PUBLIC
COMPLAINT

The Dumping of Certain Carbon Steel Welded Pipe Originating in or Exported from the Islamic Republic of Pakistan, the Republic of the Philippines, the Republic of Turkey and the Socialist Republic of Vietnam

Submitted by: **Novamerican Steel Inc.**
on behalf of Nova Steel Inc. and Nova Tube Inc.

May 31, 2018

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Public Complaint regarding
The Dumping of
Certain Carbon Steel Welded Pipe
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I. Introduction

A. General

1. This Complaint is filed by Novamerican Steel Inc. on behalf of its subsidiaries Nova Tube Inc. and Nova Steel Inc. (collectively referred to as "**Nova**") with the Canada Border Services Agency ("**CBSA**") pursuant to section 31 of the *Special Import Measures Act* ("**SIMA**") regarding the dumping of certain carbon steel welded pipe ("**CSWP**") originating in or exported from the Islamic Republic of Pakistan ("**Pakistan**"), the Republic of the Philippines (the "**Philippines**"), the Republic of Turkey ("**Turkey**"), and the Socialist Republic of Vietnam ("**Vietnam**"). These four countries are hereinafter collectively referred to as the "**Subject Countries**".

2. It is submitted that the aforementioned dumped goods have caused injury to Canadian producers of like goods and are also threatening Canadian producers with injury. The Complainant therefore requests that the President of CBSA initiate an investigation into the injurious impact of the dumping of CSWP originating in or exported from the Subject Countries.

B. The Complainant

3. This Complaint is filed by Nova. The address of the Complainant is:

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

Attention: Alexandre Gravel
Telephone: 514. 789.0511 ext. 2504
Facsimile: 514.366.3176

4. All notices related to this Complaint should be sent to:

Conlin Bedard LLP
220 Laurier Ave West, Suite 700
Ottawa, ON K1P 5Z9

Attention: Paul Conlin

Telephone: 613.782.5777
Facsimile: 613.249.7226

C. The Product

5. The goods that are the subject of this Complaint (the "**Subject Goods**") are defined as:

> Carbon steel welded pipe, commonly identified as standard pipe, in the nominal size range from ½ inch up to and including 6 inches (12.7 mm to 168.3 mm in outside diameter) inclusive, in various forms and finishes, usually supplied to meet ASTM A53, ASTM A135, ASTM A252, ASTM A589, ASTM A795, ASTM F1083 or Commercial Quality, or AWWA C200-97 or equivalent specifications, including water well casing, piling pipe, sprinkler pipe and fencing pipe, but excluding oil and gas line pipe made to API specifications exclusively, originating in or exported from the Islamic Republic of Pakistan, the Republic of the Philippines, the Republic of Turkey and the Socialist Republic of Vietnam.

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

7. Welded CSWP is generally produced to various ASTM industry standards such as ASTM A53, ASTM A135, ASTM A252, ASTM A589, ASTM A795, ASTM F1083, Commercial Quality and AWWA C200-97. CSWP may also be produced to proprietary specifications rather than to an industry standard, as is often the case with fence tubing or to foreign specifications. For example, imported CSWP may be produced to British Standard ("**BS**") 1387 or BS EN 10255.

D. Production Process

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

9. First, coils of flat hot-rolled steel sheet ("**HRS**") are uncoiled and slit. Then that slit steel is passed through a series of rollers that form the shape of the pipe.

10. Second, welded CSWP is produced in mills using either the electric resistance weld ("**ERW**") process or the continuous weld ("**CW**") process. Both processes begin with strips of steel sheet that have been slit from coils of flat hot-rolled steel sheet ("**HRC**"). The width of the slit strips is equal to the circumference of the pipe to be produced.

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

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

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

14. Nova produces CSWP using the ERW process.

15. Third, once the basic pipe is formed using these processes, it is cut to length, straightened and tested. The ends of the pipe may be processed in a variety of ways, including cropping, facing and reaming, threading, coupling, rolling and/or cut grooving. Finishes may also be

applied to the surface of the pipe such as lacquer (black) or zinc (galvanizing), depending on the intended application in which the pipe will be used. Other finishing operations include stencilling and bundling of the pipe.

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

E. Product Use

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

F. HS Tariff Classification

18. The Subject Goods were imported into Canada in 2017 under the following tariff items:

7306.30.00.10
7306.30.00.20
7306.30.00.30

19. Prior to 2017, the Subject Goods were imported into Canada under the following tariff items:

7306.30.00.14	7306.30.00.19
7306.30.00.24	7306.30.00.29
7306.30.00.34	7306.30.00.39

G. Exporters/Importers

20. Attachment 1 is compiled from publicly available sources and identifies companies that produce Subject Goods in the Subject Countries or export Subject Goods to Canada.[1] It also identifies enterprises that the Complainant believes are importing Subject Goods into Canada. Further information that may identify additional importers is available from import documentation filed with CBSA by importers of Subject Goods.

H. Marketing and Distribution

21. The Canadian mills generally sell Canadian produced CSWP ("**Like Goods**") to distributors and large volume end users. Distributors purchase CSWP in a range of sizes and stock the product for re-sale. End users consist primarily of companies involved in the plumbing, heating and construction business in Canada. Canadian distributors and end users of CSWP may purchase pipe domestically from the Canadian mills or from importers or other distributors located in Canada or abroad. Distributors and end users may also import directly from mills in the Subject Countries.

22. Pipe producers in the Subject Countries essentially use and compete in the same channels of distribution as the Canadian mills. Importers and trading companies have had a significant impact on the Canadian market for CSWP. These enterprises have permitted exporters from the Subject Countries to penetrate the Canadian market and become a major source of supply in Canada in recent years.

[1] Public Attachment 1: List of Producers and Exporters.

23. Dumped Subject Goods are available across Canada at prices substantially below Canadian mill prices, and in many instances below the true cost of production of CSWP. Specifically, domestic producers charge more for specifications outside the base pipe range such as certain end finishes or pipe sizes, while importers and Subject Country producers do not respectively increase their prices for these additions. This is discussed in more detail below.

24. Importers and steel brokers are a major factor contributing to both the injury caused to Canadian producers, as well as the threat of continuing future injury to Canadian producers, because they provide well established distribution channels into the Canadian market that have permitted exporters from the Subject Countries to rapidly penetrate the Canadian market.

I. The Domestic Industry

25. The Canadian companies that produce or are capable of producing Like Goods are listed below. To the knowledge of Nova, the companies actively involved in the production of the Like Goods since the beginning of 2014 are Nova, Bolton Steel Tube Co. Ltd. and Quali-T-Tube. Specifically, Nova and Bolton are the two domestic producers that produce the largest volume of CSWP. Other companies that produce other pipe and tubular products may engage in the incidental production of small volumes of Like Goods. Information about companies that actively produce Like Goods is set out below.

1. Nova

26. Nova produces welded CSWP ranging from ½ inch up to and including 6 inches in nominal size at its facilities in Montréal and Baie D'Urfé, Québec.

27. Nova owns several facilities involved in the production of welded CSWP. Nova Steel Inc. ("**Nova Steel**"), a wholly owned subsidiary of Nova, purchases and slits hot-rolled coil used in the production of welded CSWP. Nova Tube Inc., another wholly owned subsidiary of Nova is the 100% owner of Delta Tube Inc. ("**Delta**"). Delta produces unfinished pipe in sizes ranging from 2 inches to 6 inches using the ERW process.

28. Nova Steel Inc. is the 100% owner of another facility located in Baie D'Urfé that produces unfinished pipe in sizes ranging from 0.5 inches to 2 inches using the ERW process.

29. Nova Tube Inc. also owns and operates a facility on Saint Patrick Street in Montreal that provides hydrostatic testing, end finishing, cutting, galvanizing, painting, varnishing and distribution services. The unfinished pipe produced at Delta and Baie D'Urfé is finished at Saint Patrick and marketed and sold by Nova Tube Inc. The Saint Patrick Street facility was acquired from ArcelorMittal Montréal on October 1, 2009.

30. The Nova Steel, Delta, Saint Patrick and Baie D'Urfé facilities are all within very close proximity to one another.

31. See Confidential Attachment 2 for a diagram of Nova's CSWP production process.[2]

32. Nova estimates that its CSWP production represents approximately [ ] % of domestic production of like goods.

2. Bolton

33. Bolton Steel Tube Co., Ltd. ("**Bolton**") is located in Bolton, Ontario and operates two pipe mills, a slitting line, and a galvanizing line at the same location. Bolton manufactures welded standard round pipe using the ERW process in sizes ranging from 1 inch to 4 inches. Bolton has a star wheel system that was specially designed for galvanizing tubing and pipe.

34. Bolton's CSWP production represents approximately [ ] % of domestic production.[3]

3. Quali-T-Tube

35. Quali-T-Group ULC ("**Quali-T-Group**") operates facilities located in Bromont, Québec. Quali-T-Group owns two divisions, Quali-T-Tube, which produces welded CSWP in sizes

[2] Confidential Attachment 2: Nova's production process.

[3] Confidential Attachment 3:Bolton Steel Tube Co. Ltd. Injury Daa.

ranging from 0.75 inches up to 3.5 inches; and Quali-T-Fab, which produces piling pipe and scaffolding. Nova estimates that Quali-T-Tube represents approximately [ ]% of total domestic production.

4. Other domestic producers

36. In addition, certain other companies may incidentally produce small volumes of CSWP but focus on the production of other pipe and tubular products outside the scope of this Complaint. These other companies include Atlas Tube, DFI Corporation, Evraz Inc. NA, Tenaris and Welded Tube.

37. Nova estimates that these producers and Quali-T-Group combined produce approximately [ ] % of domestic production.

J. The Complaint is Supported by the Domestic Industry

38. Public Attachment 4 contains letters of support from Bolton, Atlas, DFI, Evraz, Quali-T-Tube and Tenaris.[4]

39. Figures for domestic production of Like Goods are included in Confidential Attachment 6 (Apparent Market Table). Nova does not import Subject Goods, nor is it affiliated with an importer of Subject Goods.

40. As is demonstrated below, the total production of Like Goods in Canada by producers supporting this Complaint is sufficient to satisfy the requirements for standing to file a complaint in accordance with subsection 31(2) of SIMA.

41. Since 2012, Nova estimates that it has accounted for [ ] % of total Canadian production of Like Goods, while the Supporting Producers accounted for over [ ] %. Nova's production alone is sufficient to satisfy the standing requirements set out in subsection 31(2) of SIMA. Nova estimates that domestic sales have remained relatively flat since 2012, and

[4] Public Attachment 4: Letters of Support.

the volume of domestic sales is consistent with the Tribunal Inquiries NQ-2012-003 and RR-2012-003.[5] Using the Apparent Market Volume in the most recent inquiry, RR-2012-003, Nova estimated the domestic sales proportionally to its sales and Bolton's sales when available.[6]

42. The foregoing demonstrates that the Complainant has standing to bring this Complaint and that the Complaint expressly is supported by domestic producers who represent [ ] % of total Canadian production of Like Goods.

K. Previous CSWP Cases

43. In the recent past, CSWP has been subject to antidumping and countervailing duty orders in Canada. In August 2008, the Canadian International Trade Tribunal ("**CITT**") issued a finding that the dumping and subsidization of CSWP from China had caused injury to the domestic industry (NQ-2008-001).[7] In November 2012, the CITT issued a finding that the dumping of steel piling pipe from China threatened the domestic industry with injury (NQ-2012-002).[8] Piling pipe in sizes 6 inches and less is a subset of CSWP.[9]

44. In April 2013, the CITT determined that expiry of NQ-2008-001 was likely to result in the continuation or resumption of dumping and subsidizing of these goods into Canada.

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[5] Public Attachment 5: Market Size 2012 Pages from RR-2012-003 Public Staff Report and Apparent Market Table Public Staff Report NQ-2012-003.

[6] Confidential Attachment 6: Apparent Canadian consumption of CSWP. (Confidential Market Table).

[7] *Carbon Steel Welded Pipe*, NQ-2008-001, Statement of Reasons (August 20, 2008) [CSWP China 2008 Inquiry]. CSWP in outside diameter ranging from ½ inch up to and including 6 inches.

[8] *Steel Piling Pipe*, NQ-2012-002 (November 30, 2012). Piling pipe in outside diameter ranging from 3 ½ inches up to and including 16 inches.

[9] A subset of the goods in NQ-2012-002 were already subject to the finding in NQ-2008-001. These goods were CSWP, in the nominal size range of 3 ½ inches up to and including 6 inches in outside diameter, in various forms and finishes, usually supplied to meet ASTM 252 or equivalent specifications, other than CSWP in the nominal size range of 3 1/2 inches up to and including 6 inches, dual-stenciled to meet the requirements of both specification ASTM A252, Grades 1 to 3, and specification API 5L, with beveled ends and in random lengths, for use as foundation piles (these dual-stenciled goods were excluded from the Tribunal's injury finding in CSWP).

45. In December 2012, the CITT issued a finding that the dumping of CSWP from Chinese Taipei, the Republic of India ("**India**"), the Sultanate of Oman ("**Oman**"), the Republic of Korea ("**Korea**"), the Kingdom of Thailand ("**Thailand**") and the United Arab Emirates (the "**UAE**") and the subsidizing of CSWP from India threatened the domestic industry with injury (NQ-2012-003 or CSWP II).[10]

46. Inquiry NQ-2012-003 also concerned CSWP from Turkey. However, in November 2012, the President of the CBSA terminated its investigation regarding the dumping of CSWP against Turkey. Nova submits that the circumstances have changed and warrant positive dumping findings against Turkey. The period of the dumping investigation in NQ-2012-003 was from January 1, 2011 to December 31, 2011; the Dumping POI in this Complaint is more than five years later and relates to an entirely different data set and market conditions in Canada and Turkey.

47. In December 2017, the Tribunal initiated an expiry review for CSWP II.[11] In May 2018, the Tribunal initiated an expiry review for CSWP I.[12]

L. Like Goods and a Single Class of Goods

48. Subsection 2(1) of SIMA defines "like goods" in relation to any other goods as "... (a) goods that are identical in all respects to the other goods, or (b) in the absence of any [such] goods ..., goods the uses and other characteristics of which closely resemble those of the other goods." In considering the issue of like goods and classes of goods, the Tribunal typically looks at a number of factors, including the physical characteristics of the goods (such as composition and appearance) and their market characteristics (such as substitutability,

[10] *Carbon Steel Welded Pipe*, NQ-2012-003, Order issued December 11, 2012 and Statement of Reasons issued December 27, 2012 [CSWP 2012 Inquiry].

[11] *Carbon Steel Welded Pipe*, LE-2017-003, Order and Reasons issued December 8, 2017

[12] *Carbon Steel Welded Pipe*, LE-2018-001, Order issued May 24, 2018.

pricing, distribution channels, and end uses) and whether the domestic goods fulfill the same customer needs as the Subject Goods.[13]

49. In the 2008 inquiry and 2012 expiry review involving CSWP from China (NQ-2008-001 and RR-2012-003) as well as the 2012 inquiry involving CSWP from Chinese Taipei, Korea, India, Oman, Thailand and the UAE (NQ-2012-003), the CITT determined that the domestically produced goods were like goods to the subject goods.[14] In the preliminary determination for NQ-2012-003, the Tribunal determined that domestically produced CSWP were like goods to the subject goods from Turkey (along with the six other countries listed above).[15] The product definition in these inquiries and expiry review was the same as in this Complaint.

50. Nova submits that the CSWP produced by the domestic industry competes directly with, has the same end uses as, and can be substituted for, the Subject Goods.

51. First, all CSWP is very similar in appearance, having the same metallurgical content, forms and end finishes. This is true of goods in the Subject Countries and produced in Canada. Further, the fact that CSWP is manufactured to different technical standards does not detract from the physical similarities of the products.

52. Second, Subject and Like Goods are sold across Canada through the same channels of distribution (either through distributors or directly to end-users). Customers purchase all types of CSWPs. The pricing structure for all types of CSWP is also the same. Therefore, the market characteristics of Subject and Like Goods are interchangeable.

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[13] CSWP 2012 Inquiry, *supra*, at para 60; *Copper Pipe Fittings*, NQ-2006-002, Statement of Reasons (19 February 2007) at para. 48.

[14] *Carbon Steel Welded Pipe*, NQ-2008-001 (August 20, 2008) at para 42; *Carbon steel welded pipe*, RR-2012-003, Order and reasons (August 19, 2013) at para 24 [CSWP China 2012 Review]; CSWP 2012 Inquiry, *supra*, at para 63.

[15] *Carbon Steel Welded Pipe*, PI-2012-003, Statement of Reasons (July 30, 2012) at para 27.

53. Third, CSWP is a commodity product and therefore competes mainly on price.

54. Fourth, all CSWP products serve the same general end-use of conveying liquids and gases or other applications such as fencing. The Subject and Like Goods are made to the same ASTM or equivalent specifications. Accordingly, Like and Subject Goods fulfill the same customer needs. Moreover, even though all CSWP products are not perfectly interchangeable in all applications, there is downward substitutability of the higher-grade CSWP for lower grade applications such as fencing.

55. The Tribunal has previously determined that differences in production processes between the Like and Subject Goods are generally irrelevant; rather, the focus should be on "the products themselves and not on how they are produced."[16]

56. In NQ-2008-001 (CSWP from China), the CITT concluded that while the different types of CSWP covered in the product definition are not identical in all respects to each other,

> [a]ll types of CSWP have similar physical and market characteristics. The fact that some types of CSWP may not be fully substitutable for each other for some end uses is not, in the Tribunal's opinion, a sufficient basis for determining that there exists more than one class of goods. Accordingly, for the purposes of this injury inquiry, the Tribunal concludes that there is a single class of goods.[17]

57. As noted above, the product definition in this Complaint is the same to the definition in NQ-2008-001. Further, in NQ-2012-003 (CSWP from various countries) Inquiry, the Tribunal once again determined there was a single class of goods:

> The Tribunal finds that the subject goods and like goods are produced from the same raw material using the same methods of manufacture, have similar physical characteristics, are widely substitutable for a range of similar customer needs and are distributed through the same channels of distribution where the same commodity pricing prevails.

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[16] *Circular Copper Tube,* NQ-2013-004, Statement of Reasons (January 2, 2014) at para 44.

[17] *Carbon Steel Welded Pipe,* NQ-2008-001, Statement of Reasons (September 4, 2008) at para. 45.

> Accordingly, for the purposes of its final injury determination, the Tribunal reiterates the findings that it made in the preliminary injury inquiry to the effect that CSWP produced in Canada which is of the same description as the subject goods constitutes like goods in relation to the subject goods and that the subject goods and like goods are comprised of a single class of goods. [Footnote omitted][18]

58. As discussed above, the Like and Subject Goods are commodity products that compete directly with one another in the Canadian market place and are fully interchangeable. Nova submits that the Subject Goods constitute a single class of goods.

M. Conditions of Competition

59. In assessing the injury caused by Subject Country imports, the Complainant submits that it is appropriate and necessary to cumulatively assess the effects of imports from all of the Subject Countries.

60. CSWP is a commodity product,[19] and the Subject Goods compete among themselves and with the Like Goods produced by the domestic industry. The goods vie for the same customers and move through the same channels of distribution. Subject Goods from all of the Subject Countries have the same technical characteristics and meet the same technical specifications. Nova markets and sells CSWP across Canada.

61. The Tribunal, in *Certain CSWP*, Expiry Review No. RR-2000-002, found that CSWP, once in Canada, was fungible regardless of source and that it was appropriate to cumulate.[20] The Tribunal also cumulated CSWP from the six countries in the 2012 CSWP Inquiry.[21] The same is true now in respect of the Subject Goods from the Subject Countries.

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[18] CSWP 2012 Inquiry, *supra*, at para. 62-63.

[19] *Ibid.*, at para 62, 99, 183; CSWP China 2008 Inquiry, *supra*, at para. 63.

[20] *Certain Carbon Steel Welded Pipe*, RR-2000-002 (July 24, 2001), p. 6-7.

[21] CSWP 2012 Inquiry, *supra*, at paras 69-74.

N. Period of Investigation

62. The Complainant submits that the appropriate period of investigation for a dumping investigation is April 1, 2017 through March 31, 2018 (the "**Dumping POI**"). As demonstrated in the market table in Attachment 6, the volume of imports from each of the Subject Countries exceeds the applicable negligibility thresholds.[22] As a percentage of total imports during the Dumping POI, imports from the Subject Countries were as follows: 7% from Pakistan, 15% from the Philippines, 8% from Turkey and 12% from Vietnam. [23]

63. In 2017, several HS codes covering various types of pipe including mechanical, pressure and HSS were amalgamated. For example, the Global Affairs Steel Permit data indicates that the volume of imports of Standard pipe in 2017 were merely 23,643 MT, while in 2016, they were 230,489 MT. In contrast, the same data source indicates that volume of imports of Hollow Structural Sections ("**HSS**") in 2017 were 418,125 MT, while in 2016 imports were 115,498 MT.[24] HSS is a product that is made from the same feedstock (hot-rolled sheet), often by the same mills on the same equipment using the same production process. The major difference between HSS and ASTM A53 CSWP is the grade of hot-rolled used as feedstock and the need to hydro test the A53 not the HSS.

