



OTTAWA, April 22, 2022

STATEMENT OF REASONS

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

**CERTAIN COPPER PIPE FITTINGS ORIGINATING IN OR EXPORTED
FROM THE UNITED STATES OF AMERICA, THE REPUBLIC OF KOREA
AND THE PEOPLE'S REPUBLIC OF CHINA.**

DECISION

On April 7, 2022 pursuant to paragraph 76.03(7)(a) of the *Special Import Measures Act*, the Canada Border Services Agency determined that the rescission of the Canadian International Trade Tribunal's orders made on November 28, 2016, in Expiry Review No. RR-2015-003:

- is likely to result in the continuation or resumption of dumping of the goods from the United States, Korea and China; and
- is likely to result in the continuation or resumption of subsidizing of the goods from China.

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EXECUTIVE SUMMARY

[1] On November 8, 2021, the Canadian International Trade Tribunal (CITT), pursuant to subsection 76.03(3) of the *Special Import Measures Act* (SIMA), initiated an expiry review of its orders made on November 28, 2016, in Expiry Review No. RR-2015-003, concerning the dumping of certain copper pipe fittings (CPF) originating in or exported from the United States of America (US), the Republic of Korea (Korea) and the People's Republic of China (China) (hereafter "the named countries") and the subsidizing of CPF originating in or exported from China.

[2] As a result of the CITT's notice of expiry review, on November 9, 2021, the Canada Border Services Agency (CBSA) initiated an expiry review investigation to determine, pursuant to paragraph 76.03(7)(a) of SIMA, whether the rescission of the orders is likely to result in the continuation or resumption of dumping and in the case of China, subsidizing, of the subject goods from the named countries.

[3] The CBSA received a response to the Canadian Producer Expiry Review Questionnaire (ERQ) from Cello Products Inc. ("Cello")¹, the sole producer of CPF in Canada. The submission made by Cello included information supporting its position that continued or resumed dumping and in the case of China, subsidizing, of CPF from the named countries is likely if the CITT's orders are rescinded.

[4] The CBSA received six responses to the Importer ERQ from BMI Canada Inc. ("BMI")², Cello³, Crane Supply ("Crane")⁴, BOW Plumbing Group Inc. ("BOW")⁵, CB Supplies Ltd. ("CB")⁶, and NCI Canada Inc. ("NCI")⁷. One importer took the position that the continued or resumed dumping and in the case of China, subsidizing is unlikely should the CITT's orders be rescinded.

[5] The CBSA received two responses to the Exporter ERQ from Zhuji City Howhi Air Conditioners Made Co., Ltd. ("Howhi")⁸ and Sid Tool Co., Inc. (dba MSC Industrial Supply ("Sid Tool"))⁹.

[6] The CBSA did not receive a response to the Foreign Government ERQ from the Government of China (GOC).

¹ Exhibit 22 (PRO) & 23 (NC) – Response to Canadian Producer ERQ from Cello Products Inc. ("Cello").

² Exhibit 17 (PRO) & 18 (NC) – Response to Importer ERQ from BMI Canada Inc. ("BMI").

³ Exhibit 24 (PRO) & 25 (NC) – Response to Importer ERQ from Cello.

⁴ Exhibit 26 (PRO) & 27 (NC) – Response to Importer ERQ from Crane Supply ("Crane").

⁵ Exhibit 28 (PRO) & 29 (NC) – Response to Importer ERQ from BOW Plumbing Group Inc. ("BOW").

⁶ Exhibit 30 (PRO) & 31 (NC) – Response to Importer ERQ from CB Supplies Ltd. ("CB").

⁷ Exhibit 32 (PRO) & 33 (NC) – Response to Importer ERQ from NCI Canada Inc. ("NCI").

⁸ Exhibit 34 (PRO) & 35 (NC) – Response to Exporter ERQ from Zhuji City Howhi Air Conditioners Made Co., Ltd. ("Howhi").

⁹ Exhibit 36 (PRO) & 37 (NC) – Response to Exporter ERQ from Sid Tool Co., Inc. ("Sid Tool").

[7] Cello provided a case brief¹⁰ to the CBSA in support of its position that continued or resumed dumping and in the case of China, subsidizing, of CPF from the named countries is likely if the CITT's orders are rescinded. No other party provided a case brief to the CBSA and no party provided a reply submission in response to the Cello case brief.

[8] Analysis of information on the administrative record indicates a likelihood of continued or resumed dumping into Canada of CPF originating in or exported from the US should the CITT's orders be rescinded. This analysis relied upon the following factors:

- Commodity nature of CPF;
- Shifting import patterns from named countries to non-named countries;
- Changes in market conditions in Canada;
- Continued dumping of CPF from the US while the CITT orders were in effect;
- Large production capacity of CPF producers in the US and ongoing relationships with Canadian importers; and
- Weak market conditions and demand for CPF in the US.

[9] Analysis of information on the administrative record indicates a likelihood of continued or resumed dumping into Canada of CPF from Korea should the CITT's orders be rescinded. This analysis relied upon the following factors:

- Commodity nature of CPF;
- Shifting import patterns from named countries to non-named countries;
- Changes in market conditions in Canada;
- Imposition of anti-dumping measures by authorities of Canada in respect of similar goods (copper tube);
- Apparent inability of CPF exporters from Korea to sell to Canadian importers at non-dumped prices while the CITT orders were in effect;
- Large production capacity of CPF producers in Korea and ongoing relationships with Canadian importers; and
- Weak market conditions and demand for CPF in Korea.

[10] Analysis of information on the administrative record indicates a likelihood of continued or resumed dumping into Canada of CPF from China should the CITT's orders be rescinded. This analysis relied upon the following factors:

- Commodity nature of CPF;
- Shifting import patterns from named countries to non-named countries;
- Changes in market conditions in Canada;
- Imposition of anti-dumping measures by authorities of Canada in respect of similar goods (copper tube);
- Continued dumping of certain CPF from China while the CITT orders were in effect;

¹⁰ Exhibit 41 (PRO) & 42 (NC) – Case brief filed on behalf of Cello.

- Large production capacity and export-orientation of CPF producers in China and ongoing relationships with Canadian importers;
- Weak market conditions and demand for CPF in China; and
- Imposition of anti-dumping measures concerning Chinese copper pipes and tubes, with attachments such as CPF, in the US.

[11] In addition, analysis of information on the administrative record indicates a likelihood of continued or resumed subsidizing of CPF from China should the CITT's orders be rescinded. This analysis relied upon the following factors:

- Continued subsidizing of CPF from China while the orders were in effect;
- Imposition of countervailing measures by authorities of Canada in respect of similar goods (copper tube);
- Large production capacity and export-orientation of CPF producers in China and ongoing relationship with Canadian importers; and
- Weak market conditions and demand for CPF in China.

[12] For the forgoing reasons, the CBSA, having considered the relevant information on the record, determined on April 7, 2022, pursuant to paragraph 76.03(7)(a) of SIMA that the rescission of the orders in respect of CPF:

- is likely to result in the continuation or resumption of dumping of the goods from the US, Korea and China; and
- is likely to result in the continuation or resumption of subsidizing of the goods from China.

BACKGROUND

[13] On June 8, 2006, following a complaint filed by Cello ("the complainant") of Cambridge, Ontario, the CBSA initiated an investigation pursuant to subsection 31(1) of SIMA regarding the dumping of CPF from the US, Korea, and China. On the same date, the CBSA initiated an investigation pursuant to subsection 31(1) of SIMA regarding the subsidizing of CPF from China. The complaint was supported by BOW of Montreal, Quebec.

[14] On January 18, 2007, the CBSA made final determinations of dumping and in the case of China, subsidizing, in accordance with paragraph 41(1)(a) of SIMA in respect of CPF from the named countries.

[15] On February 19, 2007, the CITT issued injury findings pursuant to subsection 43(1) of SIMA in Inquiry No. NQ-2006-02 respecting the dumping of CPF from the US, Korea, and China, and the subsidizing of CPF from China.¹¹

¹¹ See CITT website at: <https://decisions.citt-tcce.gc.ca/citt-tcce/a/en/item/353448/index.do?q=copper+pipe+ fittings>.

[16] On February 17, 2012, the CITT issued orders continuing, without amendment, the findings pursuant to paragraph 76.03(12)(b) of SIMA.¹²

[17] On November 28, 2016, the CITT issued orders continuing, with amendment, the findings pursuant to paragraph 76.03(12)(b) of SIMA.¹³

[18] On June 28, 2019, the CBSA concluded a re-investigation to update the normal values and export prices of CPF from the US, Korea, and China, and the amounts of subsidy of CPF from China. Elkhart Products Corporation (“Elkhart”), Mueller Industries Inc. (“Mueller”), and Nibco Inc. (“Nibco”) from the US; JungWoo Metal Ind. Co., Ltd. (“JungWoo”) from Korea; and Zhejiang Hailang Co., Ltd. (“Hailang”) and Howhi from China participated in the re-investigation and received updated normal values. Hailang and Howhi, from China, also received their own rates of subsidy.

[19] On September 28, 2020, the CBSA concluded a normal value review to update the normal values and export prices of CPF exported to Canada from the US by Nacobre USA LLC (“Nacobre USA”). Nacobre USA participated in the normal value review and received normal values.

[20] On September 17, 2021, the CITT issued a notice concerning the expiry of its orders, which was scheduled to occur on November 27, 2021. Based on the information filed during the expiry process, the CITT decided that a review of the orders was warranted.¹⁴ On November 8, 2021, pursuant to subsection 76.03(3) of SIMA, the CITT gave notice and initiated an expiry review of its orders made on November 28, 2016.¹⁵

[21] On November 9, 2021, the CBSA initiated an expiry review investigation to determine whether the rescission of the orders is likely to result in the continuation or resumption of dumping of CPF from the US, Korea and China, and subsidizing of CPF from China.

PRODUCT DEFINITION

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

"Solder joint pressure pipe fittings and solder joint drainage, waste and vent pipe fittings, made of cast copper alloy, wrought copper alloy or wrought copper, for use in heating, plumbing, air conditioning and refrigeration applications, originating in/or exported from the United States of America, the Republic of Korea and the People's Republic of China."

¹² See CITT website at: <https://decisions.citt-tcce.gc.ca/citt-tcce/a/en/item/353827/index.do>.

