis of Applicability of Section 20

[152] In examining whether domestic prices may be substantially determined by the GOV, the following were the main factors that the CBSA considered for the initiation of the section 20 inquiry and the section 20 opinion formed at the preliminary determination:

- GOV's macro-economic policies and directives;
- The GOV's ownership and control of steel enterprises;
- Price stabilization;
- Imports controls; and
- Subsidization of the steel industry

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<sup>54</sup> Exhibit 69 (PRO) and 70 (NC) – Response to Section 20 RFI – SeAH Steel Vina Corporation

<sup>55</sup> Exhibit 55, 57, 59 (PRO) and 56, 58, 60 (NC) – Response to Section 20 RFI – 3 branches of Hoa Phat Steel Pipe Ltd.

<sup>56</sup> Exhibit 77 (PRO) and 78 (NC) – Response to government Section 20 RFI – Government of Vietnam

[153] At the initiation and the preliminary determination, the CBSA did not have information indicating that the domestic prices in the carbon steel welded pipe sector are directly affected by the GOV. However, other facts on the record suggested that the GOV's macro-economic policies and actions have influenced the Vietnamese steel industry, that the GOV may also influence the steel industry through state-control of upstream enterprises, that various import and price controls imposed by the GOV on the steel industry may influence the supply price of certain input steel materials and that the GOV provides subsidies to the steel industry, which includes the carbon steel welded pipe sector. As a result, at the preliminary determination, the CBSA formed the opinion that the GOV substantially determined domestic prices of CSWP through these indirect mechanisms.

[154] On-site verifications of responses to the Section 20 RFI were conducted at the premises of SeAH Vina, Hoa Phat and with the GOV during the final phase of the investigation.

[155] The main facts collected during the onsite exporter verifications and the meeting with the GOV are summarized below.

- Hot-rolled coil, the primary input material to produce CSWP, accounts for approximately 90% of the total cost of production of CSWP. Exporters and the GOV have confirmed that in Vietnam, there is only one hot-rolled coil producer, Formosa Ha Tinh Steel Corporation (Formosa Vietnam), which is 100% owned by foreign companies, Formosa Plastics Group of The Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu (Chinese Taipei) and JFE of Japan.<sup>57</sup>
- Formosa Vietnam started to supply hot-rolled coils in the Vietnamese market in 2017. During on-site verifications, the CBSA was able to confirm that SeAH Vina and Hoa Phat only purchased a fraction of their total hot-rolled coil consumptions from Formosa Vietnam during the period of investigation. The remainder of the hot-rolled coils were imported from various foreign countries.
- An analysis of a comparison of hot-rolled coil purchase prices by the two Vietnamese CSWP producers with world average prices indicated that the purchase prices in Vietnam of both domestically produced and imported hot-rolled coils were in line with world average prices as reported by Steel BenchMarker. As such, the influence that the GOV's macro-economic policies and actions had over the steel industry was not considered to have a substantial impact on prices of hot-rolled coils, the major input to produce CSWP.

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<sup>57</sup> Exhibit 234 (NC), Vietnam production statistics

- Information regarding the GOV's direct involvement in the CSWP sector was explicitly documented in *Licenses for Automatic Import of Some Steel Products* (12/2015/TT-BCT), a circular issued by the Ministry of Industry and Trade on June 12, 2015, where enterprises were required to obtain licenses for importing CSWP.<sup>58</sup> However, this circular was annulled by circular 14/2017/TT-BCT dated 2017-08-28 and accordingly, this licensing requirement for importing CSWP, a main evidence indicating the GOV's measurements of import control identified in the preliminary determination, was removed by the GOV and licenses have not been required since September 2017.<sup>59</sup>
- Information on the record indicates that total market share of state-owned steel pipe producers in Vietnam accounted for less than 2% of the total steel pipe sold in the first half of 2018.<sup>60</sup> In addition, the state-owned enterprises do not produce hot-rolled coil, the major material input to produce CSWP.

[156] Given these facts, the evidence does not support a conclusion that the GOV substantially determines domestic prices in the carbon steel welded pipe sector in Vietnam.

#### Summary of the Results of the Section 20 Inquiry

[157] Based on the information on the record, the CBSA did not form the opinion that the GOV's involvement has substantially determined prices in the carbon steel welded pipe sector in Vietnam and therefore the CBSA has not formed the opinion that the conditions of section 20 prevailed in the carbon steel welded pipe sector in Vietnam during the POI.

#### Hoa Phat Steel Pipe Company (Hoa Phat)

[158] Hoa Phat is a privately held company located in HaNoi, Vietnam. Hoa Phat has a number of subsidiaries that produce steel pipes and other products, three of which produced and exported subject goods during the POI: Hung Yen Branch of Hoa Phat Steel Pipe Co., Ltd. (Hoa Phat Hung Yen), Hoa Phat Binh Duong Steel Pipe Co., Ltd. (Hoa Phat Binh Duong), and Hoa Phat Long An Steel Pipe Co., Ltd. (Hoa Phat Long An).

[159] Hoa Phat provided substantially complete responses to the CBSA's Dumping RFI<sup>61</sup> and Section 20 RFI and also responded to SRFIs<sup>62</sup>. On-site verifications were conducted in October 2018<sup>63</sup>.

<sup>58</sup> Attachment GOV-31, Exhibit 078 (NC), Response to government Section 20 RFI – Government of Vietnam

<sup>59</sup> Attachment GOV-3, Exhibit 078 (NC), Response to government Section 20 RFI – Government of Vietnam

<sup>60</sup> Exhibit 273 (NC) - Case Brief – Hoa Phat Steel Pipe Company

<sup>61</sup> Exhibits 83 (PRO) & 84 (NC), Response to Dumping RFI – Hoa Phat Long An Steel Pipe Company Limited; Exhibits 95 (PRO) & 96 (NC), Response to Dumping RFI – Binh Duong Hoa Phat Steel Pipe Company Limited; Exhibits 97 (PRO) & 98 (NC), Response to Dumping RFI – Hoa Phat Steel Pipe Company Limited – Hung yen Branch.

<sup>62</sup> Exhibits 159 (PRO) & 160 (NC), Response to SRFI #1 – Binh Duong Hoa Phat Steel Pipe Company Limited; Exhibits 161 (PRO) & 162 (NC), Response to SRFI #1 – Hoa Phat Long An Steel Pipe Company Limited; Exhibits 163 (PRO) & 164 (NC), Response to SRFI #1 – Hoa Phat Steel Pipe Company Limited – Hung yen Branch; Exhibits 255 (PRO) & 256 (NC), Response to SRFI #3 – Binh Duong Hoa Phat Steel Pipe Company Limited; Exhibits 253 (PRO) & 254 (NC), Response to SRFI #3 – Hoa Phat Long An Steel Pipe Company Limited; Exhibits 249 (PRO) & 250 (NC), Response to SRFI #3 – Hoa Phat Steel Pipe Company Limited – Hung yen Branch.

<sup>63</sup> Exhibits 206 (PRO) and 207 (NC) - Verification Exhibits – Hoa Phat Steel Pipe Co., Ltd

[160] As detailed under the heading, *Section 20 Inquiry*, the conditions of section 20 did not apply in the carbon steel welded pipe sector in Vietnam during the POI. Furthermore, there were insufficient sales of goods that were identical or similar to the subject goods exported to Canada. As such, it was not possible to determine normal values pursuant to section 15 of SIMA, using domestic sales of like goods. Therefore, normal values were determined pursuant to paragraph 19(b) of SIMA, as the aggregate of the cost of production of the goods, a reasonable amount for administrative, selling and all other costs, and a reasonable amount for profits for each plant of export. The cost of production of the goods and the amount for administrative, selling and all other costs were calculated using Hoa Phat's verified information of each plant of export associated with the subject goods shipped to Canada.

[161] The amount for profits for exports of subject goods from the Hoa Phat Hung Yen and Hoa Phat Binh Duong plants, were determined in accordance with subparagraph 11(1)(b)(ii) of the SIMR, based on each plants respective sales of CSWP in the domestic market, during the PAP, of the same general category as the subject goods sold to Canada. For exports of subject goods from the Hoa Phat Long An plant, a reasonable amount for profits was determined in accordance with subparagraph 11(1)(b)(iv) of the SIMR, based on the weighted average profit of domestic sales of goods of the same general category made by Hoa Phat Hung Yen and Hoa Phat Binh Duong.

[162] For subject goods exported to Canada by Hoa Phat during the POI, export prices were determined pursuant to section 24 of SIMA, based on the lesser of the exporter's selling price and the importer's purchase price, adjusted by deducting the costs, charges and expenses incurred in preparing the goods for shipment to Canada and resulting from the exportation and shipment of the goods.

[163] For the final determination, the total normal value compared to the total export price results in a margin of dumping of 4.9% for Hoa Phat, expressed as a percentage of the export price.

#### SeAH Steel Vina Corporation (SeAH Vina)

[164] SeAH Vina, is a manufacturer and exporter of various steel pipes and tubes, with a production facility in Dong Nai industrial zone, Vietnam. All subject goods shipped to Canada during the POI were produced at this facility. Two affiliated companies, SeAH America and State Pipe in the USA, were also involved in the sales of the subject goods to importers in Canada during the POI.

[165] SeAH Vina provided a substantially complete response to the CBSA's Dumping RFI<sup>64</sup> and Section 20 RFI<sup>65</sup>. Both SeAH America and State Pipe also provided substantially complete responses to Dumping RFI<sup>66</sup> and Importer RFI<sup>67</sup>. On-site verifications were conducted at the premises of the three companies in October and November 2018.

[166] As detailed under the heading, *Section 20 Inquiry*, the conditions of section 20 did not apply in the carbon steel welded pipe sector in Vietnam during the POI. Therefore, the normal value of the goods exported from SeAH Vina were determined in accordance with sections 15 and 19 of SIMA.

[167] In determining normal values under section 15 of SIMA, a profitability test was performed on domestic sales that meet the requirements of sections 15 and 16 of SIMA. Where there were sufficient domestic sales of like goods, normal values were calculated pursuant to section 15 of SIMA, using the domestic prices of CSWP in the Vietnamese market. Where there were insufficient domestic sales of like goods, or where there were no domestic sales of like goods, normal values were determined in accordance with section 19 of SIMA. For normal values determined pursuant to paragraph 19(b) of SIMA, normal values were calculated using the aggregate of the cost of production of the goods, a reasonable amount for administrative, selling and all other costs, and a reasonable amount for profits.

[168] The full cost of production was determined in accordance with paragraph 11(1)(a) of the SIMR, based on SeAH Vina's verified cost data associated with the subject goods shipped to Canada. The amount for profits was calculated in accordance with subparagraph 11(1)(b)(ii) of the SIMR, based on SeAH Vina's domestic sales of CSWP during the PAP, of the same general category as the subject goods sold to Canada.