64. Nova submits that for 2017-2018, the Statistics Canada HS code data covers both CSWP, as well as other products, such as a segment of hollow structural sections and mechanical tubing. Specifically, Statistics Canada indicates that total imports in 2017 for the three HS codes that currently cover CSWP were 292,281 MT. Before the HS codes change in 2016, total imports for the relevant 2016 HS codes were 138,237 MT. Nova submits that the market has not grown by 150,000 MT, but rather these increases are attributable to the 2017

[22] Confidential Attachment 6: Apparent Canadian consumption of CSWP. (Confidential Market Table).

[23] Confidential Attachment 6: Apparent Canadian consumption of CSWP. (Confidential Market Table).

[24] Public Attachment 7: Global Affairs Canada Steel Import by Class and Country 2017.

HS codes covering goods other than CSWP. More specifically, total imports from the United States appear to have increased the most significantly following the HS code amalgamation.

65. Nova estimates that the total Canadian market size for CSWP is at least [ ], this is consistent with the Public Staff Report from the Finding and the NQ-2012-003 finding.[25]

66. Nova submits that the CSWP market is mature and that although demand in each customer base may change, the total demand for CSWP does not witness significant movement.[26] At present, using a conservative estimate, Nova believes that customer demand for [ ]. Therefore, considering the volume of sales from domestic production, [ ].

67. The initiation of an investigation would permit a focused examination of the import data in 2017 to be addressed in the context of a full evidentiary record and analysis of what is reported in the new HS codes.

68. Notwithstanding the above, Nova submits that the Statistics Canada data is useful to demonstrate the proportion of the market and pricing trends of the imports. Statistics Canada is the most comprehensive source available to the Complainants and the pricing per metric ton of this data appears to be in the range of import data collected by Nova for the Subject Goods. Thus, the Subject Country data from Statistics Canada is useful. Nova submits that any estimates of size range to adjust volumes in different categories would be speculative and, in any event, would not affect the proportions/trends reported from each country.

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[25]: Public Attachment 5: Market Size 2012 Pages from RR-2012-003 Public Staff Report and Apparent Market Table Public Staff Report NQ-2012-003.

[26] Confidential Attachment 8: Confidential Statement of Alexandre Gravel at paragraphs 79 -80.

However, in order to account for the difference in the Statistics Canada data, Nova has adjusted the volume of imports from the United States. Prior to the adjustment, total US imports in 2017 were 161,234, while total imports from the US in 2016 were 60,546 MT. Therefore, Nova has reduced US imports by 25,000 MT each quarter beginning in Q1 2017 and therefore, also reduced total imports in each quarter by 25,000 MT.

II. Evidence of Dumping

A. Section 15

69. The Complainant has reviewed home market pricing for calculating normal values and dumping margins in accordance with section 15 for Turkey. Home market pricing data for Pakistan, the Philippines and Vietnam are not publicly available or through various subscriptions. However, for the reasons described in this Complaint, the Complainant submits that for purposes of initiating a dumping investigation, normal values should be determined in accordance with section 19 for Pakistan, the Philippines and Turkey. For Vietnam, normal values should be determined in accordance with section 20, as explained below.

70. Section 15 provides:

> 15. Subject to sections 19 and 20, where goods are sold to an importer in Canada, the normal value of the goods is the price of like goods when they are sold by the exporter of the first mentioned goods
>
> (a) to purchasers
>
> (i) with whom the exporter is not associated at the time of the sale of the like goods, and
>
> (ii) who are at the same or substantially the same trade level as the importer,
>
> (b) in the same or substantially the same quantities as the sale of goods to the importer,
>
> (c) in the ordinary course of trade for use in the country of export under competitive conditions,
>
> (d) during such period of sixty days that ends in the interval commencing with the first day of the year preceding the date of the sale of the goods to the importer and ending on the fifty-ninth day after such date as is selected by the President or, where, in the opinion of the President, the nature of the trade in

> those goods or the fact that they are sold to the importer for future delivery requires that sales of like goods by the exporter during a period other than a period of sixty days that ends in that interval be taken into account, during such period of sixty days or longer
>
> (i) that precedes the date of the sale of the goods to the importer, or
>
> (ii) where the goods are sold to the importer for future delivery, that precedes the date of the sale of the goods to the importer or within the year that precedes the date of the delivery of the goods to the importer
>
> as the President specifies for those goods or for goods of the class to which those goods belong, and
>
> (e) at the place from which the goods were shipped directly to Canada or, if the goods have not been shipped to Canada, at the place from which the goods would be shipped directly to Canada under normal conditions of trade, adjusted in the prescribed manner and circumstances to reflect the differences in terms and conditions of sale, in taxation and other differences relating to price comparability between the goods sold to the importer and the like goods sold by the exporter.

71. Although, the Complainant conducted a survey of home market pricing in Turkey; Nova submits that the prices cannot be relied upon. Specifically, the spread between CSWP and hot rolled coil is not enough to cover the cost of converting hot rolled coil into pipe.[27] Specifically, this data indicates that Turkish CSWP producers are converting HRC to CSWP for [ ][28] while Nova estimates that for an efficient mill such costs are closer to [$].[29] Given the small price difference between Turkish hot-rolled coil and Turkish CSWP, it is reasonable to infer that Turkish producers are pricing CSWP below their production costs. Nova submits that Turkish producers are unable to price CSWP above cost and therefore the CBSA should use section 19 for purposes of calculating normal values.

[27] Confidential Attachment 41: Turkish Pipe and Sheet Pricing.

[28] Note the 3-month lag between HRC and Pipe prices was considered. During the 2017/8-time period, the conversion in some months was as low as [$].

[29] Confidential Attachment 8: Confidential Statement of Alexandre Gravel at para 78.

72. On March 31, 2018, the *Regulatory Impact Analysis Statement* stated that the SIMA and the *SIM Regulations* have been amended to address price distortions. It allows for alternative methodologies to calculate dumping margins if domestic prices in the exporting country do not allow for a proper comparison. This may arise because the presence of a "particular market situation", such as where government intervention results in price distortion.

73. Nova submits that the price difference between HRC and CSWP in Turkey demonstrates a "particular market situation". An independently operating mill cannot convert HRC to CSWP for less than [ ], as demonstrated by the Turkish pricing. A full investigation will determine whether the well publicized depreciation of the Turkish lira had a significant impact of Turkish producer production costs and selling prices. Therefore, Nova submits that the CBSA should use an alternative methodology to determine the prices charged in the Turkish market by calculating the cost to produce the good, and adding reasonable amounts for selling, general and administrative costs and profit.

B. Section 19 Methodology

74. Section 19 of SIMA provides:

> 19. Subject to section 20, where the normal value of any goods cannot be determined under section 15 by reason that there was not, in the opinion of the President, such a number of sales of like goods that comply with all the terms and conditions referred to in that section or that are applicable by virtue of subsection 16(1) as to permit a proper comparison with the sale of the goods to the importer, the normal value of the goods shall be determined, at the option of the President in any case or class of cases, as
>
> (a) such price of like goods when sold by the exporter to importers in any country other than Canada during the period referred to in paragraph 15(d) as, in the opinion of the President, fairly reflects the market value of the goods at the time of the sale of the goods to the importer in Canada, adjusted in the prescribed manner and circumstances to reflect the differences in terms and conditions of sale, in taxation and other differences relating to price comparability between the goods sold to the importer in Canada and the like goods sold by the exporter to importers in the country other than Canada; or
>
> (b) the aggregate of
>
> (i) the cost of production of the goods,
>
> (ii) a reasonable amount for administrative, selling and all other costs, and

(iii) a reasonable amount for profits.

75. Section 19 normal values were determined for all Subject Countries on the basis of Nova's costs of production as well as publicly available cost information of major CSWP producers in each of the Subject Countries (discussed in detail below). Nova sells competitively in the North American market; accordingly, its cost structure is considered to reflect those in other competitive markets. It was assumed that similar cost structures, other than labour cost, would prevail in those countries.

76. Pricing for Nova's CSWP begins with a base price and then depending on the customer needs certain product characteristics are added such as varnish, end finishing, thickness specifications and weight.

77. Normal values were calculated for black CSWP and galvanized CSWP, specifically for mainly A53 Grade B pipe, which is the most common specification of CSWP sold in Canada. The cost basis was differentiated by black and galvanized CSWP as appropriate because it illustrates the most significant price difference within the different product characteristics and also allows for a more accurate comparable to the HS Codes, which are also separated by black and galvanized pipe. As mentioned above, Nova estimates [ ] of the domestic market constitutes this specification of pipe. For Nova, it is the vast majority of their sales.[30]

78. Further, in CSWP II, the CBSA accepted Nova's costs as a basis to determine the costs of the Subject Goods when estimating normal values for black CSWP and galvanized CSWP in each of the Subject Countries.[31] Nova's costs of production for each of these products are in Confidential Attachments 9 and 10.[32] The actual costs for Nova were used, in accordance

[30] Confidential Attachment 8: Confidential Statement of Alexandre Gravel at para 80.

[31] CSWP II: Statement of Reasons concerning the initiation of investigations into dumping and subsidizing, May 29, 2012, at paras 42-48.

[32] Confidential Attachment 10: Normal value and dumping calculations pursuant to section 19, and Confidential Attachment 9: Nova Injury Assessment Data.

with normal accounting practices. Importantly, conversion cost reflects [

].[33] Labour and factory overhead costs are the costs associated with [

].

79. Since normal values were determined on the basis of April 1, 2017 to March 31, 2018, the most recent cost data, public information on profitability, general, selling and administrative and financial expenses during this period was sought, as described below.

80. Normal values for each of the Subject Countries calculated pursuant to section 19 can be found in Confidential Attachment 10.[34] The methodology used for calculating normal values in this manner is discussed below.

1. Materials and conversion costs

81. For the Philippines, Turkey and Pakistan, the Complainant used the weighted average import price of HRC into these countries for 2017 as reported by ComTrade in order to determine the cost of HRC.[35] The import pricing of HRC into the Subject Countries was used as a conservative estimate for determining the cost of this major input.

82. The average HRC import price for Pakistan, the Philippines and Turkey was calculated based on commonly used HRC HS codes for the production of CSWP (in coils, not further worked than hot-rolled, with a width of 600mm or more and with a thickness of 10mm or less). The following HS codes were used: 7208.37, 7208.38, 7208.39 and 7225.30.

83. For Vietnam, the Complainant was unable to find public information on the cost of producing or importing HRC in 2017, and thus, used the weighted average import price of

[33] A labour reduction was made as discussed below.

[34] Confidential Attachment 10: Normal value and dumping calculations pursuant to section 19.

[35] Confidential Attachment 10: Normal value and dumping calculations pursuant to section 19. See individual country tabs.

HRC into the Pakistan as reported by ComTrade.[36] The Complainant submits that this is a reasonable proxy as economic indicators such as debt (% of GDP), deficit and expenditures are similar.[37]

84. The Complainant estimates that its cost to convert HRC to a base shell for CSWP is similar to that of the Subject Countries. The same processes are necessary to convert HRC to a pipe shell – slitting, welding, tolling. The only cost difference would be labour and thus, a labour reduction was conducted on the conversion cost for each country.

85. Nova's conversion cost of $[ ]/MT[38] was used to estimate the cost of converting HRC to a pipe shell for each of the Subject Countries.[39] The conversion cost is the difference between the base pipe shell cost and the cost of HRC. Overall, conversion costs are Nova's actual costs associated with [

]. The conversion cost without the labour component was [ ]. A labour reduction as explained below was made to the remaining conversion cost component.

86. To determine the additional separate costs of black and galvanized CSWP, Nova estimated the direct material cost associated with finishing a pipe shell into either black pipe or galvanized pipe. The direct material cost per tonne produced was calculated for each cost component. The three major components were: either varnish or zinc (depending on black or galvanized); and various other costs necessary to finish the bare pipe. Although, CSWP may be sold in additional finishes aside from black and galvanized, this is the most feasible

[36] *Ibid.*

[37] Public Attachment 117: Country comparison Vietnam vs Pakistan 2018 retrieved May 30, 2018.

[38] Confidential Attachment 8: Confidential Statement of Alexandre Gravel at Attachment 48

[39] Confidential Attachment 10: Normal value and dumping calculations pursuant to section 19. See Tab Black and Galv.

comparison to available import information. Additionally, it is the most common cost difference in the vast majority of pipe produced at Nova.

87. The Complainant estimates that an additional $[ ]/MT is used to produce black pipe from the base and an additional $[ ]/MT is used to produce galvanized pipe from the base during the POI.[40]

2. Reasonable amount for profit

88. Nova's estimated normal values include a reasonable amount for profit. The amount was determined based on the most recent and only publicly available financial information for a representative producer from each Subject Country. The producer's reported earnings before income tax were divided by the operating costs to determine a profit percentage (see Confidential Attachment 10 Dumping Calculations). An amount equal to this percentage was included in estimating normal values.

89. For Vietnam, profitability was estimated based on the publicly reported 8% profitability of the Hoa Sen Group from their consolidated financial statements for year-end 2017 (September 30, 2017), Q1 2017, Q2 2017 and Q3 2017.[41] The Hoa Sen Group produces the Subject Goods.

90. For the Philippines, financial data of a pipe producer was not publicly available; therefore, the Complainant used the profit percentage of the International Industries Limited (Pakistan), due to geographic proximity and similar economic conditions, high impact of steel imports, the impact of Chinese CSWP and export-oriented producers (all discussed in detail in Injury). Specifically, data for the Philippines and Pakistan is similar due to the

[40] Confidential Attachment 8: Confidential Statement of Alexandre Gravel at Attachment 48.

[41] Public Attachment 12: Hao San Financial Statements 2017.

relevant economic country conditions for these countries. For example, the GDP, debt per capita, government expenditures and other indexes are very similar.[42]

91. For Pakistan, profitability was estimated based on the publicly average of the last three available financial statements which reported 12% profitability of the International Industries Ltd.[43] The International Industries Ltd produces the subject goods.

92. For Turkey, profitability was estimated based upon the publicly reported data for two subject good producers – FS Erbo and Borusan Mannesmann Boru. The most recent financial statements of both companies were used.[44] The average profit as a percentage of costs was calculated (14%). Borusan and Erbosan are large Turkish steel pipe producers who manufacture numerous products including Subject Goods.

3. Labour and Factory Overhead

93. The conversion costs were determined from the direct materials used and included the labour and overhead costs required to form the pipe shell. However, these costs did not include direct labour or factory overhead for the finishing of the CSWP at St. Patrick. Therefore, to arrive at the labour and factory overhead cost components of both black and galvanized CSWP for the POI, Nova identified its direct labour and factory overhead costs (see Confidential Attachments 9 and 10) from April 1, 2017 to March 31, 2018.

94. An adjustment was made to all labour costs for each of the Subject Countries to reflect the lower wage rates paid in those countries compared to Canada. Those adjustments were made based on the most recent available public comparable data.

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[42] Public Attachment 11: Country Comparison Pakistan and the Philippines, Country Economy retrieved May 21, 2018.

[43] Public Attachment 13: International Industries Ltd Annual Report 2017; Financial Statements for the Half Year Ended 31-12-2017 and Unaudited 3rd Quarter Ended 31 March, 2018.

[44] Public Attachment 14: 2017 Financial Statement of Erbosan Year Ended December 2017 at page 10; Public Attachment 15: Financial Statement of Bousan Mannesmann Boru Year ended December 12, 2017 at page 3.

95. For the Philippines, Pakistan, and Vietnam, the best available data was the average daily wages for plant and machine operators and assemblers reported to the International Labour Organization (ILO). The data was presented in the average monthly earnings for the most recent years available – 2014-2017.[45]

96. For Turkey, 2016 World Bank data indicating the gross national income per capita was used. To ensure consistency, the Complainant used the average of both data sources to determine the reduction ratio for the Philippines, Pakistan and Vietnam.

97. The reduction in labour cost by country was 85% for Pakistan, 77% for the Philippines, 43% for Turkey and 78% for Vietnam.

98. No direct labour expenses are included in the factory overhead cost, which was calculated per MT, it includes plant costs, repairs and indirect labour associated with plant costs. Nova's indirect labour for factory overhead is about [ ] and therefore, the Complainant applied the reduction ratios to [ ] of its overhead costs.

4. GS&A and financial expenses

99. General, selling and administrative ("**GS&A**") and financial expenses were calculated as a percentage of costs (see Confidential Attachment 10). Specifically, the GS&A and finance expense reported by the respective companies was divided by their total revenues to determine a GS&A and finance percentage.

100. For the Philippines and Vietnam, the GS&A and finance expenses reported of Hoa Sen Group was used.

101. For Pakistan, the GS&A and finance expense of the International Industries Ltd. was used.

[45] Public Attachment 16: ILO Data retrieved May 4, 2018.

102. For Turkey, the combined amount of GS&A and finance expense reported by Borusan and Erbosan was used.

103. An amount equal to these percentages of the estimated cost of goods manufactured was included in estimating normal values.

C. Export Price

104. Export prices for the Subject Countries were taken from Statistics Canada import data. The export prices are based on the export price of CSWP; they are differentiated by black and galvanized HS codes.[46]

105. Average CSWP export prices for the POI were reported as, $994/MT for black welded CSWP and $986/MT for galvanized from Pakistan, $832/MT for black welded CSWP and $1,640/MT for galvanized for the Philippines, $1,049/MT for black welded CSWP and $1,262/MT for galvanized for Turkey and $1,055/MT for black welded CSWP and $962/MT for galvanized from Vietnam. It is noted that this data is reported as the value for duty.[47]

106. While transportation costs are generally deductible from the value for duty, transportation costs are only deductible if the importer has proof of the actual transportation costs. Therefore, in some instances, the importer may not claim the deduction and the value for duty may actually include the transportation cost. The export prices are shown in Attachment 10.

D. Margins of Dumping

107. Based upon the section 19 analysis discussed above, all goods from the Subject Countries were found to have been dumped at margins of dumping ranging from [ ]. Confidential Attachment 10 provides a detailed breakdown of the margins of dumping

[46] Confidential Attachment 10: Normal value and dumping calculations pursuant to section 19. See Tab – export price per country.

[47] Confidential Attachment 10: Normal value and dumping calculations pursuant to section 19. See Tab – export price per country.

calculated for each of the Subject Countries. It should be noted that Nova submits that for dumping calculations for CSWP from the Philippines, the CBSA should use black CSWP, as the majority of the volumes imported from this country are black CSWP (which are 30,180 MT) not galvanized (2,759 MT).

E. Section 20: Vietnam is a Non-Market Economy

108. The Complainant submits that the President of the CBSA should apply section 20 of SIMA to the determination of normal values for Vietnamese CSWP. The Complainant submits that based on the evidence in Appendix A, section 20 conditions exist for the Vietnamese CSWP sector.

109. Section 20 reads:

> **20** (1) Where goods sold to an importer in Canada are shipped directly to Canada
>
> (a) from a prescribed country where, in the opinion of the President, domestic prices are substantially determined by the government of that country and there is sufficient reason to believe that they are not substantially the same as they would be if they were determined in a competitive market, or
>
> (b) from any other country where, in the opinion of the President,
>
> (i) the government of that country has a monopoly or substantial monopoly of its export trade, and
>
> (ii) domestic prices are substantially determined by the government of that country and there is sufficient reason to believe that they are not substantially the same as they would be if they were determined in a competitive market,
>
> the normal value of the goods is
>
> (c) where like goods are sold by producers in any country other than Canada designated by the President for use in that country,
>
> (i) the price of the like goods at the time of the sale of the goods to the importer in Canada, adjusted in the prescribed manner and circumstances to reflect the differences in terms and conditions of sale, in taxation and other differences relating to price comparability between the goods sold to the importer in Canada and the like goods sold by producers in the country other than Canada designated by the President for use in that country, or
>
> (ii) the aggregate of
>
> (A) the cost of production of the like goods,

> (B) a reasonable amount for administrative, selling and all other costs, and
>
> (C) a reasonable amount for profits,
>
> whichever of the price or aggregate the President designates for any case or class of cases; or
>
> (d) where, in the opinion of the President, sufficient information has not been furnished or is not available to enable the normal value of the goods to be determined as provided in paragraph (*c*), the price of like goods
>
> (i) produced in any country designated by the President, other than Canada or the country from which the goods were shipped directly to Canada, and
>
> (ii) imported into Canada and sold by the importer thereof in the condition in which they were imported to a person with whom, at the time of the sale, the importer was not associated,
>
> such price to be adjusted in the prescribed manner and circumstances to reflect the differences in terms and conditions of sale, in taxation and other differences relating to price comparability between the goods sold to the importer and the imported like goods in relation to their sale by the importer thereof.

