



Canada Border  
Services Agency

Agence des services  
frontaliers du Canada

LP2 2017 IN

OTTAWA, December 20, 2017

## STATEMENT OF REASONS

**Concerning the final determination with respect to the dumping of**

**CERTAIN CARBON AND ALLOY STEEL LINE PIPE  
ORIGINATING IN OR EXPORTED FROM THE REPUBLIC OF KOREA**

## DECISION

Pursuant to paragraph 41(1)(b) of the *Special Import Measures Act*, on December 5, 2017, the Canada Border Services Agency made a final determination of dumping respecting certain carbon and alloy steel line pipe originating in or exported from the Republic of Korea.

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

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## **SUMMARY**

[1] On April 18, 2017, the Canada Border Services Agency (CBSA) received a written complaint from EVRAZ Inc. NA Canada of Regina, Saskatchewan and Canadian National Steel Corporation of Camrose, Alberta (collectively, Evraz) (hereafter “the complainant”), alleging that imports of certain carbon and alloy steel line pipe originating in or exported from the Republic of Korea are being dumped.<sup>1</sup> The complainant alleged that the dumping has caused injury and is threatening to cause injury to the Canadian industry producing like goods.

[2] On May 9, 2017, pursuant to paragraph 32(1)(a) of the *Special Import Measures Act* (SIMA), the CBSA informed the complainant that the complaint was properly documented. The CBSA also notified the government of the Republic of Korea that a properly documented complaint had been received.

[3] The complainant provided evidence to support the allegation that certain carbon and alloy steel line pipe from the Republic of Korea have been dumped. The evidence also discloses a reasonable indication that the dumping has caused injury and is threatening to cause injury to the Canadian industry producing like goods.

[4] On June 8, 2017, pursuant to subsection 31(1) of SIMA, the CBSA initiated an investigation respecting the dumping of certain carbon and alloy steel line pipe originating in or exported from the Republic of Korea.

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

[6] On August 8, 2017, pursuant to subsection 37.1(1) of SIMA, the CITT made a preliminary determination that there is evidence that discloses a reasonable indication that the dumping of certain carbon and alloy steel line pipe originating in or exported from the Republic of Korea has caused or is threatening to cause injury to the domestic industry.

[7] On September 6, 2017, as a result of the CBSA’s preliminary investigation and pursuant to subsection 38(1) of SIMA, the CBSA made a preliminary determination of dumping respecting certain carbon and alloy steel line pipe originating in or exported from the Republic of Korea. On the same date, the CBSA began imposing provisional duties on imports of subject goods pursuant to subsection 8(1).

[8] On September 7, 2017, the CITT initiated a full inquiry pursuant to section 42 of SIMA to determine whether the dumping of the above-mentioned goods has caused injury or retardation or is threatening to cause injury to the Canadian industry.

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<sup>1</sup> Exhibits 1 (PRO) and 2 (NC) – Certain Carbon and Alloy Steel Line Pipe Complaint.

[9] Based on the available evidence, the CBSA is satisfied that certain carbon and alloy steel line pipe originating in or exported from the Republic of Korea has been dumped. Therefore, on December 5, 2017, the CBSA made a final determination of dumping pursuant to paragraph 41(1)(b) of SIMA in respect of those goods.

[10] The CITT's inquiry into the question of injury to the Canadian industry is continuing, and it has announced that it will issue its finding by January 4, 2018. Provisional duties will continue to be imposed on the subject goods from the Republic of Korea until the CITT renders its decision.

### **PERIOD OF INVESTIGATION**

[11] The Period of Investigation (POI) covered all subject goods released into Canada from April 1, 2016 to March 31, 2017.

### **PROFITABILITY ANALYSIS PERIOD**

[12] The Profitability Analysis Period (PAP) covered all domestic sales and costing information for goods sold from April 1, 2016, to March 31, 2017.

### **INTERESTED PARTIES**

#### **Complainant**

[13] The complainant accounts for a major proportion of the domestic production of like goods in Canada, as defined in subsection 2(1) of SIMA. The complainant's goods are produced at manufacturing facilities at various locations in Canada. The name and address of the complainant is as follows:

EVRAZ Inc. NA Canada  
P.O. Box 1670, 100 Armour Road  
Regina, Saskatchewan S4P 3C7

Canadian National Steel Corporation  
5302 39 Street  
Camrose, Alberta T4V 2N8

[14] Evraz Inc. NA Canada operates carbon and alloy steel line pipe manufacturing facilities in Regina, Saskatchewan and in Red Deer, Alberta. The EVRAZ North America group of companies also owns Canadian National Steel Corporation, which operates carbon and alloy steel line pipe manufacturing facilities in Camrose, Alberta. These facilities manufacture line pipe using the electric resistance weld (ERW) process and the submerged arc weld (SAW) process.<sup>2</sup>

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<sup>2</sup> Exhibit 2 (NC) – Certain Carbon and Alloy Steel Line Pipe Complaint, paragraph 4.

[15] The other supporting manufacturers of like goods in Canada are:

Algoma Tubes Inc.  
547 Wallace Terrace  
Sault Ste Marie, ON P6C 1L9

Bri-Steel  
2125-64 Avenue  
Edmonton, Alberta T6P 1Z4

Prudential Steel Inc.  
8919 Barlow Trail S. E.  
Calgary, Alberta T2C 2N7

Tenaris Global Services (Canada) Inc.  
530 8 Ave SW, Suite 400  
Calgary, Alberta T2P 3S8

[16] Tenaris Global Services (Canada) Inc., Algoma Tubes Inc., and Prudential Steel Inc. are collectively referred to as “Tenaris Canada”. Tenaris Canada manufactures line pipe in Canada at its Algoma Tubes facility in Sault Ste Marie, Ontario using the seamless process and at its Prudential facility in Calgary, Alberta using the ERW process. Tenaris Global Services Inc. acts as a commercial agent for Tenaris sales in Canada.<sup>3</sup>

[17] Bri-Steel Manufacturing produces small and large diameter seamless steel line pipe and processing pipe in Canada through a process called Thermal Pipe Expansion. Specifically, Bri-Steel is capable of producing pipe sizes ranging from 16 through 36 inches in outside diameter, and wall thicknesses up to 2.343 inches in CSA, ASTM, ASME, and API specifications.<sup>4</sup>

### **Importers**

[18] The CBSA identified 62 potential importers of the subject goods based on both information provided by the complainant and CBSA import entry documentation.

[19] The CBSA sent an Importer Request for Information (RFI) to all potential importers of the goods. The CBSA received six responses to the Importer RFI. Two of the importers, Hyundai Canada Inc. (Hyundai Canada)<sup>5</sup> and Pusan Pipe America (Pusan),<sup>6</sup> have corresponding related exporters who have also provided complete responses to the Dumping RFI. Four other companies, namely ASTCO Canada,<sup>7</sup> Edgen Murray Canada,<sup>8</sup> MRC Global Canada<sup>9</sup> and Sunlake Co. Ltd.<sup>10</sup> also provided responses to the Importer RFI.

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<sup>3</sup> Exhibit 2 (NC) – Certain Carbon and Alloy Steel Line Pipe Complaint, paragraphs 45, 46 and 50.

<sup>4</sup> Exhibit 2 (NC) – Certain Carbon and Alloy Steel Line Pipe Complaint, paragraph 47.

<sup>5</sup> Exhibits 25 (PRO) and 26 (NC) – Response to Importer RFI from Hyundai Canada.

<sup>6</sup> Exhibits 18 (PRO) and 19 (NC) – Response to Importer RFI from Pusan.

<sup>7</sup> Exhibits 34 (PRO) and 35 (NC) – Response to Importer RFI from ASTCO Canada.

<sup>8</sup> Exhibits 31 (PRO) and 32 (NC) – Response to Importer RFI from Edgen Murray Canada.

<sup>9</sup> Exhibit 33 (NC) – Response to Importer RFI from MRC Global Canada.

<sup>10</sup> Exhibits 29 (PRO) and 30 (NC) – Response to Importer RFI from Sunlake Co. Ltd.

## **Exporters**

[20] The CBSA identified 57 potential exporters/producers of the subject goods from information provided by the complainant and CBSA import entry documentation.