[169] Due to the relationship between the exporter SeAH Vina and its importer SeAH America, a reliability test was performed to determine whether the section 24 export prices were reliable for SIMA purposes. This test was conducted by comparing the section 24 export prices with the section 25 export prices. The amount for profit used for the section 25 calculations was determined in accordance with paragraph 22(a) of the SIMR, based on the profit information relating to vendors that had profits on Canadian sales during the POI. The test revealed that the export prices calculated in accordance with section 24 of SIMA were reliable and, therefore, export prices for sales to SeAH America were determined pursuant to section 24 of SIMA.

[170] For the final determination, the total normal value compared to the total export price results in a margin of dumping of 3.0% for SeAH Vina, expressed as a percentage of the export price.

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<sup>64</sup> Exhibits 61 (PRO) & 62 (NC), Exporter Dumping RFI Response – SeAH Steel Vina Corporation.

<sup>65</sup> Exhibits 69 (PRO) & 62 (NC), Exporter Section 20 RFI Response – SeAH Steel Vina Corporation.

<sup>66</sup> Exhibits 65 (PRO) & 66 (NC), Exporter Dumping RFI Response – State Pipe & Supply Inc.; Exhibits 76 (PRO) & 77 (NC), Exporter Dumping RFI Response – SeAH Steel America Inc.

<sup>67</sup> Exhibits 45 (PRO) & 46 (NC), Importer RFI Responses – State Pipe & Supply Inc.; Exhibits 47 (PRO) & 48 (NC), Importer RFI Responses – SeAH Steel America Inc.

### State Pipe and Supply Inc. (State Pipe)

[171] State Pipe, located in California, United States, is a wholesale distributor of steel pipes and provides specialized cement-coating of pipes and lining services. State Pipe exported subject goods manufactured by SeAH Vina from the USA to Canada during the POI.

[172] In situations where goods are shipped indirectly to Canada from the country of origin through one or more other countries, other than goods that pass in transit through another country, subsection 30(2) of SIMA applies and stipulates that the normal value is to be the higher of the normal value in the country of export or in the country of origin.

[173] Similar to SeAH Vina, normal values of the goods exported from State Pipe were determined in accordance with sections 15 or 19 of SIMA. In determining normal values under section 15 of SIMA, a profitability test was performed on domestic sales that meet the requirements of sections 15 and 16 of SIMA. Since there were sufficient domestic sales of like goods, normal values were determined pursuant to section 15 of SIMA, using the domestic sales of CSWP in the US market.

[174] Given that State Pipe sold the subject goods from one of its US divisions to its Canadian division, a reliability test was performed to determine whether the section 24 export prices were reliable for SIMA purposes. This test was conducted by comparing the section 24 export prices determined on the basis of the State Pipe's selling price of the goods to Canada with the section 25 export prices determined on the basis of State Pipe Canadian division's resale price to unrelated purchasers. The amount for profit used for the section 25 calculations was determined in accordance with paragraph 22(a) of the SIMR, based on the profit information relating to vendors that had profits on Canadian sales during the POI. The test revealed that the export prices calculated in accordance with section 24 of SIMA were reliable and, therefore, export prices for sales to Canada were determined pursuant to section 24 of SIMA.

[175] For the final determination, the total normal value compared to the total export price results in a margin of dumping of 26.1% for State Pipe, expressed as a percentage of the export price.

### All Other Exporters

[176] For exporters of subject goods that did not provide a response to the Dumping RFI or did not furnish sufficient information, the normal values and export prices were determined under subsection 29(1) of SIMA pursuant to a ministerial specification, on the basis of facts available.

[177] In establishing the methodology for determining the normal values and export prices under the ministerial specification, the CBSA considered all of the information on the administrative record, including the complaint filed by the domestic industry, the CBSA's estimates at the initiation of the investigation, information submitted by exporters of CSWP originating in or exported from the named countries, and customs import documentation.

[178] The CBSA decided that the normal values and export prices determined for the cooperative exporters whose submissions were substantially complete and verified for the final determination, rather than the information provided in the complaint or estimated at initiation, would be used to establish the methodology for determining normal values for all other exporters in each respective country since it reflects the actual trading practices of exporters during the POI.

[179] As a result, based on the analysis of the facts available presented above, the normal values for all other exporters of subject goods in each respective subject country were determined based on the highest amount by which a normal value exceeded an export price on an individual transaction during the POI. For the Philippines, Turkey and Vietnam, the normal values for all other exporters in each of these countries was based on the amount determined for an exporter of that country, whose submission was verified and substantially complete for the final determination. As normal values could not be calculated using information from Pakistan, normal values for all exporters of subject goods from Pakistan have been determined based on the highest amount by which a normal value exceeded an export price on an individual transaction during the POI of all exporters in the Philippines, Turkey and Vietnam whose submissions were verified and substantially complete for the final determination. The CBSA considered that the information with respect of subject goods from the Philippines, Turkey and Vietnam each provide a reasonable basis to establish normal values of subject goods from Pakistan and has therefore selected the transaction with the highest amount by which a normal value exceeded an export price of the three countries. The transactions were examined to ensure that no anomalies were considered, such as very low volume and value, effects of seasonality or other business factors. No such anomalies were identified.

[180] This methodology limits the advantage that an exporter may gain from not providing the necessary information requested in a dumping investigation as compared to an exporter that did provide the necessary information.

[181] Export prices were based on the declared selling prices on import documentation of CSWP. The CBSA considered that the information submitted on the CBSA customs entry documentation was the best information on which to determine the export price of the goods for all other exporters as it reflects actual import data.

[182] Based on the above methodologies, the margin of dumping for all other exporters of subject goods originating in or exported from each subject country is listed in the table below.

<b>Country of origin or export</b>	<b>Margin of Dumping Rate for All Other Exporters*</b>
Pakistan	66.8%
The Philippines	66.8%
Turkey	45.8%
Vietnam	54.2%

\* Expressed as a percentage of export price

## SUMMARY OF RESULTS - DUMPING

[183] A summary of the margins of dumping by exporter, respecting all subject goods shipped to Canada during the POI, are as follows (also available in **Appendix 1**):

### Margins of Dumping by Exporter Period of Investigation (July 1, 2017 to June 30, 2018)

Country of origin or export	Margin of Dumping (as % of Export Price)
<b>Pakistan</b>	
All Exporters – Pakistan	66.8%
<b>The Philippines</b>	
HLD Clark Steel Pipe Co., Inc.	18.1%
All Other Exporters – The Philippines	66.8%
<b>Turkey</b>	
Borusan Mannesmann Boru Sanayi ve Ticaret A.S.	3.3%
Cayirova Boru ve Sanayi Ticaret A.S	8.8%
Erbosan Erciyas Boru Sanayii ve Ticaret A.S.	0.6%*
All Other Exporters – Turkey	45.8%
<b>Vietnam</b>	
Hoa Phat Steel Pipe Company Limited	4.9%
SeAH Steel Vina Corporation	3.0%
State Pipe and Supply Inc.	26.1%
All Other Exporters – Vietnam	54.2%

\*Pursuant to subsection 2(1) of SIMA, a margin of dumping that is less than two percent of the export price of the goods is defined as insignificant.

[184] Under paragraph 41(1)(a) of SIMA, the CBSA is required to terminate an investigation in respect of the goods of an exporter if the CBSA is satisfied that the goods have not been dumped or the margin of dumping of the goods of that exporter is insignificant, meaning a margin of dumping that is less than 2% of the export price of the goods.

[185] As can be seen from the table above, goods exported to Canada from Turkey by Erbosan were dumped by an insignificant margin of dumping. As a result, the CBSA terminated the dumping investigation in respect of these goods pursuant to paragraph 41(1)(a) of SIMA.

[186] The remaining goods under investigation have been dumped and the margins of dumping on the goods are greater than the threshold of 2% and are therefore not considered insignificant. As a result, pursuant to paragraph 41(1)(b) of SIMA, the CBSA made a final determination of dumping respecting CSWP originating in or exported from Pakistan, the Philippines, Turkey, for which the dumping investigation was not terminated, and Vietnam.

## **DECISIONS**

[187] Pursuant to paragraph 41(1)(a) of SIMA, on January 16, 2019, the CBSA terminated the dumping investigation with respect to CSWP exported to Canada from Turkey by Erbosan Erciyas Boru Sanayii ve Ticaret A.S.

[188] In respect of the goods for which the dumping investigation has not been terminated under paragraph 41(1)(a) of SIMA, on the same date, pursuant to paragraph 41(1)(b) of SIMA, the CBSA made a final determination of dumping respecting CSWP from Pakistan, the Philippines, Turkey and Vietnam.

## **FUTURE ACTION**

[189] The provisional period began on October 18, 2018, and will end on the date the CITT issues its finding. The CITT is expected to issue its decision by February 15, 2019. Provisional anti-dumping duty will continue to apply until this date on imports of subject goods from the named countries. However, provisional anti-dumping duty will no longer be imposed on imports of CSWP exported to Canada from Turkey by Erbosan. Any provisional anti-dumping duty paid or security posted in respect of such goods will be returned. For further details on the application of provisional duty, refer to the *Statement of Reasons* issued for the preliminary determination, which is available through the CBSA's website at: [www.cbsa-asfc.gc.ca/sima-lmsi/menu-eng.html](http://www.cbsa-asfc.gc.ca/sima-lmsi/menu-eng.html).

[190] If the CITT finds that the dumped goods have not caused injury and do not threaten to cause injury, all proceedings will be terminated. In this situation, all provisional duty paid or security posted by importers will be returned.

[191] If the CITT finds that the dumped goods have caused injury, the anti-dumping duty payable on subject goods released by the CBSA during the provisional period will be finalized pursuant to section 55 of SIMA. Imports released by the CBSA after the date of the CITT's finding will be subject to anti-dumping duty equal to the margin of dumping.

[192] The importer in Canada shall pay all applicable duties. If the importers of such goods do not indicate the required SIMA code or do not correctly describe the goods in the customs documents, an administrative monetary penalty could be imposed. The provisions of the *Customs Act* apply with respect to the payment, collection or refund of any duty collected under SIMA. As a result, failure to pay duty within the prescribed time will result in the application of interest.

## **RETROACTIVE DUTY ON MASSIVE IMPORTATIONS**

[193] Under certain circumstances, anti-dumping duty can be imposed retroactively on subject goods imported into Canada. When the CITT conducts its inquiry on material injury to the Canadian industry, it may consider if dumped goods that were imported close to or after the initiation of the investigation constitute massive importations over a relatively short period of time and have caused injury to the Canadian industry. Should the CITT issue a finding that there were recent massive importations of dumped goods that caused injury, imports of subject goods released by the CBSA in the 90 days preceding the day of the preliminary determination could be subject to anti-dumping duty.