110. Pursuant to subsection 17.1 of the *Special Import Measures Regulations*, Vietnam is a prescribed country for the purposes of section 20 of SIMA.

111. The CBSA relies upon a two-step test when determining whether to proceed with an inquiry under section 20 of SIMA:

> When evaluating information which suggests that section 20 conditions may exist in a particular sector in new investigations and in re-investigations, the CBSA will rely on a two-part threshold test to determine whether to proceed with a section 20 inquiry. The first part of the test requires that the evidence presented in support of an allegation be relevant and reasonably reliable. The second part asks whether this evidence, if later found to be accurate, would be capable of reasonably supporting a positive determination as to the applicability of section 20.[48]

112. The evidence on the record prior to the initiation of the investigation is not required to conclusively *demonstrate* that the section 20 conditions exist, but rather the evidence need only suggest that the section 20 conditions *may* exist, subject to CBSA's two-part analysis

[48] *Unitized Wall Modules (II)*, Notice of Initiation, Statement of Reasons (March 19, 2013) at para 68.

described above. Indeed, the very purpose for the section 20 inquiry is to determine — after the fact-finding investigation — whether the section 20 conditions, in fact, exist.

113. The CBSA's *SIMA Handbook* also underscores that the threshold for an initiation does not require dispositive proof that non-market economy conditions exist. Rather, a complainant is expected to provide reasonably reliable facts to support its allegation and CBSA staff may initiate a section 20 inquiry if the facts and evidence before them are capable of reasonably supporting the initiation:

> 4.4.4.1 General
>
> References to a "Section 20 inquiry"
>
> ...A section 20 inquiry is characterized by official notification to the government of the country of export, exporters and domestic producers that the President has reason to believe that the conditions of section 20 **might** exist in the sector under investigation. ...
>
> ...
>
> 4.4.4.3 General Policy and Procedures
>
> Initiation of New Anti-dumping Investigations
>
> If a written dumping complaint is received in which the complainant has based the estimation of normal values on surrogate values because it is alleged that the goods are exported to Canada from a country in which the conditions of subsection 20(1) apply, **the complainant is expected to outline the facts on which this allegation is made and provide such information that is available to support these facts.**
>
> ...
>
> 4.4.4.4. Sufficiency of Evidence for Purposes of Initiating a Section 20 Inquiry
>
> When evaluating information which suggests that subsection 20(1) conditions may exist in a particular sector, staff is to rely on the following test to determine whether to initiate an inquiry:
>
> (1) Is the evidence presented, either by the complainant or the CBSA, in support of an allegation regarding the applicability of section 20 relevant and reasonably reliable?
>
> (2) If so, would this evidence, if properly verified, be capable of reasonably supporting a positive determination as to the applicability of section 20?
>
> The first part of the test addresses the admissibility of the evidence presented. Unless the evidence can be considered relevant and reasonably reliable, it is to be disregarded when addressing the second part of the test. Evidence is considered to be relevant where it has some tendency, as a matter of logic and

> personal experience, to make the proposition for which it is advanced more likely than that proposition would appear to be in the absence of that evidence. In other words, evidence is considered to be relevant if it tends to prove the subject at issue. As for the reliability criteria, it serves to eliminate information that may have been obtained through fraudulent, inaccurate, biased or uninformed sources.
>
> The second part of the test addresses the strength or weight of the evidence by simply asking whether this evidence is reasonably capable of supporting the inferences necessary for making a positive determination. This helps to avoid situations where the President may not be in possession of sufficient information to form an opinion regarding the applicability of section 20. If the response to the second part of the test is affirmative, then a section 20 inquiry should be initiated.
>
> (Emphasis added)

114. As noted in the *SIMA Handbook*, the test at this stage is not whether the evidence unequivocally demonstrates that the section 20 conditions exists, but rather whether the evidence is reasonably capable of supporting the inferences necessary for making a positive determination.

115. Vietnam agreed in its Protocol of Accession to the WTO that other WTO Members would be permitted to use special rules for the determination of whether non-market economy conditions exist in the context of anti-dumping cases. Specifically, Vietnam agreed that an importing Member would be permitted to "use a methodology that is not based on a strict comparison with domestic prices or costs in Viet Nam if the producers under investigation cannot clearly show that market economy conditions prevail in the industry producing the like product with regard to manufacture, production and sale of that product."[49] The terms of Vietnam's Protocol expressly permit the use of section 20 unless the Vietnamese producers under investigation can clearly show that market economy conditions prevail in the Vietnamese CSWP industry. Under the terms of Vietnam's Protocol, the burden is on the Vietnamese producers to clearly show that market economy conditions prevail.

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[49] WTO, Report of the Working Party on the Accession of Vietnam, WT/ACC/VNM/48 27 October 2006, at paras 255 and 527; Vietnam's Protocol of Accession to the WTO, WT/L/662 15 November 2006, at para. 2.

116. There is nothing in SIMA itself which defines or describes a "section 20 inquiry". Rather, section 20 provides a methodology available to the CBSA when certain circumstances are met. In this regard, and on the issue of the evidence necessary to initiate a section 20 inquiry, it is instructive to consider the information necessary for the CBSA to initiate an anti-dumping investigation. Subsection 31(1) of SIMA provides that the President shall initiate an anti-dumping investigation if the President "is of the opinion that there is evidence (a) that the goods have been dumped..." and (b) that "discloses a reasonable indication" that the dumping has caused injury or is threatening to cause injury. In other words, the legal test to initiate an anti-dumping investigation is whether the President is of the opinion that there is evidence that the goods have been dumped and whether the evidence discloses a reasonable indication that the dumping has caused injury. The President need not be satisfied that there has been dumping, but only that there is evidence that the goods have been dumped. The purpose of the investigation itself is to determine whether there has, in fact, been dumping. The Complainant submits that a similar approach is appropriate in order to determine whether to commence a section 20 inquiry.

117. The SIMA requirement that a complainant provide facts and evidence to support a request for the application of section 20 against a prescribed country, rather than conclusive or dispositive proof, reflects the potential challenges associated with obtaining conclusive evidence, much of which may not be publicly available.

118. As noted above, the conditions for the application of the section 20 methodology are that:

> ...domestic prices are *substantially* determined by the government of that country and there is sufficient reason to believe that they are not *substantially* the same as they would be if they were determined in a competitive market...[50] (Emphasis added)

119. The Federal Court of Appeal provided guidance on the scope of subsection 20(1), stating:

> [9] In our view, the use of *the expression "substantially determined" necessarily implies something less than completely determined* and as such,

[50] SIMA, *supra*, s. 20.

> Parliament did not intend the provision to be restricted to situations where a foreign government directly sets the prices. Indeed, the phrase captures the various ways in which governments can exert a determinative influence on pricing, whether directly or indirectly.[51] (Emphasis added)

120. Indeed, in every investigation in which the President has found that the conditions of section 20 apply, it has been the totality of government influence which has resulted in those findings, as opposed to a direct form of price-setting.

121. There is also sufficient evidence to form an opinion pursuant to section 20 of SIMA that the Government of Vietnam (the ("**GOV**") substantially determines Vietnam's domestic price for CSWP and that there is sufficient reason to believe the domestic prices are not substantially the same as they would be in a competitive market. Evidence and analysis regarding the existence of Section 20 conditions within the Vietnamese CSWP industry are discussed in Appendix A. Some key issues in this regard that are discussed in Appendix A include:

(a) The GOV sets steel production and export targets through its Steel Master Plan;

(b) The GOV controls the steel industry by taking action against producers who raise prices;

(c) Vina One Steel Manufacturing Corporation Company, one of the largest Vietnamese CSWP producers who has the most significant capacity data in the Vietnamese CSWP market, is a state-owned enterprise and Vietnam Steel Company, a significant producer of crude steel, is also a state-owned enterprise;

(d) The construction of steel projects and investments are controlled by the GOV to influence demand and price of steel; and

[51] *Tianjin Pipe (Group) Corporation v. Tenaris Algoma Tubes Inc.*, 2009 FCA 164, May 20, 2009.

(e) The GOV indirectly controls CSWP prices by subsidizing CSWP producers and exporters.

122. Vietnam has been found to be a non-market economy by the United States and that status applied in the recent United States investigation on circular welded carbon-quality steel pipe ("**CWP**"), where it was determined that imports of CWP from Vietnam were sold in the United States at less than fair value, however were negligible.[52]

123.. The Complainant has been unable to locate home market prices for CSWP; however, the Complainant submits that Vietnamese domestic CSWP prices are likely significantly lower than prevailing world prices, in part due to the involvement of the GOV. The Complainant submits that section 20 conditions exist in the Vietnamese CSWP sector and Vietnamese CSWP producers receive many subsidies from the GOV, which impact the price for CSWP in Vietnam. As it was unable to locate home market prices, the Complainant submits that the dumping margins calculated for section 19 apply to section 20 in this case for galvanized and black CSWP from Vietnam (55%).

124. In connection with the request that CBSA apply section 20 of SIMA, the Complainant has calculated normal values for Vietnamese Subject Goods using its own costs of production, appropriately adjusted to reflect differences in labour costs. These normal values, when compared to the export prices, discussed above, also show significant margins of dumping.

III. Evidence of Injury

125. Because of the dumped Subject Goods, Nova has suffered material injury in the form of lost sales, price undercutting, and price suppression. As a result, Nova's CSWP business has been negatively impacted, as reflected in diminished net sales revenues, gross margins

[52] Public Attachment62: U.S. International Trade Commission, Circular Welded Carbon-Quality Steel Pipe from Oman, Pakistan, the United Arab Emirates, and Vietnam, Final Determination, December 2016 and Public Attachment 115: United States Department of Commerce, Circular Welded Carbon-Quality Steel Pipe from the Socialist Republic of Vietnam: Issues and Decision Memorandum for the Final Determination.

and net profits, as well as capacity under-utilization. The Nova income statement attached in Confidential Attachment 9 demonstrates the extent to which the Subject Goods have caused material injury to the domestic industry[53]

A. Apparent Canadian Market

126. The apparent Canadian market table is attached as Confidential Attachment 6.

127. The apparent market table produced for the Complaint is based on data from Statistics Canada on the applicable HS Codes with an adjustment for US import volumes as discussed above. This data to supports volume and pricing trends indicating that the Subject Countries are dumping Subject Goods. Moreover, Nova submits that the data regarding the Subject Countries is reasonable considering its commercial intelligence. For example, import offers collected by Nova in order to secure some volume for Q4 2017 from Vietnamese and Turkish sources are very similar to import prices from the respective countries in Q4 2017 retrieved from Statistics Canada data.[54] Additionally, we when considering import permit data, it appears that some volumes reported under HSS are indeed CSWP imports. For example, in 2017, Turkish imports under HSS are reported at 15,461 MT,[55] however, there is a current Finding against HSS from Turkey, where Turkey is subject to 89% duties.[56] The Statistics Canada data for certain CSWP, indicates 15, 431 MT from Turkey.

128. Additional information about Subject Goods is also available to the President through import documentation filed with CBSA.

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[53] Confidential Attachment 9: Nova Injury Assessment Data.

[54] Confidential Attachment 8: Confidential Statement of Alexandre Gravel at paragraph 62 indicates that Turkish and Vietnamese offers are around $1120/MT for Q4 2017, while in the same period imports from Turkey and Vietnam are priced around $991/MT, and 1,042/MT, respectively. The difference may be attributed to further negotiations and different specifications.

[55] Public Attachment 7: Global Affairs Canada Steel Import by Class and Country 2017.

[56] Canada Border Services Agency, Notice of Conclusion and Reinvestigation of Certain Steel Structural Tubing, March 11, 2011.

129. Substantial volumes of Subject Goods have been imported into Canada. The levels of Subject Goods started to significantly impact the market since the last Tribunal Inquiry into the Subject Goods and has remained high since. The Subject Goods totalled 36% of total imports in 2015 and were around 43% of imports during the POI.[57] Importantly, the volume of Subject Goods has grown from 47,657 MT in 2015 to 91,730 MT during the POI as indicated by Statistics Canada Nova submits that even if Subject Country volumes are over reported due to product identification errors, the data is still indicative of market growth or at the very least growth of Subject Country imports during the POI.

130. The price of imports has substantially affected the price of domestic products as imports have constantly been valued lower. This discrepancy grew during the POI with the average price of the Subject Goods at $981/MT and Nova's price at].[58] The average price of the Subject Goods was determined by adding the volume of the Subject Goods in the relevant time period and dividing it by the total value of the imported Subject Goods in the same time period. Nova notes that in each quarter of the POI, Subject Good pricing has been below Nova's price, US price, covered country prices, non-subject imports (excluding the US) prices and total import price.

B. Indicators of Injury

1. Price Undercutting

131. Subject Goods have captured market share at the expense of the Canadian industry by aggressively undercutting the Canadian producers' pricing. Even with the expense of shipping CSWP long distances, CSWP from the Subject Countries is still priced substantially below the prices offered by the Canadian producers.

[57] Confidential Attachment 6: Apparent Canadian consumption of CSWP.

[58] This comparison does not consider the differences between black and galvanized pipe as the Subject Goods encompasses one class of goods and the comparison is a complete picture of Like Goods to Subject Goods.

132. Importantly, during the POI, the average import prices have increased due to the global rise in HRC prices in 2017, as demonstrated by the table below. As a result, import pricing during the POI increased; however, notwithstanding this increase, the Subject Goods continue to undercut the domestic industry.

Table 1 Increasing HRC Price[59]

[

]

133. The graph above demonstrates that during the POI, the price of HRC has been subject to significant variations but overall has remained relatively high.

134. The table below sets out the average import prices and Nova's net selling (undelivered) value for CSWP in Canada in the period between 2015 and the POI.

[59] Confidential Attachment 17: Steel Price Analysis Tool – Steel Orbis data for HRC Ex-Mill US Midwest $/Mton retrieved May 2018.

Table 2
Average Import Prices[60]

$/MT	2015	2016	2017	Q1 2018	POI
Nova	[				]
Pakistan	989	842	988	935	998
Philippines	917	829	910	883	900
Turkey	1014	898	1048	1104	1074
Vietnam	1081	848	959	1194	1014
US imports[61]	2335	2499	2201	1960	2119
Non-Subject Imports (excluding US)	1643	1230	1399	1871	1516

135. As the above table demonstrates, Subject Goods from Turkey, Pakistan, the Philippines and most recently Vietnam, have been, by far, the lowest priced products in the Canadian market over the POI.

136. During the POI, the prices for the Philippines, Pakistan, Turkey and Vietnam have been significantly lower than Canadian producer pricing, from $[ ]/MT to $[ ]/MT. Specifically, Pakistan imports are [$], Philippines is [$], Turkey is [$] and Vietnam is [$].

137. In addition, the prices of the Subject Goods have undercut the prices of all other (non-U.S.) imports and Nova continues to face a similar situation.

138. Not only do the average price figures in Table 2 show significantly lower prices for Subject Goods, but the customer specific evidence gathered by Nova also reflects severe price undercutting by Subject Goods. The confidential import reports referenced below

[60] Confidential Attachment 6: Apparent Canadian consumption of CSWP.

[61] The average pricing of U.S. imports may be inaccurate. The $/MT prices are high, particularly in 2015 and 2016.

demonstrate, on a product-by-product basis, Subject Goods are the price leaders in the Canadian market and substantially undercut comparable domestic producer pricing.

139. Further, imports from the Subject Countries often have "extras" (in terms of surface finish, end finish, etc.) at minimal or no extra charge to the Canadian customers. As a result, the price undercutting shown by the averages above actually understates the real price undercutting that is occurring in the market.

140. Nova has also faced increasing cost pressures in recent years, not only has its overall selling value decreased but it has been forced to discount value-added items such as additional finishing.

141. Moreover, during the POI, sales of Subject Imports increased significantly. Indeed from 2014 to 2016 the volume of Subject Imports ranged from 47,981 MT to 56,851 MT. During the POI, the volume of Subject Imports increased to 91,440 MT. While Nova's sales volumes in 2016 compared to the POI [ ].

2. Price Suppression

142. During various periods of the POI, Nova [ ].[62] Although the price of CSWP has increased in 2017 largely due to the cost of direct materials, Nova is unable to pass this cost increase to the customers due to the low prices of the Subject Goods. The pervasive presence of low-priced Subject Goods has suppressed Canadian market pricing and caused material injury to Nova and the other domestic producers.

143. As is discussed below, when price competition is examined on a product and transaction specific basis, import pricing substantially undercut Nova's already discounted prices and influenced sales.

[62] Confidential Attachment 9: Nova Injury Assessment Data.

3. Specific Examples of Injury - Lost Sales and Price Undercutting

144. Nova has been facing increasing price pressures in the Canadian market from imports from the Subject Countries. The degree of price undercutting and lost sales by these offshore sources is further demonstrated by examining specific examples, which are provided below.

145. Not only are imports offered at significantly lower prices on comparable domestic producer products, imports from the new sources often have "extras" in terms of surface finish and end finish at minimal or no extra charge to Canadian customers. Specifically, imported galvanized products are sold at very low prices as are pipe sizes ranging from 0.5 inches to ¾ inches.[63]

146. Nova's main customers are [ ]. [ ] and the main import sources for these customers are Turkey and Vietnam. [ ] and the main import source for this customer is Turkey. [ ] main import sources are Vietnam and Turkey. [ ] and [ ] are customers based in Western Canada and Nova's sales to these distributers have been injured by Vietnamese and Philippine imports. With regards to fencing product, Nova believes it is losing sales mainly to Pakistan. Additionally, there are several potential customers that Nova has been unable to secure due to the impact of the Subject Goods.

[63] Nova's pricing structure is mostly negotiated in terms of base pipe and then additional costs are added depending on the specification or customer requirements. Base pipe means standard wall (Schedule 40), black A53 pain end ("**PE**") 1" to 6" Grade B and 1 ¼" to 4" light walled (Schedule 10). Adders include wall thickness (heavy walled (Schedule 80)), different sizes (1/2" or ¾" or 5" and 6" Schedule 10), end finishing (treaded and coupled ("**T&C**") and roll grooved ("**RG**")) and coating (galvanized). For each adder, Nova's price changes due to production cost.

147. Below is a sample of how the Subject Countries are impacting Nova's sales. Further examples of price undercutting in 2015, 2016 and 2017 can be found in the Confidential Statement of Evidence of Alexandre Gravel.

(a) Lost Sales and Price Reduction from 2015

148. In April 2015, Nova was forced to reduce its price on certain CSWP, in order to secure approximately [ ] MT of sales with [ ] because of low-priced Turkish imports offered for November 2015 arrival. The following table illustrates Nova's offers and the Turkish offers:[64]

Product	Nova original offer	Nova revised offer	Turkish offer delivered
Black PE 40	[	]	$1033
Black T&C 40	[	]	$1075
Galvanized PE 40	[	]	$1306
Black RG 10	[	]	$1097
Galvanized RG 10	[	]	$1382
Black PE 80	[	]	$1099

*The majority of the sales were black PE 40, black RG 10, black PE 80

149. In September 2015, Nova reduced prices for ½" and 2" A53 Grade B Black to [ ] from [ ] after Merfish (Turkey) offered $703/MT and $692/MT (delivered) for the same products.[65]

150. In November 2015, [ ] also advised Nova of an offer on a range of Turkish CSWP for March 2016 arrival by Intermetalink for $909/MT (delivered to Montreal and Toronto). In December 2015, [ ] advised Nova of Turkish pipe for May 2016 arrival by IMCO from Borusan (Turkey) for $892/MT (delivered to Oshawa loaded truck). As a result of these low prices, Nova was once again forced to reduce its price

[64] Confidential Attachment 8: Confidential Statement of Alexandre Gravel, at paragraph 21.

[65] Confidential Attachment 8: Confidential Statement of Alexandre Gravel, at paragraph 22.

to [ ] from [ ] in order to secure orders totalling [ ] MT and the original volume offered was [ ] MT.[66]

151. Also, in November 2015, Nova was informed that a customer [ ] in British Columbia was receiving low price imports for galvanized fence posts from Pakistan and the Philippines. The prices ranged from $1058/MT to $1300/MT delivered. Nova's price at this time was [$] delivered to BC.[67]

152. In February 2016, [ ] informed Nova that they imported 907 MT from Merfish (Turkey) for April 2016 at $827/MT FOB for A53 grade B. Nova was selling at [ ] at that time. Then in April 2016, [ ] received 2721 MT of imports from Turkey. All prices are delivered to customer location. In contrast, Nova was only able to book around 594 MT with this customer in the same time period. [68]

153. Then in May 2016, undercutting continued and Nova only secured part of an order [ ] for September 2016 after significant price reduction in order to complete the sale.[69]

Product	Nova original offer	Nova revised offer	Turkish offer delivered (Intermetalink-Erbosan)
A53 Gr B BPE 40 1-6"	[	]	$1113
A53 Gr B BTC 40	[	]	$1187
A53 Gr B BRG 40 2-6"	[	]	$1173
A53 Gr B GPE 40	[	]	$1387
A53 Gr B GTC 40 1"	[	]	$1529
A53 Gr B GRG 40 2-6"	[	]	$1444
A795 Gr A GRG 10 2.5-6"	[	]	$1430

[66] Confidential Attachment 8: Confidential Statement of Alexandre Gravel, at paragraph 10.