[21] The CBSA sent a Dumping RFI to all potential exporters/producers of the goods. Five exporters provided responses to the Dumping RFI. The five exporters are Husteel Co. Ltd (Husteel),<sup>11</sup> Hyundai Corporation,<sup>12</sup> Hyundai Steel Company (Hyundai Steel),<sup>13</sup> Nexteel Co. Ltd (Nexteel)<sup>14</sup> and SeAH Steel Corporation (SeAH Steel).<sup>15</sup> Three additional vendors, Hyundai Steel USA,<sup>16</sup> Soon Hong Trading Co. Ltd,<sup>17</sup> and Yieh Corporation Ltd,<sup>18</sup> also provided responses to the Dumping RFI.

[22] Officers conducted on-site verifications at the premises of the five exporters, named above, all located in the Republic of Korea.

## **PRODUCT INFORMATION**

### **Definition**

[23] For the purpose of this investigation, the subject goods are defined as:

Carbon and alloy steel line pipe originating in or exported from the Republic of Korea, welded or seamless, having a nominal outside diameter from 2.375 inches (60.3 mm) up to and including 24 inches (610 mm) (with all dimensions being plus or minus allowable tolerances contained in the applicable standards), including line pipe meeting or supplied to meet any one or several of API 5L, CSA Z245.1, ISO 3183, ASTM A333, ASTM A106, ASTM A53-B or their equivalents, in all grades, whether or not meeting specifications for other end uses (e.g. single-, dual-, or multiple-certified, for use in oil and gas or other applications), and regardless of end finish (plain ends, beveled ends, threaded ends, or threaded and coupled ends), surface finish (coated or uncoated), wall thickness, or length, excluding galvanized line pipe and excluding stainless steel line pipe (containing 10.5 percent or more by weight of chromium), and excluding goods covered by the Canadian International Trade Tribunal's Finding in Inquiry No. NQ-2012-003.

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<sup>11</sup> Exhibits 47 (PRO) and 48 (NC) – Response to Dumping RFI from Husteel.

<sup>12</sup> Exhibits 53 (PRO) and 54 (NC) – Response to Dumping RFI from Hyundai Corporation.

<sup>13</sup> Exhibits 55 (PRO) and 56 (NC) – Response to Dumping RFI from Hyundai Steel.

<sup>14</sup> Exhibits 59 (PRO) and 60 (NC) – Response to Dumping RFI from Nexteel.

<sup>15</sup> Exhibits 51 (PRO) and 52 (NC) – Response to Dumping RFI from SeAH Steel.

<sup>16</sup> Exhibits 49 (PRO) and 50 (NC) – Response to Dumping RFI from Hyundai Steel USA

<sup>17</sup> Exhibits 43 (PRO) and 44 (NC) – Response to Dumping RFI from Soon Hong Trading Co., Ltd

<sup>18</sup> Exhibits 57 (PRO) and 58 (NC) – Response to Dumping RFI from Yieh Corporation Ltd



[24] For greater certainty, the product definition includes:

- a) unfinished line pipe (including pipe that may or may not already be tested, inspected, and/or certified to line pipe specifications) originating in the Republic of Korea and imported for use in the production or finishing of line pipe meeting final specifications, including outside diameter, grade, wall-thickness, length, end finish, or surface finish; and
- b) non-prime and secondary pipes (“limited service products”).

**Additional Product Information**<sup>19</sup>

[25] Pipe that is being sold for oil and gas transmission purposes or process piping purposes is line pipe. Line pipe is used by the oil and gas industry in pipelines for the gathering and distribution of oil and gas or as process pipe used in steam generation facilities for steam assisted gravity drainage, petrochemical plants, upgraders, gas transmission facilities, and fabrication of modules.

[26] The Canadian market for oil and gas line pipe is governed by two main design codes depending on whether the line pipe is for pipelines or for process piping. Each code specifies the standards and grades of pipe that are acceptable for use. Together, the complainant and supporting producers manufacture or have the capability to manufacture line pipe under both design codes, in all grades. Pipelines must conform or be equivalent to CSA Z662 (oil and gas pipeline systems), and process piping must conform or be equivalent to ASME B31.1. These systems standards cover multiple pipe standards and can cover multiple grades of pipe.

[27] Examples of pipe standards include:

- CSA Z245.1;
- API 5L;
- ISO 3183;
- ASTM A333;
- ASTM A53-B; and
- ASTM A106.

[28] Pipe manufactured to a particular standard may be compatible with the requirements of another standard. This means that a particular pipe may be able to be certified as complying with multiple standards (if all the requirements of each standard/grade are met for that particular pipe). For example, CSA Z245.1 Grade 448 pipe is considered to be equivalent to API 5L Grade X65. The API 5L X grade numbers define the minimum yield strength required of the grade in kilopounds per square inch. Process piping is generally supplied with multiple stencils including API 5L, CSA Z245.1 and ASTM A106.

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<sup>19</sup> Exhibit 2 (NC) – Certain Carbon and Alloy Steel Line Pipe Complaint, paragraphs 8 – 13.

[29] Equivalent grades of pipe specified under each design code represent products that are equivalent regardless of manufacturing process. As a result, any grade of pipe is considered to be substitutable by a similar grade of pipe designed with a different standard. It is common practice to certify multiple grades of pipe on a mill test report. It is also common practice to substitute grades other than that initially requested by a customer with an equivalent grade. Mill test reports are provided to show that the properties of the supplied pipe meet the requirements of the actual grade supplied.

[30] Line pipe is normally marked or stenciled in paint on the external surface with the API, ASME, or equivalent specifications to which it has been manufactured and tested. The subject goods cover all line pipe meeting or supplied to meet the above specifications, regardless of whether the pipe has been multiple stenciled to indicate that it meets or is supplied to meet additional end use specifications. Line pipe that is manufactured and tested to meet higher API specifications (or equivalent CSA and ISO specifications) is automatically in conformity with lower specifications and may therefore have multiple stencils identifying additional end uses, such as American Society for Testing and Materials (ASTM), and equivalent specifications for end use as standard pipe (for low-pressure conveyance of steam, water, natural gas, air and other liquids in plumbing and heating applications), piling pipe, and other such end uses. Seamless line pipe conforming to API 5L may also be marked as conforming to pressure pipe applications under ASME B31.3. Additionally and for the same reasons, line pipe that is single-stenciled as API 5L may be used in lower specifications absent stencilling identifying that lower specification. All line pipe that is marked as meeting or that is supplied to meet API 5L (or equivalent specifications) for use as oil and gas pipelines or as ASME B31.3 for use as pressure pipe are covered in this complaint as subject goods regardless of whether the pipe is marked as meeting any other end-uses or is supplied to meet any other end-uses.

[31] Line pipe may be manufactured by the seamless or welded process. The typical end finish is a beveled end to allow for welding in the field, although line pipe may also be supplied as plain end (square cut), threaded, and threaded and coupled.

### **Production Process**<sup>20</sup>

[32] Line pipe is made on the same production equipment as oil country tubular goods (OCTG) and other tubular products such as standard pipe and piling pipe. Production may involve either the seamless or the welded process.

[33] ERW line pipe is produced by slitting flat hot-rolled steel in coil form of a pre-determined thickness (called “skelp”) to the proper width required to produce the desired diameter of pipe. The skelp is then sent through a series of forming rolls that bend it into a tubular shape. As the edges of the skelp come together under pressure in the final forming rolls, an electric current is passed between them. The resistance to the current heats the edges of the skelp to the welding temperature, and the weld is formed as the two edges are pressed together.

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<sup>20</sup> Exhibit 2 (NC) – Certain Carbon and Alloy Steel Line Pipe Complaint, paragraphs 14 – 18.



[34] ERW line pipe can also be produced by the stretch-reduction method, where the key difference is that outside diameter and wall thickness is achieved after the tube is formed. Specifically, a formed tube is heated to approximately 1850 degrees Fahrenheit and passed through a series of stretch reduction roll stands until the final outside diameter and wall thickness is achieved.

[35] Seamless pipe production begins with the formation of a central cavity in a solid steel billet to create a shell. The shell is then rolled on a retained mandrel and reduced in a stretch reduction mill to produce the finished size before cooling on a walking beam cooling bed. Once the hot rolling mill has transformed the billet into a tube and the stretch reduction/sizing mill has produced the final dimensions, the pipe is put into inventory where it waits for the next process, either heat treatment, testing, or finishing.