## **PUBLICATION**

[194] A notice of this final determination of dumping will be published in the *Canada Gazette* pursuant to paragraph 41(3)(a) of SIMA.

[195] A notice of the termination of the dumping investigation with respect to CSWP exported to Canada from Turkey by Erbosan will be published in the *Canada Gazette* pursuant to paragraph 41(4)(a) of SIMA.

## **INFORMATION**

[196] This *Statement of Reasons* is posted on the CBSA's website at the address below. For further information, please contact the officers identified as follows:

**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:** Laura Fast 613-954-1641  
Johnny Tong 613-954-7350

**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

## **ATTACHMENTS**

**Appendix 1: Summary of Margins of Dumping**  
**Appendix 2: Dumping Representations**

## APPENDIX 1 - SUMMARY OF MARGINS OF DUMPING

Country of Origin or Export	Margin of Dumping (as % of Export Price)
<b>Pakistan</b>	
All Exporters – Pakistan	66.8%
<b>The Philippines</b>	
HLD Clark Steel Pipe Co., Inc.	18.1%
All Other Exporters – The Philippines	66.8%
<b>Turkey</b>	
Borusan Mannesmann Boru Sanayi ve Ticaret A.S.	3.3%
Cayirova Boru ve Sanayi Ticaret A.S	8.8%
Erbosan Erciyas Boru Sanayii ve Ticaret A.S.	0.6%*
All Other Exporters – Turkey	45.8%
<b>Vietnam</b>	
Hoa Phat Steel Pipe Company Limited	4.9%
SeAH Steel Vina Corporation	3.0%
State Pipe and Supply Inc.	26.1%
All Other Exporters – Vietnam	54.2%

\* Pursuant to subsection 2(1) of SIMA, a margin of dumping that is less than two percent of the export price of the goods is defined as insignificant.

**NOTE:** The margins of dumping reported in this table were determined by the Canada Border Services Agency (CBSA) for the purposes of the termination of the dumping investigation in respect of any goods of an exporter or the final determination of dumping. These margins may not reflect the amount of anti-dumping duty to be levied on future importations of dumped goods. In the event of an injury finding by Canadian International Trade Tribunal, normal values for future shipments to Canada have been provided to the exporters who provided sufficient information to the CBSA, as appropriate. These normal values would come into effect the day after an injury finding. Information regarding normal values of the subject goods should be obtained from the exporters. Normal values for all other exporters will be determined in accordance with a Ministerial specification pursuant to subsection 29(1) of SIMA. The application of the Ministerial specification will result in anti-dumping duty rates equivalent to the margins of dumping found for “all other exporters” at the final determination. Please consult the [SIMA Self-Assessment Guide](#) for more detailed information explaining how to determine the amount of *Special Import Measures Act* (SIMA) duties owing.

Normally, normal values will not be applied retroactively. However, normal values may be applied retroactively in cases where the parties have not advised the CBSA in a timely manner of substantial changes that affect values for SIMA purposes. Therefore, where substantial changes occur in prices, market conditions, costs associated with production and sales of the goods, the onus is on the concerned parties to advise the CBSA.

## APPENDIX 2 - DUMPING REPRESENTATIONS

In the final stage of the investigation, submissions containing case arguments were received on behalf of HLD Clark Steel Pipe Co. Inc. (HLD Clark)<sup>68</sup>, Hoa Phat Steel Pipe Company Limited (Hoa Phat)<sup>69</sup>, and the Government of Pakistan's National Tariff Commission.<sup>70</sup>

Following the November 26, 2018 closing of the record, case briefs were received on behalf the following parties: the complainant<sup>71</sup>, Borusan Mannesmann Boru Sanayi ve Ticaret A.S. (Borusan)<sup>72</sup>, Cayirova Boru ve Sanayi Ticaret A.S (Çayırova)<sup>73</sup>, Hoa Phat<sup>74</sup>, International Industries Ltd. (IIL)<sup>75</sup>, IRIS Metalurji ve Muhendislik Pazarlama Sanayi ve Ticaret Limited Sirketi (IRIS)<sup>76</sup>, SeAH Steel Vina Corporation (SeAH Vina), State Pipe and Supply Inc. (State Pipe), and SeAH Steel America Inc. (SeAH America)<sup>77</sup>.

The CBSA received reply submissions on behalf of the complainant<sup>78</sup>, Borusan<sup>79</sup>, Çayırova<sup>80</sup>, Erbosan Erciyas Boru Sanayii ve Ticaret A.S. (Erbosan)<sup>81</sup>, HLD Clark<sup>82</sup>, Hoa Phat<sup>83</sup>, IIL<sup>84</sup>, IRIS<sup>85</sup>, SeAH Vina, State Pipe, and SeAH America<sup>86</sup>.

Supplemental reply submissions on behalf of IIL were received by the CBSA after the investigation schedule deadline for reply submissions and as a result were not considered for the final determination.<sup>87</sup>

Certain details provided in case briefs and reply submissions were designated as confidential information by the submitting counsel. This has restricted the ability of the CBSA to discuss all issues raised in these submissions.

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<sup>68</sup> Exhibits 241 (PRO) and 242 (NC) – HLD Clark Additional Submission

<sup>69</sup> Exhibit 230 (NC) – Public Annex A - Hoa Phat Steel Pipe Company Limited – Additional Submission

<sup>70</sup> Exhibit 195 (NC) – Comments of the Government of Pakistan to CBSA

<sup>71</sup> Exhibits 268 (PRO) and 269 (NC) – Complainant Case Brief

<sup>72</sup> Exhibits 264 (PRO) and 265 (NC) - Case Arguments Filed on Behalf of Borusan Mannesmann Boru

<sup>73</sup> Exhibits 270 (PRO) and 271 (NC) – Case Brief – Cayirova

<sup>74</sup> Exhibit 273 (NC) – Hoa Phat Case Brief

<sup>75</sup> Exhibit 262 (PRO) and 263 (NC) – IIL Case Brief

<sup>76</sup> Exhibit 272 (NC) – Iris Case brief

<sup>77</sup> Exhibits 266 (PRO) and 267 (NC) - Case Brief filed on behalf of SeAH Vina, State Pipe and SeAH America

<sup>78</sup> Exhibits 276 (PRO) and 277 (NC) – Complainant Reply Submissions

<sup>79</sup> Exhibits 285 (PRO) and 286 (NC) – Reply Submissions filed on behalf of Borusan, Cayirova and Iris

<sup>80</sup> Exhibits 285 (PRO) and 286 (NC) – Reply Submissions filed on behalf of Borusan, Cayirova and Iris

<sup>81</sup> Exhibit 278 (NC) – Erbosan Reply Submissions

<sup>82</sup> Exhibits 274 (PRO) and 275 (NC) – HLD Clark Reply Submissions

<sup>83</sup> Exhibit 279 (NC) – Hoa Phat Reply Submissions

<sup>84</sup> Exhibits 282 (PRO) and 283 (NC) – IIL Reply Submissions

<sup>85</sup> Exhibits 285 (PRO) and 286 (NC) – Reply Submissions filed on behalf of Borusan, Cayirova and Iris

<sup>86</sup> Exhibits 280 (PRO) and 281 (NC) – Reply Submissions filed on behalf of SeAH Vina, State Pipe and SeAH America

<sup>87</sup> Exhibit 284 (NC) – CBSA response to IIL regarding the submissions of Supplemental Reply Submissions after the due date

The CBSA has provided responses below to representations that relate to the final determination of dumping. The CBSA will not address representations pertaining to future enforcement in this *Statement of Reasons*.

The material issues raised by the parties are summarized as follows:

## **REPRESENTATIONS**

### **Import Volumes and Injury Allegations (Government of Pakistan)**

#### **Case Arguments**

In a submission received by the CBSA on October 19, 2018, the Government of Pakistan (GOP) stated that the CBSA's definition of subject goods includes a large range of pipes, including water well casing, piling pipe, sprinkler pipe and fencing pipe; however, only fencing pipe was exported from Pakistan during the Period of Investigation (POI).<sup>88</sup> The GOP further stated that import volumes from Pakistan have decreased while imports of subject goods from other countries has increased significantly.<sup>89</sup>

The GOP argued that the fencing pipe exported to Canada by Pakistan during the POI has not caused injury to the Canadian industry, but rather that "...if there is any injury to the Canadian domestic industry it is... from other countries i.e. United States of America."<sup>90</sup> The GOP requested that the investigation with respect to goods from Pakistan be terminated.<sup>91</sup>

#### **CBSA's Position**

At the initiation of the investigation, the CBSA found that the evidence provided by the complainant disclosed a reasonable indication that the dumping of subject goods from Pakistan, the Philippines, Turkey and Vietnam had caused and is threatening to cause injury to the Canadian industry. Further, on September 18, 2018, the Canadian International Trade Tribunal (CITT) made a preliminary determination that there is evidence that discloses a reasonable indication that the dumping of CSWP from the named countries has caused or is threatening to cause injury.<sup>92</sup> The CBSA notes that the CITT's inquiry into the question of injury is continuing, and it is expected to issue its decision by February 15, 2019.

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<sup>88</sup> Exhibit 195 (NC) – Comments of the Government of Pakistan to CBSA, paragraphs 6.1-6.1

<sup>89</sup> Exhibit 195 (NC) – Comments of the Government of Pakistan to CBSA, paragraph 8.1

<sup>90</sup> Exhibit 195 (NC) – Comments of the Government of Pakistan to CBSA, paragraph 8.1

<sup>91</sup> Exhibit 195 (NC) – Comments of the Government of Pakistan to CBSA, paragraph 6.3

<sup>92</sup> Canadian International Trade Tribunal Preliminary Injury Inquiry No. PI-2018-004

Pursuant to subsection 2(1) of the *Special Import Measures Act* (SIMA), the volume of goods of a country is considered negligible if it accounts for less than 3% of the total volume of goods that are released into Canada from all countries and that are of the same description of the goods.

With respect to import volumes of CSWP, at the time of the CBSA's Preliminary Determination the CBSA was satisfied that the volume of imports of subject goods originating in or exported from Pakistan was not negligible. Under subsection 42(4.1) of SIMA, if during the CITT's final injury inquiry the CITT determines that the actual and potential volume of dumped goods of a country is negligible, the CITT is required to terminate its inquiry in respect of those goods. The CITT is expected to issue its finding by February 15, 2019.