¹³ See CITT website at: <https://decisions.citt-tcce.gc.ca/citt-tcce/a/en/item/354636/index.do>.

¹⁴ See CITT website at: <https://decisions.citt-tcce.gc.ca/citt-tcce/ra/en/item/18205/index.do>.

¹⁵ Exhibit 38 (NC) – CBSA Research, REF-039 CITT Notice of Expiry Review No. RR-2021-003, November 8, 2021.

[23] A list of the specific copper pipe fittings that are subject goods is available on the CITT's website at the following address: <https://decisions.citt-tcce.gc.ca/citt-tcce/a/en/item/354636/index.do>.

Exclusions

[24] The CITT excluded the following CPF from its injury findings:

- 4 cast drainage lead 8 oz. closet flange;
- 4 cast drainage 14 oz. lead closet flange; and
- Copper-iron high-pressure alloy fittings manufactured with UNS C19400 grade copper alloy and with safe working pressure up to 1,740 psi.

Additional Product Information¹⁶

[25] Solder joint copper pipe fittings are used to connect copper pipes, tubes or other fittings to one another. The methods of joining copper fittings include soldering, silver brazing and epoxy or similar gluing techniques. The connections are made by fitting two pieces together and heating the ends of the tubing and fitting, and filling the gap between the two with melted solder which solidifies on cooling to form a strong, leak proof connection. The fittings can also be used to connect copper tubing to other metal systems by use of threaded fittings. However, at least one end of a fitting is always soldered. Finally, the connection can also be made using epoxy or similar gluing methods.

[26] Solder joint copper pipe pressure fittings may be used in conveying liquids (e.g. potable water), gases and air under pressure in residential, industrial, commercial and institutional buildings. Copper pipe pressure fittings are also used in a variety of air-conditioning and refrigeration (ACR) applications. The types of fittings used in air conditioning applications are typically identified by reference to their outside diameters, whereas the same fittings used in non-air conditioning applications such as plumbing and heating are typically identified by reference to their inside or "nominal" diameters. Apart from the reference to diameter, a fitting for an air conditioning application is the same as a fitting for a non-air conditioning application.

[27] Solder joint copper pipe drainage, waste and vent (DWV) fittings are used primarily to convey waste from buildings to sewers and for venting purposes under low-pressure conditions.

¹⁶ Additional Product Information was sourced from the CBSA's *Statement of Reasons* concerning the final determinations made on January 18, 2007, with respect to the dumping of copper pipe fittings originating in or exported from the United States of America, the Republic of Korea, and the People's Republic of China and the subsidizing of copper pipe fittings originating in or exported from the People's Republic of China.

[28] Female and male adaptors are used to connect a copper tube to an iron pipe or a water heater. Other adapters include ferrules that are used to join a copper tube to a cast-iron pipe in older installations. Bushings are used to reduce the diameter of other fittings. Couplings are used to join tubes of either the same size or two different sizes to make longer runs through buildings. Elbows are used to change the direction of a copper tube. Flanges and unions are used to provide a connection that can be either unscrewed or unbolted for maintenance or repairs. Tees are used to allow a copper line to be split into two separate lines. There are pressure tees and drainage tees; TY's (90°) and Y's (45°). Traps are used to trap water to prevent sewer gases from coming back into a building. Cleanouts are used to provide access to drainage systems in case of blockage; and caps are removable plugs used to permit inspection and access for the purpose of clearing an obstruction.

[29] Solder joint pipe fittings manufactured in Canada and the United States are made to the standards of the ASME (American Society of Mechanical Engineers) / ANSI (American National Standards Institute) and to the standards of the MSS (Manufacturers Standardization Society).

CLASSIFICATION OF IMPORTS

[30] The subject goods are normally imported into Canada under the following tariff classification numbers:

7412.10.00.11	7412.20.00.11	7412.20.00.90
7412.10.00.19	7412.20.00.12	
7412.10.00.90	7412.20.00.19	

[31] This listing of tariff classification numbers is for convenience of reference only. The tariff classification numbers provided may include goods that are not subject goods and subject goods may be imported into Canada under tariff classification numbers other than those provided. Refer to the product definition for authoritative details regarding the subject goods.

PERIOD OF REVIEW

[32] The Period of Review (POR) for the CBSA's expiry review investigation is from January 1, 2018 to September 30, 2021.

CANADIAN INDUSTRY

[33] The Canadian industry is comprised of Cello, the sole Canadian producer of CPF. In 2013, BOW closed its production facility.¹⁷ From then on, Cello has been the only manufacturer of CPF in Canada.

Cello Products Inc.

¹⁷ Exhibit 29 (NC) – Response to Importer ERQ from BOW, Question A4.

[34] Cello commenced operations in 1946 in Cambridge, Ontario, as a supplier of cast copper alloy solder joint pipe fittings. Wrought copper and wrought copper alloy solder joint pipe fittings were added to the product line in the 1960s. Cello was incorporated in 1983 and its products are made for pressure and drainage, waste and vent applications. Cello's domestic production mix for CPF has not changed materially during the POR.¹⁸

CANADIAN MARKET

[35] The CBSA cannot release specific quantitative data regarding the value and volume of Canadian production of CPF sold for domestic consumption as it would lead to the disclosure of confidential information of Cello, the only Canadian CPF producer. Therefore, only the imports of CPF during the POR are presented below in **Table 1**.

Table 1: Imports of CPF during the POR¹⁹

Source	2018		2019		2020		Jan-Sep2021	
	Volume (kg)	Value (\$)	Volume (kg)	Value (\$)	Volume (kg)	Value (\$)	Volume (kg)	Value (\$)
US	28,617	743,072	26,116	768,414	18,952	536,518	23,195	363,424
Korea	30	1,434	1,066	22,338	4,147	76,394	157	6,436
China	540,284	8,486,754	547,449	7,838,991	506,157	6,911,440	352,585	6,027,533
Total Named Countries²⁰	568,931	9,231,260	574,631	8,629,744	529,256	7,524,351	375,937	6,397,394
Other Countries ²¹	462,236	7,746,047	499,545	6,098,755	595,936	7,450,360	439,330	6,435,147
Total Imports	1,031,167	16,977,307	1,074,176	14,728,499	1,125,192	14,974,711	815,267	12,832,541

[36] The total apparent Canadian market has decreased in value from 2018 to 2020 and increased slightly in volume from 2018 to 2020.²²

Imports

[37] Total import volumes increased by 9.1% between 2018 and 2020.²³

¹⁸ Exhibit 23 (NC) – Response to Canadian Producer ERQ from Cello, Questions Q9 and Q23.

¹⁹ Exhibit 39 (NC) – Compliance Statistics – Day 50. and Exhibit 40 (NC) – CBSA Import Statistics – Day 50.

²⁰ Exhibit 39 (NC) – Compliance Statistics – Day 50.

²¹ Exhibit 40 (NC) – CBSA Import Statistics – Day 50.

²² Exhibit 39 (NC) – Compliance Statistics – Day 50. and Exhibit 40 (NC) – CBSA Import Statistics – Day 50.

²³ *Ibid.*

[38] Since the dumping period of investigation (POI) of the original investigation (April 1, 2005 to March 31, 2006), CPF imports from the named countries as a percentage of total imports have declined significantly. During the original investigation, imports of CPF by volume from the US, Korea, and China represented 32%, 24%, and 23% of total imports respectively, and the combined CPF imports from the named countries accounted for 79% of the total CPF imports.²⁴ In contrast, during the POR, CPF imports from the US, Korea, and China represented 2%, 0.1%, and 48% of total imports respectively. The combined CPF imports accounted from the named countries by volume represented approximately 50% of total CPF imports, and an even smaller proportion of the total apparent market, thereby demonstrating that the sources of imports for CPF have shifted since the original investigation.

[39] The market share of imports from named countries gradually decreased from 2018 to 2021.

[40] Imports from other countries by volume increased from 2018 to 2020. Furthermore, in terms of market share, imports from other countries by volume increased from 2018 to 2021.²⁵

ENFORCEMENT DATA

[41] In the enforcement of the CITT's orders during the POR, as detailed in **Table 2** below, the total amount of anti-dumping and countervailing duties assessed on subject imports from the US, Korea and China were approximately \$1.1 million, \$21,600 and \$5.0 million respectively. As a percentage of the total value for duty, the total anti-dumping and countervailing duties assessed during the POR were equal to 43.7%, 20.3%, and 17% for the US, Korea, and China respectively.

Table 2: Enforcement Data for the POR²⁶

Country	Quantity (kg)				Value for Duty (\$)				SIMA Duties (\$)			
	2018	2019	2020	Jan-Sep 2021	2018	2019	2020	Jan-Sep 2021	2018	2019	2020	Jan-Sep 2021
United States	28,617	26,116	18,952	23,195	743,072	768,414	536,517	363,424	288,191	328,643	231,741	204,023
Korea	30	1,066	4,147	157	1,434	22,338	76,394	6,436	2,334	1,098	3,133	15,032
China	540,284	547,449	506,157	352,585	8,486,754	7,838,991	6,911,440	6,027,533	2,416,921	813,476	721,429	1,012,111
Total Named Countries	568,931	574,631	529,256	375,937	9,231,260	8,629,744	7,524,351	6,397,394	2,707,446	1,143,217	956,303	1,231,167

²⁴ Exhibit 38 (NC) – CBSA Research, REF-034 – CBSA CPF 2006 IN – Final Determinations *Statement of Reasons*, January 18, 2007.

²⁵ Exhibit 40 (NC) – CBSA Import Statistics – Day 50.

²⁶ Exhibit 39 (NC) – Compliance Statistics – Day 50.

PARTIES TO THE PROCEEDINGS

[42] On November 9, 2021, the CBSA sent notices concerning the initiation of the expiry review investigation and ERQs were sent to the known Canadian producer, importers and exporters of subject goods. The GOC was also sent a Foreign Government ERQ relating to the subsidizing of the subject goods.

[43] The ERQs requested information relevant to the CBSA's consideration of the expiry review factors, as listed in subsection 37.2(1) of the *Special Import Measures Regulations* (SIMR).

[44] The Canadian producer, Cello, participated in the expiry review investigation and provided a response to the Canadian Producer ERQ.

[45] One US exporter, Sid Tool, and one Chinese exporter, Howhi, responded to the Exporter ERQ.

[46] Six Canadian importers: BMI, Cello, Crane, BOW, CB, and NCI, responded to the Importer ERQ.