[36] Tube formed by either the seamless or the ERW methods is then cut to length. The product is sent to the finishing line where it is usually beveled on both ends. Finishing operations also include cooling, straightening, facing, testing, coating, or bundling and could include threading and coupling.

#### **Classification of Imports**

[37] Prior to January 1, 2017, subject goods were normally classified under the following Harmonized System (HS) classification numbers:

7304.19.00.11	7305.12.00.11
7304.19.00.12	7305.12.00.19
7304.19.00.21	7305.19.00.11
7304.19.00.22	7305.19.00.19
7305.11.00.11	7306.19.00.10
7305.11.00.19	7306.19.00.90

[38] Beginning January 1, 2017, under the revised customs tariff schedule, subject goods would normally be imported under the following HS classification numbers:

7304.19.00.10	7305.12.00.30
7304.19.00.20	7305.19.00.10
7305.11.00.10	7305.19.00.20
7305.11.00.20	7306.19.00.10
7305.12.00.10	7306.19.00.90

[39] The listing of HS classification numbers is for convenience of reference only. Refer to the product definition for authoritative details regarding the subject goods.

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

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

[41] Based on the CITT’s findings in a previous inquiry involving line pipe from the People’s Republic of China (China),<sup>21</sup> the CBSA is of the opinion that domestically produced line pipe are like goods to the subject goods and the subject goods and like goods constitute only one class of goods.

[42] In its preliminary injury determination, the CITT confirmed that domestically produced line pipe are like goods to the subject goods and the subject goods and like goods constitute only one class of goods.<sup>22</sup>

## **THE CANADIAN INDUSTRY**

[43] As previously stated, the complainant accounts for a major proportion of domestic production of like goods in Canada.

## **IMPORTS INTO CANADA**

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

[45] The following table presents the CBSA’s analysis of imports of line pipe; for purposes of the final determination:

**Imports of Certain Carbon and Alloy Steel Line Pipe**  
(April 1, 2016 to March 31, 2017)

<b>Country</b>	<b>% of Total Import Volume</b>
Republic of Korea	39.1%
All Other Countries	60.9%
<b>Total Imports</b>	<b>100.0%</b>

<sup>21</sup> Canadian International Trade Tribunal Injury Inquiry no. NQ-2015-002, Carbon and Alloy Steel Line Pipe, *Statement of Reasons* (April 13, 2016), paragraph 50.

<sup>22</sup> Canadian International Trade Tribunal Preliminary Injury Inquiry no. PI-2017-001, Carbon and Alloy Steel Line Pipe, *Statement of Reasons* (August 23, 2017), paragraph 18.

## **INVESTIGATION PROCESS**

[46] Information was requested from all known and potential exporters, producers, vendors and importers, concerning shipments of line pipe released into Canada during the POI.

[47] Several parties requested an extension to respond to their respective RFIs.<sup>23</sup> The CBSA reviewed each request in order to determine whether unforeseen circumstances or unusual burdens justified the granting of an extension. Where an extension request was denied, the CBSA informed the party that it could not guarantee that submissions received after the RFI response deadline would be taken into consideration for purposes of the preliminary phase of the investigation.

[48] After reviewing the responses to the RFIs, supplemental RFIs were sent to responding parties to clarify information provided in the submissions and request additional information considered necessary for the investigation.

[49] On-site verifications were conducted at the premises of selected exporters in the Republic of Korea. Additional supplemental RFIs were sent to certain exporters following the on-site verifications. Information submitted by parties after the on-site verifications but prior to the CBSA's close of the administrative record were taken in to consideration for purposes of the final determination.

[50] Details pertaining to the information submitted by the exporters in response to the Dumping RFIs as well as the results of the CBSA's dumping investigation are provided in the *Dumping Investigation* section of this document.

[51] As part of the final stage of the investigation, case briefs and reply submissions were provided on behalf of the complainant, an additional supporting producer of like goods in Canada, exporters and an importer. Details of the representations are provided in **Appendix 2**.

## **DUMPING INVESTIGATION**

### **Normal Values**

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

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

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<sup>23</sup> Exhibits 17 (NC), 20 (NC), 21 (NC) – Extension Requests.

## **Export Prices**

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

[55] Where there are sales between associated persons and/or a compensatory agreement exists, the export price may be determined pursuant to section 25 of SIMA, based on the importer's resale price of the imported goods in Canada to unrelated purchasers, less deductions for all costs incurred in preparing, shipping and exporting the goods to Canada that are additional to those incurred on the sales of like goods for use in the country of export, all costs included in the resale price that are incurred in reselling the goods (including duties and taxes) or associated with the assembly of the goods in Canada and an amount representative of the average industry profit in Canada as provided for in paragraphs 25(1)(c) and 25(1)(d) of SIMA.

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

## **Margin of Dumping**

[57] The CBSA determined a margin of dumping for each of the exporters by comparing the total normal value with the total export price of the goods. When the total export price was less than the total normal value, the difference was the margin of dumping for that specific exporter.

[58] Details of the results of the investigation by exporter follows. A summary of each exporter's margin of dumping is provided in the table at the end of this section and in **Appendix 1**.

## **Results of the Dumping Investigation by Exporter**

### **Husteel Co. Ltd.**

[59] Husteel is a manufacturer and exporter of subject goods located in the Republic of Korea. Husteel was established in 1967 and is listed on the Korean Stock Exchange. All of the subject goods shipped to Canada during the POI were produced at the Dangjin and Daebul plants. Husteel has a third production facility located in the Republic of Korea which produces only stainless steel pipes. The company headquarters is located in Seoul. An on-site verification of Husteel was conducted in September 2017.<sup>24</sup>

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<sup>24</sup> Exhibits 129 (PRO) and 130 (NC) – Verification Exhibits – Husteel.

[60] Husteel provided substantially complete responses to the Dumping RFI<sup>25</sup> and supplementary RFIs.<sup>26</sup> Included in the responses was a database of domestic sales of line pipe; however, there were insufficient sales of goods that were identical or similar to the subject goods exported to Canada. As such, it was not possible to determine normal values pursuant to section 15 of SIMA, using domestic sales of like goods.

[61] Normal values were determined pursuant to paragraph 19(b) of SIMA, as the aggregate of the cost of production of the goods, a reasonable amount for administrative, selling and all other costs, and a reasonable amount for profits. The amount for profits was determined in accordance with subparagraph 11(1)(b)(ii) of the *Special Import Measures Regulations* (SIMR), based on Husteel's sales of line pipe in their domestic market, during the PAP, within the same general category as the subject goods sold to Canada.

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

[63] The total normal value compared to the total export price results in a margin of dumping of 4.1% for Husteel, expressed as a percentage of the export price.

### **Hyundai Corporation**

[64] Hyundai Corporation is an exporter of subject goods located in the Republic of Korea. Hyundai Corporation is a general trading company that was founded in 1976 and is part of the Hyundai Corporation Group. An on-site verification of Hyundai Corporation was conducted in September 2017.<sup>27</sup>

[65] During the POI, Hyundai Corporation purchased all of the subject goods it exported to Canada from an unrelated producer of subject goods located in the Republic of Korea. All of the goods exported to Canada by Hyundai Corporation were sold to a related importer.

[66] Hyundai Corporation provided a substantially complete response to the Dumping RFI.<sup>28</sup> In addition, the company that produced the goods exported to Canada by Hyundai Corporation also provided a response to the Dumping RFI.

[67] Hyundai Corporation did not have any domestic sales of line pipe during the PAP. As such, it was not possible to determine normal values pursuant to section 15 of SIMA, using domestic sales of like goods.

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<sup>25</sup> Exhibits 47 (PRO) and 48 (NC) – Response to Dumping RFI from Husteel.

<sup>26</sup> Exhibits 101 (PRO), 102 (NC) and 105 (PRO) – Responses to Supplemental RFI #1 from Husteel. Exhibits 156 (PRO), 157 (NC), 158 (PRO), 159 (PRO) and 160 (NC) – Responses to Supplemental RFI #2 from Husteel.

<sup>27</sup> Exhibits 142 (PRO) and 143 (NC) – Verification Exhibits – Hyundai Corporation.

<sup>28</sup> Exhibits 53 (PRO) and 54 (NC) – Response to Dumping RFI from Hyundai Corporation.