[67] Confidential Attachment 8: Confidential Statement of Alexandre Gravel, at paragraph 54.

[68] Confidential Attachment 8: Confidential Statement of Alexandre Gravel, at paragraph 12.

[69] Confidential Attachment 8: Confidential Statement of Alexandre Gravel, at paragraph 24.

154. In June 2016, Nova lost its Q4 2016 business, around [ ] for a range of CSWP for [ ] to imports. Nova's price for the product was [$] and the import price was $1075-1080/MT delivered for imports from (IMCO) Turkey and (SeAH) Vietnam. Specifically, for Q3 and Q4 delivery, this customer placed their orders with SeAH (Vietnam) - around 3629 MT. Nova estimates that the price for these imports was around $992/MT delivered while its price for that period was [$]. Nova was only able to secure [ ] for that period in all [ ].[70]

155. Also, in June 2016, Nova was forced to reduce its price on Schedule 10 and 40 black substantially from [ ] for [ ] to [$] for [ ] delivered. Nova was informed that imports from Vietnam – NAP Steel SeAH were much lower and that Nova's pricing was 10-37.5% higher than imports. This was for fall 2016 delivery to [ ].[71]

156. In July 2016, for Q3 and Q4 2016 delivery, Nova was only able to secure [ ] for that period with [ ], with over 4082 MT lost to imports from SeAH (Vietnam), Intermetalink – Erbosan (Turkey) and IMCO - Borusan (Turkey) and probably a few other sources. Nova estimates that the price for these imports was around $960-992/MT delivered, while its price for that period was [$] and was forced to reduce it to [ ]. Then in September 2016, Nova offered pricing of [ ] to this customer and was unable to compete at this price. Instead, the customer purchased 2721 MT from IMCO-Borusan (Turkey) at $992/MT. It also informed Nova that all of Q4 2016 was booked with imports. As Nova's major customer, this was a tremendous loss.[72]

157. In August 2016, Nova significantly revised its offers to [ ] after Turkish offers from IMCO (Turkey) for October and November 2016 delivery came in. The Turkish product

[70] Confidential Attachment 8: Confidential Statement of Alexandre Gravel, at paragraphs 32 and 33.

[71] Confidential Attachment 8: Confidential Statement of Alexandre Gravel, at paragraph 34.

[72] Confidential Attachment 8: Confidential Statement of Alexandre Gravel, at paragraphs 15 and 16.

was priced between $1046-$1086/MT delivered for ½"-6" standard black beveled edge or roll grooved while Nova's base was [ ] for the same product range. As a result, Nova was forced to reduce its price to [ ].[73]

158. Also, in August 2016, Nova was unable to secure [ ] as a customer due to Philippines – HLD Clark imports of 1" and 2" A53B Black BE at $959/MT and $936/MT delivered. This was much lower than Nova's price at the time.[74]

159. In September/October 2016, when placing orders for Q1 2017 for [ ], Nova was once again significantly undercut by import offers from Turkey, Vietnam and the Philippines. Merfish (Turkey) was offering $904/MT for 0.5" to 1" base and $915/MT for other sizes. Erbosan (Turkey) and Borusan (Turkey) (Imco/Intermetalink) were offering $937/MT, SeAH (Vietnam) and HLD Clark (Philippines) were offering $937-948/MT for the same product. All import offers include FOB loaded truck at customer locations. As a result, in order to remain in the market, Nova agreed to [ ] at [ ] base delivered for the same product. Its original offer was [$].[75]

160. In October 2016, Nova was informed that [ ] received two containers that month for $900/MT and was to receive an additional two containers in November 2016 for $991/MT delivered from Protin (Philippines). At the relevant time, Nova's price for the same product was [ ].[76]

[73] Confidential Attachment 8: Confidential Statement of Alexandre Gravel, at paragraph 25.

[74] Confidential Attachment 8: Confidential Statement of Alexandre Gravel, at paragraph 36.

[75] Confidential Attachment 8: Confidential Statement of Alexandre Gravel, at paragraph 17.

[76] Confidential Attachment 8: Confidential Statement of Alexandre Gravel, at paragraph 38.

161. Also, in October 2016, [ ], a major fence purchaser, informed Nova that its placed all its volume with imports in the last year. In the same discussion, Nova considering these low-priced imports, quoted [$] for [ ]; however, it was still unable to secure any volume. Nova was informed that 75% of the volume went to Pakistani imports and 25% of the volume went to Turkish import. Nova estimates that the import offers were at $1102/MT delivered.[77]

162. In November 2016, [ ] booked 500 MT with Intermetalink for Q1 2017 at prices around $200/MT less than Nova's price. Also, in November 2016, [ ] booked with Merfish at prices ranging from $500/MT to $323/MT (delivered) less than Nova prices.[78]

(b) **H1 2017 Lost Sales and Price Reduction**

163. In January 2017 for Q2 2017 delivery, [ ] received an offer from Intermetalink (Erbosan - Turkey) for $1151/MT for ASTM Grade B ½"- ¾" delivered. In order to secure [ ], Nova had to reduce its base price from [ ] to [ ] Nova's price for a similar product would cost much more due to the costs associated with ½"- ¾" pipe size.[79]

164. In February 2017, [ ] received offers from HLD Clark (Philippines) for June delivery that were eventually reduced to $1082/MT delivered. At the same time, Nova had offered [ ] and was told that they were facing competition from other exporters (Intermetalink (Turkey) and SeAH (Vietnam)) at that price as well. The customer hesitated in confirming an order for 2268 MT for Q2 2017 even after Nova reduced its original quote ([ ]). In the end, Nova was able to secure some volume,

[77] Confidential Attachment 8: Confidential Statement of Alexandre Gravel, at paragraph 56.

[78] Confidential Attachment 8: Confidential Statement of Alexandre Gravel, at paragraph 44.

[79] Confidential Attachment 8: Confidential Statement of Alexandre Gravel, at paragraph 27.

[ ].[80] In this sale, due to the low-priced imports Nova lost volume and had to reduce price.

165. In March 2017,] informed Nova that import offers from State Pipe (SeAH-Vietnam) were 29% lower than Nova's price at that time. Also, for 3" light walled galvanized pipe, Nova was told that the import price offered was $1394/MT. At the same time Nova's price was [ ] for the same product – almost a [ ] difference.[81]

166. In May 2017, Nova offered [ ][ ] for ASTM A53-B and ASTM A795 for Q3-Q4 2017 delivery. A week later, IMCO, supplying Borusan material from Turkey offered $1141/MT for ASTM A53-B. IMCO also provided the option of retrieving stock at the dock so that the customer would not have to receive and pay all tons at the same time. As a result of the low-priced imports, Nova reduced prices to secure orders and [ ].[82]

167. Also, in May 2017, Nova was informed that NAP Steel (Cascadia in Calgary) offered [ ] the following prices from HLD Clark in the Philippines and SeAH - Vietnam: [83]

[80] Confidential Attachment 8: Confidential Statement of Alexandre Gravel, at paragraphs 17 and 18.

[81] Confidential Attachment 8: Confidential Statement of Alexandre Gravel, at paragraph 28.

[82] Confidential Attachment 8: Confidential Statement of Alexandre Gravel, at paragraph 29.

[83] Confidential Attachment 8: Confidential Statement of Alexandre Gravel, at paragraph 40.

	Philippines Delivered Offer	Vietnam Offer plus freight	Nova Offer
1" std blk gr B	$1257/MT		[
1" std blk gr A	$1224/MT		
2" std blk gr.B	$1194/MT		
2" std blk grade A	$1161/MT		
6" light walled blk	$1235/MT	$1334/MT	
4" light walled blk roll grooved		$1290/MT	
1" std blk beveled end grade B		$1113/MT	]

168. In June 2017, Nova had a meeting with [ ]. At this meeting, Nova was told that this customer likely buys 3000-4500 tons a year and currently, their product comes from Pakistan and Vietnam at $1124/MT. The next arrival is at $1345/MT (plus $80/MT delivery). Nova's comparable price is [$] and thus, has not received an order from this customer.[84]

169. These low-priced imports continue to affect Nova's sales for the remainder of 2017. Nova was forced to reduce its prices in order to secure at least some volume for Q3 and Q4 of 2017.

(c) Q3 2017 Lost Sales and Price Reduction

170. The table below is a summary of the price reduction that Nova had to endure to secure at least some volume for Q3 2017 in June 2017. The table also demonstrates that for each customer, Nova lost sales to imports.

[84] Confidential Attachment 8: Confidential Statement of Alexandre Gravel, at paragraph 58.

Customer	Target Volume	Tons Received	Nova		Import via Intermetalink (Turkey)	
			LW	STD / XH	LW	STD / XH
[ ]	[				$1179/MT	$1141/MT
[ ]					$1179/MT	$1141/MT
[ ]					$1102/MT	$1102/MT
[ ]				]	$1102/MT	$1102/MT

171. Most orders received were for Eastern Canada. [ ] did not place any orders for Alberta and or for Winnipeg.

172. For both [ ], Nova had to revise their price from] to secure the orders. For [ ], Nova did not receive these orders aside from small volumes of [ ].[85]

(d) Q4 2017 Price Reduction and Lost Sales

173. The table below is a summary of the price reduction that Nova had to endure in October 2017, in order to secure at least some volume of CSWP for Q4-2017.[86]

Customer	RFQ Volume (MT)	Volume received (MT)	Original price ($/ MT)	Revised price ($/ MT)	Competition	Competition Offer ($/MT)
[	[				Erbosan (Turkey)	1124
					SeAH Vietnam (via State Pipe)	1102
					Erbosan (Turkey)	1124

[85] Confidential Attachment 8: Confidential Statement of Alexandre Gravel, at paragraphs 59-61.

[86] Confidential Attachment 8: Confidential Statement of Alexandre Gravel, at paragraphs 62-63.

Customer	RFQ Volume (MT)	Volume received (MT)	Original price ($/ MT)	Revised price ($/ MT)	Competition	Competition Offer ($/MT)
					Erbosan (Turkey)	1124
					Assumed to be from Turkey & Vietnam	1124
					SeAH Vietnam (via State Pipe)	1213
					SeAH Vietnam (via State Pipe)	1168
					SeAH Vietnam (via State Pipe)	1102
]				]	SeAH Vietnam (via State Pipe)	1116 to 1268

174. As demonstrated by the table above, Nova not only lost significant volume in this time period but was consistently undercut by imports from Turkey and Vietnam.

(e) 2018 Orders

175. In late October/early November 2017, Nova engaged in negotiations with [ ] for the customer's Q1 2018 requirements. This customer had a quote from Intermetalink (Erbosan-Turkey) at $1102/MT (landed) for standard pipe. Furthermore, the additional costing items were significantly less, as detailed below. Although Nova was able to secure volumes, it was forced to significantly decrease its base price due to the import offer from [ ] on a large volume.[87] The specific price differences are outlined below.

[87] Confidential Attachment 8: Confidential Statement of Alexandre Gravel, at paragraph 65.

Adders (to a base pipe price)	**Intermetalink**	**Nova**	**Price Difference ($)**
½" diameter	$15/MT	[	]
¾" diameter	$15/MT		
5"-6" Light Wall	No additional charge		
Treaded and Coupled	$61/MT		
Galvanized	$276/MT		
Extra Heavy Wall	$59/MT		
Half length	$44/MT		
Roll Grooved Schedule 40	$59/MT	]	

176. As seen in the table above, Nova is significantly impacted by imports that fall into the above price categories. For example, if a customer requires a CSWP that ½" in diameter, Turkish imports are priced [ ] less.

177. Also, in October 2017, [ ] received an offer from SeAH via State Pipe for February through April 2018 delivery. Nova was once again forced to reduce its original offer:[88] In the end, Nova received around [ ]. The revised prices are summarized below.

[88] Confidential Attachment 8: Confidential Statement of Alexandre Gravel, at paragraph 67.

$/MT	SeAH Offer	Nova Original	Nova Revised
½" std blk BE 21'	$1159/MT	[	
1" std blk BE 21'	$1117/MT		
2" LW blk RG 21'	$1296/MT		
3" LW galv RG 21'	$1567/MT		
4" LW blk RG 21'	$1279/MT		
4" LW galv RG 21'	$1562/MT		]

178. In January 2018, Nova was informed by [ ] that they had received an offer from IMCO (Borusan – Turkey) for June 2018 delivery that was significantly below Nova's prices as detailed below.

	Turkey	**Nova**	**Price Difference ($)**
½" std black BE 21' A53-B	$1157/MT	[	
1" std black BE 21' A53-B	$1157/MT		
1-1/2" LW black RG 21' A-795	$1190/MT		
6" LW black RG 21' A-795	$1190/MT		]

179. The prices quoted above are all FOB to customer location.[89]

180. In March 2018, Nova was told that [ ] had material in their western yard from HLD Clark (Philippines). For standard wall black plain end, the prices ranged from $1444/MT. Nova's price for base pipe (1"-6" standard plain end black A53) was [ ] at the time. Importantly for certain orders such as for ½" to ¾", Nova's price changes and [

[89] Confidential Attachment 8: Confidential Statement of Alexandre Gravel, at paragraph 72.

].[90] A respective price change is absent from import offers and therefore, these are significant price differences.

181. Also, in March 2018, Nova was informed that [ ], received an offer from State Pipe (SeAH (Vietnam)) for June and July 2018 delivery. These prices significantly undercut additions to Nova's base price. Again, Nova's price for base pipe (1"-6" standard plain end black A53) was [ ]. The table below outlines Nova's price for comparison on the specific additions to base price:[91]

Addition	**Nova's Price (Base price plus addition)**	**SeAH Offer**	**Price Difference ($)**
½" diameter	[	$1214/MT	[
¾" diameter		$1214/MT	
5" to 6" Light Wall		$1297/MT	
Galvanized		$1473/MT	
Threaded and Coupled	]	$1261/MT	]

182. As demonstrated above, when the import pricing is compared to Nova's pricing for the same goods, the price difference is astounding.

183. Lastly, below is a summary of orders that Nova took at a discount in April 2018 for July and August 2018 delivery. These prices are based on Nova's base pipe price at the time.[92]

[90] Confidential Attachment 8: Confidential Statement of Alexandre Gravel, at paragraph 73.

[91] Confidential Attachment 8: Confidential Statement of Alexandre Gravel, at paragraph 74.

[92] Confidential Attachment 8: Confidential Statement of Alexandre Gravel, at paragraph 75.

			Nova		Import	
$/MT	**Proposed Volume**	**Volume Received**	**Original**	**Revised**	**IMCO**	**State Pipe**
[					$ 1,295	
					$ 1,295	
					$ 1,334	
					$ 1,334	
						$ 1,323
						$ 1,224
					$ 1,295	
					$ 1,334	
				]		$ 1,224

184. The data in this table is of great concern to Nova, not only has it lost significant volume with [ ], not placing a single order in this time period, it also has been significantly undercut by importers in each sale. Nova followed up with [ ] who explained that they are buying from importers at $1295/MT range, whereas Nova's base price for April is [ ].[93]

185. In the last month, Nova has been informed of further import offers that significantly increases its concerns for the remainder of 2018 and into 2019. Specifically, in May 2018, Nova was told that:

[93] Confidential Attachment 8: Confidential Statement of Alexandre Gravel, at paragraph 77.

a) [ ] is very busy at the moment and buy everything via importers from Turkey (IMCO – Borusan) as the prices are much cheaper;

b) [ ] is busier than ever and their yard was filled with Erbosan material from Turkey (about 1814 MT – 2268 MT). In contrast, Nova has only sold them about [ ] this year to date;

c) [ ] had received a new offer from State Pipe (material from SeAH – Vietnam) for October 2018 delivery at $1,242/MT for 1" standard black bevelled-end A53 ($88/MT for delivery to Edmonton). In comparison, Nova's price for the same product would be [ ] subject to mill increase since delivery is for October. Other product offers were about $500 MT lower than Nova's price; and

d) [ ] has about 2268 MT – 2722 MT of galvanized fence material from International Industries (Pakistan). Nova estimates the price for this product to be $1323/MT ($88/MT for delivery) and its respective price at a reduced market rate would have been [$].[94]

186. Overall, the specific examples above and the additional examples in the Confidential Statement of Evidence of Alexandre Gravel demonstrate that Nova is being significantly impacted by low priced imports in the market.

Conclusion

187. These are just a representative sample of the head-to-head competition that Nova has faced with imports from the Subject Countries in the recent period. These imports have caused Nova lost sales and forced it to reduce its pricing, both of which have caused it material injury.

[94] Confidential Attachment 8: Confidential Statement of Alexandre Gravel, at paragraphs 78-81.

188. Further, it is clear that even an offer, with no actual purchase, can and does have a negative downward effect on pricing in the Canadian market.

189. The Tribunal has recognized this dynamic:

> 345. The Tribunal heard testimony that, sometimes, even the presence of "zero volume" is enough to disrupt the domestic market, given that only the threat of an offer priced significantly below the price of Canadian hot-rolled steel sheet is enough to cause prices to cascade downward. To further corroborate this, the Tribunal heard testimony that, given the relative size and the fragility of the Canadian market, import offers such as 5,000 metric tonnes or even 3,000 metric tonnes can affect and devastate pricing in the Canadian market.
>
> 346. In such a case, the company to which a low-priced offer was made, whether it be a service centre or an end user, would quickly contact its core supplier and expect it to match the offered price, which can be extremely disruptive to the domestic market. [footnotes omitted][95]

190. The same remains true in the case of CSWP where the mere fact of an offer can cause a downward spiral in pricing.

4. Impact on the domestic industry

191. The pervasive presence of Subject Goods has limited Nova's sales volumes and have undercut and depressed Canadian pricing throughout the POI.

192. The imports from Subject Countries are significant as they have remained above 25% since 2015 and were 29% of total imports during the POI.[96] As mentioned above, Nova has been unable to grow its market share since CSWP II.

193. Nova submits that it lost significant volumes of sales and market share as a result of the presence of low-priced dumped imports from the Subject Countries.

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[95] *Flat Hot-Rolled Carbon and Alloy Steel Sheet and Strip*, RR-2010-001, Statement of Reasons (August 15, 2011) at paras. 354-356.

[96] Confidential Attachment 6: Apparent Canadian consumption of CSWP.

5. Financial Results

194. The injurious impact of dumped Subject Goods is demonstrated in Nova's confidential income statement attached to Confidential Attachment 8. Nova's financial results on a per metric tonne basis are summarized in the table below:

Table 3
Nova's Domestic Financial Results for CSWP[97]

$/MT	2015	2016	2017	Q2 2017	Q3 2017	Q4 2017	Q1 2018
Net sales value	[						
Cost of goods sold							
Gross margin (loss)							
Net income (loss)							]

195. While Nova was [ ] on its domestic sales of CSWP [

]. In, [

].[98]

196. Costs of goods sold [

]

[97] Confidential Attachment 9: Nova Injury Assessment Data.

[98] Confidential Attachment 9: Nova Injury Assessment Data.

197. The cost of production has been rising since Q1 2016. However, [

] The cost of hot-rolled sheet, the primary direct material, has increased substantially as seen in Table 1. Specifically, direct materials in 2016 was [$], while in 2017 it was [$

].[99] As discussed, Nova has been unable to price CSWP to reflect that increase due to the Subject Goods.

198. The difference between Nova's selling price for exports to the United States and the domestic selling price also indicates the effect of the Subject Goods. Pricing in the U.S. market is substantially higher than Canadian market pricing, and the delta has been growing. From 2015 to 2018 Q1 this price difference has increased from [ ].[100] Export sales are increasingly more profitable than domestic sales due to the higher selling prices in the US. A key difference between the U.S. and Canada is that the U.S. has a finding in place against three of the four Subject Countries. The presence of dumped imports from the Subject Countries has been a significant contributing factor to the pricing differentials between the Canadian and US market for CSWP.

199. Nova submits that the Subject Goods were a significant cause of its poor financial performance. While imports from the Subject Countries have remained high, as indicated lost sales to importers is only on the rise with Nova's customers confirming they are purchasing from importers due to the low prices offered. Nova is losing more and more volume to these imports.

200. Put simply, these results are [ ].

[99] Confidential Attachment 9: Nova Injury Assessment Data, see Cost of Goods Manufactured Tab.

[100] Confidential Attachment 9: Nova Injury Assessment Data.

6. Reduced Production and Overcapacity

201. Nova has operated and continues to operate with substantial excess capacity.[101] Nova's CSWP production was [ ] MT in 2015 and [ ][102]. However, Nova's total utilization rate only [ ].