[47] The GOC did not provided a response to the CBSA's Foreign Government ERQ.

[48] Cello provided a case brief²⁷ to the CBSA in support of its position that continued or resumed dumping and, in the case of China, subsidizing of CPF from the named countries is likely if the CITT's orders are rescinded.

[49] No other party provided a case brief or reply submission.

INFORMATION CONSIDERED BY THE CBSA

[50] The information considered by the CBSA for purposes of this expiry review investigation is contained in the administrative record. The administrative record includes the information on the CBSA's exhibit listing, which is comprised of the CITT's administrative record relating to the initiation of the expiry review, the CBSA exhibits and information submitted by interested parties, including information which the interested parties feel is relevant to the decision as to whether dumping and subsidizing are likely to continue or resume absent the CITT orders. This information may consist of expert analysts' reports, excerpts from trade magazines and newspapers, orders and findings issued by authorities of Canada or of a country other than Canada, documents from international trade organizations such as the World Trade Organization (WTO) and responses to the ERQs submitted by the Canadian producer, exporters, importers and governments.

²⁷ Exhibit 41 (PRO) & 42 (NC) – Case brief filed on behalf of Cello.

[51] For purposes of an expiry review investigation, the CBSA sets a date after which no new information submitted by interested parties will be placed on the administrative record or considered as part of the CBSA's investigation. This is referred to as the "closing of the record date" and is set to allow participants time to prepare their case briefs and reply submissions based on the information that is on the administrative record as of the closing of the record date. For this investigation, the administrative record closed on December 29, 2021.

POSITION OF THE PARTIES – DUMPING

Parties Contending that Continued or Resumed Dumping is Likely

[52] Cello made representations through its Canadian Producer ERQ response, as well as in its case brief, in support of its position that the dumping of CPF from the US, Korea and China is likely to continue or resume should the CITT's orders be rescinded. Consequently, Cello argues that the anti-dumping measures should remain in place.

[53] The main arguments made by the Cello can be summarized as follows:

- Commodity nature of CPF;
- Inability of CPF exporters in the named countries to compete at non-dumped prices;
- Shifting import patterns from named countries to non-named countries;
- Excess production capacity of CPF producers in the named countries; and
- Weak market conditions and demand forecasts in the named countries,

[54] Before presenting country-by-country arguments, there are several arguments that relate to multiple countries, as discussed below.

Commodity nature of CPF

[55] Cello states that regardless of what country CPFs stem from, whether from Canada, the named countries, or non-named countries, CPFs are an interchangeable commodity. Peter Howell, Cello's Vice-President of Sales and Marketing, indicates that: "a 2-3% price difference will routinely cause me to lose a sale and customers switch suppliers for pennies". Furthermore, he notes that based on his knowledge, observation, and market intelligence, imported CPFs continue to have a significant presence in the Canadian market.²⁸

²⁸ Exhibit 23 (NC) – Response to Canadian Producer ERQ from Cello, Exhibit Q29, para. 17.

[56] Cello references the CITT's Orders and Reasons, dated March 2, 2012, for Expiry Review No. RR-2011-001 to further bolster their claim:

“copper pipe fittings are a commodity product and, as found in the inquiry and supported by the evidence introduced in this proceeding, compete essentially on the basis of price with little or no scope for product differentiation. Moreover, the evidence suggests that other important factors in purchasing decisions, such as product quality and delivery, are consistent among the like goods, the subject goods and non-subject goods”.²⁹

[57] Furthermore, Cello highlights that the CITT also made similar remarks in Copper Pipe Fittings 2:

“As has been found by the Tribunal previously in NQ-2006-002 and as purchasers indicated in their questionnaire responses, copper pipe fittings are commodity products, making the price quite important, and often determinative, in purchasing decisions.”³⁰

[58] Cello indicates that due to the commodity nature of CPFs and the fact that pricing is a major factor, if the orders are rescinded, subject goods from named countries will have to compete with low-priced imports from non-named countries and consequently the market would quickly deteriorate.³¹

Inability of CPF exporters in the named countries to compete at non-dumped prices and shifting import patterns from named countries to non-named countries

[59] Utilizing data from Statistics Canada, Cello contends that both the US and Korea now play limited roles in the Canadian market, as the two countries have largely been unable to regain market share since the CITT's findings were made. Cello attributes this to the fact that normal values in place have made it increasingly challenging for the US and Korea to compete against low-priced imports stemming from new sources, such as Vietnam and Thailand.³²

[60] Cello states that the CBSA's enforcement data indicates that the majority of Chinese imports are dumped, as shown by the SIMA duties collected in recent years and that China continues to play a significant role in the Canadian marketplace.³³

²⁹ *Ibid.*

³⁰ *Ibid.*, para. 18.

³¹ *Ibid.*, para. 19.

³² *Ibid.*, para. 20-21.

³³ *Ibid.*, para. 22.

[61] Cello mentions that the amount of SIMA duties collected during the previous expiry review's POR (January 1, 2013 to January 31, 2016) was approximately \$4.3 million. When comparing that to the SIMA duties collected between 2018 and 2020, the amount sits higher at approximately \$6.7 million. Cello contends that this is solid evidence that continued dumping is a reality from the named countries and that exporters in the named countries are unable to compete at normal values.³⁴

[62] Cello also highlights shifting import patterns in the market. Cello makes reference to the CITT's findings made on May 25, 2018, where the CITT found that the dumping and subsidizing of CPF from Vietnam caused injury to the Canadian producer. After the CITT's findings were made, imports from Vietnam were quickly replaced by new sources. Cello indicates that this highlights the commodity nature of CPFs and how trade measures can be quickly evaded by switching import sources.³⁵ Cello also provides examples of the procurement behaviour of various Canadian importers which supports this claim.³⁶

[63] Cello contends that Canadian importers seek out new exporters who are not subject to trade measures and that this phenomenon is not new but has in fact has been seen in the Canadian marketplace since the original findings.³⁷

[64] The following country-specific arguments begin with the US, followed by Korea, and China.

United States

Inability of CPF exporters in the US to compete at non-dumped prices

[65] Cello points out that none of the major US exporters of CPF provided responses to the CBSA's Exporter ERQ. Cello states that this should be viewed as the US exporters' recognition of their inability to compete in the Canadian market with the current normal values in place, and does not demonstrate a lack of interest in the Canadian market by the US exporters.³⁸

[66] Cello contends that despite the fact that all three major US exporters participated in the latest re-investigation and have been issued updated normal values, the volume of imports from the US remains small compared to the historical role they once played in the Canadian market. Cello iterates that this supports their position that US exporters cannot compete in Canada at normal values, especially given the volume of low priced imports stemming from non-named countries.³⁹

³⁴ *Ibid.*, para. 23.

³⁵ Exhibit 42 (NC) – Case brief filed on behalf of Cello, para. 7.

³⁶ *Ibid.*, para. 8.

³⁷ *Ibid.*, para. 9.

³⁸ *Ibid.*, para. 10.

³⁹ *Ibid.*, para. 11.

[67] Cello points out that SIMA duties totaling \$2.4 million were collected on subject goods from the US during the POR which illustrates the US exporters' inability to compete at non-dumped prices.⁴⁰ The CBSA notes that \$2.4 million is the total value for duty, and \$1.1 million of SIMA duties were collected on subject goods from the US during the POR.

Excess production capacity of CPF producers in the US

[68] Cello contends that without any ERQ responses from the major US exporters, the best information available regarding production capacity is historical data. Cello refers to the CBSA's *Statement of Reasons* for the 2016 CPF Expiry Review:

“While details concerning each of the exporter's plant capacity, production and capacity utilization cannot be disclosed for confidentiality reasons, based on the information on the administrative record the overall production of U.S. exporters increased between 2013 to 2015 while still maintaining excess capacity. This excess capacity could be utilized to produce additional CPF if the order was rescinded.”⁴¹

Weak market conditions and demand forecasts in the US

[69] Peter Howell, Cello's Vice-President of Sales and Marketing, indicates that demand for CPF is strongly correlated and largely dependent on the amount of non-residential construction activity. He states that there is little indication of an increase in demand for non-residential construction in the US.⁴² Cello refers to a market research study which indicates that non-residential construction has declined in recent years in the US, and that it is forecasted to further decline throughout 2022.⁴³

[70] Overall, Cello indicates there is no sign that the economic conditions in the US are likely to result in an increased demand for CPF.

Korea

Inability of CPF exporters in Korea to compete at non-dumped prices

[71] Cello indicates that the CBSA has not received any responses to the Exporter ERQ from Korean exporters. However, for the past ten years, Cello states that JungWoo has been the only Korean producer that has been exporting to Canada, as well as the only Korean producer exporting during the POR. JungWoo has actively participated in all re-investigations and has obtained normal values, indicating a continued interest in the Canadian market.⁴⁴

⁴⁰ *Ibid*, para. 12.

⁴¹ Exhibit 23 (NC) – Response to Canadian Producer ERQ from Cello, Exhibit Q29, para. 24.

⁴² Exhibit 42 (NC) – Case brief filed on behalf of Cello, para. 14.

⁴³ Exhibit 23 (NC) – Response to Canadian Producer ERQ from Cello, Exhibit Q29, para. 27.

⁴⁴ Exhibit 42 (NC) – Case brief filed on behalf of Cello, para. 16.