## **Section 15 and 19**

### **Case Arguments**

Counsel for the complainant submitted that none of the exporters participating in this investigation had domestic sales of identical or similar goods.<sup>93</sup> Counsel submits that the responses provided after this determination do not prove otherwise.<sup>94</sup>

### **CBSA's Position**

Where cooperative exporters whose submissions were substantially complete and verified for the final determination had domestic sales, a profitability test was performed on domestic sales that met the requirements of sections 15 and 16 of SIMA. Where there were sufficient domestic sales of like goods, normal values were determined pursuant to section 15 of SIMA. Where there were insufficient domestic sales of like goods, normal values were determined in accordance with section 19 or subsection 29(1) of SIMA.

The CBSA has addressed the issue of like goods in the *Like Goods and Comparable Products* section of this appendix.

## **No Verification**

### **Case Arguments**

Counsel for the complainant stated that there is no indication of verification of the responses from International Industries Limited nor the major input suppliers.<sup>95</sup> Nova submitted that if an exporter's responses have not been verified, they should not receive company-specific normal values.<sup>96</sup>

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<sup>93</sup> Exhibits 268 (PRO) and 269 (NC) - Complainant Case Brief, Paragraph 9

<sup>94</sup> Exhibits 268 (PRO) and 269 (NC) - Complainant Case Brief, Paragraph 9

<sup>95</sup> Exhibits 268 (PRO) and 269 (NC) - Complainant Case Brief, Paragraph 21-22

<sup>96</sup> Exhibits 268 (PRO) and 269 (NC) - Complainant Case Brief, Paragraph 23

### **CBSA's Position**

CBSA officers conducted on-site verifications at the premises of HLD Clark in the Philippines; Borusan, Cayirova, Erbosan, and IRIS in Turkey; and Hoa Phat and SeAH Vina in Vietnam. The CBSA performed a desk-audit verification, in Ottawa, of IIL. Information on the results of the investigation pertaining to responding exporters is available in the *Dumping Investigation* section of this document.

### **Inconsistent Cost Information Across Various Exporters**

#### **Case Arguments**

Counsel for the complainant claimed that many of the exporters have grouped various specifications of CSWP into general categories for costing purposes without considering the cost differences between specifications.<sup>97</sup> Counsel submitted that because these costs are not properly differentiated, the CBSA is unable to use their data for normal value calculations.<sup>98</sup> Counsel also submitted that the differences in the production costs and methodologies between exporters from the same country is evidence that the data is unreliable.<sup>99</sup>

### **CBSA's Position**

Information on the results of the investigation pertaining to responding exporters is available in the *Dumping Investigation* section of this document. Where possible, the CBSA has also addressed exporter-specific costing arguments in this Appendix, below.

### **Information of IIL**

#### **Case Arguments**

Counsel for the complainant argued that "IIL's response is not complete and there are several discrepancies in IIL's responses that indicate that its information cannot be relied upon."<sup>100</sup> Counsel for the complainant made arguments that the cost of production information of IIL is unreliable, that "IIL has not addressed or revised any of the Appendices based on the deficiencies outlined by the CBSA in SRFI#4", and made certain arguments regarding domestic freight costs.<sup>101</sup> Counsel for the complainant included other details in its arguments that it designated confidential as they contain confidential information of IIL.<sup>102</sup>

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<sup>97</sup> Exhibits 268 (PRO) and 269 (NC) - Complainant Case Brief, Paragraph 16

<sup>98</sup> Exhibits 268 (PRO) and 269 (NC) - Complainant Case Brief, Paragraph 16

<sup>99</sup> Exhibits 268 (PRO) and 269 (NC) - Complainant Case Brief, Paragraph 18

<sup>100</sup> Exhibits 268 (PRO) and 269 (NC) - Complainant Case Brief, paragraph 25

<sup>101</sup> Exhibits 268 (PRO) and 269 (NC) - Complainant Case Brief, paragraphs 48, 50-54

<sup>102</sup> Exhibits 268 (PRO) and 269 (NC) - Complainant Case Brief

## **Reply Submissions**

Counsel for IIL replied that the complainant misunderstood basic cost accounting principles and failed to properly review IIL's evidence.<sup>103</sup> Counsel for IIL replied that IIL properly accounted for different recovery costs in each month; that the bill of materials allocates different cost elements to different products based on pre-determined allocations and that it should be self-evident that different products will be allocated different overhead and labour; that the bill of materials does not allocate steel costs but rather amounts of steel and raw materials, the costs of which are determined by the prevailing rates at the time; and, indirect labour and other charges are not allocated by a bill of materials since they are properly allocated as expenses which were properly allocated by IIL.<sup>104</sup>

Counsel for IIL replied that IIL provided actual costs to the CBSA and that there were no distortions in monthly prices because the figures provided represent IIL's actual costs.<sup>105</sup>

Counsel for IIL replied that regarding the issue of freight as raised by counsel for the complainant, the selling prices of IIL reflect the actual price of the goods.<sup>106</sup>

Counsel for IIL replied that there is no inconsistency in the monthly cost of labour IIL reported to the CBSA.<sup>107</sup> Counsel for IIL provided additional arguments on this issue that it designated as confidential.<sup>108</sup>

## **CBSA's Position**

For reasons detailed in the *Dumping Investigation* section of this document, the CBSA found the information provided by IIL to be insufficient and as a result did not use information provided by IIL to determine normal values and export prices.

### **Normal Values and Export Prices (IIL)**

## **Case Arguments**

Counsel for IIL made a number of representations concerning the calculation of normal values. Specifically, counsel for IIL made representations concerning the application of a trade level adjustment and the determination of an amount for profits used for the purposes of determining normal values pursuant to subparagraph 19(b) of SIMA.<sup>109</sup>

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<sup>103</sup> Exhibits 282 (PRO) and 283 (NC) – IIL Reply Submissions, paragraph 34

<sup>104</sup> Exhibits 282 (PRO) and 283 (NC) – IIL Reply Submissions, paragraphs 34-36

<sup>105</sup> Exhibits 282 (PRO) and 283 (NC) – IIL Reply Submissions, paragraph 36

<sup>106</sup> Exhibits 282 (PRO) and 283 (NC) – IIL Reply Submissions, paragraph 37

<sup>107</sup> Exhibits 282 (PRO) and 283 (NC) – IIL Reply Submissions, paragraph 38

<sup>108</sup> Exhibits 282 (PRO) and 283 (NC) – IIL Reply Submissions, paragraphs 35, 37-38

<sup>109</sup> Exhibits 262 (PRO) and 263 (NC) – IIL Case Brief

Counsel for the complainant also made representations concerning the issues mentioned above. In addition, counsel for the complainant also provided arguments concerning GOP ownership of IIL, the determination of an amount for administrative, selling and all other expenses, as well as the determination of export prices for IIL.<sup>110</sup>

### **Reply Submissions**

Counsel for IIL provided reply submissions concerning the representations made by the complainant respecting allegations of GOP ownership of IIL, the determination of an amount for administrative, selling and all other expenses, as well as the determination of export price for IIL.<sup>111</sup>

Counsel for the complainant provided reply submissions concerning the application of a trade level adjustment and the determination of an amount for profits used for the purposes of determining normal values pursuant to subparagraph 19(b) of SIMA.<sup>112</sup>

### **CBSA's Position**

For reasons detailed in the *Dumping Investigation* section of this document, the CBSA found the information provided by IIL to be insufficient and as a result did not use information provided by IIL to determine normal values and export prices.

### **Reasonable Amount for Profits (HLD Clark)**

#### **Case Arguments**

Prior to the close of the record, counsel for HLD Clark made arguments concerning the calculation of a reasonable amount for profits for HLD Clark.<sup>113</sup> Counsel argued that it is not reasonable to use a profit margin realized by producers in other countries for purposes of determining a reasonable amount for profits under paragraph 19(b) of SIMA.<sup>114</sup> Counsel suggested using the weighted average profits earned by two domestic producers, Mayer Steel Pipe Corporation and Supreme Steel Pipe Corporation, of goods that counsel alleges are of the same general category as the goods exported to Canada.<sup>115</sup> Counsel for HLD Clark provided publicly available financial information for the two companies and stated that this weighted average profit meets the conditions set out in subparagraph 11(1)(b)(iv) of the *Special Import Measures Regulations* (SIMR).<sup>116</sup>

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<sup>110</sup> Exhibits 268 (PRO) and 269 (NC) – Complainant Case Brief

<sup>111</sup> Exhibits 282 (PRO) and 283 (NC) – IIL Reply Submissions

<sup>112</sup> Exhibits 276 (PRO) and 277 (NC) – Complainant Reply Brief

<sup>113</sup> Exhibits 241 (PRO) and 242 (NC) – HLD Clark Additional Submission, pages 3-6

<sup>114</sup> Exhibits 241 (PRO) and 242 (NC) – HLD Clark Additional Submission, pages 3-4

<sup>115</sup> Exhibits 241 (PRO) and 242 (NC) – HLD Clark Additional Submission, pages 4-6

<sup>116</sup> Exhibits 241 (PRO) and 242 (NC) – HLD Clark Additional Submission, page 6 and Attachments 1, 2

Counsel for the complainant also made representations concerning a reasonable amount for profits for HLD Clark.<sup>117</sup> Counsel disagreed with HLD Clark's proposal to use the profit margins of the two domestic producers in the Philippines,<sup>118</sup> stating that without verification of the provided information, it cannot be confirmed that these companies produce goods of the same general category.<sup>119</sup> In addition, counsel submits that the information provided is general information and does not represent a reasonable comparison.<sup>120</sup> Counsel for the complainant submitted that the amount for profits used by the CBSA at the preliminary determination "permits a proper comparison as it reflects sales of the Subject Goods."<sup>121</sup>

### **Reply Submissions**

Counsel for HLD Clark reiterated its position that the CBSA should use the profit margins realized by the two domestic producers in the Philippines, rather than the profits realized by producers in other countries, maintaining that the profit margins of producers in the Philippines are acceptable pursuant to paragraph 11(1)(b)(iv) of the SIMR.<sup>122</sup> Counsel stated that the financial statements provided for the domestic producers are credible as they have been audited and were filed with the SEC of the Philippines.<sup>123</sup>

### **CBSA's Position**

In determining a reasonable amount for profits for HLD Clark, the CBSA considered all information on the administrative record, including the information provided by parties prior to the close of the record and in case representations and reply submissions.

For purposes of this investigation and paragraph 11(1)(b) of the SIMR, the CBSA considers goods of the same general category to refer to carbon steel welded pipe meeting the CBSA's product definition. Specifically, carbon steel welded pipe in the nominal size range from ½ 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.