202. Nova had unused capacity of approximately [ ] MT per year from 2015 to the POI. Significant unused capacity is problematic in capital-intensive industries such as the CSWP industry and contributes to poor financial performance by increasing the cost of production per metric tonne. [103] To be clear, Nova's unused capacity is a result of an inability to expand sales in Canada because of the presence of large volumes of Subject Goods.

203. Nova has been unable to fill this idle capacity because of the pervasive presence of dumped imports from the Subject Countries.

IV. Evidence of Threat of Injury

A. Introduction

204. Subsection 37.1(2) of the SIMA Regulations lists the factors the Tribunal considers in addressing the question of whether dumped goods are threatening to cause injury. These factors should also be considered by the CBSA when assessing whether or not a complaint provides a reasonable indication that the alleged dumping of particular goods threaten to injure the domestic industry.

205. Nova and the domestic industry producing CSWP are also threatened with material injury by reason of dumped imports from Subject Countries. Imports are increasing and are almost certain to continue to do so, given the unused and growing production capacity in the

[101] Confidential Attachment 9: Nova Injury Assessment Data.

[102] Note that Production values include exports.

[103] Confidential Attachment 9: Nova Injury Assessment Data.

Subject Countries, their export focus on the Canadian market, the U.S. trade remedy actions concerning CSWP against the Subject Countries, and the other reasons explained below.

206. Increasing imports at prices that substantially undersell domestic products are almost certain to continue to depress and/or suppress domestic prices and to take market share from Canadian producers. The adverse volume and price effects of increasing dumped imports will cause domestic producers to suffer further declines in production, capacity utilization, market share, prices, operating income, return on investment, and other indicators of material injury.

207. In making its assessment of threat of injury, the Tribunal generally considers a timeframe of 12 to 24 months.[104] In Nova's submission, this is also an appropriate period for CBSA's assessment of threat of injury.

B. Increase in Volume and Likely Prices

208. Subsection 37.1(2)(b) of the SIM Regulations prescribes that a factor to be considered in determining whether the domestic injury faces a threat of injury from the importation of dumped goods is "whether there has been a significant rate of increase of dumped goods imported into Canada, which rate of increase indicates a likelihood of substantially increased imports into Canada of the dumped goods".

209. Subsection 37.1(2)(e) of the SIMA Regulations prescribes that a factor to be considered in determining whether or not the domestic injury faces a threat of injury from the importation of dumped or subsidized goods is "whether the goods are entering the domestic market at prices that are likely to have a significant depressing or suppressing effect on the price of like goods and are likely to increase demand for further imports of the goods".

210. CSWP is a fungible commodity product that is sold largely on the basis of price. New entrants gain market share by offering lower prices. Notably, exports of CSWP are not

[104] *Greenhouse Bell Peppers,* NQ-2010-001 at para 175; CSWP 2012 Inquiry, *supra,* at para 156.

inhibited by any certification process such as that for API pipe. Rather, subject pipe is generally produced to ASTM specifications or sold as "Commercial Quality" goods that do not meet any particular specification.[105]

211. As is discussed above, Subject Goods have been imported in increasing volumes since 2014 at prices that are underselling domestic products and that are likely to depress or suppress domestic prices. The expected increase in Subject Goods import volumes will lead to further underselling and adverse price effects for domestic producers.

212. The Table below sets out recent CSWP imports (note that the import volumes reflect Nova's estimates based on Statistics Canada HS Code data):

Table 4
Canadian CSWP imports 2015- POI

	2015			2016			2017			POI		
		%			%			%			%	
	MT	Imports	$/MT	MT	Imports	$/MT	MT	Imports	$/MT	MT	Imports	$/MT
Nova												]
Pakistan	4,729	4	989	4,984	4	842	12,462	7	988	14,184	7	988
Philippines	16,810	13	917	15,639	11	829	25,729	13	910	32,957	15	900
Turkey	14,267	11	1014	10,427	8	898	15,431	8	1048	18,150	8	1,074
Vietnam	11,850	9	1081	25,801	19	848	20,764	11	959	26,148	12	1,014
Total	**47,657**	**36**	**994**	**56,851**	**41**	**851**	**74,386**	**32**	**965**	91,440	**30**	**981**
US imports	70,475	53	2335	60,546	44	2499	61,234	32	2201	65065		2,119
Total Imports	133,521		1776	138,237		1630	292,281		1731	314,720		1,672

213. Subject Goods have remained a high percentage of imports in the last three years.

[105] CBSA has previously considered the industry standards applicable to Subject Goods and confirmed that CSWP is generally produced to the ASTM specifications which prescribe chemical and mechanical properties. See *Certain Carbon Steel Welded Pipe,* RR-2004-003, Statement of Reasons (4 February 2005) at para. 15.

214. Importantly, the high volume of Subject Goods is accompanied by significant undercutting.

215. The significant low-priced dumping from the Subject Countries which occurred in 2015 has continued through the POI. Further, and as discussed above, there were recent offers of low-priced Subject Goods in the Canadian market which has forced Nova to reduce its offer price or has resulted in loss sales.

216. Subject Goods increased during the POI in absolute terms, and also relative to domestic production.

217. Subject Countries leveraged low prices to increase import volumes, with average Subject Goods prices falling by $13/MT between 2015 and the POI, this is notwithstanding the increase in HRC as discussed above.

218. Quite clearly, if these trends are permitted to continue, Nova and the rest of the domestic industry would suffer further injury over the next 12 to 24 months.

C. Global Market Conditions

219. International market conditions provide important context for macro-economic trends effecting CSWP. There are several major global developments currently affecting the market for CSWP, which make the domestic industry susceptible to continued injury. These factors include the following:

a) First, the global steel outlook is weak and the CSWP market is affected by the crisis and uncertainty in the steel industry generally. Since the major input in the production of CSWP is HRC, making CSWP a steel product, the state of the steel industry directly correlates to the CSWP market.

b) Second, the excess capacity crisis that is plaguing flat-rolled producers has implications on global markets for CSWP. The wide-ranging trade remedy findings against hot rolled sheet in countries around the world restrict market access for major exporters of hot-rolled sheet such as China, India and Korea. This creates a ready availability of low-priced feedstock.

As the conversion of hot-rolled sheet into CSWP is relatively straightforward, it provides a means for exporters subject to hot-rolled findings to maintain capacity utilization by converting hot-rolled to CSWP or selling hot-rolled to CSWP producers at low prices. This stimulates low-priced exports of CSWP to markets like Canada that have findings against hot-rolled sheet.

c) Third, there is a significant global overcapacity problem in the market for CSWP, driven primarily by producers in China.

d) Fourth, steel is at the centre of the current global trade crisis and with pipe products falling under the targeted tariff measures for steel products against major exporting countries such as the Subject Countries and the domestic industry faces an immense threat. In addition to a wide range of trade remedy findings affecting CSWP, major steel importing markets such as the European Union and the United States of America have also initiated major trade actions affecting steel that include the Subject Countries that further restrict access for these producers to those markets.

1. Persisting Imbalances in the Global Steel Industry

220. According to the OECD Steel Committee, the market situation of the steel industry is recovering but important risks remain which include the financial vulnerabilities of steel firms, distortive subsidies and government supports and importantly, persisting structural imbalances.[106] In the 84th session of OECD Steel Committee, the Chair noted that although steel market conditions have shown modest improvement, uncertainty and concern remain:

> It is, however, uncertain whether this momentum will continue, as financial vulnerabilities of steel firms and the presence of distorting government support measures remain reasons for concern. A sustained and resilient recovery remains unlikely as megatrends associated with lower steel intensity

[106] Public Attachment 18: 84th OECD Steel Committee Item 3b-1 Steel Market Developments, March 5. 2018 at slide 9.

> (e.g. ageing population, digitalisation, climate change and circular economy) are likely to weigh down on long-term global steel demand. While the structural imbalances remain, the recently improved conditions in some steel markets could therefore provide temporary relief and a unique window of opportunity to address policy-induced distortions to steel markets that result in excess capacity and trade frictions.[107]

221. These structural imbalances referenced above have plagued the global steel industry for some time now and as stated in this most recent OCED Steel Committee session, are likely to continue. The imbalances include sluggish recovery of demand combined with increasing production and increasing capacity. This is relevant to CSWP, which is made from hot-rolled sheet, which represents a significant proportion of total steel production. According to the World Steel Association, over 760 million MT of hot-rolled flat steel was produced globally in 2016.[108]

222. The World Steel Association states that although global steel demand growth for 2017/2018 demonstrated recovery, cautious optimism is necessary as current momentum might be driven mostly by cyclical rather than structural factors. The short-term risks include the US economic policies, normalization of monetary policies and continued geopolitical conflicts. The medium and long-term concerns include the financial market bubble and debt problem, megatrend forces weighing down on steel intensity and trade environment with rising protectionism and receding globalism.[109]

223. Although recovery of steel demand showed some potential in late 2016 and early 2017,[110] world steel demand growth is projected to decrease in 2018 and into 2019. Specifically, steel demand growth is expected to remain below GDP growth indicating weak performance

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[107] Public Attachment 19: 84th Session of OECD Steel Committee – Chair's Statement

[108] Public Attachment 20: World Steel Association, Steel Statistical Handbook 2017 at page 35.

[109] Public Attachment 21World Steel Association, World Steel Outlook 2017-2018 and challenges ahead, Steel Markets Asia Conference, November 9, 2017 at page 18.

[110] Public Attachment 18:84th OECD Steel Committee Item 3b-1 Steel Market Developments, March 5. 2018 at page 3.

in the global steel industry.[111] The OECD reports that world steel demand is projected to grow by 1.3% in 2017 followed by 0.9% in 2018.[112]

224. Amidst this uncertain and declining steel demand growth, global steel production has continued to grow and is forecasted to increase further. Specifically, in 2016, world steel demand was 1515.9 million MT, while production was 1605 million MT. In 2017, world steel demand was 1622.1 million MT, while production was 1688.1 million MT.[113] In both 2016 and 2017, production outpaced demand in the midst of efforts targeted to control this steel imbalance.

225. Additionally, production growth continues year on year. World crude steel production increased 5.3% from 2016 to 2017. Specifically, it increased in all regions except the CIS, which has remained stable.[114] This trend has continued into 2018. In January 2018, crude steel production for the 64 countries reporting to the World Steel Association was 139.4 million MT a 0.8% increase compared to January 2017. [115] Then in February 2018, the World Steel Association reported that production was 131.8 million MT, a 3.5% increase compared to February 2017.[116] Recently, in March 2018, the World Steel Association reported that production was 148.3 million MT, a 4% increase compared to March 2017.[117]

[111] Public Attachment 22: 84th OECD Steel Committee Item 3b-2 World Steel Association, Global Steel Market Outlook, March 5, 2018 at page 10 and 11.

[112] Public Attachment 23: OECD, Steel Market Developments Q4 2017 at page 5.

[113] Public Attachment 18: 84th OECD Steel Committee Item 3b-1 Steel Market Developments, March 5. 2018 at page 4 and Public Attachment 22: 84th OECD Steel Committee Item 3b-2 World Steel Association, Global Steel Market Outlook, March 5, 2018 at page 10 and 11.

[114] Public Attachment 24: World Steel, World crude steel output increases by 5.3% in 2017, January 24, 2018.

[115] Public Attachment 25: World Steel Association, January 2018 crude steel production dated February 26, 2018.

[116] Public Attachment 26: World Steel Association, February 2018 crude steel production dated March 26, 2018.

[117] Public Attachment 27: World Steel Association, March 2018 crude steel production dated April 25, 2018.

226. The current demand forecast combined with continuing production growth, creates a climate whereby oversupply encourages the selling of low-priced steel and steel products (CSWP) affecting markets such as Canada.

227. Additionally, this generally subdued demand forecast is especially problematic in light of the continuing global overcapacity crisis - global CSWP capacity continues to expand irrespective of underlying demand, as discussed further below

2. Global Overcapacity and Capacity Increases

228. In the 84th session of OECD Steel Committee, the Chair, Liven Top, stated that he remains deeply concerned about persisting excess capacity and called for a further and accelerated reduction of excess capacity that genuinely brings balance back to the market.[118]

229. Global overcapacity continues to affect the profitability of the steel industry. From 2000 to 2015, the global steel industry added more than 1.2 billion MT of crude steel production capacity, increasing the estimated global total to 2.3 billion MT.[119] Demand growth over that time is estimated at 700 million MT, meaning capacity growth exceeded demand growth by roughly 500 million MT.[120] This trend set the stage for the overcapacity problem that continues to plague the global steel industry.

230. The overcapacity crisis has taken on new significance as major steel consuming countries have responded by imposing restrictions on imports in an attempt to resolve the problem. This includes not only the rapid proliferation of trade remedy findings applicable to steel imports in numerous countries around the world, but also the recent section 232 measures in the United States and the steel safeguard investigation initiated by the European Union.

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[118] Public Attachment 19: 84th Session of OECD Steel Committee – Chair's Statement dated March 5-6, 2018.

[119] Public Attachment 28: Wiley Rein LLP, "Unsustainable: Government Intervention and Overcapacity in the Global Steel Industry", April 2016, p. 2.

[120] *Ibid.*

231. In the OECD's most recent steelmaking capacity update, it shows a slight, 1% decrease in existing nominal capacity. However, world steelmaking capacity still remains at 2,267.8 million MT; thus, significantly above world demand and production, discussed above. Furthermore, there are both planned and underway gross capacity additions in 2018-2020. Specifically, capacity additions underway are 44.68 million MT and planned are 37.23 million MT. Over the last 10 years, capacity has consistently and expeditiously over passed production while utilisation has remained around 70%.[121]

232. As OECD reports, "the reduction in global crude steelmaking capacity expected for 2017 is welcome but falls short of alleviating global excess capacity significantly. With global demand set to grow at a very modest pace in the years to come, most of the rebalancing in the steel market will need to come from the supply side."[122]

233. The Global Forum on Steel Excess Capacity ("**GFSEC**") report notes that capacity closures are being partially offset by continued capacity expansions.[123] This has led excess capacity to increase in recent years, with the 2016 surplus estimated at 737 million MT, the highest in the history of the industry.[124] The GFSEC's data shows that while nearly 137 million MT of steel production capacity was reportedly shut down from 2014 to 2016, a total of 82 million MT of steel production capacity was added over this period.[125] This led to the GFSEC's finding that while the overcapacity situation may have eased slightly very recently, this has not been enough to meaningfully reduce the structural imbalance and avoid problems going forward.[126]

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[121] Public Attachment 29: 84th OECD Steel Committee Item 4-1 Capacity at slide 5.

[122]Public Attachment 23: OECD, Steel Market Developments Q4 2017 at page 27.

[123] Public Attachment 30: Report, *OECD Global Forum on Steel Excess Capacity*, November 30, 2017 at para. 14.

[124] *Ibid* at para. 14.

[125] *Ibid* at Tables 3 and 4.

[126] *Ibid* at para. 17.

234. The Government of Canada made representations to the GFSEC regarding how this excess capacity affects the Canadian steel industry. The report summarizes Canada's concerns over global excess capacity as follows:

> Canadian producers have suffered downward pressure on prices and injury from unfairly traded (dumped and subsidized) imports. As an indication of these deleterious effects, between 2001 and 2016, 58 anti-dumping and 10 countervailing duty measures were imposed on primary steel products to mitigate the impact of trade distortions caused by excess capacity.
>
> Even with targeted trade remedy measures in place, excess capacity has resulted in significantly squeezed profit margins for Canadian steel producers, resulting in permanent and temporary closures, and corporate restructuring efforts. Between 2001 and 2016, employment in the steel sector has decreased from 39,210 to 22,486, or by 43 per cent. Further, in 2014 and 2015, two of Canada's three largest integrated steel producers sought creditor protection under the *Companies' Creditors Arrangement Act* (CCAA). [127]

235. Despite significant underutilization of production capacity, as mentioned above global crude steel production continues to grow.

236. Overall, the consistent and significant overcapacity continues to affect the steel industry along with the increasing production in the centre of uncertain demand. These trends demonstrate that producers of steel and steel products, such as CSWP continue to search for markets in order to sell products at low costs in order to stay alive. In addition, the pertaining structural imbalances are not appearing to be alleviated considering the constant additions of capacity.

3. European Steel Sector Paying the Price for Global Overcapacity

237. The European steel market is faced with challenges of its own. The EU market is only modestly growing, yet imports continue to increase. As long as global overcapacity persists and EU trade defence is not responsive enough, supply-side distortions will pose a risk to steel market stability in the EU. [128]

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[127] *Ibid*, para 123.

[128] Public Attachment 31: EUROFER European Steel in Figures 2017 at page 3.

238. The European Steel Association's, EUROFER states that although demand for steel is continuing to gradually bounce back from the lows of 2013-2014, this increase in demand has largely been absorbed by imports, which reached 24% of total deliveries in 2016. The historical average share of imports is 17%.[129]

239. Total steel imports increased by 9% in 2016 to 35.4 million tonnes, 3 million tonnes more than in 2015.[130]

240. The increasing import dominance in Europe poses a twofold threat to the Complainant and the other Canadian CSWP producers. First, oversupply and soft demand in Europe threatens to divert CSWP imports normally destined for the European market to other markets. Second, as Europe is unable to deal with the rise in imports, this means that European producers, including Turkey, are seeking new markets for CSWP production as the high fixed costs associated with CSWP production require high production levels.

241. Additionally, as mentioned below, this rise in steel imports has caused the European Union to initiate a safeguard proceeding.

4. China's Impact on Asian Steel

242. The global dominance of Chinese steel is not to be understated and its impact has not withered. Although steel demand in China has shown some improvement in 2016, after two consecutive years of decline, China's apparent use of finished steel products stood at 681 million MT, still 7.4% below the peak reached in 2013.[131]

[129] Public Attachment 31: EUROFER European Steel in Figures 2017 at page 3.

[130] Public Attachment 31: EUROFER European Steel in Figures 2017 at page 3.

[131] Public Attachment 23: OECD, Steel Market Developments Q4 2017 at page 10 and 11.

243. Steel demand in China for finished products increased 3% in 2016/2017; however, it is projected to decrease to 0% in 2017/2018.[132] Additionally, the projected performance in China's steel using sectors is forecasted to decrease in all sectors. Specifically, construction and metal products are forecasted at negative growth.[133]

244. Although the goal of the economic rebalancing in China is to decouple steel demand from GDP and diminish the role of industrial activity relative to services, recent data suggests that growth in manufacturing output has resumed during the second half of 2016 and has been growing rapidly since then.[134]

245. The most recent update from the World Steel Association states that China is to return to a deceleration trend:

> In 2017, the mild government stimulus measures provided some boost to construction activity, but investment continued to decelerate and steel demand showed only a moderate increase despite the stimulus.
>
> In 2018 and 2019 GDP growth is expected to decelerate mildly, but as the government continues to focus on shifting the growth driver toward consumption, investment is likely to further decelerate. Steel demand in 2018 is expected to stay flat. In 2019, it is expected to contract by 2.0% with a further slowdown in construction activity. In manufacturing, the machinery sector is expected to maintain positive growth on the back of a strong global economy while automotive and home appliances are expected to decelerate.
>
> High corporate and local government debt continues to raise concern but a hard landing for the Chinese economy is unlikely in the short run.[135]

[132] Public Attachment 21: World Steel Association, World Steel Outlook 2017-2018 and Challenges Ahead, Steel Markets Asia Conference, November 9, 2017 at page 12.

[133] Public Attachment 22: 84th OECD Steel Committee Item 3b-2 World Steel Association, Global Steel Market Outlook, March 5, 2018 at page 5.

[134] Public Attachment 23: OECD, Steel Market Developments Q4 2017 at page 11.

[135] Public Attachment 32: World Steel Association, *Short Range Outlook April 2018*, dated April 17, 2018.

246. Among China's projected desolate steel demand, crude steel production in China has increased year-on-year since 2015.[136] Most recently Chinese steel production increased 5% from 2016 to 2017.[137]

247. The World Steel Association reports that China produced 808 million MT of crude steel in 2016, up from 804 million MT in 2015.[138] Although in January 2018, China's crude steel production was 67 million MT, a decrease of 0.9% compared to January 2017, in February 2018, China's crude steel production was 64.9 million MT, a 5.9% increase compared to February 2017. There was a similar increase in March 2018 (74 million MT, an increase of 4.5%).[139]

248. In 2016, Reuters noted that Chinese imports account for two thirds of steel consumed in many Southeast Asian countries. This caused capacity utilization in the region to collapse to less than 40 percent. At the same time, Reuters reported that countries like Vietnam are to build more modern plants to better compete with China's massive mills. Hoa Phat, Vietnam's biggest steel firm, aims to triple production capacity to up to 6 million tonnes over 5-10 years using modern blast furnace technology.