[72] Cello points out that Korean imports have held an immaterial position in the Canadian market during the POR and that SIMA duties have continuously been assessed on the limited imports. Cello contends that this is evidence of Korean exporters' inability to compete in the Canadian marketplace at normal values.⁴⁵

[73] Furthermore, Cello indicated that Poongsan Industrial Corporation ("Poongsan"), another Korean producer, held a meaningful position in the Canadian market prior to the CITT's findings but then left the Canadian market once normal values were imposed. Cello believes that it is reasonable to assume that Poongsan would begin exporting to Canada once again at dumped prices, should the orders be rescinded.⁴⁶

Excess production capacity of CPF producers in Korea

[74] Cello indicates that the CBSA has not received any responses to the Exporter ERQ from Korean exporters, resulting in a lack of information on-hand concerning Korean production capacity.⁴⁷ However, Cello notes that when considering historical data, Korean producers have had significant excess capacity which could easily be diverted to the Canadian market. Cello refers to the CBSA's *Statement of Reasons* for the 2016 CPF Expiry Review:

"There are several large CPF producers in the Republic of Korea. JungWoo, a CPF producer and exporter, has a website that boasts its "mass production system" and highlights the company's focus on exports. Poongsan Industrial Corporation (Poongsan) is another large Republic of Korea producer of wrought CPF but has not obtained normal values from the CBSA since 2007. When the CBSA initiated its investigation in 2006, it identified 15 producers from the Republic of Korea".⁴⁸

[75] Cello also refers to the CITT's Orders and Reasons for the 2016 CPF Expiry Review, where the CITT made several observations regarding excess capacity for both Korea and China, which Cello believes remains true today:

"There is little evidence on the record with regard to current production capacity and capacity utilization in China and Korea, as no producers from these countries responded to the Tribunal's or the CBSA's questionnaires in this expiry review. However, during the period of review for the previous expiry review, JungWoo Metal Inc. Co. Ltd. (JungWoo), historically a significant Korean exporter of copper pipe fittings to Canada, had substantial unused capacity. Furthermore, in the original investigation in 2006, the CBSA identified 15 exporters of copper pipe fittings in Korea and 90 exporters in China. Mr. Howell testified to his view that "[a] small fraction of the foreign producers' unused capacity is enough to wipe Cello off the map. ... Furthermore, a JungWoo promotional video publicly available online advertises an annual production capacity of over 300 million pieces. As noted by Cello, even if JungWoo was operating at 70 percent capacity

⁴⁵ *Ibid.*, para. 17

⁴⁶ *Ibid.*, para. 18.

⁴⁷ Exhibit 23 (NC) – Response to Canadian Producer ERQ from Cello, Exhibit Q29, para. 25.

⁴⁸ *Ibid.*, para. 24.

utilization, the remaining unused capacity would be sufficient to supply a market twice the size of the domestic market.

Thus, the Tribunal finds that there is likely also substantial unused capacity in Korea and China, especially in relation to the comparatively small Canadian market.”⁴⁹

Weak market conditions and demand forecasts in Korea

[76] Cello references a Bloomberg article in which the Government of Korea forecasts that GDP growth for 2021-2022 will be 2.1%, which lags behind that of the 2017-2019 rate of 2.8%.⁵⁰ Moreover, Cello speaks on the forecasted construction outlook which boasts a 3.2% output, far below the 25% output in 2017.⁵¹

[77] Overall, Cello indicates there is no sign that the economic conditions in Korea are likely to result in an increased demand for CPF.

China

Inability of CPF exporters in China to compete at non-dumped prices

[78] Cello states that Canadian importers continue to procure CPFs at dumped prices. Moreover, Cello highlights that during the original CPF investigation in 2006, only two Chinese exporters responded out of the 90 exporters identified, and that throughout the current POR, only one Chinese exporter obtained normal values.⁵² Furthermore, Cello points out that during the current expiry review, only Howhi in China responded to the Exporter ERQ.⁵³

[79] Cello contends that during the POR, SIMA duties collected on Chinese imports were a noteworthy \$5 million, demonstrating a relentless practice of continued dumping even while normal values were in place.⁵⁴ Cello indicates that within the past 15 years, a large volume of CPFs have been exported to Canada from non-named countries at low prices and that without normal values in place, Chinese exporters would compete to regain market share by setting prices below that of other import sources.⁵⁵

⁴⁹ *Ibid.*, para. 25.

⁵⁰ Exhibit 42 (NC) – Case brief filed on behalf of Cello, para. 19.

⁵¹ *Ibid.*, para. 20.

⁵² *Ibid.*, para. 23.

⁵³ *Ibid.*

⁵⁴ *Ibid.*, para. 25.

⁵⁵ *Ibid.*, para. 27.

Excess production capacity of CPF producers in China

[80] Cello states that despite the limited information provided by Chinese exporters and the GOC during the current expiry review, in the CBSA's *Statement of Reasons* for the 2016 CPF Expiry Review, the CBSA previously noted; "the immense production capacity of exporters of CPF in China".⁵⁶

[81] Cello contends that throughout the POR, Howhi has retained enough under-utilized production capacity to overwhelm the relatively small Canadian market.⁵⁷

[82] Cello refers to the CBSA's *Statement of Reasons* for the 2016 CPF Expiry Review:

"There are numerous exporters of CPF in China. The Web site, <http://www.Made-in-China.com>, lists over 1,227 exporters of CPF. Out of the 1,227 exporters of CPF in China, 126 of them have annual revenue of more than USD\$100 million. This fact gives an indication of the immense production capacity of exporters of CPF in China."⁵⁸

Weak market conditions and demand forecasts in China

[83] Cello contends that the demand of CPFs in China is weak. Cello makes reference to the Bank of America's GDP growth forecast for China, in which the Bank of America lowered its GDP growth forecasts for 2021, 2022 and 2023. The Bank of America trimmed its GDP growth forecasts for China to 8.0% from 8.3% for 2021, to 5.3% from 6.2% for 2022 and to 5.8% from 6.0% for 2023.⁵⁹

[84] Cello states that due to the CPF production capacity in China, even the most optimistic forecasts for China would be inadequate to absorb the excess production capacity, and given the relatively small size of the Canadian market, any additional volume would have a large impact on Cello.⁶⁰

Parties Contending that Continued or Resumed Dumping is Unlikely

[88] The CBSA received a response from one party who contended that resumed or continued dumping of subject goods is unlikely should the orders be rescinded. However, due to confidentially reasons, the party and their related arguments cannot be disclosed.

⁵⁶ *Ibid.*, para. 24.

⁵⁷ *Ibid.*

⁵⁸ Exhibit 23 (NC) – Response to Canadian Producer ERQ from Cello, Exhibit Q29, para. 24.

⁵⁹ Exhibit 42 (NC) – Case brief filed on behalf of Cello, para. 26.

⁶⁰ *Ibid.*, para. 27.

CONSIDERATION AND ANALYSIS - DUMPING

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

[86] Guided by these aforementioned factors, the CBSA conducted its review based on the documentation submitted by the various participants and its own research, all of which can be found on the administrative record. The following list represents a summary of the CBSA's analysis conducted in this expiry review investigation with respect to dumping:

- Commodity nature of CPF;
- Shifting import patterns from named countries to non-named countries;
- Changes in market conditions in Canada;
- Imposition of anti-dumping measures by authorities of Canada in respect of similar goods (copper tube);
- Continued dumping of CPF from the US and China while the CITT orders were in effect;
- Apparent inability of CPF exporters from Korea to sell to Canadian importers at non-dumped prices while the CITT orders were in effect;
- Large production capacity and export-orientation of CPF producers and ongoing relationships with Canadian importers;
- Weak market conditions and demand for CPF; and
- Anti-dumping measures concerning Chinese copper pipe and tube in the US.

[87] Before presenting a country-by-country analysis, there are several factors that relate to multiple countries, as discussed below.

Commodity nature of CPF

[88] Generally speaking, CPF produced either by a Canadian manufacturer or by a foreign manufacturer are physically interchangeable. Consequently, CPF are extremely price-sensitive.

[89] As noted by the CITT in its Orders and Reasons issued in the most recent expiry review, "Copper pipe fittings are essentially commodity products, with little or no product differentiation based on origin, making price the determinative criterion in purchasing decisions."⁶¹

[90] As a result of the commodity nature of CPF, purchasers will always seek the lowest prices in the market.

⁶¹ Exhibit 38 (NC) – CBSA Research, REF-038 – CITT Expiry Review No. RR-2015-003 Orders and Reasons, December 12, 2016, para. 90.

Shifting import patterns from named countries to non-named countries

[91] During the POR, there has been a shift in imports into Canada from the named countries to imports from other countries.⁶² The market share of the imports of CPF from other countries into Canada has increased during the POR. Given the price sensitive nature of the subject goods, it is reasonable to conclude that Canadian importers are purchasing CPF from these countries because of lower prices.

[92] Due to the commodity nature of CPF, in order to regain lost market share, CPF from the named countries would need to compete with the low prices of imports from non-named countries. The strong price competition may lead to the continued or resumed dumping of CPF.

Changes in market conditions in Canada

[93] According to the Bank of Montreal, the Canadian economic outlook is not as favourable for 2022 in terms of GDP growth compared to the previous year. Annual GDP growth is projected to be 4.5% for 2022 compared to 6.0% for 2021.

[94] However, the non-residential construction growth rate in Canada is forecasted to raise sharply in 2022 to 9.5% from -3.1% in 2021.⁶³ Demand for CPF is largely driven by non-residential construction activity.

[95] Moreover, the markets for copper pipes and tubes, which are related products to CPF, are expected to grow by 3.3% in Canada by 2026.⁶⁴

[96] The forecasted increase in the non-residential construction sector, alongside the growth in the copper pipes and tubes markets, are likely to make the Canadian market increasingly attractive to global exporters of CPF and will likely lead to continued or resumed dumping by exporters of CPF from the named countries.

[97] According to multiple Canadian importers and foreign exporters who responded to the CBSA's Importer ERQ and Exporter ERQ, there is a growing trend of product substitutes which could continue to erode demand for CPF in the Canadian market in the coming years.⁶⁵ This includes more cost effective water distribution solutions such as PEX pipe and fittings, and press copper fittings.⁶⁶ If this trend continues, exporters from the named countries may be further incentivised to continue or resume dumping in order to acquire and maintain market share in Canada.

⁶² Exhibit 39 (NC) – Compliance statistics – Day 50. and Exhibit 40 (NC) – CBSA Import Statistics – Day 50.

⁶³ Exhibit 38 (NC) – CBSA Research, REF-016 – BMO Canadian Economic Outlook for Apr. 30, 2021.

⁶⁴ Exhibit 38 (NC) – CBSA Research, REF-003 – Copper Pipes and Tubes.

⁶⁵ Exhibit 33 (NC) – Response to Importer ERQ from NCI, question Q22. and Exhibit 18 (NC) – Response to Importer ERQ from BMI, question Q23.

⁶⁶ Exhibit 18 (NC) – Response to Importer ERQ from BMI, question Q23. and Exhibit 35 (NC) – Response to Exporter ERQ from Howhi, question Q35.