[68] Normal values were determined pursuant to paragraph 19(b) of SIMA, as the aggregate of the cost of production of the goods, a reasonable amount for administrative, selling and all other costs, and a reasonable amount for profits. The amount for profits was determined in accordance with subparagraph 11(1)(b)(iv) of the SIMR, based on sales of line pipe in the domestic market, by producers located in the Republic of Korea, during the PAP, within the same general category as the subject goods sold to Canada. These producers are Husteel and Nexteel.

[69] During the POI, all of the subject goods exported to Canada by Hyundai Corporation were sold to a related importer. Due to the relationship between the two companies, a reliability test was performed to determine whether the section 24 export prices were reliable as envisaged by SIMA. This test was conducted by comparing the section 24 export prices with the section 25 export prices. The amount for profit used for the section 25 calculations was determined in accordance with paragraph 22(a) of the SIMR, based on the profit information relating to vendors that operated at a profit during the POI and are at the same or substantially the same trade level as the importer. The test revealed that the export prices determined in accordance with section 24 of SIMA were unreliable and, therefore, export prices for sales to Hyundai Canada were determined in accordance with section 25 of SIMA.

[70] The total normal value compared to the total export price results in a margin of dumping of 52.5% for Hyundai Corporation, expressed as a percentage of the export price.

### **Hyundai Steel**

[71] Hyundai Steel is a manufacturer and exporter of subject goods located in the Republic of Korea. Hyundai Steel is a member company of the Hyundai Motor Group and is listed on the Korean Stock Exchange. An on-site verification of Hyundai Steel was conducted in September 2017.<sup>29</sup>

[72] Hyundai Steel provided responses to the CBSA's Dumping RFI<sup>30</sup> and supplementary RFIs.<sup>31</sup> Included in the responses was a database of domestic sales of line pipe. Subsequent to the on-site verification, the CBSA found that Hyundai Steel had omitted certain domestic sales transactions from the domestic sales database. This information was not disclosed by the company and was only provided to the CBSA in response to a specific request in a supplemental RFI. The information was provided to the CBSA well after the deadline for the response to the original RFI and after the CBSA had conducted the on-site verification of Hyundai Steel.

[73] Given the lateness of the submission the CBSA was unable to verify the accuracy and/or reliability of the additional domestic sales information. Further, the information that was provided does not contain the cost of production of goods, which is required by the CBSA in order to determine normal values. Specifically, the CBSA requires the cost of production of the goods in order to perform a profitability analysis on Hyundai Steel's domestic sales database.

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<sup>29</sup> Exhibits 134 (PRO) and 135 (NC) – Verification Exhibits – Hyundai Steel.

<sup>30</sup> Exhibits 55 (PRO) and 56 (NC) – Response to Dumping RFI from Hyundai Steel.

<sup>31</sup> Exhibits 95 (PRO) and 96 (NC) – Response to Supplemental RFI #1 from Hyundai Steel.

Exhibits 154 (PRO) and 155 (NC) – Response to Supplemental RFI #2 from Hyundai Steel.



[74] As the CBSA did not have the necessary information to conduct the profitability analysis required by SIMA, normal values could not be determined pursuant to section 15 of SIMA based on domestic selling prices of like goods. Furthermore, normal values could not be determined under paragraph 19(b) because a reasonable amount for profits could not be determined under paragraph 11(1)(b) of the SIMR.

[75] Normal values for Hyundai Steel were determined pursuant to subsection 29(1) of SIMA. It was not possible to determine normal values based on the methodology of section 15 of SIMA, as Hyundai Steel had insufficient domestic sales of goods that were identical or similar to the subject goods exported to Canada. Normal values have therefore been based on the methodology of paragraph 19(b) of SIMA. The cost of production of the goods and the amount for administrative, selling and all other costs were calculated using the information provided by Hyundai Steel.

[76] The amount for profits was determined based on the methodology of subparagraph 11(1)(b)(ii) of the SIMR, using domestic sales information provided by Hyundai Steel during the course of the investigation. Where the cost of production of the goods was provided, the CBSA conducted a profitability analysis of Hyundai Steel's domestic sales transactions as envisaged by SIMA. Where the cost of production of the goods was not provided, the CBSA applied an amount for profit equal to the average of the highest profit amount found for an individual domestic sales transaction by Hyundai Steel, excluding anomalies, during each of six 60-day periods during the PAP. The resulting profit amounts were used to calculate a weighted average amount for profits for Hyundai Steel for the PAP. Based on the facts available, the CBSA considers the above methodology to be a reasonable approach for the purposes of determining an amount for profit for Hyundai Steel.

[77] In calculating the amount for profits used for the purposes of determining normal values for Hyundai Steel, the CBSA used Hyundai Steel's own information concerning domestic sales of line pipe during the PAP in combination with the calculation for the amount for profits described above. This methodology utilizes information provided to the CBSA by Hyundai Steel but also limits the advantage that an exporter may gain from not providing all necessary information requested in a dumping investigation as compared to an exporter that did provide the necessary information.

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

[79] The total normal value compared to the total export price results in a margin of dumping of 47.8% for Hyundai Steel, expressed as a percentage of the export price.

## **Nesteel**

[80] Nesteel was established in 1990 and is a privately owned manufacturer and exporter of subject goods. The company operates three production facilities in the Republic of Korea and produces various pipe products using the ERW process. All of the subject goods shipped to Canada were produced at the same plant in Pohang. The company headquarters is also located in Pohang. An on-site verification of Nesteel was conducted in September 2017.<sup>32</sup>

[81] Nesteel provided a substantially complete response to the Dumping RFI<sup>33</sup> as well as a supplementary RFI.<sup>34</sup> The responses included a database of domestic sales of line pipe. However, there were insufficient sales of goods that were identical or similar to the subject goods exported to Canada. As such, it was not possible to determine normal values pursuant to section 15 of SIMA, using domestic sales of like goods.

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

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

[84] The total normal value compared to the total export price results in a margin of dumping of 12.9% for Nesteel, expressed as a percentage of the export price.

## **SeAH Steel**

[85] SeAH Steel is a manufacturer and exporter of subject goods located in the Republic of Korea. SeAH Steel is a member company of the SeAH Steel Group and is listed on the Korean Stock Exchange. All subject goods shipped to Canada during the POI were produced at the same facility, located in Pohang city. The company headquarters is located in Seoul. An on-site verification of SeAH Steel was conducted in September 2017.<sup>35</sup>

[86] During the POI SeAH Steel sold subject goods to a related company, Pusan also known as SeAH Steel America, located in the United States who then resold the goods to unrelated customers in Canada. For the majority of sales, Pusan acted as the non-resident importer. For some sales, the unrelated customer in Canada acted as the importer.

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<sup>32</sup> Exhibits 138 (PRO) and 139 (NC) – Verification Exhibits – Nesteel.

<sup>33</sup> Exhibits 59 (PRO), 60 (NC), 61 (PRO) and 85 (PRO) – Response to Dumping RFI from Nesteel.

<sup>34</sup> Exhibits 107 (PRO) and 108 (NC) – Response to Supplemental RFI #1 from Nesteel.

<sup>35</sup> Exhibits 145 (PRO) and 146 (NC) – Verification Exhibits – SeAH Steel.

[87] SeAH Steel provided a response to the CBSA's Dumping RFI<sup>36</sup> as well as a supplementary RFI.<sup>37</sup> Included in the responses was a database of domestic sales of line pipe. During the on-site verification, the CBSA found that SeAH Steel had omitted from the domestic sales database sales of goods that were purchased in the domestic market and resold to customers domestically. This information was not disclosed by the company in their responses to the original RFI or the supplementary RFI and the CBSA was unable to verify its accuracy and/or reliability. Further, the information that was provided for these sales does not contain the cost of production of the goods, which is required by the CBSA in order to determine normal values. Specifically, the CBSA requires the cost of production of the goods in order to perform a profitability analysis on SeAH Steel's domestic sales database.

[88] As the CBSA does not have the necessary information to conduct the profitability analysis required by SIMA, normal values could not be determined pursuant to section 15 of SIMA based on domestic selling prices of like goods. Furthermore, normal values could not be determined under paragraph 19(b) because a reasonable amount for profits could not be determined under paragraph 11(1)(b) of the SIMR.

