

September 9, 2024

Canada Border Services Agency  
Trade and Anti-Dumping Programs Directorate  
SIMA Registry and Disclosure Unit  
Canada Border Services Agency  
100 Metcalfe Street, 11th Floor.  
Ottawa, ON K1A 0L8

**Dear Sir or Madam,**

**RE: Carbon Steel Welded Pipe 2 (CSWP2) – Response to Nova’s Letter Dated August 29, 2024**

This letter is submitted on behalf of our client, Thai Premium Pipe Co., Ltd. ("TPP"), in response to the letter filed by Nova Steel Inc. and Nova Tube Inc. (collectively "Nova") on August 29, 2024, reiterating its position regarding the factors in paragraphs 12(a) to (p) – including 12(b) and 12(n) – of CBSA’s Memorandum D14-1-8, *Re-investigation and Normal Value Review Policy – Special Import Measures Act (SIMA)* (dated October 21, 2022) (the "Memorandum").

#### **NOVA'S POSITION**

Nova advances the following three arguments to support its position that the factors in paragraphs 12(b) and 12(n) apply equally to both a re-investigation and a normal value review (**NVR**):

1. **Argument 1:** Nova contends that paragraph 13 explicitly refers to factor 12(b) – the elapsed time since values were last issued, as a consideration in deciding whether to initiate an NVR or a re-investigation.
2. **Argument 2:** Nova claims that paragraphs 2 and 3 of the Memorandum state that NVRs and re-investigations are essentially administrative proceedings, with the only distinction being that an NVR involves one exporter from a subject country, while a re-investigation involves all exporters from the subject countries. As such, the same factors are applied when deciding whether to initiate either proceeding.

3. **Argument 3:** Nova cites the French version of the Memorandum, which uses the phrase “s’il y a lieu,” to argue that all the factors listed in paragraphs 12(a) to 12(p) could be relevant in determining whether to initiate a re-investigation or an NVR.

## **TPP's POSITION**

TPP submits that Nova’s arguments lack merit, as discussed below.

### **Argument 1:**

Nova first raised this argument in its June 27, 2024, submission, stating that the elapsed time since values were last issued (factor 12(b) should be a primary consideration. Nova asserts that TPP could have participated in the re-investigation concluded in October 2023 but did not; therefore, a new NVR is unwarranted.

In response, TPP submits that it has repeatedly clarified that it was unaware of the 2023 re-investigation and, consequently, could not and did not participate. Thus, factor 12(b) is irrelevant to TPP’s request for a normal value review since TPP, as an exporter, did not previously have the opportunity to obtain normal values.

### **Argument 2:**

TPP agrees that re-investigations and NVRs are administrative proceedings to update or establish new values. However, TPP strongly disagrees with Nova’s claim that all factors listed in paragraph 12 apply equally to both proceedings. Even Nova concedes that some factors are not applicable in certain circumstances. For instance, paragraph 12(i), which deals with changes in subsidies, would not be relevant in an NVR if the goods in question are not subject to countervailing duties.

Furthermore, even if all factors should be considered, Nova’s reliance on paragraphs 12(b) and 12(n) is misplaced. Under 12(b), TPP, unaware of the re-investigation, could not and did not participate in the re-investigation to obtain normal values. Under 12(n), the next expiry review is not scheduled until June 26, 2029, rendering Nova’s arguments baseless.

### **Argument 3:**

Nova’s reference to the French version of the Memorandum is equally unpersuasive. Whether in English or French, the phrase “as appropriate” grammatically and from a logical point of view is a qualifier, indicating that only the relevant factors should be considered when determining whether to initiate a re-investigation or NVR. The phrase does not imply that all factors should be equally applied in both scenarios.

## **Conclusion:**

TPP submits that Nova's arguments against initiating an NVR for TPP are without merit.

Nova's fundamental contention that a re-investigation was recently concluded in October 2023 and that TPP should not be allowed to obtain normal values is flawed.

TPP did not participate in the re-investigation due to a lack of awareness and now seeks an NVR to obtain normal values and continue its trade with Canada at fair market prices.

As summarized below, the communication thus far demonstrates the ongoing exchange of submissions:

1. **June 5, 2024:** TPP requests an NVR as an exporter of CWSP to Canada without normal values.
2. **June 27, 2024:** Nova argues that an NVR is unwarranted due to a recently concluded re-investigation (paragraphs 12(b) of Memorandum D14-1-8) and the proximity of the next review by the CITT (paragraphs 12(n) of Memorandum D14-1-8) and other factors, including steel price volatility.
3. **August 2, 2024:** TPP counters that paragraphs 12(b) and 12(n) do not apply to its NVR request, as it was unaware of re-investigation and thus could not obtain normal values, and the next Tribunal review was not due until 2029. TPP also addressed and rebutted Nova's other arguments, including steel price volatility.
4. **August 14, 2024:** Nova repeats its stance that the factors listed in Memorandum D14-1-8 apply to both re-investigations and NVRs **but does not respond** to any of TPP's other rebuttals.
5. **August 22, 2024:** TPP reiterates that Nova's interpretation of Memorandum D14-1-8 is incorrect and that paragraphs 12(b) and 12(n) are irrelevant to its request for an NVR.
6. **August 29, 2024.** Nova restates its position that the factors in paragraphs 12(a) to (p), including 12(b) and 12(n) of CBSA's Memorandum D14-1-8 apply equally to re-investigations and normal value reviews.

**TPP submits that Nova should not be given further opportunities to comment** on TPP's request for an NVR, as Nova has already had **ample opportunity on three occasions** to respond **without raising any new or significant arguments.**

In conclusion, TPP respectfully requests that the CBSA promptly initiate a normal value review. As an exporter, TPP does not have normal values and has made a legitimate request for an NVR.

Yours truly,

A handwritten signature in black ink, appearing to read 'Richard Chung', with a large, sweeping flourish at the end.

Richard Chung, CPA  
RC International Trade Consultants