Imposition of anti-dumping measures by authorities of Canada in respect of similar goods (copper tube)

[98] In the 2013 dumping investigation of copper tube from Brazil, China, Greece, Mexico and Korea, the CBSA found the cooperative exporter from China, China Hailiang Group (which produces both copper tube and CPF), to be dumping.⁶⁷ The CBSA also found the only cooperative exporter from Korea, Nungwon Metal Ind., Co., Ltd. (“Nungwon”), to be dumping.

[99] As some of the vertically-integrated producers of copper tube who also produce CPF were found to have dumped copper tube into the Canada market, it is reasonable to conclude that they are likely to dump CPF into the Canadian market as well.

[100] The CBSA has conducted one re-investigation to update normal values and export prices for copper tube which concluded in January of 2015. No Chinese exporters cooperated in the re-investigation. Nungwon was the only Korean exporter that cooperated in the re-investigation.

[101] On April 18, 2019, the CBSA determined that the expiry of the findings in respect of copper tube, is likely to result in the continuation of resumption of dumping of the goods.⁶⁸ On September 25, 2019, the CITT issued orders continuing the findings.⁶⁹ The POR of the Copper Tube Expiry Review was January 1, 2015 to September 30, 2018, which includes some overlap with the current CPF expiry review’s POR.

[102] Chinese exporters who sell copper tubes sometimes sell CPF to Canada as well. This is supported by the fact that various Chinese exporters received ERQs as part of both expiry review investigations. As previously mentioned, Chinese exporter, Hailiang, is one of the world’s largest manufacturers of copper tubes and CPF. This, coupled with the fact that two of the three named countries in the CPF orders are also named countries in the copper tube findings, makes the Copper Tube Expiry Review conclusion relevant to the current expiry review.

[103] The imposition and continuation of anti-dumping measures by the CBSA on copper tubes indicates that it is likely that exporters of CPF from Korea and China will continue or resume dumping if the orders are rescinded.

[104] The following country-specific analysis begins with the US, followed by Korea, and China.

⁶⁷ Exhibit 38 (NC) – CBSA Research, REF-040 – CBSA CT 2013 IN – Final Determinations *Statements of Reasons*, November 13, 2013.

⁶⁸ Exhibit 38 (NC) – CBSA Research, REF-013 – CBSA CT 2018 ER – Expiry Review Determination *Statement of Reasons*, April 18, 2019.

⁶⁹ Exhibit 38 (NC) – CBSA Research, REF-042 – CITT Expiry Review RR-2018-005 – Orders and Reasons, September 25, 2019.

United States

[105] One exporter from the US, Sid Tool, provided a response to the Exporter ERQ. No exporters in the US filed case briefs or reply submissions.

Continued dumping of CPF from the US while the CITT orders were in effect

[106] During the POR, US exports accounted for approximately 4.7% by quantity and 7.6% by value of the imports of CPF from the named countries.⁷⁰ Moreover, during the POR, US exports accounted for approximately 2.4% by quantity and 4.1% by value of the imports of CPF from all sources.⁷¹

[107] Information on anti-dumping duties collected during the POR is presented in the *Enforcement Data* section. A total of approximately 96,900 kg of CPF from the US entered the Canadian market during the POR. Importations of certain CPF from the US have resulted in the assessment of anti-dumping duties of approximately \$1.1 million during the POR.⁷² The significant collection of duties demonstrates an apparent inability for US exporters to compete in the Canadian market at non-dumped prices. It is also an indication that exporters in the US have a continued interest in the Canadian market.

[108] On June 28, 2019, the CBSA concluded a re-investigation to update the normal values and export prices of CPF from the US, Korea, and China, and amounts of subsidy of CPF from China. The three major exporters from the US, Elkhart, Mueller, and Nibco, participated in the re-investigation and received updated normal values.⁷³

[109] On September 28, 2020, the CBSA concluded a normal value review to update the normal values and export prices of CPF exported to Canada from the US by Nacobre USA. Nacobre USA participated in the normal value review and received normal values.

[110] The number of US exporters participating in recent proceedings suggests that there is a continued interest in the Canadian market.

Shifting import patterns from named countries to non-named countries

[111] Aforementioned evidence on the record shows that the market share of the imports of CPF from non-named countries increased during the POR. Since CPF are a commodity based product, price is a major factor in the purchasing decision. Importers in Canada appear to be purchasing CPF from non-named countries because of lower prices. For example, imports of subject goods from the US from 2018 to 2020 ranged from an average annual low of \$25.97 per kg in 2018 to a high of \$29.42 per kg in 2019, while imports from other countries during the

⁷⁰ Exhibit 39 (NC) – Compliance Statistics – Day 50.

⁷¹ Exhibit 39 (NC) – Compliance Statistics – Day 50. and Exhibit 40 (NC) – CBSA Import Statistics – Day 50.

⁷² Exhibit 39 (NC) – Compliance Statistics – Day 50.

⁷³ Exhibit 38 (NC) – CBSA Research, REF-036 CBSA CPF 2019 RI – *Notice of Conclusion*, June 28, 2019.

same period ranged from an average annual low of \$12.21 per kg in 2019 to a high of \$16.76 per kg in 2018.⁷⁴ The average price from non-named countries is significantly lower.

[112] If the orders were rescinded, US exporters may lower prices to compete against these low-priced imports. In order to maintain or secure additional market share, US exporters would likely continue or resume dumping in Canada.

Large production capacity of CPF producers in the US and ongoing relationships with Canadian importers

[113] In light of the limited participation from US producers and exporters of subject goods, the CBSA relied on information from the most recent expiry review regarding production capacity of US producers.

[114] The CBSA previously noted:

“While details concerning each of the exporter’s plant capacity, production and capacity utilization cannot be disclosed for confidentiality reasons, based on the information on the administrative record the overall production of U.S. exporters increased between 2013 to 2015 while still maintaining excess capacity. This excess capacity could be utilized to produce additional CPF if the order was rescinded.”⁷⁵

[115] The size of the US production capacity is all the more significant when compared to the small size of the overall Canadian market for CPF.

[116] Evidence on the record shows that certain Canadian importers have maintained ongoing relationships with US exporters who have imported CPF in every year during the POR. Furthermore, the CBSA previously noted in the 2016 expiry review that certain US exporters have long-standing relationships with Canadian importers.⁷⁶

Weak market conditions and demand for CPF in the US

[117] The US budget deficit recently widened to USD \$1.8 trillion as a result of spending to stabilize the economy from the impacts of COVID-19. Another notable effect of COVID-19 is the increased levels of unemployment in the US which has resulted in consumer spending plummeting.⁷⁷

⁷⁴ Exhibit 39 (NC) – Compliance Statistics – Day 50. and Exhibit 40 (NC) – CBSA Import Statistics – Day 50.

⁷⁵ *Ibid.*, para. 82.

⁷⁶ Exhibit 38 (NC) – CBSA Research, REF-035 CPF 2016 ER – Expiry Review Determination *Statements of Reasons*, July 20, 2016, para. 100.

⁷⁷ Exhibit 38 (NC) – CBSA Research, REF-003 Copper Pipes and Tubes – Global Market Trajectory & Analytics, p. 1-2.

[118] In the US, non-residential construction, an indicator linked to CPF demand, has declined in recent years and is expected to decline further this year.⁷⁸ However, even when there is increased construction activity in the US, it does not seem to necessarily translate to increased domestic CPF sales for US producers. In the most recent expiry review, the CBSA previously noted:

“According to U.S. CPF producers, U.S. construction activity is an important indicator of sales trends for CPF. Recent housing market statistics, including construction spending and housing starts, have shown an upward trend. While details concerning domestic sales of CPF cannot be disclosed for confidentiality reasons, based on the information available on the record, there does not appear to be a correlation with construction trends during the POR and domestic sales of CPF.”⁷⁹

[119] Based on the above statement, it is reasonable to deduce that domestic sales of CPF of US producers suffered even during a period which boasted an upward trend in construction spending and housing starts during the 2016 Expiry Review’s POR.

[120] During the current POR, the non-residential construction sector in the US has actually declined and is expected to decline further this year.⁸⁰

[121] Overall, the modest economic outlook in the US demonstrates that demand for CPF in the US is not likely to expand in the near future. US CPF producers may rely heavily on export markets as non-residential construction in the US declines.

[122] The CBSA believes that the weak market conditions and demand for CPF in the US is likely to lead to continued or resumed dumping by US exporters.

Determination Regarding Likelihood of Continued or Resumed Dumping – United States

[123] Based on the information on the record in respect of the: commodity nature of CPF; shifting import patterns from named countries to non-named countries; changes in market conditions in Canada; continued dumping of CPF from the US while the CITT orders were in effect; large production capacity of CPF producers in the US and ongoing relationships with Canadian importers; and weak market conditions and demand for CPF in the US, the CBSA has determined that the rescission of the orders is likely to result in the continuation or resumption of dumping of CPF from the US.

Korea

[124] No exporters in Korea provided a response to the Exporter ERQ or filed case briefs or reply submissions.

⁷⁸ Exhibit 42 (NC) – Case brief filed on behalf of Cello, para. 14.

⁷⁹ Exhibit 38 (NC) – CBSA Research, REF-035 CPF 2016 ER – Expiry Review Determination *Statements of Reasons*, July 20, 2016, para. 92.

⁸⁰ Exhibit 23 (NC) – Response to Canadian Producer ERQ from Cello, Exhibit Q29, para. 27.

Apparent inability of CPF exporters from Korea to sell to Canadian importers at non-dumped prices while the CITT orders were in effect

[125] During the POR, Korean exports accounted for approximately 0.3% (by both quantity and value) of the imports of CPF from the named countries.⁸¹ Moreover, during the POR Korean exports accounted for approximately 0.1% by quantity and 0.2% by value of the imports of CPF from all sources.⁸²

[126] Information on anti-dumping duties collected during the POR is presented in the *Enforcement Data* section. A total of approximately 5,400 kg of CPF from Korea entered the Canadian market during the POR. Importations of CPF from Korea have resulted in the assessment of anti-dumping duties of approximately \$21,600 during the POR.⁸³ Imports of subject goods from Korea have declined substantially since anti-dumping duties were first imposed. However, low volumes continued to be imported during the POR. The small volume of imports since the anti-dumping duties were imposed indicates that it is difficult for Korean CPF to compete in the Canadian market at non-dumped prices.

