



Canadian International
Trade Tribunal

Tribunal canadien du
commerce extérieur

CANADIAN
INTERNATIONAL
TRADE TRIBUNAL

Dumping and Subsidizing

ORDER AND REASONS

Expiry Review No. RR-2019-005

Oil Country Tubular Goods

*Order and reasons issued
Thursday, December 10, 2020*

TABLE OF CONTENTS

ORDER i

STATEMENT OF REASONS 1

 INTRODUCTION 1

 PROCEDURAL BACKGROUND 1

 PRODUCT 2

 Product definition 2

 Product information 2

LEGAL FRAMEWORK 3

LIKE GOODS AND CLASSES OF GOODS 3

DOMESTIC INDUSTRY 5

CROSS-CUMULATION 5

LIKELIHOOD OF INJURY ANALYSIS 6

 Changes in market conditions 7

 Likely import volume of the subject goods 9

 Likely price effects of the subject goods 11

 Likely impact of the subject goods on the domestic industry 15

CONCLUSION 19

IN THE MATTER OF an expiry review, pursuant to subsection 76.03(3) of the *Special Import Measures Act*, of the Order made by the Canadian International Trade Tribunal on March 2, 2015, in Expiry Review No. RR-2014-003, concerning:

**OIL COUNTRY TUBULAR GOODS ORIGINATING IN OR EXPORTED FROM
THE PEOPLE'S REPUBLIC OF CHINA**

ORDER

The Canadian International Trade Tribunal, pursuant to subsection 76.03(3) of the *Special Import Measures Act (SIMA)*, has conducted an expiry review of the order made on March 2, 2015, in Expiry Review No. RR-2014-003, continuing, without amendment its finding made on March 23, 2010, in Inquiry No. NQ-2009-004 concerning the dumping and subsidizing of oil country tubular goods including, in particular, casing and tubing, made of carbon or alloy steel, welded or seamless, heat-treated or not heat-treated, regardless of end finish, having an outside diameter from 2 3/8 inches to 13 3/8 inches (60.3 mm to 339.7 mm), meeting or supplied to meet American Petroleum Institute specification 5CT or equivalent standard, in all grades, excluding drill pipe, seamless casing up to 11 3/4 inches (298.5 mm) in outside diameter, pup joints, welded or seamless, heat-treated or not heat-treated, in lengths of up to 3.66 m (12 feet), and coupling stock, originating in or exported from the People's Republic of China.

Pursuant to paragraph 76.03(12)(b) of *SIMA*, the Tribunal hereby continues its order in respect of the aforementioned goods.

Georges Bujold

Georges Bujold
Presiding Member

Jean Bédard

Jean Bédard
Member

Susan Beaubien

Susan Beaubien
Member

Place of Hearing: Ottawa, Ontario
Dates of Hearing: October 8, 2020

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Jean Bédard, Member
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STATEMENT OF REASONS

INTRODUCTION

[1] The Canadian International Trade Tribunal, pursuant to subsection 76.03(3) of the *Special Import Measures Act*,¹ has conducted an expiry review of the order made on March 2, 2015, in Expiry Review No. RR-2014-003, continuing, without amendment, its finding made on March 23, 2010, in Inquiry No. NQ-2009-004, concerning the dumping and subsidizing of oil country tubular goods (OCTG) originating in or exported from the People's Republic of China (China) (the subject goods).

[2] Under *SIMA*, findings of injury or threat of injury and the associated protection in the form of anti-dumping or countervailing duties expire five years from the date of the findings or, if one or more orders continuing the findings have been made, the date of the last order made under paragraph 76.03(12)(b), unless the Tribunal initiates an expiry review before that date. The order in Expiry Review No. RR-2014-003 was scheduled to expire on March 1, 2020.

[3] The Tribunal's mandate in this review is to determine whether the expiry of the order is likely to result in injury to the domestic industry. The Tribunal will then make an order either continuing or rescinding the order, with or without amendment.

PROCEDURAL BACKGROUND

[4] The Tribunal issued its notice of expiry review on February 5, 2020. This notice triggered the initiation of an investigation by the Canada Border Services Agency (CBSA) on February 6, 2020, to determine whether the expiry of the Tribunal's order was likely to result in the continuation or resumption of dumping and/or subsidizing.

[5] On July 3, 2020, the CBSA determined, pursuant to paragraph 76.03(7)(a) of *SIMA*, that the expiry of the order was likely to result in the continuation or resumption of dumping as well as subsidizing of the subject goods.

[6] On July 6, 2020, following the CBSA's determination, the Tribunal began its expiry review. The objective of the review is to determine, pursuant to subsection 76.03(10) of *SIMA*, whether the expiry of the order is likely to result in injury to the domestic industry.

[7] The period of review (POR) for the Tribunal's expiry review covered three calendar years, from January 1, 2017, to December 31, 2019, as well as the interim period of January 1 to June 30, 2020 (interim 2020). For comparative purposes, information was also collected and presented for the interim period of January 1 to June 30, 2019 (interim 2019).

[8] Domestic producers and importers of OCTG, and foreign producers of the subject goods, were asked to respond to questionnaires from the Tribunal. The Tribunal received 3 responses to the domestic producers' questionnaire from companies stating that they produce like goods in relation to the subject goods. The Tribunal received 18 completed replies to the importers' questionnaire, including two from domestic producers. Finally, the Tribunal did not receive any replies to the foreign producers' questionnaire.

¹ R.S.C. 1985, c. S-15 [*SIMA*].