249. Several Asian countries are introducing tariffs to protect local industry, including Vietnam, who imposed a temporary anti-dumping tariff ranging from 14 percent to 23 percent on steel

[136] Public Attachment 33: World Steel Association, *World Steel Figures in 2017* at page 9.

[137] Public Attachment 18: 84th OECD Steel Committee Item 3b-1 Steel Market Developments, March 5. 2018 at page 4.

[138] Public Attachment 33: World Steel Association, *World Steel Figures in 2017* at page 9.

[139] Public Attachment 25: World Steel Association, January 2018 crude steel production dated February 26, 2018 and Public Attachment 26: World Steel Association, February 2018 crude steel production dated March 26, 2018 and Public Attachment 27: World Steel Association, March 2018 crude steel production dated April 25, 2018.

imports from China and elsewhere. This was in addition to duties imposed on Chinese steel products that are up to 25 percent.[140]

250. The impact of low priced Chinese imports on Asian countries poses a significant threat to the Complainant. The consumption demand of countries such as the Philippines and Vietnam are met by the Chinese supply, forcing these countries to seek new markets for CSWP production. In addition, and in particular, Vietnam, is expanding its production and will inevitably continue to look to export its large surplus.

251. Furthermore, the reduction of Chinese steel consumption results in an increased global surplus supply of steel. As evidenced by the UN Comtrade data in Table 5below, this supply imbalance is similarly applicable to the pipe market. Chinese export data demonstrates that since 2013, exports of pipe[141] have increased by 34%. At the same time, the price per metric tonne has decreased by 22%.

[140] Public Attachment 34: My Pham and Khettiya Jittapong, "Southeast Asia steelmakers bid to emerge from China's shadow", Reuters (June 23, 2016) information retrieved online http://uk.reuters.com/article/uk-asia-steel-idUKKCN0Z82TA

[141] The HS code 730630 covers Tubes, pipes and hollow profiles, welded, having a circular cross-section, of iron or non-alloy steel (excl. of cast iron, products having internal and external circular cross-sections and an external diameter of > 406.4 mm, or line pipe of a kind used for oil or gas pipelines or casing and tubing of a kind used in drilling for oil or gas). Standard Pipe is within this HS code.

Table 5: Total Import and Exports of HS 730630: China[142]

	2013		2014		2015		2016	
	MT	$/MT	MT	$/MT	MT	$/MT	MT	S/MT
Export[143]	847,569	867	1,040,537	838	1,276,926	740	1,298,140	676
Import[144]	99,054	NA	87,990	NA	78,009	NA	96,949	NA

252. Reduced demand in the world's largest steel consumer is presently, and will continue to, have ripple effects in the global steel market. These effects are clearly demonstrated by China's year-on-year increase in exports of pipe. As the surplus of pipe increases, price reductions occur in tandem.

5. A Proliferation of Trade Measures

253. In response to the excess capacity crisis, several countries have responded by imposing unprecedented trade measures to mitigate the impact of the current global market situation on their domestic markets.

254. The Department of Commerce issued a report on *The Effect of Imports of Steel on the National Security* to the President of the United States on January 11, 2018 recommending the imposition of wide ranging tariffs and/or quotas on imported steel products, including the Subject Goods. In February 2018, the Department of Commerce publicly released Section 232 reports on imported steel and aluminum products. The reports concluded that the quantities and circumstances of steel and aluminum imports "threaten to impair the

[142] UN Comtrade Data is a repository of official international trade statistics reported by UN member countries retrievable at the HS Code Subheading level (6digit).

[143] Public Attachment 35: UN Comtrade Data *Total Chinese Reported Exports of 730630* accessed September 11, 2017. This data has not been updated.

[144] Public Attachment 36 UN: Comtrade Data *Total Chinese Reported Imports of 730630* accessed September 11, 2017. This data has not been updated.

national security," as defined by Section 232 of the Trade Expansion Act of 1962, as amended. Section 232 provides the executive branch the ability to conduct investigations to "determine the effects on the national security of imports" and provides the President the ability to address any threats to national security by restricting imports through tariffs:[145]

255. Specifically, the Department found *inter alia* found that global excess steel capacity is a circumstance that contributes to the weakening of the domestic economy:

> In the steel sector, free markets globally are adversely affected by substantial chronic global excess steel production led by China. The world's nominal crude steelmaking capacity reached about 2.4 billion metric tons in 2016, an increase of 127 percent compared to the capacity level in 2000, while steel demand grew at a much smaller rate. In 2016 there was a 737 million metric ton global gap between steelmaking capacity and steel crude demand, which means there is unlikely to be any market-driven reduction in steel exports to the United States in the near future. [146]

256. The investigation included pipe and tube products. Import penetration levels for pipe and tube products were found to continue an upward trend of above 30 percent of domestic consumption. Thus, carbon and alloy pipe and tube products were covered in the finding and proposed to qualify for a tariff.[147]

257. On March 1, 2018, President Trump announced that his administration would impose tariffs on steel and aluminum imports – specifically a 25% tariff on steel imports.[148] The Subject Countries are subject to 25% duties.

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[145] Public Attachment 37: United States Department of Commerce, *What You Need to Know About Section 232 Investigations and Tariffs.*

[146] Public Attachment 38: Department of Commerce, The Effect of Imports of Steel on the National Security, an investigation conducted under section 232 of the Trade Expansion Ace of 1962, as Amended, dated January 11, 2018 at pages 4 and 5.

[147] *Ibid* at page 3 and 22. The Finding specifically covers 730630.

[148] Public Attachment 39: CNN Politics, *Trump says US will impose steel and aluminum tariffs*, March 1, 2018 and 40Presidential Proclamation on Adjusting Imports of Steel into the United States

258. On March 22, 2018, President Trump announced further temporary exemptions for Argentina, Australia, Brazil, Member Countries of the European Union; and, South Korea.[149] President Trump announced that these exemptions were pending the discussions of satisfactory long-term alternatives and that the suspension would be in place for all countries until May 1, 2018.[150] Korea and the United States subsequently agreed to a product-specific quota in lieu of the tariff equal to 70% of Korea's average annual import volume from 2015-17.[151] Tariffs on all other countries then went into place the following day, March 23, 2018.[152] Canadian imports were temporarily exempted, with the current exemption set to expire on June 1, 2018.

259. Considering the impact of China on the global steel market and its volumes of imports into the United States, Nova submits that it is reasonable to assume that China will continue to be a targeted country.

260. The table below demonstrates the volume of imports to the United States that may be diverted to Canada when the tariffs are put in place. Due to the similar pricing in Canada and the United States, it is likely that imports flowing into the United States could be diverted to Canada.

Table 6 US Imports of Standard Pipe in 2017 and Q1 2018[153]

MT	**Pakistan**	**Philippines**	**Turkey**	**Vietnam**	**World**
2017	47.3	9,067	71,837	88,711	1,056,932

[149] Public Attachment 42: President Trump Approves Section 232 Tariff Modifications, *White House Statements and Releases*, March 22, 2018.

[150] *Ibid.*

[151] Public Attachment 43: Reuters, *UPDATE 4-US S. Korea revise trade deal, Korean steel faces quota*, March 25, 2018.

[152] *Ibid.*

[153] Public Attachment 44: US Government Enforcement Statistics, US Steel Imports Standard Pipe by Year retrieved April 2018.

2018 (Q1 2018)	245	4,065	12,368	17,576	245,898

261. The volumes include both goods that are within the range of subject goods (i.e. 6 inches and less in diameter) as well as products above 6 inches. Nevertheless, even if only half of the volumes are within the sizes covered by the product definition, the volumes are significant. It should also be noted that Pakistani and Turkish CSWP imports to the United States are also subject to pre-existing dumping and/or subsidy findings.[154]

262. If the US Section 232 investigation results in restrictive measures on imports of CSWP from an array of countries, these Subject Countries will face additional volume and price pressure in markets around the world, which is concerning. The 232 measures present not only a direct threat of diversion of affected Subject Countries' CSWP. The measures will also likely cause increased competition in other export markets, which can be expected to have a secondary impact of increasing import pressure in Canada from exporters in Canada that are facing low-priced competition from Subject Countries in their home markets.

263. In addition to the anticipated actions of the United States, the European Union has also initiated a safeguard investigation concerning imports of steel products. Among other pipe products, CSWP is also subject to this investigation. Specifically, the Notice of initiation of a safeguard investigation concerning imports of steel product from the European Commission states:

> The information currently available to the Commission indicates that the total imports of the products concerned increased from 17,8 million tonnes to 29,3 million tonnes in the period 2013-2017. Imports of the products concerned increased by around 65 % between 2013 and 2016. The main increases took place in 2015 and especially in 2016, when they reached 28,6 million tonnes. Imports of the products concerned have remained at a significant level thereafter. In addition, there have been sudden, recent, significant and sharp increases in imports of each of the products concerned in absolute terms. In

[154] Public Attachment 45: Various countries' semi-annual reports under article 16.4 of the WTO Anti-Dumping Agreement for HS 730630 retrieved April 11, 2018.

> addition, the Commission also notes that total imports of the products concerned increased in relative terms as well, i.e. from 7,3 % to 11,6 % in terms of production and from 12,2 % to 17,6 % in terms of consumption. In both instances, the increases manifested themselves during the period 2014-2016 after which imports remained at a relatively high level. The increase in imports appear to be the result of unforeseen developments such as the global overcapacity in steel making and trade measures adopted by a series of third countries during the last years in the context of that global overcapacity. [155]

264. The table below demonstrates the volume of CSWP imports in to the European Union, which may be diverted to Canada when the tariffs are put in place.

Table 7: EU Imports of Standard Pipe in 2016 and 2017[156]

MT	Pakistan	Philippines	Turkey	Vietnam	World
2016	4023	0	297,387	96	607,694
2017	2238	0	337,605	102	661,767

265. With these impending investigations, it is likely that more and more countries will look to trade protectionist measures.[157] Most recently, Turkey also launched a safeguard investigation on certain steel products including pipe.[158]

D. Subject Country Market Conditions

1. Pakistan

a. Pakistan Standard Pipe Significant Capacity and Continued Overproduction of Steel

266. According to the Simdex Metal Tube Manufacturers Worldwide Guide and other publicly available information, there are 16 companies that produce various forms of carbon steel welded pipe in Pakistan. Based on available information, Nova has calculated the estimated

[155] Public Attachment 46: EU Safeguard notice dated March 26, 2018.

[156] Public Attachment 47: EU Import statistics retrieved April 6, 2018

[157] Public Attachment 48: The Guardian, *The war over steel: Trump tips global trade into new turmoil*, March 10, 2018.

[158] Confidential Attachment 49: Steel Orbis, *Turkey Launches Safeguard Investigation on Certain Steel Products*, dated April 30, 2018.

total capacity of standard pipe production Pakistan to be more than 1,024,000 MT. The table below provides the data employed for this calculation.

Table 8: Pakistan Pipe Capacity[159]

Company		Capacity
AN Industries (PVT) Ltd		
Apex Stainless Steel Pipe Industries		10,000 MT
Bashir Pipe Industries		
BBJ Pipe Industries (Pvt.) Ltd		72,000 MT
Crescent Steel and Allied Products		200,000 MT
Data Steel Pipe Industries (PVT) ltd		200,000 MT
Indus Steel Pipes		
Insha Industries		
International Industries Ltd		500,000 MT
Jamal Pipes		
KB Steel Industries (PVT) Ltd.		
Kami Industries Pvt Ltd		27,000 MT
Modern Pipe Mills Pvt Ltd		
Pakistan Tube Mills Pvt Ltd		
Pioneer Steel Mill		15,000 MT
Shaikh Pipe Mills		
Total		**1,024,000 MT**

267. Nova notes that the data above is conservative and does not represent the full capacity of the Pakistani Standard Pipe industry, as information regarding all companies is not publicly available. Nova submits that the actual capacity of Pakistani CSWP producers is likely significantly higher.

268. The estimated CSWP production capacity of Pakistan is at least [

].

269. Further, Pakistan's steel production continues to increase. In 2016, Pakistan was listed as the 37th major steel-producing country with 3.6 million tonnes of crude steel production. This was a 25% increase from 2015. At the same time its imports were recorded at 4.3

[159] Confidential Attachment 50: Pakistan Pipe Capacity Data.

million tonnes of steel.[160] Additionally, Pakistan's steel output grew the most among 40 countries in 2016, followed by Vietnam.[161] In February 2018, Recycling International reported that Pakistan outpaced the rest of the world with steel production growth.[162]

270. Although the iron and steel industry in Pakistan has gained importance due to the China Pakistan Economic Corridor project, the industry remains small and fragmented, relying on low priced imports. Additionally, domestic steel consumption remains low at 23 kg per capita compared with the Asian average of 261 kg and the global average of 217 kg.[163] Moreover the construction industry in Pakistan is at a developing stage and certain risks such as corruption remain.[164]

271. With increasing steel production and low domestic consumption, Nova submits it is likely that Pakistan CSWP producers will continue to source low priced direct materials and increase production of CSWP, discussed below.

b. Pakistan's Economic Outlook and Propensity to Export

272. Pakistan's economic conditions have improved in recent years benefiting from investment in the China-Pakistan Economic Corridor and strong private sector credit.[165] The improved economic growth prospects have led rating agencies to improve their outlook for Pakistan over the past year and growth is slowly recovering. However, while growth in the Middle

[160] Public Attachment 33: World Steel Association, *World Steel Figures in 2017.*

[161] Public Attachment 161: *Steel Mint Events,* Pakistan Steel Output Grows Most Among 40 Countries in 2016 dated June 10, 2017.

[162] Public Attachment 52: *Recycling International*: Pakistan outpaces rest of world with steel production growth _ Ferrous Metals - South Asia - Recycling News dated February 2, 2018

[163] Public Attachment53: *Business Recorder*, PBIF for government support to iron, steel industry dated October 3, 2017.

[164] Public Attachment 54: *The Express Tribune*, Pakistan's construction industry – the hot cake for foreign investors – dated October 23, 2017.

[165] Public Attachment 55: International Monetary Fund, World Economic Outlook October 2017, at pages 18.

East, North Africa, Afghanistan and Pakistan region is also expected to pick up in 2018 and 2019, the IMF states it will remain subdued at around 3.5%.[166]

273. As mentioned above, Pakistan's pipe and tube industry is significant, with over 15 producers that cater to a world market. For example, the following Pakistani Pipe Producers exhibit their export orientation directly on their webpages:

(f) International Industries Limited (IIL) has an export footprint of over USD 70 million annually;[167] In its 2017 Annual Report, IIL states that it has an ever-expanding footprint and a ground presence in Canada.[168]

(g) AN Industries (PVT) Ltd, also boasts that the company supplies pipe abroad and is engaged in exporting;[169]

(h) Data Steel Pipe Industries states that since its parent company, Data Steel is a division of Speedways, which is one of the largest networks of transport services in Pakistan, this ensures that pipes manufactured for export are quickly and efficiently cleared at Karachi Port;[170]

(i) In its message from the CEO, BBJ Pipe states that it has achieved records in the country and abroad and aims to strengthen its relationship with clients around the world as it continues to pursue global prosperity;[171] and,

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[166] Public Attachment 56World Economic Outlook Update, January 2018_ Brighter Prospects, Optimistic Markets, Challenges Ahead, January 22, 2018.

[167] Public Attachment 57: International Industries Limited _ Who We Are.

[168] Public Attachment 13: International Industries Ltd Annual Report 2017 at page 31.

[169] Public Attachment 58: AN Pipe Industries (Pvt) Ltd.

[170] Public Attachment59: Data Steel: Pipe Dreams.

[171] Public Attachment60: Message From CEO « BBJ PIPE.

(j) The vision of Shaikh Group of Companies (SGC) is to be an international brand in the future.[172]

274. The export orientation of Pakistani pipe producers is further evidenced by the final determination of the International Trade Commission ("**ITC**") of Circular Welded Carbon-Quality Steel Pipe from Oman, Pakistan, the United Arab Emirates and Vietnam. The ITC found that Pakistan's total exports have grown since 2013: In 2013 Pakistan exported 29,682 MT, which jumped to 50,763 MT in 2014, and to 56,385 MT in 2015.[173]

275. The ITC also found that Pakistani exports to the United States grew at a rapid rate: Pakistan exported 12,719 MT in 2013, 23,817 MT in 2014 and 29,593 MT in 2015 to the U.S.[174] As Canada is already open to Pakistani exports at an increasing rate, Pakistan is likely to divert what it was exporting to the U.S. to the Canadian market.

c. Total Exports and Exports to Canadian Market

276. Pakistan's self reported total exports of CSWP have remained consistently elevated over time, despite the 2016 imposition of anti-dumping measures against the country by the USA, resulting in a loss of a significant market. The table below notes Pakistan's total exports of Pipe products since 2014.

Table 9: Total Pakistan Exports HS Code 730630[175]

MT	2014	2015	2016
Exports (MT)	54	300	1,293

[172] Public Attachment61: SGC Vision.

[173] Public Attachment62: U.S. International Trade Commission, Circular Welded Carbon-Quality Steel Pipe from Oman, Pakistan, the United Arab Emirates, and Vietnam, Final Determination, December 2016, at page VII-10.

[174] Public Attachment62: U.S. International Trade Commission, Circular Welded Carbon-Quality Steel Pipe from Oman, Pakistan, the United Arab Emirates, and Vietnam, Final Determination, December 2016, at page VII-10.

[175] Public Attachment63: UN Comtrade Data, Total Pakistan Reported Exports of HS Code 7300630. Note that the export data for 2017 from Comtrade is incorrect, as volumes of imports from Pakistan into Canada are significantly larger than total exports out of Pakistan.

277. Additionally, Pakistan has exported significant volumes of Subject Goods to Canada over the past three years.

Table 10
CSWP Imports from Pakistan[176]

	2015	2016	2017	Q1 2017	Q1 2018
Volume (MT)	4729	4984	12,608	2,965	4,546
Unit price ($/MT)	$989	$842	$988	$909	$935
Non-subject country imports (not including US)	$1643	$1230	$1399	$1500	$1871

278. Given Pakistan's high capacity, cheap imports of steel from China and export orientation of Pakistani pipe producers, combined with the production imperative and relatively more attractive Canadian market, Nova submits that Pakistani exporters will continue to send Subject Goods to Canada in large volumes and low prices and therefore pose a continued threat of injury to the domestic industry.

[176] Confidential Attachment 6: Apparent Canadian consumption of CSWP.

2. Philippines

(a) Philippines Standard Pipe Significant Capacity and Continued Overproduction of Steel

279. Based on the information available to the domestic industry, only 1 of the 8 Philippine pipe producers listed its capacity. However, the capacity of this single producer is almost 50% of the apparent Canadian market.

Table 11: Philippine Pipe Producers[177]

Company	Capacity
HLD Clark Steel Pipe	150,000 MT
International Pipe Industries	N/A
Alfra Steel Industrial Inc	N/A
Mayer Steel Pipe Corporation	N/A
Real Steel Manufacturing Corporation	N/A
Super Pipe Industrial Corp	N/A
Supreme Steel Pipe Corp	N/A
TKC Metals	N/A

280. Nova submits that the actual capacity of Philippine CSWP producers may be significantly higher.

281. From the limited data available on the production of welded tubes in the Philippines, the production of welded tubes has significantly increased from 2012, where it was 99 thousand tonnes to 330 thousand tonnes in 2014 through 2016. Importantly, imports of tubular products have also significantly increased from 94 thousand tonnes in 2012 to 377 thousand tonnes in 2016. [178]

282. In regards to steel generally, the Philippines' apparent steel consumption was 7,324,727 MT in 2014 and 9,677,422 MT in 2016.[179] However, according to the Global Steel Trade Monitor, the Philippines imported 8.1 million metric tons of steel, a 152% increase from 3.2

[177] Confidential Attachment 64: Philippine Pipe Producer Data.

[178] Public Attachment65: World Steel Association, "Steel Statistical Yearbook 2017" at page 50, 52 and 78.

[179] Public Attachment 66: SEAISI, Apparent Steel Consumption of Total Steel Products. Retrieved December 12, 2017. < http://www.seaisi.org/Statistic_Analysis2/1018/0/

million metric tons in 2015. The vast majority of these imports are flat and long products, while pipe and tube are the minority. Importantly, the Philippines has a number of mills that produce pipe and tube from these steel imports.[180]

283. Recently, it was announced that two Chinese companies are planning to invest a combined $4.5 billion for iron and steel manufacturing in the Philippines.[181] This investment will lead to further development in production of steel and also tubular products.

284. Notwithstanding the high amount of crude steel imports into the country and the anticipated increase in domestic production, Philippine pipe producers have significant capacity to produce the Subject Goods: For example, HLD Clark is a major producer of Subject Goods in the Philippines. It has an annual production capacity of 150,000 MT of ERW pipe in sizes ranging from ½" to 14".[182]

(b) Philippines' Economic Outlook and Propensity to Export

285. The Philippines' GDP growth rate is predicted to remain stable through 2019 at around 6.7%. This is a decrease from the 7.1% growth in 2013.[183] Deloitte comments that although private consumption growth in the Philippines has moderated, exports have kept up the momentum of GDP growth. [184]

286. Considering the imports into Canada from the Philippines and the export orientation of Philippine pipe producers, it is evident that production of CSWP is not marginal.