[127] On June 28, 2019, the CBSA concluded a re-investigation to update the normal values and export prices of CPF from the US, Korea and China, and amounts of subsidy of CPF from China. Only one exporter from Korea, JungWoo, participated in the re-investigation and received updated normal values.⁸⁴ The minimal exporter participation suggests that there was low incentive to provide information to the CBSA as the exporters are unable to sell to Canadian importers at non-dumped prices.

Shifting import patterns from named countries to non-named countries

[128] As noted earlier, there has been a shift in imports into Canada from the named countries to imports from non-named countries. Evidence on the record shows that the market share of the imports of CPF from non-named countries have increased during the POR. Importers in Canada appear to be purchasing CPF from non-named countries because of lower prices. For example, imports of subject goods from Korea from 2018 to 2020 ranged from an average annual low of \$18.42 per kg in 2020 to a high of \$47.80 per kg in 2018, while imports from non-named countries during the same period ranged from an average annual low of \$12.21 per kg in 2019 to a high of \$16.76 per kg in 2018.⁸⁵ The average price from non-named countries is significantly lower.

[129] If the orders were rescinded, Korean exporters may lower prices to compete against these low-priced imports. In order to secure additional market share, Korean exporters would likely continue or resume dumping in Canada.

⁸¹ Exhibit 39 (NC) – Compliance Statistics – Day 50.

⁸² Exhibit 39 (NC) – Compliance Statistics – Day 50. and Exhibit 40 (NC) – CBSA Import Statistics – Day 50.

⁸³ Exhibit 39 (NC) – Compliance Statistics – Day 50.

⁸⁴ Exhibit 38 (NC) – CBSA Research, REF-036 CBSA CPF 2019 RI – *Notice of Conclusion*, June 28, 2019.

⁸⁵ Exhibit 39 (NC) – Compliance Statistics – Day 50. and Exhibit 40 (NC) – CBSA Import Statistics – Day 50.

Large production capacity of CPF producers in Korea and ongoing relationships with Canadian importers

[130] In light of the lack of participation from Korean producers and exporters of subject goods, the CBSA relied on information from the most recent expiry review regarding production capacity of CPF producers in Korea.

[131] The CBSA previously noted:

“There are several large CPF producers in the Republic of Korea. Jungwoo, a CPF producer and exporter, had a website that boasts its “mass production system” and highlights the company’s focus on exporters. Poongsan Industrial Corporation (Poongsan) is another large Republic of Korea producer of wrought CPF but has not obtained normal values from the CBSA since 2007. When the CBSA initiated its investigation in 2006, it identified 15 producers from the Republic of Korea.”⁸⁶

[132] The number of producers of CPF in Korea is all the more significant when compared to the small size of the overall Canadian market for CPF.

[133] Furthermore, evidence on the record shows that Korean exporters have maintained ongoing relationships with certain Canadian importers who have imported CPF from Korea in every year during the POR.

Weak market conditions and demand for CPF in Korea

[134] There is also information on the record that indicates that forecasted demand for CPF in Korea is weak. The Korean government recently forecasted lower GDP growth in 2021-2022 than in 2017-2019.⁸⁷

[135] Recently, Korea’s economy has been under pressure over a spike in COVID-19 cases, delaying domestic consumption. Personal and corporate bankruptcies increased by more than 10% in 2020.⁸⁸ The Bank of Korea is forecasting economic growth of 4% this year.⁸⁹

[136] The construction output in Korea declined 0.8% year-on-year in October 2021, following a downward 9.9% drop in the previous month. This was the thirteenth consecutive month of falling construction activity.⁹⁰ Moreover, the construction output forecast is trending downward.⁹¹

⁸⁶ Exhibit 38 (NC) – CBSA Research, REF-035 CPF 2016 ER – Expiry Review Determination *Statements of Reasons*, July 20, 2016, para. 97.

⁸⁷ Exhibit 42 (NC) – Case brief filed on behalf of Cello, para. 19.

⁸⁸ Exhibit 38 (NC) – CBSA Research, REF-010 – Bankruptcies Soar by Over 10% as Pandemic Takes Toll.

⁸⁹ Exhibit 38 (NC) – CBSA Research, REF-011 – Economic Uncertainty Growing Over 4th Wave of Pandemic.

⁹⁰ Exhibit 38 (NC) – CBSA Research, REF-017A – Trading Economics South Korea Construction Output 2021.

⁹¹ Exhibit 38 (NC) – CBSA Research, REF-017B – Trading Economics South Korea Construction Output Forecast.

[137] Overall, the modest economic outlook in Korea demonstrates that demand for CPF in Korea is not likely to expand in the near future. Korean CPF producers may rely heavily on export markets as the domestic market in Korea slows down.

Determination Regarding Likelihood of Continued or Resumed Dumping – Korea

[138] Based on the information on the record in respect of the: commodity nature of CPF; shifting import patterns from named countries to non-named countries; changes in market conditions in Canada; imposition of anti-dumping measures by authorities of Canada in respect of similar goods (copper tube); apparent inability of CPF exporters from Korea to sell to Canadian importers at non-dumped prices while the CITT orders were in effect; large production capacity of CPF producers in Korea and ongoing relationships with Canadian importers; and weak market conditions and demand for CPF in Korea, the CBSA has determined that the rescission of the orders is likely to result in the continuation or resumption of dumping of CPF from Korea.

China

[139] One exporter from China, Howhi, provided a response to the Exporter ERQ. No exporters in China filed case briefs or reply submissions.

Continued dumping of CPF from China while the CITT orders were in effect

[140] During the POR, Chinese exports accounted for over 90% (by both quantity and value) of the imports of CPF from the named countries.⁹² Moreover, during the POR Chinese exports accounted for approximately 48.1% by quantity and 49.2% by value of the imports of CPF from all sources.⁹³

[141] Information on anti-dumping duties collected during the POR is presented in the *Enforcement Data* section. A total of approximately 1.9 million kg of CPF from China entered the Canadian market during the POR. Importations of CPF from China have resulted in the assessment of anti-dumping and countervailing duties of approximately \$5.0 million during the POR.⁹⁴ The significant collection of duties demonstrates an apparent inability for Chinese exporters to compete in the Canadian market at non-dumped prices. It is also an indication that exporters in China have a continued interest in the Canadian market.

⁹² Exhibit 39 (NC) – Compliance Statistics – Day 50.

⁹³ Exhibit 39 (NC) – Compliance Statistics – Day 50. and Exhibit 40 (NC) – CBSA Import Statistics – Day 50.

⁹⁴ Exhibit 39 (NC) – Compliance Statistics – Day 50.

[142] On June 28, 2019, the CBSA concluded a re-investigation to update the normal values and export prices of CPF from the US, Korea and China, and amounts of subsidy of CPF from China. Only two exporters from China, Hailiang and Howhi, participated in the re-investigation and received updated normal values.⁹⁵ The minimal exporter participation suggests that there was low incentive to provide information to the CBSA as the exporters are unable to sell to Canadian importers at non-dumped prices.

Shifting import patterns from named countries to non-named countries

[143] As noted earlier, there has been a shift in imports into Canada from the named countries to imports from non-named countries. Evidence on the record shows that the market share of the imports of CPF from non-named countries have increased during the POR. Importers in Canada appear to be purchasing CPF from non-named countries because of lower prices. For example, imports of subject goods from China from 2018 to 2020 ranged from an average annual low of \$13.65 per kg in 2020 to a high of \$15.71 per kg in 2018, while imports from non-named countries during the same period ranged from an average annual low of \$12.21 per kg in 2019 to a high of \$16.76 per kg in 2018.⁹⁶ The average prices from non-named countries and from China are within a similar range.

[144] If the orders were rescinded, Chinese exporters may have to maintain lower prices to compete against these low-priced imports. In order to maintain or secure additional market share, Chinese exporters would likely continue or resume dumping in Canada.

[145] Furthermore, as noted in the Copper Tube Expiry Review in 2018, Hailiang is an exporter of particular concern. In response to the CITT's findings on CPF from China, it began exporting from its related company in Vietnam. Following the CITT's finding on CPF from Vietnam, Hailiang shuttered its Vietnamese plant and opened a new plant in Thailand. Additionally, in the Copper Tube Expiry Review, market intelligence showed that Hailiang's copper tube from Thailand was already being imported into Canada at very low prices.⁹⁷ As such, Hailiang has a history of dumping. If the CITT's orders are rescinded, it is likely that Hailiang will revert to exporting from its much larger production facilities in China.

Large production capacity and export-orientation of CPF producers in China and ongoing relationships with Canadian importers

[146] There are a large number of CPF producers in China. The CBSA has previously noted that there may be over 1,227 exporters located in China. Out of the 1,227 exporters of CPF in China, 126 exporters have annual revenue of more than US\$ 100 million.⁹⁸ While there is limited information on the production capacity and capacity utilization of each of these companies in

⁹⁵ Exhibit 38 (NC) – CBSA Research, REF-036 CBSA CPF 2019 RI – *Notice of Conclusion*, June 28, 2019.

⁹⁶ Exhibit 39 (NC) – Compliance Statistics – Day 50. and Exhibit 40 (NC) – CBSA Import Statistics – Day 50.

⁹⁷ Exhibit 38 (NC) – CBSA Research, REF-013 – CBSA CT 2018 ER – Expiry Review *Determination Statement of Reasons*, April 18, 2019, para. 68.

⁹⁸ *Ibid.*, para. 113.

China, there is indication that there is immense production capacity in China, in comparison to the relatively small Canadian market.⁹⁹

[147] Howhi accounts for a portion of imports of CPF from China during the POR, and demonstrates a continued interest in the Canadian market which is shown by the fact that Howhi indicates Canada as one of its principal markets.¹⁰⁰

[148] During the POR, Howhi indicates that it has increased its production capacity of CPF since 2018 due to new facilities opened and asset acquisition.¹⁰¹

[149] In addition to Howhi, the CBSA has previously noted Hailiang as one of world's largest manufacturers of CPF and copper tubes. Hailiang maintains substantial production capacity in China. Hailiang also has ongoing relationships with importers in Canada, and has demonstrated a continued interest in the Canadian market.¹⁰²

[150] Based on the large production capacity available and export orientation of CPF producers in China, there is significant incentive for producers to pursue export sales at low prices in order to increase capacity utilization.

[151] Moreover, evidence on the record shows that Chinese exporters have maintained ongoing relationships with certain Canadian importers, who have imported CPF from China in every year during the POR.