The CBSA finds that the profit information provided by HLD Clark relating to Mayer and Supreme was not verified by the CBSA, it is not specific to the POI or to goods considered to be goods of the same general category as the subject goods sold to importers in Canada, nor was sufficient information provided that would allow for the CBSA to conduct a profitability analysis pursuant to SIMA. As such, the profit information does not meet the requirements of the paragraph 11(1)(b)(iv) or section 13 of the SIMR.

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<sup>117</sup> Exhibits 268 (PRO) and 269 (NC) – Complainant Case Brief, paragraphs 75-77

<sup>118</sup> Exhibits 268 (PRO) and 269 (NC) – Complainant Case Brief, paragraph 75

<sup>119</sup> Exhibits 268 (PRO) and 269 (NC) – Complainant Case Brief, paragraph 76

<sup>120</sup> Exhibits 268 (PRO) and 269 (NC) – Complainant Case Brief, paragraph 76

<sup>121</sup> Exhibits 268 (PRO) and 269 (NC) – Complainant Case Brief, paragraph 77

<sup>122</sup> Exhibits 274 (PRO) and 275 (NC) – HLD Clark Reply Submission, paragraphs 51-59

<sup>123</sup> Exhibits 274 (PRO) and 275 (NC) – HLD Clark Reply Submission, paragraph 55

For purposes of the final determination, a reasonable amount for profits for HLD Clark was determined based on domestic sales of CSWP by producers located in Turkey and Vietnam, within the same general category as the subject goods sold to Canada, during the Profitability Analysis Period (PAP). This approach relies on information from producers whose submissions were substantially complete and verified for the final determination. Additionally, the profit information from producers in Turkey and Vietnam has been subject to a profitability analysis as required by SIMA. The CBSA finds this to be the best information available.

### **Calculation of Export Price (HLD Clark)**

#### **Case Arguments**

Prior to the close of the record, counsel for HLD Clark made submissions regarding their export price and export price deductions. Counsel submitted that HLD Clark had demonstrated the reliability and accuracy of the expenses related to export shipments during the on-site verification.<sup>124</sup>

Counsel for the complainant also addressed HLD Clark's export price in its case brief, alleging that there were inconsistencies in the export price presented by HLD Clark, including certain costs missing from the exporter's Appendix 1.<sup>125</sup> Counsel also submitted that there were discrepancies relating to the response provided by the importer of record, CCTF.<sup>126</sup>

#### **Reply Submissions**

Counsel for HLD Clark responded to the complainant's arguments concerning HLD Clark's export prices, including the submissions made concerning inconsistencies in certain expenses and the allegations that certain costs were missing from Appendix 1.<sup>127</sup> Counsel reiterated that HLD Clark has reported all direct expenses or charges in Appendix 1,<sup>128</sup> and that the CBSA has verified HLD Clark's information.<sup>129</sup>

#### **CBSA's Position**

Information provided by HLD Clark relating to export price calculations were pursued for clarification and verified during the on-site verification. The CBSA is satisfied with the information provided by HLD Clark to substantiate the costs, charges and expenses incurred in preparing the goods for shipment to Canada and resulting from the exportation and shipment of the goods.

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<sup>124</sup> Exhibits 241 (PRO) and 242 (NC) – HLD Clark Additional Submission, page 8

<sup>125</sup> Exhibits 268 (PRO) and 269 (NC) – Complainant Case Brief, paragraphs 61-63

<sup>126</sup> Exhibits 268 (PRO) and 269 (NC) – Complainant Case Brief, paragraphs 61-63

<sup>127</sup> Exhibits 274 (PRO) and 275 (NC) – HLD Clark Reply Submission, paragraphs 9-21, 24-27

<sup>128</sup> Exhibits 274 (PRO) and 275 (NC) – HLD Clark Reply Submission, paragraphs 19-21

<sup>129</sup> Exhibits 274 (PRO) and 275 (NC) – HLD Clark Reply Submission, paragraph 19-20

## Calculation and Allocation of Costs (HLD Clark)

### Case Arguments

Prior to the close of the record, counsel for HLD Clark made arguments in support of the method used for reporting costs for subject goods.<sup>130</sup> Counsel submitted that HLD Clark has provided the CBSA with the requested actual monthly costing information, which has been verified by the CBSA.<sup>131</sup> Submissions were also made concerning the specificity of HLD Clark's costing,<sup>132</sup> the company's use of nominal weight for sales purposes and actual weight for costing purposes,<sup>133</sup> the method for calculating general, selling and administrative expenses,<sup>134</sup> and for the calculation of scrap and by-products.<sup>135</sup>

In its case brief, counsel for the complainant alleged that normal value information provided by HLD Clark contains gaps and inconsistencies, rendering it unreliable.<sup>136</sup> Counsel's arguments concerned HLD Clark's method for allocating costs, including scrap and by-product information, testing, factory overhead, labour, and general, selling, and administration expenses.<sup>137</sup> Counsel also stated that the calculations underlying actual weight were not substantiated.<sup>138</sup>

### Reply Submissions

Counsel for HLD Clark reiterated its position that HLD Clark's accounting records are complete and that the CBSA has addressed and verified any allegations relating to cost reporting and allocation, including also "the weight issue".<sup>139</sup> Counsel submitted that HLD Clark's costing methodology is in accordance with the generally accepted accounting principles in the Philippines, and meets the conditions set out in the World Trade Organization, the General Agreement on Tariffs and Trade, and the provisions of SIMA.<sup>140</sup> Additionally, with respect to the reporting of scrap and by-products, counsel stated that this is consistent with industry practice.<sup>141</sup> Counsel further stated that HLD Clark has revised its cost reporting on a monthly basis to the extent possible, as requested by the CBSA, and stated the CBSA should rely on the costing information provided in revised Appendix 4A.<sup>142</sup>

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<sup>130</sup> Exhibits 241 (PRO) and 242 (NC) – HLD Clark Additional Submission, pages 8-12

<sup>131</sup> Exhibits 241 (PRO) and 242 (NC) – HLD Clark Additional Submission, pages 9-10

<sup>132</sup> Exhibits 241 (PRO) and 242 (NC) – HLD Clark Additional Submission, pages 9-10

<sup>133</sup> Exhibits 241 (PRO) and 242 (NC) – HLD Clark Additional Submission, page 8

<sup>134</sup> Exhibits 241 (PRO) and 242 (NC) – HLD Clark Additional Submission, page 11

<sup>135</sup> Exhibits 241 (PRO) and 242 (NC) – HLD Clark Additional Submission, page 9

<sup>136</sup> Exhibits 268 (PRO) and 269 (NC) – Complainant Case Brief, paragraph 74

<sup>137</sup> Exhibits 268 (PRO) and 269 (NC) – Complainant Case Brief, paragraphs 64-74

<sup>138</sup> Exhibits 268 (PRO) and 269 (NC) – Complainant Case Brief, paragraph 62

<sup>139</sup> Exhibits 274 (PRO) and 275 (NC) – HLD Clark Reply Submission, paragraphs 21-27 and 31-50

<sup>140</sup> Exhibits 274 (PRO) and 275 (NC) – HLD Clark Reply Submission, paragraphs 34-35

<sup>141</sup> Exhibits 274 (PRO) and 275 (NC) – HLD Clark Reply Submission, paragraph 45-46

<sup>142</sup> Exhibits 274 (PRO) and 275 (NC) – HLD Clark Reply Submission, paragraph 33

### **CBSA's Position**

During the on-site verification of HLD Clark, the CBSA identified concerns with the calculation and allocation of certain costs. These concerns were pursued for clarification and resulted in revisions to HLD Clark's reported costing information, including the reporting of costs on a monthly basis, to the extent possible. The revised costs were verified during the on-site verification and the CBSA is satisfied with the information provided by HLD Clark to substantiate the cost of production of the goods and a reasonable amount for administrative, selling and all other costs. The CBSA also pursued "the weight issue" during the on-site verification. The CBSA found the explanations provided by HLD Clark to be generally reasonable; however, certain adjustments were made where deemed necessary.

### **Deduction of Rebates Granted on Certain Domestic Sales (Borusan & Cayirova)**

#### **Case Arguments**

Counsel for Boursan and Cayirova made submissions regarding rebates granted by these exporters to customers in the domestic market.

Counsel for Borusan argued that these rebates should be deducted from the selling price of like goods in accordance with section 6 of the SIMR because those rebates "were generally granted and because Borusan's sales to an importer in Canada would have qualified for those rebates had those sales occurred in Turkey".<sup>143</sup>

Counsel for Cayirova argued that the importer in Canada would have been entitled to similar rebates as they were granted in the domestic market of Turkey. Because rebates are paid on a period basis, some rebates to which domestic customers were entitled to in 2018 had not yet been paid at the time Cayirova submitted its domestic sales data. Counsel for Cayirova submits that unpaid but accrued rebates should be considered as an adjustment under section 6 of the SIMR.

### **CBSA's Position**

Information provided by Borusan relating to the rebates granted to certain domestic customers were pursued for clarification and verified during the on-site verification. The CBSA agrees with Borusan's assertion that the rebates in the domestic market were generally granted; however, the CBSA finds that the evidence on the record does not suggest that the importer in Canada would have qualified for those rebates had those sales occurred in Turkey. As such, the CBSA did not find that an adjustment pursuant to paragraph 6 of the SIMR was warranted.

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<sup>143</sup> Exhibit 265 - Public Case Arguments Filed On Behalf Of: Borusan Mannesmann Boru

Information provided by Cayirova relating to the rebates granted to certain domestic customers were pursued for clarification and verified during the on-site verification. The CBSA finds Cayirova's assertion that the rebates in the domestic market were generally granted and that the importer in Canada would have qualified for those rebates had those sales occurred in Turkey to be reasonable. As such, where those rebate amounts were confirmed and proof of payment provided, an adjustment to the normal value was made pursuant to paragraph 6 of the SIMR. Where a rebate was not actually paid to the customer by Cayirova, or where there was not sufficient proof of payment on the administrative record, no adjustment was made.

### **Deduction of Credit Expense on Certain Domestic Sales (Borusan)**

#### **Case Arguments**

Counsel for Borusan argued that "the difference in the timing of receipt of money paid by its export and domestic customers requires an adjustment to normal values pursuant to paragraph 5(d) of the Regulations". Accordingly, Borusan included an amount for credit expense for certain sales included in its domestic sales database.<sup>144</sup>

#### **CBSA's Position**

The CBSA reviewed the information on the record provided by Borusan concerning the timing of the receipt of payment for sales to Canada and sales made in the domestic market in Turkey. The CBSA finds that this information does not indicate that the conditions for an adjustment to reflect the differences in the terms of payment is warranted. Specifically, the CBSA does not find that there was a substantial difference in the length of the payment terms granted on domestic and export sales, or that the terms of payment in the domestic market are longer than those granted on export sales.