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[180] Public Attachment 67: International Trade Administration, *Global Steel Trade Monitor*, "Steel Imports Report: Philippines", May 2017.

[181] Public Attachment 68: The Philippine Star, "China steel firms plan $4.5-B plants in Philippines" (philstar.com), October 24, 2017.

[182] Public Attachment 69: HLD Clark Steel Pipe Co., ltd. "About US",

[183] Public Attachment 55: International Monetary Fund, World Economic Outlook April 2018, at page 63 and 244.

[184] Public Attachment 70: Deloitte Insights: Asia Pacific Economic Outlook Q4 2017, Philippines.

287. Statistics Canada reported the following CSWP imports from the Philippines:

Table 12
CSWP imports from the Philippines[185]

	2015	2016	2017	Q1 2017	Q1 2018
Volume (MT)	16,810	15,639	25,729	5,422	12,650
Unit price ($/MT)	$917	$829	$910	$912	$883
Non-subject country imports (not including US)	$1643	$1230	$1399	$1500	$1871

288. As the table demonstrates, imports from the Philippines have increased from 2015 and remained higher during the POI. Importantly, the imports from the Philippines have constantly been around 10% of total imports, even in 2017. The impact of these imports is particularly relevant when considering the price– the Subject Goods are priced at least $401/MT less than the price of non-subject imports.

289. The Philippine pipe producers are looking to export the Subject Goods. For example, in Supreme Steel Pipe Corporation's, a Philippine pipe producer, mission statement it explicitly states that its mission is to build the economy "through exporting high quality pipes."[186]

[185] Confidential Attachment 6: Apparent Canadian consumption of CSWP.

[186] Public Attachment 71: Supreme - Company Profile retrieved online < http://www.supremepipe.com/missionvision.Html>.

290. Nova submits that Philippine imports have been able to penetrate the Canadian CSWP market by offering low prices and undercutting domestic producer pricing. Given the market conditions in the Philippines and Asia and the relatively more attractive Canadian market, Nova submits that Philippine producers will continue to export low-priced Subject Goods to Canada and therefore pose a continued threat of injury to the domestic industry.

3. Turkey

(a) Turkey Standard Pipe Significant Capacity and Continued Overproduction of Steel

291. According to the Simdex Metal Tube Manufacturers Worldwide Guide and other available information, there are 198 companies that produce various forms of carbon steel welded pipe in Turkey. Based on available information, Nova has calculated the estimated total capacity of standard pipe production in Turkey to be more than 4,482,000 MT. The table below provides the data employed for this calculation.

Table 13 Turkey Pipe Producer Capacity[187]

Company	Capacity (MT)
Atinox	
Ayata Metal Industry	
Birlik Makina	
Borusan Mannesmann	925,000
Can Boru Profil	50,000
Cayirova	300,000
Emek Boru	350,000
Eksen Metal Boru Profil Sanayi Ve Ticaret Ltd. sti	-
Erbosan	140,000
Goktasmetal	350,000
Kalibre Boru	20,000
MMZ	300,000
Nevsac Iron Co.	-
Noksel	500,000
Ozbal	150,000
Ozborsan	232,000
Ozdemir Boru	225,000
Toscelik	140,000
Tunaexim	
Umran Steel Pipe	750,000
Ufuk Boru	-
Yasan	200,000
Yucel Boru	
Total	**4,632,000**

292. Nova notes that the data above is conservative and does not represent the full capacity of the Turkish Standard Pipe industry, as information regarding all companies is not publicly available. Nova submits that the actual capacity of Turkish CSWP producers is likely significantly higher.

293. Nova submits that the Turkish capacity of CSWP producers is [

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[187] Confidential Attachment 72: Turkish Pipe Producers

294. In terms of production, after three years of falling production, crude steel output in Turkey increased by 5.2% in 2016, and production growth picked up further in January 2017 rising by 12.8%.[188]

(b) Turkey's Economic Outlook and Propensity to Export

295. Currently, GDP growth was 7% for 2017; however, it is forecasted to drop in 2018 to 4.4% then 4% in 2019.[189] Although Turkey's growth in 2017 was substantial, it is reported that it was largely due to government propping that is hard to sustain and at the expense of excessive borrowing.[190] As anticipated by the IMF, this growth is not sustainable and predicted to drop significantly.

296. In December 2017, the Turkey government statistics office reported that the pace of growth was up from an average of 5% during the previous three quarters. Despite the strong third-quarter figures, many economists raised questions about the sustainability of Turkey's growth. Indeed, some executives and analysts have argued that the state of emergency – during which the government has seized at least $11billion of assets from businesses and which is still in force – has stoked uncertainty and rattled investors.[191]

297. Turkey is the world's eighth-largest steel exporter. In 2017, Turkey exported 16.2 million MT of steel, an 8% increase from 15 million MT in 2016. Its exports as a share of production was 43.3% in 2017. Specifically, in that time, Turkey exported 1.8 million metric tons of pipe and tube.[192] From 2015 to 2016, exports of Turkish tubular products rose from 1354 thousand tonnes to 1724 thousand tonnes.[193]

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[188] Public Attachment 23: OECD, Steel Market Developments Q4 2017, at page 13.

[189] Public Attachment 55: International Monetary Fund, World Economic Outlook April 2018, at page 63.

[190] Public Attachment 73: A-Monitor, Turkey's impressive growth rate has a dark side dated April 2, 2018.

[191] Public Attachment 74Turkish economy surpasses 11% growth in rebound from coup.

[192] Public Attachment 75: International Trade Administration, Turkey Steel Exports Report March 2018.

[193] Public Attachment65: World Steel Association, "Steel Statistical Yearbook 2017" at page 50, 52 and 75 and 76.

298. Turkey's propensity to export the Subject Goods into Canada is illustrated by the increasing imports over recent years.

Table 14
CSWP Imports from Turkey[194]

	2015	2016	2017	Q1 2017	Q1 2018
Volume (MT)	14,267	10,427	15,431	1,523	4,242
Unit price ($/MT)	$1014	$898	$1048	$895	$1104
Non-subject country imports (not including the US)	$1643	$1230	$1399	$1500	$1871

299. Turkey's export orientation is further demonstrated by considering its producers and their public statements:

(k) Borusan Mannesmann explicitly states that it exports to markets around the world;[195]

(l) Toscelik Profil vs Sac is investing to expand its facility to 1.2 million tons of steel pipe production capacity, which when completed will be the largest welded steel pipe investment in the world made in one transaction;[196]

[194] Confidential Attachment 6: Apparent Canadian consumption of CSWP.

[195] Public Attachment 76: About Us - Corporate - Borusan Mannesmann.

[196] Public Attachment 77: Toscelik Profil ve Sac,Capacity Investment for Toscelik retrieved online < http://en.toscelik.com.tr/>.

(m) Tunaexim is steadily increasing its performance in foreign markets and has exported to more than 20 countries;[197]

(n) Cayirova Boru states that it exports a considerable part of its products to more than 30 countries;[198]

(o) MMZ purports that it is conveniently located for its customers from around the world;[199] and,

(p) Ozborsan Boru states that 80% of its annual production is exported.[200]

300. In January 2018, the U.S. International Trade Commission determined that the revocation of the countervailing duty and anti-dumping orders on certain circular welded pipe and tube from Turkey would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.[201] Specifically, the this investigation found that the Government of Turkey indicated that Turkey's subject merchandise exports to the United States declined 23 percent in terms of quantity (while the orders were in place), while Turkey's total exports increased 21 percent during 2011-2016. In fact, the volume of exports from Turkey to Canada increased from 11,118 NT in 2012 to 21,780 NT in 2016 according to this investigation.[202] This indicates that exports from Turkey have diverted to other markets, including Canada and indeed, increased in the last few years.

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[197] Public Attachment 78: Tunaexim Company Profile from Website.

[198] Public Attachment 79: Cayirova Boru Corporate Profile – About Us from Website.

[199] Public Attachment 80: MMZ Corporate Profile – About Mill from Website.

[200] Public Attachment 81: Ozborsan Boru Homepage Welcome blurb from Website.

[201] Public Attachment 82: USITC Certain Circular Welded Pipe and Tube from Brazil, India, Korea, Mexico, Taiwan, Thailand and Turkey January 2018

[202] *Ibid* at pages I-41 to I-42.

301. Given Turkey's weak home market and export orientation of Turkish pipe producers, combined with the production imperative and relatively more attractive Canadian market, Nova submits that Turkish exporters will continue to send Subject Goods to Canada in large volumes and low prices and therefore pose a continued threat of injury to the domestic industry.

4. Vietnam

(a) Vietnam Standard Pipe Significant Capacity and Continued Overproduction of Steel

302. According to the Simdex Metal Tube Manufacturers Worldwide Guide and other available information, there are 13 companies that produce various forms of carbon steel welded pipe in Vietnam. Based on available information, Nova has calculated the estimated total capacity of standard pipe production in Vietnam to be more than 1,355,000 MT. The table below provides the data employed for this calculation.

Table 15 Vietnam Pipe Producer Capacity[203]

Company	Capacity (MT)
Dai Duong	-
Dai Thien Loc	30,000
Hoa Sen Group	150,000
Huu Lien Asia Corp	180,000
Nam Kim Steel	-
SonHa International Corporation	-
South East Asia Construction Equipment Company	-
Seah Steel Vina Corporation	-
Sujia Steel Pipe Company	300,000
Vietnam Steel Pipe/VinaPipe	35,000
Vietnam Germany Steel Pipe Joint Stock Company	-
Vina One Steel Manufacturing Corporation	650,000
Vinda Iron and Steel Co. Ltd	10,000
Total	**1,355,000**

303. Nova notes that the data above is conservative and does not represent the full capacity of the Vietnamese Standard Pipe industry, as information regarding all companies is not

[203] Confidential Attachment 83: Vietnam Simdex Information and other Companies

publicly available. Nova submits that the actual capacity of Vietnamese CSWP producers is likely significantly higher.

304. Vietnam's production of tubular products has increased significantly since 2013, when total production was 969 thousand tonnes to 2016, when it was 2,061 thousand tonnes. Additionally, exports of tubular products have increased in the last few years from 223 thousand tonnes in 2014 to 356 thousand tonnes in 2016. At the same time imports of tubular products have decreased from 418 thousand tonnes in 2014 to 361 thousand tonnes in 2016.[204] It is reported that Vietnam's steel industry is set to grow over 20% in 2018. Specifically, it is reported that strongest growth will be in hot rolled steel (154%) and welded steel pipe (15%).[205] It is clear that with increasing exports, Vietnam is producing substantially for exports.

305. The Vietnam Steel Association reports that consumption of welded pipe in the country is 1,642 MT - this is less than reported production and imports. The Association also indicates that the largest growth from 2015 was in welded pipe exports as exports increased 142% from 2015 to 2016.[206]

306. Although apparent steel consumption rose by 23% from 2015 to 2016, production of crude steel produces in 2016 rose by 38%.[207] Vietnam's Steel Association expects significant growth in steel production over the long term, in reaction to increased demand in infrastructure. Vietnam has one of the fastest steelmaking capacity growth rates in Asia, as capacity has nearly doubled in the last four years.[208]

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[204] Public Attachment65: World Steel Association, "Steel Statistical Yearbook 2017" at page 50, 52 and 75 and 76.

[205] Public Attachment 84: The Voice of Vietnam, Vietnam's Steel Industry is set to Grow over 20% in 2018 dated January 26, 2018.

[206] Public Attachment85: SEASI Vietnam Country Report at page 11.

[207] Public Attachment85: SEASI Vietnam Country Report at page 13.

[208] Public Attachment 86: OECD, Steel Market Developments, Q2 2017,at page 7.

307. China remains Vietnam's largest steel supplier. In 2016, Vietnam imported 18.4 million tons of steel, worth 8.02 billion US dollars, of which imports from China accounted for 10.9 million tons, worth over 4.5 billion US dollars. That trend continued into 2017.[209] In December 2017, the US hit Vietnam with massive duties over Chinese steel, finding that Chinese companies appeared to be avoiding tariffs by diverting products to Vietnam for "minor processing" before they were shipped to the U.S.[210]

308. Production capacity of CSWP in Vietnam continues to grow. SeAH, a major Vietnamese producer of the Subject Goods has announced that they are in talks with their partner, Vietnam Steel Corp about capacity expansion of the plant in Hai Phong. This would take capacity to 100,000 MT of carbon steel pipe and HSS. SeAH is also reviewing a capacity expansion at their wholly owned facility in Vietnam, where the volume is produced mainly for export.[211]

309. Considering the imports and growing production and capacity, Nova submits that Vietnamese CSWP producers will be looking to offload the subject goods in other markets.

(b) Vietnam's Economic Outlook and Propensity to Export

310. Vietnam's GDP growth is forecasted to decrease slightly in 2018 through 2019, respectively 6.6% and 6.5% from 6.8% in 2018. Overall growth has remained at a steady level since 2009.[212]

311. The Hoa Sen Group, a Vietnamese Pipe Producer, stated in its annual report for 2015 that based on the diversity of export markets, the Group achieved more than 400,000 tons in export sales volume (of all products) and increased 21% in comparison with the previous

[209] Public Attachment 87: Xinhua, Vietnam's steel imports value from China in 2 months dated March 3, 2017.

[210] Public Attachment 88: CNN Money, U.S. hits Vietnam with massive tariffs over Chinese steel dated December 6, 2017.

[211] Confidential Attachment 89: Preston Pipe, Pipe & Tube Report September 2016 at page 33.

[212] Public Attachment 55: International Monetary Fund, World Economic Outlook April 2018, at page 63 and 244.

fiscal year. It had plans to expand its capacity in the next year.[213] On its webpage, the Hoa Sen Group further boasts that it is constantly rising its position in both domestic and international markets, affirming the stature of a global growth company.[214]

312. Importantly other Vietnamese pipe producers are also looking to increase their export business:

(a) Daiduong reports to have been exporting to "Europe, Asia, Latin America, India, Malaysia, Indonesia, Brazil...";[215]

(b) The Nam Kim Group states that the target export volumes have been increasing and they are increasing capacity to promote in new markets;[216]

(c) SonHa International Corporation specifies that it exports its industrial steel pipe; and;[217]

(d) It is reported that South East Construction Equipment Company's export percentage is 41-50%.[218]

313. It is clear that these producers are looking to export. Canada has felt the impact of Vietnamese imports as demonstrated by the table below.

[213]Public Attachment 90: Hao San Annual Report 2015.

[214] Public Attachment 91: Hoa Sen Group Website – General Introduction retrieved February 2, 2018.

[215] Public Attachment 92: DaiDuong Website – About Us- The process of formation and development

[216] Public Attachment 93: Nam Kim Group Updated Export Business Activity Review.

[217] Public Attachment 94: SonHa International Corporation Stainless steel pipe for export.

[218] Public Attachment 116: Steel Ads, Company Profile of South East Construction Equipment Company retrieved May 26, 2018.

Table 16
CSWP Imports from Vietnam[219]

	2015	2016	2017	Q1 2017	Q1 2018
Volume (MT)	11,850	25,801	20,764	2,300	7,685
Unit price ($/MT)	$1081	$848	$959	$1113	$1194
Non-subject country imports (excluding US)	$1643	$1230	$1399	$1500	$1871

314. Similar to the other Subject Countries, Nova submits that Vietnamese imports have been able to penetrate the Canadian CSWP market by offering low prices and undercutting domestic producer pricing. Nova submits that Vietnamese producers will continue to export low-priced Subject Goods to Canada and therefore pose a continued threat of injury to the domestic industry.

E. Domestic Market Conditions

1. Canadian Market Conditions

315. Following a downturn in the oil and gas sector in 2015, the Canadian economy descended into a recession and this decline had significant ramifications for the Canadian CSWP market and Nova's financial well-being. While the economy began to recover in late 2016 and economic growth was at 3% in 2017, TD Economics forecasts that economic growth will be moderate at below 2% this year and next. [220]

316. TD Economics states that the economy appears to be already operating at slightly above capacity and data reinforces that a meaningful downshift was already underway in the

[219] Confidential Attachment 6: Apparent Canadian consumption of CSWP.

[220] Public Attachment 95: TDEconomics, *Canadian Quarterly Economic Forecast* , March 15, 2018 at page 1.

second half of 2017. TD notes that growth is unlikely to persist through 2018, largely due to the slowdown in the Canadian housing market, and NAFTA renegotiations. The uncertainty around trade measures to be taken by the US in late 2017 and 2018 increase the domestic industry's vulnerability to low priced imports.

317. BuildForce Canada reports that the 2018-2027 outlook scenario projects construction activity plateau following two decades of almost uninterrupted growth. The national summary states:

> Construction demands are expected to edge slightly higher between 2018 and 2021, but the outlook for individual provinces is mixed. Most Atlantic and central provinces are likely to see demands weaken, while Alberta recovers from the impacts of lower global oil prices. At the same time, Ontario and British Columbia continue to build to peaks of enduring expansions. Slower population growth limits construction expansion over the latter half of the decade, but employment requirements are sustained at high levels by infrastructure renewal, rising industrial maintenance, and residential renovation activity.[221]

318. RBC is forecasting a 1.9% growth in the Canadian economy in 2018.[222] RBC notes that similar to TD, uncertainty from the renegotiation of NAFTA, talk of US tariffs broadening out to steel and aluminum and the loss of competitiveness after U.S. cut tax rates are factors that are likely to keep business investment lower than it otherwise would be. Furthermore, due to the transportation bottlenecks, Canadian oil producers are not benefitting to the same degree as other producers from the price increases.

319. In the face of trade protectionism by major CSWP markets, Nova is extremely vulnerable and as such, the threat of injury is rendered more acute; as domestic demand for CSWP remains flat, the detrimental effect of orders lost to cheap exports is heightened.

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[221] Public Attachment 96: BuildForce Canada, *Construction and Maintenance Looking Forward, 2018-2027, Highlights, National Summary, Canada*, January 2018.

[222] Public Attachment 97: RBC, Economic Research, *Economic and Financial Market Outlook*, March 2018.

2.Commodity Nature of CSWP

320. In addition to the above considerations, CSWP is a commodity product and price is therefore the primary factor in purchasing decisions.[223]

3.Likely Volumes of Dumped Goods

321. The volume of Subject Goods imports from the Subject Countries and its share of the Canadian market for Subject Goods has remained high since the last Tribunal inquiry.

322. As discussed below, despite weak Canadian demand, Canada is still an attractive market for producers facing difficult market conditions in their home markets and ordinary export markets. Consequently, the Complainant expects that the Subject Countries will continue to export significant volumes of dumped goods to Canada and that these dumped goods will cause injury to the domestic industry.

a) Attractiveness of the Canadian market

323. A key consideration when considering the likely volumes of dumped Subject Goods from the Subject Countries is the relative pricing of CSWP in different international markets. The current circumstances of the CSWP industries in the Subject Countries discussed above demonstrate that these countries are likely to export significant volumes of CSWP to Canada in the near term. The fact that Canada's prices for CSWP are generally higher relative to other regions in the world supports the conclusion that those exporters will be attracted to the Canadian market.

324. The North American steel market is an integrated market and therefore CSWP prices in the United States and Canada are generally similar.

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[223] CSWP China 2012 Review, *supra*, at para 78 were the Tribunal stated "The Tribunal has consistently found that CSWP is a commodity product and that price is an important factor when purchasing CSWP. The Tribunal sees no reason to depart from its previous conclusion that this product trades largely on the basis of price." See also CSWP 2012 Inquiry, *supra*, at para 99 where the Tribunal held that "...CSWP is a commodity product and that price is an important factor when purchasing CSWP."

325. Imports from the Subject Countries will therefore continue to capture market share and depress pricing in the Canadian market if antidumping and countervailing duties are not imposed. Importantly, although pricing is soft, it is still high relative to other markets.

4. Production Imperative

326. In the *Carbon Steel Welded Pipe originating in or exported from China* Expiry Review, the Tribunal recognized the combined threat of a strong production imperative and excess capacity to the steel and CSWP market:

> The strong production imperative in the steel industry, as noted by the Tribunal in previous cases, is a contributing factor to the excess capacity issue. In light of the capital-intensive nature of steel production, producers have an incentive to protect their capital investment by maintaining production volumes if they can continue producing at their marginal cost of production [footnote omitted]. This fact, combined with the decline in global demand, continues to intensify the global overcapacity problem in the steel, ERW pipe and tube and CSWP markets.[224]

327. Nova submits that these conditions still exist and that producers in the Subject Countries will continue to produce CSWP despite softening demand. Producers will have to look to export markets to sell off their excess production. Given the weak market conditions in Europe and Asia and the trade remedy findings against CSWP in the US and EU combined with the newly initiated trade investigations, Nova submits that Canada will be a particularly attractive market for producers and exporters in the Subject Countries.