Weak market conditions and demand for CPF in China

[152] Information on the record indicates that forecasted demand for CPF in China is weak. The Bank of America recently reduced China's GDP growth forecast for 2022 and 2023.¹⁰³

[153] GDP from construction in China is expected to modestly trend upward.¹⁰⁴ However, the Bank of America also references the growing concern of liquidity issues of China Evergrande Group ("Evergrande"), China's largest property developer. Evergrande's liquidity crisis could damage China's economy as it is a systemically important company. Due to the Evergrande crisis, the already slowing Chinese economy may be affected even further.¹⁰⁵

⁹⁹ Exhibit 23 (NC) – Response to Canadian Producer ERQ from Cello, Exhibit Q29, para. 24.

¹⁰⁰ Exhibit 35 (NC) – Response to Exporter ERQ from Howhi, question Q35.

¹⁰¹ *Ibid.*, question Q14.

¹⁰² Exhibit 38 (NC) – CBSA Research, REF-013 – CBSA CT 2018 ER – Expiry Review Determination *Statement of Reasons*, April 18, 2019, para. 68, 121.

¹⁰³ Exhibit 42 (NC) – Case brief filed on behalf of Cello, para. 26.

¹⁰⁴ Exhibit 38 (NC) – CBSA Research, REF-018B – Trading Economics China GDP from Construction Forecast.

¹⁰⁵ Exhibit 38 (NC) – CBSA Research, REF-006 – The global economy could feel the effects of China's Evergrande crisis. Here's what investors should know.

[154] The International Monetary Fund's (IMF) growth outlook for China is marked down slightly. The IMF also mentions large-scale disorderly corporate debt defaults and restructuring, for instance in China's property sector, that could lead to market volatility.¹⁰⁶

[155] The overheating real estate property market represents a significant threat to economic and social stability in China.¹⁰⁷

[156] Moreover, according to the data released on December 16, 2021 by the National Bureau of Statistics of China, China's real estate climate index has been predominantly in downward trend when looking at the first eleven months of 2021. For the index, figures above 100 indicate economic growth while readings below 100 indicate a slowdown in the Chinese real estate industry. The index stood at approximately 101.45 in January 2021 and has continuously decreased month-over-month ending up at approximately 100.51 in November of 2021. This decrease indicates a slowdown in the Chinese real estate industry.¹⁰⁸

[157] Overall, the modest economic outlook in China demonstrates that demand for CPF in China is not likely to expand in the near future. Chinese CPF producers may rely heavily on export markets as the domestic market in China slows down.

Imposition of anti-dumping measures concerning Chinese copper pipe and tube in the US

[158] The US currently has anti-dumping measures in place on copper pipe and tube from China.

[159] In the US, anti-dumping duties have been imposed on Chinese copper pipe and tube imports, with attachments such as CPF, since 2010.¹⁰⁹ Due to Canada's close proximity to the US, Chinese CPF exports can easily be diverted to Canada.

[160] On December 2, 2016, the US International Trade Commission (USITC) extended its orders in the five-year sunset review concerning copper pipe and tube, with attachments such as CPF, from China. The USITC found that the revocation of the anti-dumping orders would likely lead to a continuation or recurrence of material injury to the domestic industry within a reasonably foreseeable time.¹¹⁰

¹⁰⁶ Exhibit 38 (NC) – CBSA Research, REF-015A – International Monetary Fund World Economic Outlook Oct 2021, p. 7, 14-15.

¹⁰⁷ Exhibit 38 (NC) – CBSA Research, REF-012 – Property, Prestige, and 'Common Prosperity': China's Real Estate Market in 2021.

¹⁰⁸ Exhibit 38 (NC) – CBSA Research, REF-027 – National Real Estate Development and Sales in the First Eleven Months of 2021.

¹⁰⁹ See USITC website at: https://www.usitc.gov/publications/701_731/pub4193.pdf.

¹¹⁰ See USITC website at: https://www.usitc.gov/publications/701_731/pub4650.pdf, and https://www.usitc.gov/secretary/fed_reg_notices/sunset/731_1174_notice09242015s.gl.pdf.

[161] On January 16, 2020, the USITC conducted an administrative review concerning copper pipe and tube, with attachments such as CPF, from China, and concluded that the goods were dumped.¹¹¹

[162] Moreover, Howhi states that the growth rate of exports to the US did not meet their expectations.¹¹²

[163] With the continuation of the US measures, Canada is exposed to diversion risk for available volumes of Chinese CPF.

Determination Regarding Likelihood of Continued or Resumed Dumping – China

[164] Based on the information on the record in respect of the: commodity nature of CPF; shifting import patterns from named countries to non-named countries; changes in market conditions in Canada; imposition of anti-dumping measures by authorities of Canada in respect of similar goods (copper tube); continued dumping of CPF from China while the CITT orders were in effect; large production capacity and export-orientation of CPF producers in China and ongoing relationships with Canadian importers; weak market conditions and demand for CPF in China; and imposition of anti-dumping measures concerning Chinese copper pipes and tubes in the US, the CBSA has determined that the rescission of the orders is likely to result in the continuation or resumption of dumping of CPF from China.

POSITION OF THE PARTIES - SUBSIDIZING

Parties Contending that Continued or Resumed Subsidizing is Likely

[165] Cello made representations through its Canadian Producer ERQ response as well as in its case brief in support of its position that subsidizing from China is likely to continue or resume in the event the present orders are rescinded. Consequently, Cello argues that the countervailing measures should remain in place.

[166] The main factor identified by Cello is the continued subsidizing while the orders were in effect.

¹¹¹ Exhibit 38 (NC) – CBSA Research, REF-005 – Seamless Refined Copper Pipe and Tube From the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2017-2018, p. 1.

¹¹² Exhibit 35 (NC) – Response to Exporter ERQ from Howhi, question Q35.

Continued subsidizing of CPF while the orders were in effect

[167] Cello noted that the GOC failed to cooperate in this expiry review. As such, Cello referred to the fact that in the final determination, the CBSA found that 91% of subject goods from China were subsidized at a rate of 51%. The CBSA identified various subsidy programs that Chinese exporters of subject goods would be entitled to benefit from. Cello claims that CPF producers continue to benefit from the subsidy programs identified in the CBSA's original CPF investigation.¹¹³

Parties Contending that Continued or Resumed Subsidizing is Unlikely

[168] The CBSA received a response from one party who contended that resumed or continued subsidizing of subject goods from China is unlikely if the orders are rescinded. However, due to confidentiality reasons, the party cannot be disclosed.

CONSIDERATION AND ANALYSIS - SUBSIDIZING

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

[170] Guided by the aforementioned regulations and having examined the information on the administrative record, the following is a list of the factors considered in the analysis with respect to the likelihood of continued or resumed subsidizing:

- Continued subsidizing of CPF from China while the orders were in effect;
- Imposition of countervailing measures by authorities of Canada in respect of similar goods (copper tube);
- Large production capacity and export-orientation of CPF producers in China and ongoing relationship with Canadian importers; and
- Weak market conditions and demand for CPF in China.

Continued subsidizing of CPF from China while the orders were in effect

[171] In light of the limited participation from Chinese producers and exporters of subject goods and the lack of participation by the GOC in this expiry review, the CBSA relied on information from the original CPF investigations, re-investigations, most recent expiry review, as well as pertinent information on the record in assessing the likelihood of continued or resumed subsidization, should the CITT's orders be rescinded.

¹¹³ Exhibit 42 (NC) – Case brief filed on behalf of Cello, para. 28.

[172] In the 2006 original subsidy investigation of CPF originating in or exported from China, 36 potential subsidy programs were investigated and 18 of these subsidy programs were considered to be available to all other exporters. Based on the information on the record (including information provided by the exporters and the GOC), the CBSA determined that the two cooperative exporters in China, Tianli Pipe Fitting Co. Ltd. (“Tianli”) and Howhi, did not receive any benefits associated with the alleged subsidy programs during the subsidy period of investigation (POI).¹¹⁴

[173] During the investigation, it was found that 91% of the goods exported from China were subsidized. The weighted average amount of subsidy, expressed as a percentage of the export price, was equal to 51%. The amounts of subsidy for the goods ranged from 6% to 54%.¹¹⁵ The amount of subsidy for all other exporters was equal to 17.73 Renminbi per kilogram, as determined according to a Ministerial specification pursuant to subsection 30.4(2) of SIMA.¹¹⁶

[174] Detailed descriptions of the programs and explanations as to why they were regarded as countervailable subsidies are contained in the CBSA’s *Statement of Reasons* issued at the final determination.¹¹⁷

[175] Based on the information provided by the GOC in the 2010 re-investigation of CPF, 14 of the 18 subsidy programs identified in the original investigation were terminated. The four remaining subsidy programs conferring financial benefits to CPF exporters were:¹¹⁸

- Exemption of tariff and import VAT for the imported technologies and equipment;
- Fund for international market exploration by SMEs;
- Value Added Tax (VAT) exemptions; and
- Tariff exemptions on imported materials.

[176] During the 2019 re-investigation of CPF, the GOC did not respond to the Subsidy RFI. Consequently, the CBSA had limited information concerning the details of the subsidy programs that were considered to be countervailable. In consideration of the fact that two exporters in China, Hailiang and Howhi, provided complete responses to the Subsidy RFI, they received their own amounts of subsidy. Although Howhi participated in previous investigations and re-investigations and the CBSA determined that Howhi did not receive any benefits associated with the subsidies in the past, Howhi was found to benefit from countervailable subsidies during this re-investigation. The amount of subsidy for all other exporters was equal to 17.73 Renminbi per kilogram.¹¹⁹

¹¹⁴ Exhibit 38 (NC) – CBSA Research, REF-034 – CBSA CPF 2006 IN – Final Determinations *Statement of Reasons*, January 18, 2007, para. 161-166.

¹¹⁵ *Ibid.*, para. 171.

¹¹⁶ *Ibid.*, para. 170.

¹¹⁷ *Ibid.*

¹¹⁸ Exhibit 38 (NC) – CBSA Research, REF-035 CPF 2016 ER – Expiry Review Determination *Statements of Reasons*, July 20, 2016, para 131.

¹¹⁹ Exhibit 38 (NC) – CBSA Research, REF-036 – CBSA CPF 2019 RI – *Notice of Conclusion*, June 28, 2019.