[89] Normal values for SeAH Steel were determined pursuant to subsection 29(1) of SIMA. It was not possible to determine normal values based on the methodology of section 15 of SIMA, as SeAH Steel had insufficient domestic sales of goods that were identical or similar to the subject goods exported to Canada. Normal values have therefore been based on the methodology of paragraph 19(b) of SIMA. The cost of production of the goods and the amount for administrative, selling and all other costs were calculated using the information provided by SeAH Steel.

[90] The amount for profits was determined based on the methodology of subparagraph 11(1)(b)(ii) of the SIMR, using domestic sales information provided by SeAH Steel during the course of the investigation. Where the cost of production of the goods was provided, the CBSA conducted a profitability analysis of SeAH Steel's domestic sales transactions as envisaged by SIMA. Where the cost of production of the goods was not provided, the CBSA applied an amount for profit equal to the average of the highest profit amount found for an individual domestic sales transaction by SeAH Steel, excluding anomalies, during each of six 60-day periods during the PAP. The resulting profit amounts were used to calculate a weighted average amount for profits for SeAH Steel for the PAP. Based on the facts available, the CBSA considers the above methodology to be a reasonable approach for the purposes of determining an amount for profits for SeAH Steel.

[91] In calculating the amount for profits used for the purposes of determining normal values for SeAH Steel, the CBSA used SeAH Steel's own information concerning domestic sales of line pipe during the PAP in combination with the calculation for the amount for profits described above. This methodology utilizes information provided to the CBSA by SeAH Steel but also limits the advantage that an exporter may gain from not providing all necessary information requested in a dumping investigation as compared to an exporter that did provide the necessary information.

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<sup>36</sup> Exhibits 51 (PRO) and 52 (NC) – Response to Dumping RFI from SeAH Steel.

<sup>37</sup> Exhibits 99 (PRO) and 100 (NC) – Response to Supplemental RFI #1 from SeAH Steel.

[92] During the POI, the majority of SeAH Steel's exports of subject goods were imported by a related non-resident importer, Pusan. Due to the relationship between SeAH Steel and Pusan, a reliability test was performed on sales where Pusan acted as the importer to determine whether the section 24 export prices were reliable as envisaged by SIMA. This test was conducted by comparing the section 24 export prices with the section 25 export prices. The amount for profit used for the section 25 calculations was determined in accordance with paragraph 22(a) of the SIMR, based on the profit information relating to vendors that operated at a profit during the POI in Canada. The test revealed that the export prices determined in accordance with section 24 of SIMA were unreliable for these sales and, therefore, export prices for sales where Pusan acted as the importer were determined in accordance with section 25 of SIMA.

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

[94] The total normal value compared to the total export price results in a margin of dumping of 27.5% for SeAH Steel, expressed as a percentage of the export price.

#### **All Other Exporters**

[95] At the initiation of the investigation, all known and potential exporters were sent a Dumping RFI in order to solicit information required for purposes of determining normal values and export prices of subject goods in accordance with the provisions of SIMA. Exporters who were not the manufacturer of the goods were instructed to forward a copy of the RFI to each of the manufacturers concerned.<sup>38</sup> As such, all exporters and manufacturers were given the opportunity to participate in the investigation. In the RFI, the exporters were notified that failure to submit all required information and documentation, including non-confidential versions, or failure to permit verification of any information, may result in the normal values of the subject goods exported by their company being based on the information available. It was further stated that such a decision may be less favourable to their company than if full and verifiable information were made available.<sup>39</sup>

[96] For all other exporters of subject goods that did not provide a response to the Dumping RFI or did not furnish sufficient information to enable the determination of normal values and export prices under sections 15 to 28 of SIMA, normal values and export prices were determined pursuant to a Ministerial specification under subsection 29(1) of SIMA.

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<sup>38</sup> Exhibit 7 (NC) – Dumping RFI, pages 3, 24, 35 and 36.

<sup>39</sup> Exhibit 7 (NC) – Dumping RFI, pages 3, 7 and 11.

[97] In establishing the methodology for determining normal values and export price under the Ministerial specification, the CBSA analyzed all the information on the administrative record including the complaint filed by the domestic industry, the CBSA's margin of dumping estimate at the initiation of the investigation and other information submitted by exporters of certain carbon and alloy steel line pipe originating in or exported from the Republic of Korea.

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

[99] The CBSA considered that the highest amount by which the normal value exceeded the export price on an individual transaction during the POI, from those exporters, was an appropriate basis for determining normal values. In this case, a transactions from Hyundai Corporation. The transactions were also examined to ensure that no anomalies were considered, however, no such anomalies were identified.

[100] This methodology relies on information related to goods that were exported from and originated in the Republic of Korea and limits the advantage that an exporter may gain from not providing the necessary information requested in a dumping investigation as compared to an exporter that did provide the necessary information.

[101] Therefore, the normal values were determined under a Ministerial specification pursuant to subsection 29(1) of SIMA, based on the export price as determined under section 24, 25 or 29 of SIMA, plus an amount equal to 88.1% of that export price.

[102] The CBSA considered that the information submitted on the CBSA customs entry documentation was the best information on which to determine the export price of the goods for all other exporters as it reflects actual import data.

[103] Based on the above methodologies, the subject goods exported to Canada by all other exporters were found to be dumped by a margin of dumping of 88.1%, expressed as a percentage of the export price.



### **Summary of Results - Dumping**

[104] A summary of the margins of dumping by exporter respecting all subject goods released into Canada during the POI are as follows:

**Margins of Dumping by Exporter**  
Period of Investigation (April 1, 2016 to March 31, 2017)

<b>Country</b>	<b>Margins of Dumping as Percentage of Export Price</b>
<b>Republic of Korea</b>	
Husteel Co., Ltd.	4.1%
Hyundai Corporation	52.5%
Hyundai Steel Company	47.8%
Nexteel Co., Ltd.	12.9%
SeAH Steel Corporation	27.5%
All other exporters – Republic of Korea	88.1%

[105] Under paragraph 41(1)(a) of SIMA, the CBSA shall terminate the dumping investigation in respect of the goods of an exporter if the CBSA is satisfied that there has been no dumping or the margin of dumping of those goods is insignificant. Pursuant to subsection 2(1) of SIMA, a margin of dumping of less than 2% of the export price of the goods is defined as insignificant.

[106] As can be seen from the above table, the goods under investigation have been dumped and the margins of dumping determined for those goods are greater than the threshold of 2% and are therefore not considered insignificant. As a result, the legislative requirement is satisfied for making a final determination of dumping respecting certain carbon and alloy steel line pipe originating in or exported from the Republic of Korea.

### **DECISION**

[107] Pursuant to paragraph 41(1)(b) of SIMA, on December 5, 2017, the CBSA made a final determination of dumping respecting certain carbon and alloy steel line pipe originating in or exported from the Republic of Korea.



## **FUTURE ACTION**

[108] The provisional period began on September 6, 2017, and will end on the date the CITT issues its finding. The CITT is expected to issue its decision by January 4, 2018. Provisional anti-dumping duties will continue to apply until this date on imports of subject goods from the Republic of Korea. For further details on the application of provisional duties, refer to the *Statement of Reasons* issued for the preliminary determination, which is available through the CBSA's website at: [www.cbsa-asfc.gc.ca/sima-lmsi/menu-eng.html](http://www.cbsa-asfc.gc.ca/sima-lmsi/menu-eng.html).

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

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

[111] The importer in Canada shall pay all applicable duties. If the importers of such goods do not indicate the required SIMA code or do not correctly describe the goods in the customs documents, an administrative monetary penalty could be imposed. The provisions of the *Customs Act* apply with respect to the payment, collection or refund of any duty collected under SIMA.<sup>40</sup> As a result, failure to pay duty within the prescribed time will result in the application of interest.

## **RETROACTIVE DUTY ON MASSIVE IMPORTATIONS**

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

## **PUBLICATION**

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

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<sup>40</sup> *Customs Act* R.S.C. 1985.