### **Date of Sale (Borusan & Cayirova)**

#### **Case Arguments**

Counsel for Borusan and Cayirova submitted arguments regarding the selection of the date of sales for export sales to Canada. Counsel for Borusan argued that the invoice date is the appropriate date of sale and that the contract date should not be considered the date of sale as these agreements are subject to revisions.<sup>145</sup>

Counsel for Cayirova argued that the invoice issued on invoice date is the only document that sets out the final terms of sale. Further, they argued that the terms set out in sales contracts are routinely subject to amendments.

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<sup>144</sup> Exhibit 265 - Public Case Arguments Filed On Behalf Of: Borusan Mannesmann Boru

<sup>145</sup> Exhibit 265 - Public Case Arguments Filed On Behalf Of: Borusan Mannesmann Boru

## **CBSA's Position**

The CBSA reviewed the information on the record provided by Borusan concerning the details of the sales process for goods sold to Canada. The CBSA is of the view that a contract existed as of the contract date, and that the material terms of the sale were established on that date. As such, the CBSA considered the contract date to the date of sale for goods sold to Canada.

For Cayirova, the CBSA has found that the material terms of sale are established on the purchase order date. At this time, the parties agree on the unit price of the goods, the quantity (within a tolerance), and the product mix. For sales to Canada, Cayirova generally produced goods to order. The importer also submits that if the terms in the purchase order are accepted by Cayirova, the contract is concluded and the date of contract is considered as the date of sale. As such, the CBSA considered the purchase order date to be the date of sale for goods sold to Canada.

## **Conditions for a Particular Market Situation**

### **Case Arguments**

Counsel for the Complainant, Borusan, and Cayirova, all made submissions regarding the applicability of paragraph 16(2)(c) of SIMA. Counsel for Erbosan made submissions regarding this issue prior to the close of the record.

The complainant argued that a “particular market situation” exists in the CSWP market in Turkey such that domestic sales of CSWP do not permit a proper comparison with the subject goods sold to Canada. The specific issues raised by the complainant were noted in the *Particular Market Situation* section of this document.<sup>146</sup>

Counsel for Borusan<sup>147</sup>, Cayirova<sup>148</sup>, and Erbosan<sup>149</sup> all argued that no “particular market situation” exists in the CSWP market in Turkey. The issues noted by these parties are also included in the *Particular Market Situation* section of this document.

### **CBSA's Position**

For the purposes of the final determination, the CBSA has not formed the opinion that a particular market situation, as defined in paragraph 16(2)(c) of SIMA, exists in the CSWP market in Turkey such that a proper comparison is not possible.

Please refer to the *Particular Market Situation* section of this document for the CBSA's analysis concerning the applicability of paragraph 16(2)(c) of SIMA.

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<sup>146</sup> Exhibit 269 - Public Case Brief of Nova Tube Inc. and Nova Steel Inc.

<sup>147</sup> Exhibit 265 - Public Case Arguments Filed On Behalf Of: Borusan Mannesmann Boru

<sup>148</sup> Exhibits 270 (PRO) and 271 (NC) - Cayirova Case Briefs

<sup>149</sup> Exhibits 71 (PRO) and 72 (NC) - Erbosan Particular Market Situation Memo

## **Identity of the Exporter (Cayırova)**

### **Case Arguments**

Counsel for Cayırova indicated that the issue of who is the exporter of the subject goods produced by Cayırova was discussed at length during the verifications of both Cayırova and Iris, and their position on the issue is set out in detail in correspondence to the CBSA dated November 2, 2018. In particular, Cayırova draws the CBSA's attention to the evidence provided in Verification Exhibits 2 and 6. Consequently, counsel for Cayırova submits that Cayırova was the exporter of the subject goods imported by Iris.<sup>150</sup>

Counsel for Iris indicated that, for purposes of SIMA, Iris was not the exporter of the goods it imported during the CBSA's POI.<sup>151</sup>

Counsel for the complainant submits that the supporting reasons provided by Cayırova are irrelevant factors in such determination.<sup>152</sup>

### **Reply Submissions**

Counsel for Cayırova and Iris responded to the complainant's argument, indicating that the submissions filed on December 4, 2018 demonstrate that Iris was not the exporter. Instead, counsel submits that Cayırova was the exporter of the subject goods imported by Iris.<sup>153</sup>

### **CBSA's Position**

The CBSA analyzed information provided by the parties and conducted on-site verifications at the premises of both Cayırova and Iris. After considering all information available on the administrative record, including the information gathered during the on-site verifications, the CBSA has determined that Cayırova was the exporter of subject goods to Canada, while Iris acted as the importer for SIMA purposes.

In determining the identity of the exporter the CBSA considered, among other things, the following factors:

- 1) the roles of the parties as they relate to exercising the power to send the goods to Canada:
  - a) ownership of the goods including ownership at the time the goods were sent to Canada
  - b) the parties that incurred costs for logistics services and insurance
  - c) the roles of the parties in designating the vessel on which the goods were shipped to Canada
  - d) information on commercial invoices
  - e) information on bills of lading
  - f) information on export permits

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<sup>150</sup> Exhibits 270 (PRO) and 271 (NC) – Case Brief – Cayırova, page 2

<sup>151</sup> Exhibit 272 (NC) – Case Brief – Iris.

<sup>152</sup> Exhibits 276 (PRO) and 277 (NC) – Nova Reply Submission, page 5

<sup>153</sup> Exhibits 285 (PRO) and 286 (NC) – Borusan, Cayırova, Iris Reply Submission, page 10

- g) information in contracts
- h) statements of the parties in relation to the above

2) the roles of the parties in determining prices to Canada:

- a) ownership of the goods including ownership at the time the goods were sent to Canada
- b) information on commercial invoices
- c) information in contracts
- d) the roles of the parties in securing sales to Canada
- e) the roles of the parties in communicating with customers in Canada
- f) statements of the parties in relation to the above.

### **Calculation of Export Price (Erbosan)**

#### **Case Arguments**

Counsel for the complainant addressed Erbosan's export price in its case brief, alleging that there were inconsistencies in the export price presented by Erbosan, thus rendering it unreliable.<sup>154</sup>

#### **Reply Submissions**

Counsel for Erbosan responded to the arguments put forth by counsel for the complainant, stating that "Erbosan provided a complete record for this investigation with details and translated records for purposes of verification".<sup>155</sup> Counsel for Erbosan asserted that there are no discrepancies in the data and the particulars and indicated that detailed explanations were provided to the CBSA.<sup>156</sup>

#### **CBSA's Position**

Any concerns identified by the CBSA in regards to Erbosan's export price calculation were pursued for clarification and verified. As such, the CBSA is satisfied with Erbosan's costs, charges and expenses incurred in preparing the goods for shipment to Canada and resulting from the exportation and shipment of the goods.

### **Cost Reporting and Allocation Methodology (Erbosan)**

#### **Case Arguments**

Counsel for the complainant addressed Erbosan's cost data in its case brief, alleging that there were multiple inconsistencies, incomplete information, and counsel disagreed with certain allocation methodologies regarding the costing.<sup>157</sup>

<sup>154</sup> Exhibits 268 (PRO) and 269 (NC) – Complainant Case Brief, paragraphs 145-148

<sup>155</sup> Exhibit 278 (NC) – Erbosan Reply submission, paragraph 7

<sup>156</sup> Idem.

<sup>157</sup> Exhibits 268 (PRO) and 269 (NC) – Complainant Case Brief, paragraphs 103,156

## **Reply Submissions**

Counsel for Erbosan responded to the argument made by the complainant concerning Erbosan's cost information, arguing that the observations made by counsel for the complainant are erroneous and "a result of its significant misapprehension or misunderstanding of the evidence".<sup>158</sup> Counsel argued that Erbosan had demonstrated the accuracy and completeness of the cost information and export prices by providing a complete record for the investigation and the on-site verification.<sup>159</sup>

## **CBSA's Position**

With respect to Erbosan's cost of production information, the CBSA was able to adequately verify the costing reported in Erbosan's export and domestic sales databases during the on-site verification. Based on the information gathered throughout the course of this investigation, including during the on-site verification, the CBSA was satisfied with the costing information and has made certain adjustments where it was deemed necessary.

## **Like Goods and Comparable Products**

### **Case Arguments**

Counsel for the complainant argued that certain specifications or grades of carbon steel welded pipe sold in the domestic markets of the exporters are not equivalent to, or substitutable for, certain specifications and grades of subject goods exported to Canada.<sup>160</sup> In the case of ASTM A53 Grade B, counsel for the complainant argued that such products are hydrostatically tested and a non-hydrostatically tested product designed for use as a fence pipe is not identical or similar.<sup>161</sup> Counsel for the complainant argued that pipe designed as fence pipe or for light structural application is not substitutable for A53 Grade B product, and that it "does not make sense to use the higher cost A53 product in an application for which a pipe with lower specifications and a lower cost is appropriate."<sup>162</sup> Counsel for the complainant argued that under Canadian law and building codes, other specifications are not substitutable for ASTM A53.<sup>163</sup> The complainant argued that the onus is on the exporters to demonstrate that the standards are substitutable.<sup>164</sup> Counsel for the complainant made other arguments on this issue that it designated as confidential.<sup>165</sup>

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<sup>158</sup> Exhibit 278 (NC) – Erbosan Reply submission, paragraph 7

<sup>159</sup> Exhibit 278 (NC) – Erbosan Reply submission, paragraph 9 -10

<sup>160</sup> Exhibits 268 (PRO) and 269 (NC) – Complainant Case Brief, paragraphs 24 and 223

<sup>161</sup> Exhibits 268 (PRO) and 269 (NC) – Complainant Case Brief, paragraph 24(b)

<sup>162</sup> Exhibits 268 (PRO) and 269 (NC) – Complainant Case Brief, paragraph 24(b)

<sup>163</sup> Exhibits 239 (PRO) and 240 (NC) – Additional submission from Nova Tube Inc. / Nova Steel Inc

<sup>164</sup> Exhibits 268 (PRO) and 269 (NC) – Complainant Case Brief, paragraph 24(f)

<sup>165</sup> Exhibits 268 (PRO) and 269 (NC) – Complainant Case Brief, paragraph 24

Counsel for the complainant argued that Borusan's comparison to like goods remain deficient; insufficient explanations were provided to evidence the comparability of EN 10217 and EN 10255 specifications and the specifications of exported subject goods.<sup>166</sup>

Counsel for the complainant argued that in Erbosan's response to the SRFI #2, Erbosan "[...] also admits that the goods are not identical and that the specification and grades are different".<sup>167</sup> As such, considering that different specifications and grades may have different end uses and customers, counsel submits that "such good cannot be compared".<sup>168</sup>