5. Anti-Dumping Measures by Canada and Other Countries in Respect of Goods of the Same Description or in Respect of Similar Goods

328. Subsection 37.1(2)(g.2) of the SIM Regulations prescribes that a factor to be considered in determining whether or not the domestic industry faces a threat of injury from the importation of dumped goods is "evidence of the imposition of anti-dumping ... measures

[224]CSWP China 2012 Review, *supra*, at para 42.

by the authorities of a country other than Canada in respect of goods of the same description or in respect of similar goods".

329. Certain producers have a propensity to dump CSWP and other steel products exported to Canada and to other countries, as evidenced by the numerous trade remedy measures imposed by Canada and other countries against CSWP and other steel products. The following tables provide a brief summary of those findings covering steel products.

6. Canada

330. Producers from the Subject Countries are subject to anti-dumping ("**AD**") and/or countervailing ("**CVD**") orders on the following steel products imported into Canada.

Table 17
Steel and Steel-based Products Subject to Anti-dumping and/or Countervailing Orders in Canada

Country	Product	Measure
Philippines	OCTG	AD
Turkey	Concrete Reinforcing Bar	AD
	Hollow Structural Sections	AD
	OCTG	AD
Vietnam	OCTG	AD

331. These findings underscore both the propensity of certain steel producers to dump their products, as well as the restrictions imposed on such producers. The presence of such restrictions on other steel products increases the likelihood that these producers would export significant volumes of dumped CSWP into Canada if an anti-dumping and countervailing finding is not made.

7.Other Countries

332. Furthermore, producers in certain Subject Countries have been found to be dumping and/or subsidizing steel exports including CSWP and are currently subject to trade remedies restrictions in the following countries.

Table 18
Steel Pipe and Tube Products Subject to
Anti-dumping and/or Countervailing Orders in Other Countries[225]

Country	Country Imposing AD/CVD	Products in Actions	Measure
Turkey	United States	Circular welded carbon steel pipes and tubes	AD/CVD
		Light walled rectangular pipe and tube	AD
		Oil Country Tubular goods	AD/CVD
		Steel Concrete reinforcing bar	CVD
		Heavy walled rectangular welded carbon steel pipes and tubes	AD/CVD
		Welded line pipe	AD/CVD
Vietnam	Brazil	Seamed tubes of austenitic stainless steel	AD
	Thailand	Stainless steel pipe and tube	AD
	Turkey	Welded Stainless Steel Tubes, Pipes and Profiles	AD
	United States	Uncovered Inner Springs	AD
		Steel Wire Garment Hangers	AD/CVD
		Welded Stainless Pressure Pipe	AD
		Certain Oil Country Tubular Goods	AD
		Certain Steel Nails	AD

[225] Public Attachment 98: i-tip World Trade Organization database retrieved May 7, 2018.

Country	Country Imposing AD/CVD	Products in Actions	Measure
		Steel Nails	CV
Pakistan	United States	Circular welded carbon-quality steel pipe	AD

Likelihood that Measures Taken by Other Countries Will Cause Diversion of Dumped Goods to Canada

333. In light of the above-mentioned trade measures, producers from the Subject Countries will seek markets without anti-dumping measures, such as Canada. This diversion threatens to cause injury to the domestic producers.

5. Conclusion

334. Based on the information presented in this Complaint, the Complainant submits that Subject Goods imported from Pakistan, the Philippines, Turkey and Vietnam are being dumped and that such dumping is causing and threatening to cause injury to the domestic industry producing Like Goods. The Complainant therefore requests that the President initiate investigations into the injurious impact of the dumping of Subject Goods.

All of which is respectfully submitted,

May 31, 2018

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V. Appendix A – Section 20 and Vietnam's CSWP Industry

340. The Complainant submits that the GOV is heavily involved in the steel industry, including the tube and pipe sector. The Complainant submits that the prices of CSWP in Vietnam are controlled by the GOV and are different than what they would be in a competitive market.

A. GOV substantially determines prices of CSWP sold in Vietnam

341. The Complainant submits that the price of Subject Goods produced in Vietnam are substantially determined by the GOV and are lower than they would be in a competitive market. Therefore, the CBSA's dumping calculation for imports of CSWP from Vietnam should utilize the normal value calculation methodology set out at section 20 of SIMA.

342. The significance of influence of the GOV can be seen at every stage of the process, from the inputs used to produce CSWP to the customers purchasing the product. The Complainant therefore submits that there is more than sufficient evidence necessary for the initiation of a section 20 inquiry.

1. Government Policies and Directives: The Steel Master Plan from 2007-2015

343. The "Steel Master Plan" for 2007 through 2015 (Decree No. 145/2007/QD-TTg) outlines the GOV's goals in respect to the Steel Industry. In a presentation to the OCED Steel Committee on July 1, 2013, the Plan was summarized as follows:

a. To develop Vietnam's steel industry in compliance with the national master plan and local plans on socio-economic and industrial development as well as roadmap for integration of Vietnam;

b. To build and develop Vietnam's steel industry into an important industry, ensuring stability and sustainability of industrial development, minimizing the imbalance in manufacturing between pig iron, steel billet and finished products, as well as between long and flat steel products;

c. To build Vietnam's steel industry with advanced and rational technologies, using domestic resources in a thrifty and efficient manner, ensuring harmonization with

eco-environment protection in localities of manufacturing. Step by step to reject the small factories with out of date technology.

d. To value and encourage domestic economic sectors and enterprises to cooperate with foreign counterparts in investing and producing pig iron, steel billet, finished production, steel metallurgical-rolling equipment at international standards. To set up the priority investment policies for steel high-quality producing from iron ore with large-scale projects. [226]

344. The Steel Master Plan 2007-2015 specifically includes target developments of 23 million tons of finished good production by 2020 (and of 38 million tons by 2025) and increasing exports to 20% of total production by 2020 (and to 25% of total production by 2025).[227] The GOV plans to accomplish these goals through major investment projects in expanding capacity at a number of Steel Complexes, investing in equipment and machinery, research new projects and partner with both domestic and foreign parties.

345. In line with the Steel Master Plan, as mentioned above, many Vietnamese CSWP pipe producers are looking to export their product.

346. Also detailed in the Steel Master Plan 2007-2015 is the GOV's active interest in managing the development of the steel industry and utilization of policy measures combined with government action to affect pricing and incentivize investment.

347. First, in respect of import, export and market development solutions, the Plan includes "to protect the domestic market through lawful technical barriers and quality and

[226] Public Attachment 99: OECD Vietnam Economy and the Development of the Steel Industry, Steel Committee Meeting (July 2013), p. 6.

[227] *Ibid.*, p.7.

environmental standards [...]."[228] The Complainant submits that any technical barriers imposed may have the effect of distorting market prices. Second, the Ministry of Finance is tasked with studying, improving and proposing mechanisms, financial policies as well as import tax and export tax policies to step up investment in the development and restructuring of the steel industry.[229] This power allows the Ministry to explicitly enact policies by imposing mechanisms that control pricing in the steel industry. Third, the Ministry of Natural Resources and Environment is tasked with closely managing iron ore resources and fluxing minerals to direct and increase investment in survey, assessment and exploration these materials.[230] By controlling the inputs of CSWP, the GOV is also controlling the CSWP market.

2. Government Policies and Directives: The Steel Master Plan from 2017-2025

348. The GOV continues to control its domestic steel industry. While the Steel Master Plan detailed above provided for the organization of the industry from 2007 through 2015 (and a vision of the industry until 2025), the GOV currently has a draft Steel Master Plan for the Vietnamese steel industry, which is set to be approved by the Prime Minister in the fourth quarter of 2017. The proposed Master Plan will govern the Steel Industry until 2025 and provide a vision of the Industry until 2035.[231]

349. This new Steel Master Plan was prompted by a shortfall of 15 million tonnes of crude steel in 2015, leading the country to import approximately US$6-US$7 billion dollars worth of steel. The GOV did not allow the market to correct this imbalance between exports and

[228] Public Attachment 100: Global Law, Decision Approving the master Plan on the development of Vietnam"s steel industry in the 2007-2015 period, with the 2025 vision taken into consideration, No: 145/2007/QD-TTg, September 4, 2007, at article 1.

[229] *Ibid.*, at article 2(3).

[230] *Ibid.*, at article 2(6).

[231] Public Attachment 101: The Voice of Vietnam, "Foreign Consultancy to Evaluate Steel Sector Master Plan," December 27, 2016.

imports of steel; instead the Deputy Prime Minister Trinh Dinh Dung asked the Minister of Industry and Trade, the Ministry in charge of the Steel Master Plan, to revise the previous plan.[232]

350. The effect of the continued steel master plan is currently in force as in January 2018, the Vice Chairman of the Vietnam Steel Association stated that the steel industry is forecasted to grow by 20-22 percent in 2018.[233]

351. The Ministry of Industry and Trade also states on its government website that it is a "government agency that performs the function of state management of industry and commerce, including the following branches and fields: mechanical engineering, metallurgy, [...], mining and mineral processing industry, [...]"[234] as well as to "[t]o formulate and inspect the organization of implementation of strategies, planning, plans and policies..." for the metallurgy industry.[235]

352. The Ministry of Industry and Trade has not only provided multiple drafts for public comment, and for revision by other ministries and subject area experts, but the Ministry is also hiring a foreign consultancy firm to evaluate the new Master Plan.[236] The government has stated that the firm will be in charge of "ascertaining the trends in steel industry development across the world and the region; assessing the domestic steel sector's

[232] Public Attachment 101: The Voice of Vietnam, "Foreign Consultancy To Evaluate Steel Sector Master Plan," December 27, 2016.

[233] Public Attachment 84: The Voice of Vietnam, Vietnam's Steel Industry is set to Grow over 20% in 2018 dated January 26, 2018.

[234] Public Attachment 102: Functions, tasks and powers of ministry of industry and trade, according to the Decree No. 95/2012/ND-CP dated November 12, 2012.

[235] *Ibid.*

[236] Public Attachment 101: The Voice of Vietnam, "Foreign Consultancy To Evaluate Steel Sector Master Plan," December 27, 2016.

competitive ability in comparison with the world and the region;"[237] and also of "choosing contractors and technology."[238]

353. In addition to setting steel production goals (as discussed above in the original plan), the plan controls steel projects in Vietnam. The second draft of the plan removed 12 projects because of "ineffective investments and incapable investors".[239] A steel project cannot be approved if it is not named in the master plan for the industry. The GOV's controls of construction projects and investments in the steel industry is discussed in further details below.

354. The GOV objectives in the current and soon-to-be revised plan are likely to conflict with the commercial interests of CSWP producers by affecting investments, production volumes, and ultimately prices.

3. Government Policies and Directives: Strategy on exports and imports for 2011-2020

355. Beyond the Steel Master Plan, the GOV also has a "Strategy on exports and imports for 2011-2020, with visions to 2030."[240] The strategy provides specific export target growth rates of 11% from 2016-2020, followed by a growth rate of 10% from 2021-2030. The plan states that it is "necessary to gradually reduce the trade deficit and keep the excess of import over export below 10% of the export turnover by 2015 so as to guarantee the trade balance by 2020 and reach trade surplus in 2021-2030."[241]

356. Reducing import volumes or maintaining the volume of imports below a certain threshold necessarily impacts the supply and therefore price.

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[237] *Ibid.*

[238] *Ibid.*

[239] Public Attachment 103: Viet Nam News, "Steel masterplan drops 12 projects" (December 12, 2016).

[240] Public Attachment 104: Socialist Republic of Vietnam Government Portal, "Strategy on exports and imports for 2011-2020, with visions to 2030", May 23, 2017.

[241] *Ibid.*

4. Policies and Directives: Industrial Development Strategy through 2025, vision on toward 2035

357. The focus of the GOV's Industrial Development Strategy is:

a. To develop the industrial sector on the basis of effective mobilization of resources from all economic sectors; to encourage the development of the private sector and foreign invested sector.

b. To develop priority industries and industrial fields, primarily focusing on agricultural and rural industrialization and modernization, on the basis of high-quality human resources and advanced technologies, regarding competition as a driving force for development.

c. To utilize existing advantages and international opportunities; to associate production with services and trade, and to actively participate deeply into the world industrial production value chain.

d. To focus on developing a number of dual-purpose industries to serve national defense and security.

e. To develop the industrial sector on the basis of green growth, sustainable development and environmental protection.

358. In the Industrial Development Strategy, "steel for manufacturing" is listed as a "development priority" from now through 2025.[242] As a solution to develop this priority industry, the Ministry of Industry and Trade has proposed: "to invest in the development of steel manufacturing for mechanical engineering such as steel sheets, shaped steel, and alloy steel."

[242] Public Attachment 105: Vietnam Government Portal, Prime Minister Nguyen Tan Dung on June 9, 2014 signed Decision No. 879/QD-TTg to approve the Industrial Development Strategy through 2025, vision toward 2035.

5. State-ownership of large CSWP producers

359. Vina One Steel Manufacturing Corporation ("**Vina One**"), is a large CSWP Producer and the Complainant submits that it is a state-owned enterprise. Vina One was established in 2007 by the Department of Planning and Investment of Long An Province certification.[243] There is limited information available about the structure of this company and Nova requests that the CBSA conduct an investigation

360. Vietnam Steel ("**VNSteel**") is a large integrated steel producer that produces many products, including inputs of CSWP and pipe and tube.[244] It appears to the Complainant that VNSteel produces CSWP through its subsidiaries, such as Vina Pipe Company Limited.[245]

361. VNSteel is a state-owned company and has 49 related companies. It is organized and operated in accordance with the VNSteel Charter approved by the Vietnamese Prime Minister in Decision 91/2007/QĐ-TTg dated June 21, 2007 and other related legal documents of the Ministry of Industry and Trade and other Ministries. The GOV also has an active role in VNSteel's management and daily operations as it "appoints, dismisses, rewards and punishes" 5 members to VNSteel's Board of Management.[246]

362. The market share and the governing structure of VNSteel suggest that the GOV could use the company to promulgate its policies and therefore control the price of CSWP in Vietnam.

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[243] Public Attachment 106: Vina One Steel Manufacturing Corporation Company Profile retrieved May 6, 2018.

[244] Public Attachment 107: VN Steel, VN Steel Products retrieved May 6, 2018.

[245] Public Attachment 108: VN Steel, System of Member Units of Vietnam Steel Corporation.

[246] Public Attachment 109: VN Steel, Introduction of Parent Company – Viet Nam Steel Corporation.

6. Price Stabilization by the GOV

363. The GOV's control over steel prices is not recent. In mid-2008, when rising inflation rates were a concern, the GOV asked state-owned company VN Steel to keep its prices unchanged for as long as possible. This policy was not "good for the company".[247]

364. In April 2010, Nguyen Tien Thoa, the then head of the Price Management Department at the Ministry of Finance, said: "The government has long had steel on a list of products in need of price stabilization... if there're *[sic]* sudden changes to the price, government agencies totally have the power to stabilize it."[248] Thoa also noted that Vietnam has rules about how many tons of ore, steel billet, coal and how many kilowatt-hours of power are to be used for making a ton of steel. Also, Thoa indicated that the GOV will take action against steel producers who raise their prices excessively. These price stabilization practices are examples of how the GOV intervenes in its steel market.[249]

365. The GOV not only controls the price of goods but has legislated that control through Circular 122 on price management and price registration. Circular 122 gives the Ministry of Finance the authority to apply price controls to an extensive list of goods when prices increase or decrease without a "legitimate excuse". Steel is among the list of goods subject to price controls. While Circular 122 has been superseded by the Price Law, which came into effect on January 1, 2013, GOV policy concerning price stabilization does not appear to have changed and is still evidence of the GOV controlling the price of steel.[250]

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[247] Public Attachment 110: Comments Concerning the Proposed United States-Trans-Pacific Partnership Trade Agreement, Sent to Gloria Blue, Executive Secretary of the Trade Policy Staff Committee, Office of the United States Trade Representative, on behalf of the U.S. member companies of the American Iron and Steel Institute, January 25, 2010 at page 8.

[248] Public Attachment 111: Thanhnien News, "Vietnam steel producers manipulating prices", April 9, 2010.

[249] *Ibid.*

[250] Public Attachment 112: Export.Gov, "Vietnam - Trade Barriers," January 24, 2017.

7. The GOV Controls Construction Projects and Investments in the Steel Industry

366. As mentioned in the Steel Master Plan, the GOV has investments in many of the steel companies and expansion projects.

367. Additionally, to help manage the demand for steel products, the GOV has started, stopped and re-started construction projects.[251] A recent example is Prime Minister Nguyễn Xuân Phúc having halted construction earlier in April 2017 on the Hoa Sen Cà Ná steel plant in south-central Ninh Thuận Province, a project estimated at US$10.6-billion. The Prime Minister is requiring more studies to be completed before it will allow the project to continue, citing consumer demand and environmental impact as areas of further study. This is despite the fact that almost 97% of Hoa Sen shareholders had approved the construction. The GOV has also now included this project within its draft Master Plan. This is indicative of government control over the industry, as Hoa Sen represents approximately 40% of the steel sheet market, and 20% of the steel pipe market domestically.[252]

368. In the GOV's newest Steel Master Plan, 12 projects were struck from the Plan's second draft. These projects were removed because the GOV found them to be ineffective, due to ineffective investments and incapable investors.[253] By determining which projects go through the government is controlling the Vietnamese steel industry.

369. The GOV is also funding the steel industry. Phase II of the Thái Nguyên Steel Plant is 90% funded by two state-controlled banks, Vietnam Development Bank and Vietinbank. Only 10% of the funding comes from an investor.[254]

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[251] Public Attachment 110: Comments Concerning the Proposed United States-Trans-Pacific Partnership Trade Agreement, Sent to Gloria Blue, Executive Secretary of the Trade Policy Staff Committee, Office of the United States Trade Representative, on behalf of the U.S. member companies of the American Iron and Steel Institute, January 25, 2010 at page 8.

[252] Public Attachment 113: Viet Nam News, "PM halts US$10.6 billion steel plant," April 17, 2017.

[253] Public Attachment 103: Viet Nam News, "Steel masterplan drops 12 projects" (December 12, 2016).

[254] *Ibid.*

370. The GOV through the Ministry of Industry and Trade is taking an active role in also controlling and directing the investments steel companies make in their own facilities. An article from January 2017 notes that the Ministry, in the hopes of making the steel industry more competitive, has directed steel companies to upgrade their production technologies and find ways to save production costs. The Ministry also directed steel companies to have more flexible monthly and quarterly plans, to better promote their brands and build distribution networks.[255]

8. Vietnam's steel industry is subsidized

371. The CBSA's Statement of Reasons for Initiation in *Seamless Casings* provides that governments can indirectly determine an industry's domestic price by providing direct financial subsidies to producers and the existence of such subsidies is a factor that lends support to the initiation of a section 20 investigation.[256] As found in Oil Country Tubular Goods 2,[257] Vietnam's steel industry is subsidized. This subsidization influences the price of steel, including CSWP, and this influenced price is different than what it would be under market conditions.

372. Subsidies allow Vietnamese steel firms to market steel products at prices determined by factors other than the market, including at prices lower than they would be without government subsidization. Through these subsidies the GOV both influences the price of steel and this price is different than it would be if determined by the marketplace.

373. The Complainant submits that a consequence of the actionable subsidies made available to CSWP producers and exporters is that the GOV's indirect determination of CSWP prices.

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[255] Public Attachment 114: Vietnam's steel production set for 2017 surge," January 10, 2017.
[256] *Seamless Casings*, Initiation – Statement of Reasons (August 28, 2007) at para 53.

[257] Canada Border Services Agency, *Final Determinations with respect to the dumping of certain Oil Country Tubular Goods Originating in or Exported from Chinese Taipei, the Republic of India, the Republic of Indonesia, the Republic of the Philippines, the Republic of Korea, the Kingdom of Thailand, the Republic of Turkey, Ukraine and the Socialist Republic of Vietnam and the subsidizing of certain Oil Country Tubular Goods originating in or exported from the Republic of India, the Republic of Indonesia and the Socialist Republic of Vietnam,* March 18, 2015.

9. Conclusion

374. The Complainant submits there is ample evidence on the record to justify the initiation of a section 20 inquiry. The evidence available to the Complainant indicates that:

a. the GOV sets steel production and export targets through its Steel Master Plan;

b. the GOV controls the steel industry by taking action against producers who raise prices;

c. VNSteel, a large Vietnamese steel producer who producers the major input for CSWP and CSWP itself, is a state-owned enterprise and has 5 executive positions that are appointed by the GOV;

d. the construction of steel projects and investments are controlled by the GOV to influence demand and price of steel; and

e. the GOV indirectly controls CSWP prices by subsidizing CSWP producers and exporters.

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