## **INFORMATION**

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

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

**Telephone:** Hugo Dumas 613-948-8581  
Shawn Ryan 613-954-7262

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

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



Doug Band  
Director General  
Trade and Anti-dumping Programs Directorate

## **ATTACHMENTS**

1. Appendix 1 – Summary of Margins of Dumping
2. Appendix 2 – Dumping Representations

## **APPENDIX 1 – SUMMARY OF MARGINS OF DUMPING**

<b>Exporters</b>	<b>Margin of Dumping*</b>
<b>Republic of Korea</b>	
Husteel Co., Ltd.	4.1%
Hyundai Corporation	52.5%
Hyundai Steel Company	47.8%
Nexteel Co., Ltd.	12.9%
SeAH Steel Corporation	27.5%
All other exporters – Republic of Korea	88.1%

\*Expressed as a percentage of export price

**NOTE:** The margins of dumping reported in this table were determined by the CBSA for the purposes of the final determination of dumping. These margins may not reflect the amount of anti-dumping duty to be levied on future importations of dumped goods. In the event of an injury finding by the CITT, normal values for future shipments to Canada have been provided to the exporters who provided sufficient information in their response to the CBSA's RFI, as appropriate. These normal values would come into effect the day after an injury finding. Information regarding normal values of the subject goods should be obtained from the exporters. Imports from any other exporters will be subject to an anti-dumping duty rate, as applicable, in accordance with a Ministerial specification and in an amount equal to the margin of dumping found for "all other exporters" at the final determination. Please consult the [SIMA Self-Assessment Guide](#) for more detailed information explaining how to determine the amount of SIMA duties owing.

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

## **APPENDIX 2 – DUMPING REPRESENTATIONS**

In the final stage of the investigation, case briefs were received on behalf of the complainant,<sup>41</sup> the supporting producer Tenaris Canada,<sup>42</sup> as well as on behalf of the following other parties: Husteel Co. Ltd. (Husteel),<sup>43</sup> Hyundai Corporation,<sup>44</sup> Hyundai Steel Company (Hyundai Steel),<sup>45</sup> Nexteel Co. Ltd. (Nexteel),<sup>46</sup> SeAH Steel Corporation (SeAH Steel) and Pusan Pipe America (Pusan).<sup>47</sup>

Reply submissions were received on behalf of the complainant,<sup>48</sup> Tenaris Canada,<sup>49</sup> as well on behalf of the following other parties: Husteel,<sup>50</sup> Hyundai Steel,<sup>51</sup> Nexteel,<sup>52</sup> SeAH Steel and Pusan.<sup>53</sup>

Certain details provided in case briefs and reply submissions were qualified as confidential information by the submitting counsel. Consequently, this public *Statement of Reasons* does not disclose or discuss parts of representations where such a designation has protected those particulars. This has restricted the ability of the Canada Border Services Agency (CBSA) to discuss certain issues raised in these submissions.

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<sup>41</sup> Exhibits 175 (PRO) and 176 (NC) – Complainant Case Brief.

<sup>42</sup> Exhibit 161 (NC) – Tenaris Canada Case Brief.

<sup>43</sup> Exhibits 171 (PRO) and 172 (NC) – Husteel Case Brief.

<sup>44</sup> Exhibits 179 (PRO) and 180 (NC) – Hyundai Corporation Case Brief.

<sup>45</sup> Exhibits 177 (PRO) and 178 (NC) – Hyundai Steel Case Brief.

<sup>46</sup> Exhibits 169 (PRO) and 170 (NC) – Nexteel Case Brief.

<sup>47</sup> Exhibits 173 (PRO) and 174 (NC) – SeAH Steel and Pusan Case Brief.

<sup>48</sup> Exhibits 185 (PRO) and 186 (NC) – Complainant Reply Submissions.

<sup>49</sup> Exhibit 189 (NC) – Tenaris Canada Reply Submissions.

<sup>50</sup> Exhibits 183 (PRO) and 184 (NC) – Husteel Reply Submissions.

<sup>51</sup> Exhibits 187 (PRO) and 188 (NC) – Hyundai Steel Reply Submissions.

<sup>52</sup> Exhibits 181 (PRO) and 182 (NC) – Nexteel Reply Submissions.

<sup>53</sup> Exhibit 190 (NC) – SeAH Steel and Pusan Reply Submissions.

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

The material issues raised by parties through case representations are summarized as follows:

### **Calculation of Industry Profit**

#### **Case Briefs**

Counsel for SeAH Steel and Pusan argued for certain revisions to the industry profit calculation. Specifically, counsel for SeAH Steel and Pusan note concerns regarding profit information provided by one party and suggest that the CBSA reconsider the use of this information.<sup>54</sup>

Counsel for the complainant also made representations on industry profit, identifying the parties it proposes should be used in the industry profit calculation.<sup>55</sup>

#### **Reply Submissions**

Counsel for the complainant reiterated its position concerning which financial information should be taken into account for purposes of calculating an amount for industry profit.<sup>56</sup>

Counsel for SeAH Steel referred to the arguments put forth in their own case brief regarding industry profit and dismissed the comments made on behalf of Evraz.<sup>57</sup>

Counsel for Tenaris Canada made arguments for including certain information in the industry profit calculation.<sup>58</sup>

#### **CBSA's Response**

Using information available on the administrative record, the CBSA has updated the calculation of industry profit used at the preliminary determination. The industry profit amount calculated for the purposes of the final determination was determined pursuant to paragraph 22(a) of the *Special Import Measures Regulations* (SIMR), based on information provided by vendors that operated at a profit during the Period of Investigation (POI) in Canada. The amount for profit is calculated to be 3.3%. This was found to be the best information available that met the requirements of section 22 of the SIMR.<sup>59</sup>

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<sup>54</sup> Exhibits 173 (PRO) and 174 (NC) – SeAH Steel and Pusan Case Brief, paragraphs 17-22.

<sup>55</sup> Exhibits 175 (PRO) and 176 (NC) – Complainant Case Brief, paragraphs 50-57.

<sup>56</sup> Exhibits 185 (PRO) and 186 (NC) – Complainant Reply Submissions, paragraphs 17-20.

<sup>57</sup> Exhibit 190 (NC) – SeAH Steel Corporation Reply Submissions, paragraph 11.

<sup>58</sup> Exhibit 189 (NC) – Tenaris Canada Reply Submissions, paragraph 42.

<sup>59</sup> Exhibit 211 (PRO) – Final Determination Industry Profit Memo.

## **Calculation and Allocation of Expenses and Discounts (Husteel)**

### **Case Briefs**

Counsel for the complainant argued that the CBSA should make certain adjustments to the allocation of expenses related to Husteel Canada to ensure that Husteel Canada's general and administrative expenses are allocated only to Husteel's Canadian sales.<sup>60</sup> Counsel also submitted that the CBSA should reject Husteel's credit expense.<sup>61</sup>

### **Reply Submissions**

Counsel for Husteel responded to the arguments made by the complainant, stating that the company has properly calculated and reported its general, selling and administrative expenses, including the expenses incurred by Husteel Canada, and that the arguments put forth by the complainant are flawed.<sup>62</sup> Husteel's counsel also argued that the methodology used to calculate and allocate discounts is reasonable and that the CBSA has fully verified the company's credit expense.<sup>63</sup>

### **CBSA's Response**

For the purposes of the final determination, a reasonable amount for administrative, selling, and all other costs was determined for Husteel pursuant to subparagraph 11(1)(c)(ii) of the SIMR. This amount was calculated using information gathered throughout the course of this investigation. The CBSA has made certain adjustments to Husteel's general, selling and administrative expenses to ensure that the expenses are appropriately allocated to the production and sale of the goods.

With respect to the discounts offered by Husteel, the CBSA has found these allocations to be reasonable and has accepted the information provided by Husteel. With respect to the issue of credit expenses on domestic and export sales, the CBSA did not accept the information as provided by Husteel and instead made an adjustment to the normal value pursuant to paragraph 5(c) of the SIMR.

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<sup>60</sup> Exhibits 175 (PRO) and 176 (NC) – Complainant Case Brief, paragraphs 29-31.

<sup>61</sup> Exhibits 175 (PRO) and 176 (NC) – Complainant Case Brief, paragraphs 36-38.

<sup>62</sup> Exhibits 183 (PRO) and 184 (NC) – Husteel Reply Submissions, paragraphs 14-21.

<sup>63</sup> Exhibits 183 (PRO) and 184 (NC) – Husteel Reply Submissions, paragraphs 22-35.