Counsel for the complainant made certain arguments specific to comparisons between the uses and characteristics of subject goods exported to Canada by IIL and domestic sales of carbon steel welded pipe by IIL in its domestic market; and, counsel for the complainant designated these arguments as confidential as they contain confidential information of IIL.<sup>169</sup>

Counsel for Borusan argued that the information on the record indicates that CSWP sold domestically in Turkey are like goods to the subject goods sold to Canada and that the EN specifications commonly sold in the domestic market in Turkey are equivalent to the ASTM specifications sold to Canada.<sup>170</sup>

Counsel for Cayirova argued that the yield strength and tensile strength of the hot-rolled coil used to produce CSWP for the domestic market can be, and is used, in the production of subject goods exported to Canada. On this basis, Cayirova submitted that its domestic sales are "like goods" in relation to the subject goods exported to Canada.<sup>171</sup>

Counsel for Hoa Phat argued that local Vietnamese specifications TCVN 3783:83 and TCCS 012016/OHTP are comparable to specifications of goods exported to Canada (ASTM A53, BSEN 10255:2004 and ASTM A500).<sup>172</sup>

Counsel for IIL argued that certain specifications or grades of carbon steel welded pipe sold in Pakistan are sufficiently comparable to certain specifications and grades of subject goods exported to Canada as to be considered like goods, which it argued is supported by evidence it placed on the record.<sup>173</sup> The reasons provided by counsel for IIL in support of that position include: the pipe business in Pakistan is application driven rather than standard driven in that customers will accept alternative standards and grades provided the product meets their end use requirements, Canadian customers who purchase products for light commercial or temporary fencing generally accept BS EN standard products in lower wall thicknesses in the same

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<sup>166</sup> Exhibits 268 (PRO) and 269 (NC) – Complainant Case Brief, paragraph 131

<sup>167</sup> Exhibits 268 (PRO) and 269 (NC) – Complainant Case Brief, paragraph 154

<sup>168</sup> Exhibits 268 (PRO) and 269 (NC) – Complainant Case Brief, paragraph 154

<sup>169</sup> Exhibits 268 (PRO) and 269 (NC) – Complainant Case Brief

<sup>170</sup> Exhibit 265 (NC) – Public Case Arguments Filed On Behalf Of Borusan Mannesmann Boru, paragraphs 3-6

<sup>171</sup> Exhibits 270 (PRO) and 271 (NC) - Public Case Brief – Cayirova, page 4, paragraph 7

<sup>172</sup> Exhibit 230 (NC) – Public Annex A - Hoa Phat Steel Pipe Company Limited – Additional Submission regarding Like Specifications

<sup>173</sup> Exhibits 262 (PRO) and 263 (NC) – IIL Case Brief

diameter, based on evidence provided in response to the second SRFI from the CBSA and subject to customer specifications certain BS EN specifications are substitutable for certain ASTM specifications and grades where there are similar or overlapping mechanical and chemical properties and where pipe wall thickness and tolerances and other characteristics meet the end use requirement of the customer.<sup>174</sup>

### **Reply Submissions**

Counsel for the complainant replied that all six characteristics identified by the CBSA in its RFI must match for goods to be considered like goods and that different specifications are not comparable due to variability within each, differences in end use and due to cost differences demonstrated by evidence on the record.<sup>175</sup>

Counsel for Cayirova insisted that mill test certificates demonstrate that like goods sold in Turkey meet the yield and tensile strength requirements for the ASTM specifications. For the reasons set out in the submissions dated 3 December 2018, Çayirova submits that there is no reason to reject their domestic sales for purposes of determining normal values pursuant to section 15 of SIMA.<sup>176</sup>

Counsel for Hoa Phat replied that Hoa Phat provided information to the best of their ability and that the goods sold domestically are what the scope of the definition refers to as equivalent specifications. They submit that there are differences from country to country and that Hoa Phat did their best to provide comparability. Hoa Phat submits that the CBSA should determine what comparisons were made for the other Vietnamese exporter.<sup>177</sup>

Counsel for IIL replied that the complainant in its arguments to the CBSA “omits any mention of the similarities in tensile and yield strength, or any other shared characteristics such as NPS, outside diameter, pipe finish, and end finish because to do so would presumably undermine its position that goods made to these specifications are similar”<sup>178</sup>; that the complainant states that the chemical properties of ASTM A53 and BS EN 10255 are “entirely different when in fact they...” and ASTM A252 “...are “largely overlapping” with BS EN 10255 requiring lower maximum amounts of carbon, phosphorus and sulfur”<sup>179</sup>; that there are differences in tensile and yield strength but specific customer requirements and end use are important in determining when these products are substitutable.<sup>180</sup>

Counsel for IIL replied that the evidence supports its position that certain domestic specifications and grades are sufficiently comparable to certain exported grades as to be considered like goods

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<sup>174</sup> Exhibits 262 (PRO) and 263 (NC) – IIL Case Brief

<sup>175</sup> Exhibits 268 (PRO) and 269 (NC) – Complainant Reply Brief, paragraphs 5-7

<sup>176</sup> Exhibits 285 (PRO) and 286 (NC) – Reply Submissions filed on behalf of Borusan, Cayirova and Iris – pages 2 and 11

<sup>177</sup> Exhibit 279 (NC) – Hoa Phat Steel pipe Co. Limited Reply Submissions, paragraphs 24-26

<sup>178</sup> Exhibits 282 (PRO) and 283 (NC) – IIL Reply Submissions, paragraph 23

<sup>179</sup> Exhibits 282 (PRO) and 283 (NC) – IIL Reply Submissions, paragraphs 21 and 26

<sup>180</sup> Exhibits 282 (PRO) and 283 (NC) – IIL Reply Submissions, paragraphs 21 to 26

and that the specifications do not have to be equal to be considered similar<sup>181</sup>; that specification and grade are not always more important than nominal pipe size or outside diameter<sup>182</sup>; that in some applications different specifications and other characteristics are substitutable while in others they are not<sup>183</sup>; and, that the complainant did not respond to these facts and that IIL undertook accurate, conservative, and balanced approach by extensively considering end use and only matching those models that were indeed comparable based on the characteristics outlined by the CBSA<sup>184</sup>.

### **CBSA's Position**

Based on information reviewed and gathered throughout the course of the investigation, the CBSA did not find domestic pipe specifications in the exporting countries to be equivalent to or regularly substitutable for North American specifications such as ASTM specifications and therefore did not consider these goods to be identical or similar. The CBSA made this determination based on:

- Evidence on the record that was designated confidential by the exporters including information on purchase orders<sup>185</sup>, commercial invoices<sup>186</sup>, price lists<sup>187</sup> and cost records<sup>188</sup>.
- The statement by IIL that “due to difference in technical standards and weight between like domestic goods and subject goods exported to Canada, additional zinc costs are incurred on domestic goods”, indicating that there are differences in technical standards between certain exported and domestic products and that such differences cause differences in costs which is an indication that these differences are not insignificant.<sup>189</sup>
- Ontario and Quebec building codes that specify the use of ASTM A53 pipe.<sup>190</sup>
- The statement by IIL that most domestic demand in Pakistan is for BS EN standard products and is filled by existing inventory, while Canadian and other exports of ASTM A53 Sch 40 Grade A are made to order.<sup>191</sup> That Canadian customers would specifically order products with an ASTM specification and grade and not order products of BS EN specification in substitute from existing inventory of the same producer/vendor supports the statement of the complainant that such specifications are not substitutable for Canadian purchasers.

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<sup>181</sup> Exhibits 282 (PRO) and 283 (NC) – IIL Reply Submissions, paragraph 12

<sup>182</sup> Exhibits 282 (PRO) and 283 (NC) – IIL Reply Submissions, paragraph 16

<sup>183</sup> Exhibits 282 (PRO) and 283 (NC) – IIL Reply Submissions, paragraph 24

<sup>184</sup> Exhibits 282 (PRO) and 283 (NC) – IIL Reply Submissions, paragraph 24

<sup>185</sup> Exhibits 73 (PRO) and 74 (NC) – Response to exporter RFI, Exhibit B17, IIL

<sup>186</sup> Ibid.

<sup>187</sup> Exhibits 73 (PRO) and 74 (NC) – Response to exporter RFI, Exhibit C3, IIL

<sup>188</sup> Exhibits 73 (PRO) and 74 (NC) – Response to SRFI#2, revised Appendices 4(a) and 4(b), IIL

<sup>189</sup> Exhibits 73 (PRO) and 74 (NC) – Response to exporter RFI, question C8, IIL

<sup>190</sup> Exhibits 239 (PRO) and 240 (NC) – Additional submission from Nova Tube Inc. / Nova Steel Inc.

<sup>191</sup> Exhibits 73 (PRO) and 74 (NC) – Response to exporter RFI, IIL, questions C1, and Exhibits 197 (PRO) and 198 (NC) – IIL response to SRFI #1, question 1

- The lack of evidence of comparability of actual end use between export and domestic customers that purchased products with different characteristics, including specifications/grades.

### **Export Price (Hoa Phat)**

#### **Case Arguments**

Counsel for the complainant provided arguments concerning the data relating to export price provided for each plant of Hoa Phat that exported goods to Canada.<sup>192</sup>

#### **Reply Submissions**

Counsel for Hoa Phat submits that the various allegations regarding export price have been verified against Hoa Phat's records and relevant documents and vouchers provided.<sup>193</sup>

#### **CBSA's Position**

The information provided by Hoa Phat with regards to export price calculations were verified during the onsite verification. The CBSA reviewed ledger accounts and supporting documentation related to export price. The CBSA is satisfied with the information provided by Hoa Phat with regards to the export price.

### **Costing and General, Selling and Administrative Expenses Allocation Methodology (Hoa Phat)**

#### **Case Arguments**

Counsel for the complainant submits that the costing information provided by all three plants of Hoa Phat that exported goods to Canada during the period of investigation is unreliable due to differences in the costs components from month to month. The complainant also identified an issue with regards to the allocation methodology of the general, selling, and administrative expenses by Hoa Phat.<sup>194</sup>

#### **Reply Submissions**

Counsel for Hoa Phat submits that the Hoa Phat's costs have been verified in a structured manner as required by the CBSA.<sup>195</sup>

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<sup>192</sup> Exhibits 268 (PRO) and 269 (NC) – Complainant Case Brief, paragraphs 218-222

<sup>193</sup> Exhibit 279 (NC) – Hoa Phat Steel pipe Co. Limited Reply Submissions, paragraph 22

<sup>194</sup> Exhibits 268 (PRO) and 269 (NC) – Complainant Case Brief, paragraphs 224-232

<sup>195</sup> Exhibit 279 (NC) – Hoa Phat Steel pipe Co. Limited Reply Submissions, paragraphs 17 and 23

### **CBSA's Position**

The CBSA did not find issues with Hoa Phat's costing such as to doubt the overall accuracy of the data. Any concerns identified by the CBSA in regards to costing were pursued for clarification and discussed with Hoa Phat and their counsel. In light of information gathered throughout the course of the investigation, the CBSA made certain revisions to Hoa Phat's reported general, selling and administrative expenses.