[177] While the orders were in place, Chinese CPF producers have maintained a presence in the Canadian market through exports as can be seen in **Table 1**, in the *Canadian Market* section.

[178] Information on countervailing duties collected during the POR is presented in the *Enforcement Data* section. Importations of CPF from China have resulted in the assessment of anti-dumping and countervailing duties of approximately \$5 million.¹²⁰

[179] Based on the continued subsidizing while the orders were in effect, it is likely that exporters from China will benefit from continued or resumed subsidizing if the orders are rescinded.

[180] Moreover, in the 2017 investigation of copper pipe fittings from Vietnam, Hailiang Vietnam, participated during the preliminary phase of the investigations. However, in the final phase of the investigations, they withdrew from the investigation process.¹²¹ Based on this information, it appears that Hailiang has a propensity to benefit from subsidies.

Imposition of countervailing measures by authorities of Canada in respect of similar goods (copper tube)

[181] There are currently 19 countervailing measures in force¹²² applicable to Chinese industrial goods, namely base metals or articles of base metal, sold to Canada, demonstrating the GOC's continued commitment to providing subsidies to Chinese companies operating in the metal industry. In each of these cases, the CBSA has identified a significant number of potentially actionable subsidy programs, including loans from state-owned banks at preferential rates; grants for insurance, R&D, export performance, land use, etc.; preferential tax policies in special economic zones, new high tech enterprises, foreign-invested enterprises, etc.; relief from duties and taxes for machinery, technology, equipment, etc.; and goods or services provided by the GOC at less than fair market value, that may also be available to producers of CPF. Detailed descriptions of the programs and explanations as to why they were regarded as countervailable subsidies are contained in the CBSA's *Statement of Reasons* issued at the final determination for each investigation.¹²³

[182] In the 2013 subsidy investigation of copper tube from China, the CBSA found that China Hailiang Group (which produces copper tube and CPF) received benefits from the GOC under 28 subsidy programs.¹²⁴ As copper tube is an input for the production of CPF, it was believed that the subsidies would be attributable to the CPF products.

¹²⁰ Exhibit 39 (NC) – Compliance Statistics – Day 50.

¹²¹ CBSA CPF2 2017 IN – Final Determinations *Statement of Reasons*, May 10, 2018, para. 23, 57.

¹²² Including aluminum extrusions, container chassis, carbon steel welded pipe, cold-rolled steel, concrete reinforcing bar, copper pipe fittings, copper tube, fabricated industrial steel components, fasteners, large line pipe, line pipe, oil country tubular goods, piping pipe, pup joints, seamless casing, silicon metal, stainless steel sinks, steel grating, and sucker rods.

¹²³ See CBSA website at: <http://www.cbsa.gc.ca/sima-lmsi/i-e/menu-eng.html>.

¹²⁴ Exhibit 38 (NC) – CBSA Research, REF-040 – CBSA CT 2013 IN – Final Determinations *Statements of Reasons*, November 13, 2013.

[183] Since the CITT's findings, the CBSA has conducted one re-investigation to update amounts of subsidy for copper tube which concluded in January 2015. No Chinese exporters cooperated in the re-investigation. Furthermore, the GOC did not participate in the re-investigation. Consequently, the CBSA continued to have limited information concerning the details of the subsidy programs that were considered to be countervailable.

[184] On April 18, 2019, the CBSA determined that the expiry of the findings in respect of copper tube from China, is likely to result in the continuation of resumption of subsidizing of the goods.¹²⁵ On September 25, 2019, the CITT issued orders continuing the findings.¹²⁶ The POR of the Copper Tube Expiry Review was January 1, 2015 to September 30, 2018, which includes some overlap with the current CPF expiry review's POR.

[185] Chinese exporters who sell copper tubes sometimes sell CPF to Canada as well. This is supported by the fact that various Chinese exporters received ERQs as part of both expiry review investigations. As previously mentioned, Chinese exporter, Hailiang, is one of the world's largest manufacturers of copper tubes and CPF. This, coupled with the fact that two of the three named countries in the CPF orders are also named countries in the copper tube findings, make the expiry review conclusion relevant to the current expiry review.

[186] The imposition and continuation of countervailing measures by the CBSA on copper tubes indicates that it is likely that exporters of CPF from China will likely benefit from continued or resumed subsidizing if the orders are rescinded.

Large production capacity and export-orientation of CPF producers in China and ongoing relationships with Canadian importers

[187] As noted in the analysis of the likelihood of the continued or resumed dumping, information on the record indicates that there may be over 1,227 exporters located in China. While there is limited information on the production capacity and capacity utilization of each of these companies in China, there is indication that there is immense production capacity in China in comparison to the relatively small Canadian market.¹²⁷

[188] Furthermore, as previously noted in the Copper Tube Expiry Review in 2018, Hailiang is one of world's largest manufacturers of CPF and copper tubes, and has demonstrated a continued interest in the Canadian market.¹²⁸

¹²⁵ Exhibit 38 (NC) – CBSA Research, REF-013 – CBSA CT 2018 ER – Expiry Review Determination *Statement of Reasons*, April 18, 2019.

¹²⁶ Exhibit 38 (NC) – CBSA Research, REF-042 – CITT Expiry Review RR-2018-005 – Orders and Reasons, September 25, 2019.

¹²⁷ Exhibit 23 (NC) – Response to Canadian Producer ERQ from Cello, Exhibit Q29, para. 24.

¹²⁸ Exhibit 38 (NC) – CBSA Research, REF-013 – CBSA CT 2018 ER – Expiry Review Determination *Statement of Reasons*, April 18, 2019, para. 68, 121.

[189] Evidence on the record shows that Chinese exporters have maintained ongoing relationships with certain Canadian importers who have imported CPF in every year during the POR.

[190] Based on the large capacity available and export orientation of CPF producers in China, there is significant incentive to pursue export sales at low prices in order to increase capacity utilization. Moreover, the continued subsidizing while the orders were in effect, as previously discussed, makes it likely that these export sales will be subsidized.

Weak market conditions and demand for CPF in China

[191] There is also information on the record that indicates that forecasted demand for CPF in China is weak. The Bank of America recently reduced China's GDP growth forecast for 2022 and 2023.¹²⁹

[192] The International Monetary Fund's (IMF) growth outlook for China is marked down slightly. The IMF also mentions large-scale disorderly corporate debt defaults and restructuring, for instance in China's property sector, that could lead to market volatility.¹³⁰

[193] Moreover, as previously mentioned, China's real estate climate index has been predominantly in a downward trend when looking at the first eleven months of 2021. This decrease indicates a slowdown in the Chinese real estate industry.¹³¹

[194] Overall, the modest economic outlook in China demonstrates that demand for CPF in China is not likely to expand in the near future. Chinese CPF producers may rely heavily on export markets as the domestic market in China slows down.

Other Factors

[195] According to the WTO's Committee on Subsidies and Countervailing Measures, 71 subsidy programs were granted or maintained at the central government level during the period from 2019 to 2020, before consideration of sub-central government and state subsidies.¹³²

¹²⁹ Exhibit 42 (NC) – Case brief filed on behalf of Cello, para. 26.

¹³⁰ Exhibit 38 (NC) – CBSA Research, REF-015A – International Monetary Fund World Economic Outlook Oct 2021, p. 7, 14-15.

¹³¹ Exhibit 38 (NC) – CBSA Research, REF-027 – National Real Estate Development and Sales in the First Eleven Months of 2021.

¹³² See WTO website at:

<https://docs.wto.org/dol2fe/Pages/SS/directdoc.aspx?filename=q:/G/SCM/N372CHN.pdf&Open=True>.

[196] Since China joined the WTO in 2001, it has failed in its obligations to report state subsidies. The US and other Western economies have long complained to the WTO about China's lack of transparency on industrial subsidies, which give an unfair advantage. Although China had pledged to put an end to its market-distorting subsidies, China does not keep a complete tally of all its subsidies, making it unlikely that Chinese officials would agree to disclose a full list.¹³³

[197] The lack of transparency and non-disclosure of a complete list of state subsidies, when combined with a lack of cooperation from the GOC and Chinese exporters in a subsidy investigation, limits the investigating authority in terms of what information is available in the public domain.

[198] As indicated in the Copper Tube Expiry Review in 2018, on September 5, 2018, the GOC announced that it will provide an export tax rebate on 397 products, ranging from a rebate of 9% to 16% in order to mitigate the impact of tariffs imposed by the US. While CPFs were not specifically listed, these rebates affect a wide range of consumer and industrial products.¹³⁴

[199] Overall, the information available on the record indicates that GOC continues to provide a variety of subsidies and/or other support measures.

Determination Regarding Likelihood of Continued or Resumed Subsidizing – China

[200] Based on the information on the record in respect of the continued subsidizing while the orders were in effect; imposition of countervailing measures by authorities of Canada in respect of similar goods (copper tube); large production capacity and export-orientation of CPF producers in China and ongoing relationships with Canadian importers; and weak market conditions and demand for CPF in China, the CBSA has determined that the rescission of the orders is likely to result in the continuation or resumption of subsidizing of CPF from China.

CONCLUSION

[201] For the purpose of making a determination in this expiry review investigation, the CBSA conducted its analysis within the scope of the factors found under subsection 37.2(1) of the SIMR and considering any other factors relevant in the circumstances. Based on the foregoing analysis of pertinent factors and consideration of information on the record, on April 7, 2022, the CBSA made a determination pursuant to paragraph 76.03(7)(a) of SIMA that the rescission of the orders made by the CITT on November 28, 2016, in Inquiry No. RR-2015-003 in respect of CPF originating in or exported from the US, Korea, and China:

- is likely to result in the continuation or resumption of dumping of the goods from the US, Korea and China; and

¹³³ Exhibit 38 (NC) – CBSA Research, REF-020 – Reuters China Offers to end market-distorting subsidies but won't say how, p. 3-4.

¹³⁴ Exhibit 38 (NC) – CBSA Research, REF-013 – CBSA CT 2018 ER – Expiry Review Determination *Statement of Reasons*, April 18, 2019, para. 172.

- is likely to result in the continuation or resumption of subsidizing of the goods from China.

FUTURE ACTION

[202] The CITT has now initiated its expiry review to determine whether the continued or resumed dumping and subsidizing are likely to result in injury. The CITT's Expiry Review schedule indicates that it will make its decision by September 14, 2022.

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

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

INFORMATION

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

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