## **Calculation of Normal Values (Hyundai Steel)**

### **Case Briefs**

Counsel for Hyundai Steel made representations concerning the CBSA's acceptance of information provided by the company. Specifically, Hyundai Steel submits that, "in view of the fact that it has fully cooperated with the CBSA and acted with good faith throughout the investigation, the final determination should be made using all information provided by Hyundai Steel."<sup>64</sup>

Counsel for Hyundai Steel also made representations concerning the determination of a reasonable amount for profits, and a reasonable amount for administrative, selling and all other costs. Specifically, Counsel for Hyundai Steel submits that "the CBSA approach in determining an amount for AS&G and an amount for profit, on a monthly basis, in constructing the normal values of the exported goods in a process costing accounting environment, is not reasonable and further submits that, in fact, the application of monthly profit margins would lead to egregious results."<sup>65</sup>

Counsel for the complainant provided arguments concerning the use of Hyundai Steel's database of domestic sales for the purposes of determining normal values. Specifically, counsel argued that Hyundai Steel failed to disclose certain domestic sales information. As such, the complainant argues, normal values for Hyundai Steel should be determined pursuant to a Ministerial specification under subsection 29(1) of SIMA.<sup>66</sup>

### **Reply Submissions**

Counsel for Hyundai Steel submits that the domestic sales database provided by Hyundai Steel is reliable, accurate, and reconcilable and should be used in the determination of normal values.<sup>67</sup>

Counsel for the complainant submits that, based on certain issues that were encountered during the investigation, the CBSA should find Hyundai Steel to be a non-cooperative exporter for the purposes of the final determination. Counsel for the complainant also made arguments concerning the accuracy and reliability of the information provided by Hyundai Steel.<sup>68</sup>

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<sup>64</sup> Exhibits 177 (PRO) and 178 (NC) – Hyundai Steel Case Brief, paragraph 25.

<sup>65</sup> Exhibits 177 (PRO) and 178 (NC) – Hyundai Steel Case Brief, paragraphs 26-28.

<sup>66</sup> Exhibits 175 (PRO) and 176 (NC) – Complainant Case Brief, paragraphs 26-28.

<sup>67</sup> Exhibits 187 (PRO) and 188 (NC) – Hyundai Steel Reply Submissions, paragraphs 57-63.

<sup>68</sup> Exhibits 185 (PRO) and 186 (NC) – Complainant Reply Submissions, paragraphs 39-40.

## **CBSA's Position**

Due to certain omissions in Hyundai Steel's domestic sales database, normal values for Hyundai Steel could not be determined pursuant to section 15 of SIMA. Such omissions also prevented the CBSA from determining normal values according to paragraph 19(b) of SIMA, as an amount for profits could not be determined pursuant to subparagraph 11(1)(b)(ii) of the SIMR.

In determining an amount for profits pursuant to a subparagraph of 11(1)(b) of the SIMR, the CBSA must determine an amount pursuant to the first applicable subparagraph of the hierarchy. In this case, subparagraph 11(1)(b)(ii) was applicable. However, as the exporter did not provide a complete and accurate domestic sales database, the CBSA was unable to determine an amount for profit in accordance with that subparagraph. Given that subparagraph 11(1)(b)(ii) was applicable, the CBSA was unable to apply the subsequent subparagraphs and normal values for Hyundai Steel have therefore been determined pursuant to subsection 29(1) of SIMA.

Where sufficient domestic sales information was available, the CBSA conducted a profitability analysis as prescribed by SIMA, taking into consideration the additional guidance provided in section 13 of the SIMR. Further information concerning the CBSA's calculation of normal values for Hyundai Steel is provided in the "Results of the Dumping Investigation by Exporter" section of this *Statement of Reasons*.

With respect to the amount for administrative, selling and all other costs, the CBSA calculated an amount based on the methodology of subparagraph 11(1)(c)(ii) of the SIMR, using cost information for the entire Profitability Analysis Period (PAP). This approach is consistent with that used for the purposes of the preliminary determination.

## **Reasonable Amount for Profits (Nexteel)**

### **Case Briefs**

Counsel for Nexteel argued that in a process costing environment, where the profit margins fluctuate significantly between sixty-day periods, the CBSA should use the weighted average profit margin over the PAP in determining an amount for profit under paragraph 19(b) of SIMA.<sup>69</sup>

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<sup>69</sup> Exhibits 169 (PRO) and 170 (NC) – Nexteel Case Brief, paragraphs 2-11.

## **Reply Submissions**

Counsel for the complainant asserted that Nexteel's use of process cost does not impact the method used by the CBSA to calculate a reasonable amount for profits under subsection 19(b)(iii) of SIMA and that the CBSA should continue to apply the same methodology as that used for the preliminary determination.<sup>70</sup>

Counsel for Tenaris Canada argued that the application of an amount for profit from a corresponding period to that in which the export sales to Canada were made is a reasonable interpretation of paragraph 11(1)(b) of the SIMR.<sup>71</sup>

## **CBSA's Response**

Normal values for Nexteel were determined pursuant to paragraph 19(b) of SIMA, as the aggregate of the cost of production of the goods, a reasonable amount for administrative, selling and all other costs, and a reasonable amount for profits. The amount for profits was determined in accordance with subparagraph 11(1)(b)(ii) of the SIMR, based on Nexteel's sales of line pipe in their domestic market, during the PAP, within the same general category as the subject goods sold to Canada. The CBSA has determined an amount for profit for each period of 60 days during the PAP where a corresponding sale to Canada was made.

## **Nexteel did not respond to Supplemental RFI (SRFI) #2**

## **Case Briefs**

Counsel for the complainant argued that the CBSA should deem that Nexteel is a non-cooperative exporter for the purposes of the final determination with normal values determined pursuant to subsection 29(1) of SIMA, as the company did not provide a response to the CBSA's SRFI, issued to Nexteel on October 13, 2017.<sup>72</sup>

## **Reply Submissions**

Counsel for Nexteel indicated that it was not necessary for Nexteel to respond to the SRFI #2 as all of the requested information had previously been provided to the CBSA. Counsel for Nexteel indicated that they had communicated directly with the CBSA on October 17<sup>th</sup> to clarify this issue.<sup>73</sup>

## **CBSA's Response**

The CBSA was satisfied with the clarification that was provided by the exporter on October 17, 2017 and acknowledged at that time that a response to the SRFI issued to Nexteel on October 13, 2017 was no longer required.

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<sup>70</sup> Exhibits 185 (PRO) and 186 (NC) – Complainant Reply Submissions, paragraphs 32-35.

<sup>71</sup> Exhibit 189 (NC) – Tenaris Canada Reply Submissions, paragraph 14.

<sup>72</sup> Exhibits 175 (PRO) and 176 (NC) – Complainant Case Brief, paragraphs 43-44.

<sup>73</sup> Exhibits 181 (PRO) and 182 (NC) – Nexteel Reply Submissions, paragraphs 12-16.

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

### **Case Briefs**

Counsel for the complainant provided charts to demonstrate that the cost data submitted by Nexteel is based on unreasonable allocation methodologies.<sup>74</sup>

### **Reply Submissions**

Counsel for Nexteel argued that the observations made by the counsel for the complainant are invalid and that the arguments are without merit. Counsel for Nexteel indicated that full explanations were provided to the CBSA during on-site verification of the company.<sup>75</sup>

### **CBSA's Response**

The CBSA did not find issues with Nexteel's costing such as to doubt the accuracy of the data. Any concerns identified by the CBSA in regards to costing were pursued for clarification as evidenced by the content of the SRFI and verification exhibits on the administrative record.

## **Calculation of Export Price and Identification of the Importer (SeAH Steel)**

### **Case Briefs**

Counsel for SeAH Steel and Pusan argued that the rate of Pusan's general, selling and administrative costs used in the section 25 export price calculation at the preliminary determination was incorrect and should be adjusted for the final determination.<sup>76</sup>

Counsel for the complainant submitted that Pusan should be found to be the importer for SIMA purposes on all of SeAH Steel's export transactions to Canada during the POI.<sup>77</sup>

### **Reply Submissions**

Counsel for SeAH Steel and Pusan stated that the complainant's arguments concerning identity of the importer distorts the facts and should be disregarded by the CBSA.<sup>78</sup>

Counsel for Tenaris Canada also commented on SeAH Steel's section 25 export price deductions, stating that the freight costs that relate to Pusan's general operation should be included in Pusan's GS&A amount.<sup>79</sup>

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<sup>74</sup> Exhibits 175 (PRO) and 176 (NC) – Complainant Case Brief, paragraphs 45-48.