### **Export Price (SeAH Group)**

#### **Case Arguments**

Counsel for the complainant submitted that for certain sales SeAH America was the exporter and for other sales it was the importer. The complainant alleged that certain export expenses incurred by SeAH America and SeAH Vina were not reported and deducted from export prices.

Counsel for the complainant also submitted that State Pipe is both the exporter and importer of the goods and certain selling expenses were not reported in Appendix 1; therefore the export price may be unreliable.<sup>196</sup>

Prior to the close of the record, counsel for SeAH Vina, SeAH America and State Pipe addressed that the three companies have filed all required information in a timely manner.<sup>197</sup>

#### **Reply Submissions**

Counsel for SeAH group submitted that Nova misunderstood the multiple sales channels and the relationship among the three companies, which have reported complete information including various selling expenses requested by the CBSA.<sup>198</sup>

### **CBSA's Position**

Information provided by SeAH Vina, SeAH America and State Pipe relating to export price was pursued for clarification and verified during the on-site verification. The CBSA is satisfied with the information provided by the three companies to substantiate charges and expenses incurred in preparing the goods for shipment to Canada.

### **Costing (SeAH Group)**

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<sup>196</sup> Exhibits 268 (PRO) and 269 (NC) – Complainant Case Brief, pages 59-62

<sup>197</sup> Exhibits 266 (PRO) and 267 (NC) – Case Brief - SeAH Group

<sup>198</sup> Exhibits 280 (PRO) and 281 (NC) –Reply Submission - SeAH Group

### **Case Arguments**

Counsel for the complainant submitted that production costs of SeAH Vina were not appropriately allocated to reflect variations of different products. Counsel further alleged that the labor and overhead cost were not reliably allocated and the GS&A allocation did not allow for accurate representation of GS&A costs associated with CSWP.<sup>199</sup>

### **Reply Submissions**

Counsel for the SeAH group responded to the complainant's arguments concerning cost allocations. Counsel reiterated that the cost information has been filed and revised, as requested, and further verified on-site by the CBSA.<sup>200</sup>

### **CBSA's Position**

The CBSA had identified deficiencies and requested SeAH Vina to make revisions to its reported costs throughout the course of the investigation. Any concerns identified by the CBSA in regards to costing were pursued for clarification and discussed with SeAH and their counsel.

### **Application of Section 20 of SIMA with Respect to the Carbon Steel Welded Pipe Sector in Vietnam**

#### **Case Arguments**

Counsel for the complainant argues that the GOV has indirect control over the inputs or supply to the Carbon Steel Welded Pipe industry and that section 20 of SIMA should be applied to Hoa Phat Steel Pipe Company and Seah Vina.<sup>201</sup>

Counsel for the complainant states that through plans and strategies such as the Steel Master Plan and the "Industrial Development Strategy through 2015-2035", the GOV has the capability to prioritize the steel industry as well as significantly impact the prices of steel and steel products.<sup>202</sup> Counsel states that the GOV also has the capability to control exports and set pricing levels for certain goods through state owned enterprises (SOEs) such as the Vietnam Steel Corporation.<sup>203</sup>

Counsel for the complainant also states that the GOV admits that it issues legal regulations that regulates the investments into and the operation of the steel production investment<sup>204</sup> and that certain exporters have received a benefit from the GOV.<sup>205</sup>

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<sup>199</sup> Exhibits 268 (PRO) and 269 (NC) – Complainant Case Brief, pages 62-63

<sup>200</sup> Exhibits 280 (PRO) and 281 (NC) – Reply Submission - SeAH Group

<sup>201</sup> Exhibits 268 (PRO) and 269 (NC) - Complainant Case Brief, Paragraphs 174 to 184

<sup>202</sup> Exhibits 268 (PRO) and 269 (NC) - Complainant Case Brief, Paragraphs 183 and 189

<sup>203</sup> Exhibits 268 (PRO) and 269 (NC) - Complainant Case Brief, Paragraph 197

<sup>204</sup> Exhibits 268 (PRO) and 269 (NC) - Complainant Case Brief, Paragraph 188

<sup>205</sup> Exhibits 268 (PRO) and 269 (NC) - Complainant Case Brief, Paragraph 198

Counsel for SeAH Vina submits that the conditions to apply section 20 to the carbon steel welded by sector in Vietnam are not met.<sup>206</sup>

Counsel for SeAH Vina submits that many of the programs under review by the CBSA are ones supported by Canadian government to build a strong trade relationship with the GOV<sup>207</sup> and that if the CBSA does apply section 20 of SIMA, they will be acting in contrary to the Comprehensive and Progressive Agreement for the Trans-Pacific (CPTPP) which was just ratified by both Canada and Vietnam and will come into effect December 30, 2018.<sup>208</sup>

Counsel for SeAH Vina states that the GOV does not influence the price of CSWP sold by SeAH Vina, and SeAH Vina is a foreign invested enterprise with the company and shareholders determining the prices it offers.<sup>209</sup> Counsel also states that the CBSA should not place weight on the Steel Master Plan since it is being repealed and will no longer be in effect in 2019, and that this plan was never pressured upon the company.<sup>210</sup>

Counsel for SeAH Vina argues that the government programs for approving by-laws are not unique to the steel industry or Vietnam and this does not mean that the government controls the price of goods sold in the market.<sup>211</sup>

Counsel for Hoa Phat submits that the positive evidence available on the record does not support the affirmative determination of section 20 being applied in this case.<sup>212</sup> Counsel for Hoa Phat states that during verification, the GOV established that there were no programs specifically dedicated to either the steel industry or the CSWP sector.<sup>213</sup> Counsel for Hoa Phat submits that Hoa Phat has provided details on the composition of the CSWP industry and this submission demonstrated that only 1.37% of CSWP production is accounted for by companies with some degree of SOE ownership.<sup>214</sup>

### **Reply Submissions**

Counsel for the complainant argues that the diplomatic relationship between Canada and Vietnam is not relevant to the determination for the purpose of section 20 of SIMA. In regards to SeAH Vina's comments that the CBSA must abide to the terms of CPTPP with respect to the Final Determination, counsel for the complainant also stated that SIMA has not been amended and continues to be the governing legislation in such determinations.

Counsel for the complainant reiterates that the GOV's industrial policies and related legislation, not simply the Steel Master Plan, influence the production, costs and prices of CSWP.<sup>215</sup>

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<sup>206</sup> Exhibits 266 (PRO) and 267 (NC) – Seah Steel Vina Corporation Case Brief, Paragraphs 33-37

<sup>207</sup> Exhibits 266 (PRO) and 267 (NC) – Seah Steel Vina Corporation Case Brief, Paragraph 14-16

<sup>208</sup> Exhibits 266 (PRO) and 267 (NC) – Seah Steel Vina Corporation Case Brief, Paragraph 24-28

<sup>209</sup> Exhibits 266 (PRO) and 267 (NC) – Seah Steel Vina Corporation Case Brief, Paragraph 40

<sup>210</sup> Exhibits 266 (PRO) and 267 (NC) – Seah Steel Vina Corporation Case Brief, Paragraph 42

<sup>211</sup> Exhibits 266 (PRO) and 267 (NC) – Seah Steel Vina Corporation Case Brief, Paragraph 62

<sup>212</sup> Exhibit 273 (NC) – Hoa Phat Case Brief, Paragraph 7

<sup>213</sup> Exhibit 273 (NC) – Hoa Phat Case Brief, Paragraph 5

<sup>214</sup> Exhibit 273 (NC) – Hoa Phat Case Brief, Paragraph 6

<sup>215</sup> Exhibit 276 (PRO) and 277 (NC) – Complainants Reply Brief, Paragraph 31

Counsel for the complainant notes with regards to Hoa Phat's arguments, that the section 20 determination is warranted and that such determination does not require the CSWP industry to be dominated by SOEs. Counsel for the complainant also reiterates what it said in its case brief, submitting that the GOV indirectly determines domestic prices through a variety of mechanisms, and that direct influence isn't a requirement of the application of section 20.<sup>216</sup>

Counsel for SeAH Vina respectfully submits that the CBSA has no basis to apply section 20<sup>217</sup> and that it disagrees with the argument put forward in the complainant's case brief in regards to the application of section 20 to the Vietnamese CSWP industry.

Counsel for Hoa Phat reiterates that less than two percent of capacity for the CSWP industry has some degree of SOE ownership.<sup>218</sup> Counsel for Hoa Phat denies that section 20 of SIMA should be applied to the CSWP industry in Vietnam, and disagrees with the allegations that the GOV has influence over steel and CSWP inputs.<sup>219</sup>

### **CBSA's Position**

The CBSA exercised its investigative function and conducted a section 20 inquiry to examine the extent to which the conditions of section 20 exist in the carbon steel welded pipe sector.

The CBSA considered information on the record provided by the complainant, producers of carbon steel welded pipe in Vietnam, the Government of Vietnam and obtained through its own research. With regards to counsels' arguments surrounding whether the CBSA should abide to the terms of the CPTPP with respect to the final determination, the CBSA notes that it administers the relevant Canadian legislation, namely the *Special Import Measures Act* (SIMA), and has conducted this anti-dumping investigation in accordance with the provisions of SIMA. As such, in assessing whether the conditions described in section 20 of SIMA existed in the carbon steel welded pipe sector in Vietnam during the POI, the CBSA considered whether domestic prices of CSWP in Vietnam are substantially determined by the GOV and whether there is sufficient reason to believe that they are not substantially the same as they would be in a competitive market. These are the conditions are set forth in paragraph 20(1)(a) of SIMA.

The CBSA did not form the opinion that the GOV's involvement has substantially determined prices in the carbon steel welded pipe sector in Vietnam and therefore the CBSA has not formed the opinion that the conditions of section 20 prevailed in the carbon steel welded pipe sector in Vietnam during the POI.

Further details can be found in the *Section 20 Inquiry* section of this document.

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<sup>216</sup> Exhibit 276 (PRO) and 277 (NC) – Complainants Reply Brief, Paragraph 34

<sup>217</sup> Exhibit 280 (PRO) and 281 (NC) – Seah Reply Brief, Paragraph 7

<sup>218</sup> Exhibit 279 (NC) – Hoa Phat Reply Brief, Paragraph 20

<sup>219</sup> Exhibit 279 (NC) – Hoa Phat Reply Brief, Paragraph 9