<sup>75</sup> Exhibits 181 (PRO) and 182 (NC) – Nexteel Reply Submissions, paragraphs 17-29.

<sup>76</sup> Exhibits 173 (PRO) and 174 (NC) – SeAH Steel and Pusan Case Brief, paragraphs 13-16.

<sup>77</sup> Exhibits 175 (PRO) and 176 (NC) – Complainant Case Brief, paragraphs 9-10.

<sup>78</sup> Exhibits 173 (PRO) and 174 (NC) – SeAH Steel and Pusan Reply Submissions, paragraphs 6-8.

<sup>79</sup> Exhibit 189 (NC) – Tenaris Canada Reply Submissions, paragraph 41.

## **CBSA's Response**

Using information gathered throughout the course of this investigation, including during the on-site verification, the CBSA has made certain adjustments to the amount for Pusan's general, selling and administrative costs for use in the section 25 export price calculation for the sales where the CBSA has found that Pusan acted as the importer.

## **Information Received after the CBSA's Close of Record (SeAH Steel)**

### **Case Briefs**

Counsel for the complainant submits that the CBSA should disregard SeAH Steel's non-confidential post-verification submission for purposes of the final determination, as it was received following the CBSA's close of record.<sup>80</sup>

### **Reply Submissions**

Counsel for SeAH Steel responded to the arguments put forth by counsel for the complainant, stating that "...SeAH fully accounted for the situation and the CBSA made a determination as to the admissibility of information."<sup>81</sup> Counsel for the complainant reiterated its position that SeAH Steel's submission should be disregarded by the CBSA.<sup>82</sup>

## **CBSA's Response**

The CBSA has decided to allow the non-confidential post-verification submission provided by SeAH Steel on October 24, 2017 on to the administrative record. As such, the information contained within has been considered by the CBSA for purposes of the final determination.

## **Calculation of Normal Values (SeAH Steel)**

### **Case Briefs**

Counsel for SeAH Steel stated that, with respect to the calculation of normal values, the CBSA should not exclude sales to end users in the domestic market and should reconsider the applicability of section 15 of SIMA.<sup>83</sup>

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<sup>80</sup> Exhibits 175 (PRO) and 176 (NC) – Complainant Case Brief, paragraphs 11-12.

<sup>81</sup> Exhibits 173 (PRO) and 174 (NC) – SeAH Steel and Pusan Reply Submissions, paragraph 10.

<sup>82</sup> Exhibits 185 (PRO) and 186 (NC) – Complainant Reply Submissions, paragraphs 8-9.

<sup>83</sup> Exhibits 173 (PRO) and 174 (NC) – SeAH Steel and Pusan Case Brief, paragraphs 9-12.

Additional representations were made by counsel for SeAH Steel concerning the integrity of the company's domestic sales database, stating that the "...omission from the Appendix 2 Domestic Sales database should not be determined to be a basis for the rejection of the entire domestic sales data provided by SeAH."<sup>84</sup> In the event that the CBSA decides to disregard SeAH Steel's specific profit information provided in the company's RFI responses, counsel argued that the CBSA must address the hierarchy of paragraph 11(1)(b) of the SIMR. Specifically, counsel submitted that the CBSA should calculate an amount for profits under the provisions of subparagraph 11(1)(b)(iii), using information provided by SeAH Steel in post-verification submissions.<sup>85</sup> Additional arguments were put forth concerning the CBSA's obligations under the WTO's *Anti-dumping Agreement*.<sup>86</sup>

Counsel for SeAH Steel also addressed the costing reported by the company, arguing that the costing information originally submitted in SeAH Steel's RFI response was substantially complete and that the adjustments made during verification do not impact the overall completeness, accuracy or verifiability of the company's costing information.<sup>87</sup>

Counsel for the complainant argued that the CBSA should reject SeAH Steel's negative "Other Production Costs" reported in the company's export sales database.<sup>88</sup>

### Reply Submissions

Counsel for SeAH Steel responded to the complainant's arguments, stating that the rejection of certain adjustments to the cost of production is not warranted and that SeAH Steel's costs of production were verified by the CBSA.<sup>89</sup>

Counsel for the complainant stated that "...the additional information provided by SeAH during the verification was far from a minor correction of an inadvertent omission."<sup>90</sup> The complainant's counsel argued that SeAH Steel's entire database should be rejected, the company should be found to be non-cooperative, and SeAH Steel's normal values should be determined pursuant to subsection 29(1) of SIMA.<sup>91</sup>

Counsel for Tenaris Canada argued that SeAH Steel has not properly explained how its domestic sales of goods meet the requirements of section 15 of SIMA.<sup>92</sup> Counsel also disagreed with SeAH Steel's submissions concerning the determination of an amount for profit and commented on the importance of using actual costs.<sup>93</sup>

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<sup>84</sup> Exhibits 173 (PRO) and 174 (NC) – SeAH Steel and Pusan Case Brief, paragraph 26.

<sup>85</sup> Exhibits 173 (PRO) and 174 (NC) – SeAH Steel and Pusan Case Brief, paragraphs 23-37.

<sup>86</sup> Exhibits 173 (PRO) and 174 (NC) – SeAH Steel and Pusan Case Brief, paragraphs 38-48.

<sup>87</sup> Exhibits 173 (PRO) and 174 (NC) – SeAH Steel and Pusan Case Brief, paragraphs 49-51.

<sup>88</sup> Exhibits 175 (PRO) and 176 (NC) – Complainant Case Brief, paragraphs 5-8.

<sup>89</sup> Exhibits 173 (PRO) and 174 (NC) – SeAH Steel and Pusan Reply Submissions, paragraphs 3-5.

<sup>90</sup> Exhibits 185 (PRO) and 186 (NC) – Complainant Reply Submissions, paragraph 4.

<sup>91</sup> Exhibits 185 (PRO) and 186 (NC) – Complainant Reply Submissions, paragraphs 3-16.

<sup>92</sup> Exhibit 189 (NC) – Tenaris Canada Reply Submissions, paragraph 40.

<sup>93</sup> Exhibit 189 (NC) – Tenaris Canada Reply Submissions, paragraphs 43-48.



## **CBSA's Position**

Due to certain omissions in SeAH Steel's domestic sales database, normal values for SeAH Steel could not be determined pursuant to section 15 of SIMA. Such omissions also prevented the CBSA from determining normal values according to paragraph 19(b) of SIMA, as an amount for profits could not be determined pursuant to subparagraph 11(1)(b)(ii) of the SIMR.

In determining an amount for profits pursuant to a subparagraph of 11(1)(b) of the SIMR, the CBSA must determine an amount pursuant to the first applicable subparagraph of the hierarchy. In this case, subparagraph 11(1)(b)(ii) was applicable. However, as the exporter did not provide a complete and accurate domestic sales database, the CBSA was unable to determine an amount for profit in accordance with that subparagraph. Given that subparagraph 11(1)(b)(ii) was applicable, the CBSA was unable to apply the subsequent subparagraphs and normal values for SeAH Steel have therefore been determined pursuant to subsection 29(1) of SIMA.

Where sufficient domestic sales information was available, the CBSA conducted a profitability analysis as prescribed by SIMA, taking into consideration the additional guidance provided in section 13 of the SIMR. Further information concerning the CBSA's calculation of normal values for SeAH Steel is provided in the "Results of the Dumping Investigation by Exporter" section of this *Statement of Reasons*.

In calculating normal values for SeAH Steel and other exporters, the CBSA acknowledges its obligations under the WTO Agreements and has met the standards set forth in the *Anti-Dumping Agreement*. The CBSA administers the relevant Canadian legislation, namely the *Special Import Measures Act* (SIMA), and has conducted this anti-dumping investigation in accordance with the provisions of SIMA.

With respect to SeAH Steel's cost of production information, the CBSA was able to adequately verify the costing reported in SeAH Steel's export and domestic sales databases during the on-site verification. As such, the CBSA has accepted SeAH Steel's cost of production information, including the revised "Other Production Costs", provided during verification.