[9] Using the questionnaire replies and other information on the record, staff of the Canadian International Trade Tribunal Secretariat of the Administrative Tribunals Support Service of Canada prepared public and protected versions of the investigation report.

[10] Tenaris Canada (Tenaris), Evraz Inc. NA Canada (Evraz), Welded Tube of Canada (Welded Tube) (domestic producers of OCTG), and the United Steelworkers (a trade union) filed written submissions in support of a continuation of the order. The Tribunal did not receive any submissions opposing the continuation of the order. Vallourec Canada Inc. filed a notice of participation but did not make submissions in this proceeding.

[11] The Tribunal held a hearing by way of written submissions pursuant to rule 25.1 of the *Canadian International Trade Tribunal Rules*.² A file hearing without the presence of the parties took place on October 8, 2020.

PRODUCT

Product definition

[12] The subject goods are defined as follows:

Oil country tubular goods including, in particular, casing and tubing, made of carbon or alloy steel, welded or seamless, heat-treated or not heat-treated, regardless of end finish, having an outside diameter from 2 3/8 inches to 13 3/8 inches (60.3 mm to 339.7 mm), meeting or supplied to meet American Petroleum Institute specification 5CT or equivalent standard, in all grades, excluding drill pipe, seamless casing up to 11 3/4 inches (298.5 mm) in outside diameter, pup joints, welded or seamless, heat-treated or not heat-treated, in lengths of up to 3.66 m (12 feet), and coupling stock, originating in or exported from the People's Republic of China.

Product information³

[13] As noted in previous proceedings, OCTG are carbon or alloy steel pipes, either welded or seamless, used for the exploration and exploitation of oil and natural gas. The product definition includes non-prime and secondary pipes (limited service products). It also includes intermediate or in-process tubular goods (green tubes) that require additional processing, such as threading, heat treatment or testing, before they can meet the requirements of a particular API specification.

[14] Casing is used to prevent the walls of an oil or gas well from collapsing, both during drilling and after completion of the well. Tubing is used within the casing to convey oil and gas to the surface. Both casing and tubing must be able to withstand outside pressure and internal yield pressures within an oil or gas well. They must also have sufficient joint strength to hold their own weight and must be equipped with threads sufficiently tight to contain the well pressure where lengths are joined.

[15] OCTG meet or are supplied to meet API specification 5CT, in all applicable grades, including but not limited to H40, J55, K55, M65, N80, L80, L80 HC, L80 Chrome 13, L80 LT,

² SOR/91-499.

³ See Expiry Review No. RR-2014-003 at paras. 9-11.

L80 SS, C90, C95, C110, P110, P110 HC, P110 LT, T95, T95 HC and Q125, or proprietary grades manufactured as substitutes for these specifications. The most common grades of low-strength casing and tubing are J55, K55 and H40. Heat-treated grades (e.g. N80, P110 and L80) are more sophisticated grades of pipe and are used in deeper wells and more severe environments, such as low-temperature services, sour service and heavy oil recovery.

LEGAL FRAMEWORK

[16] The Tribunal is required, pursuant to subsection 76.03(10) of *SIMA*, to determine whether the expiry of the order in respect of the subject goods is likely to result in injury or retardation for the domestic industry.⁴ Pursuant to subsection 76.03(12), if the Tribunal determines that the expiry of the order is unlikely to result in injury, it must rescind it. However, if it determines that the expiry of the order is likely to result in injury, the Tribunal is required to continue the order, with or without amendment.

[17] Before proceeding with its analysis of the likelihood of injury, the Tribunal must determine what constitutes “like goods”. Once that determination has been made, the Tribunal must determine what constitutes the “domestic industry”.

[18] The Tribunal must also determine whether it will make an assessment of the cumulative effect of the dumping and subsidizing of the subject goods, i.e. whether it will cross-cumulate the effects.

LIKE GOODS AND CLASSES OF GOODS

[19] In order for the Tribunal to determine whether the resumed or continued dumping and subsidizing of the subject goods are likely to cause material injury to the domestic producers of like goods, it must determine which domestically produced goods, if any, constitute like goods in relation to the subject goods. The Tribunal must also assess whether there is, within the subject goods and the like goods, more than one class of goods.⁵

[20] Subsection 2(1) of *SIMA* defines “like goods”, in relation to any other goods, as follows:

- (a) goods that are identical in all respects to the other goods, or
- (b) in the absence of any goods described in paragraph (a), goods the uses and other characteristics of which closely resemble those of the other goods.

[21] In deciding the issue of like goods when goods are not identical in all respects to the other goods, the Tribunal typically considers a number of factors, including the physical characteristics of the goods, such as composition and appearance, and their market characteristics, such as substitutability, pricing, distribution channels, end uses and whether the goods fulfill the same customer needs.⁶

⁴ Subsection 2(1) of *SIMA* defines “injury” as “material injury to the domestic industry” and “retardation” as “material retardation of the establishment of a domestic industry”. Given that there is currently an established domestic industry, the issue of whether the expiry of the finding is likely to result in retardation does not arise in this expiry review.

⁵ Should the Tribunal determine that there is more than one class of goods in this expiry review, it must conduct a separate injury analysis and make a decision for each class that it identifies. See *Noury Chemical Corporation and Minerals & Chemicals Ltd. v. Pennwalt of Canada Ltd. and Anti-dumping Tribunal*, [1982] 2 F.C. 283 (FC).

⁶ See, for example, *Copper Pipe Fittings* (19 February 2007), NQ-2006-002 (CITT) at para. 48.

[22] In Inquiry No. NQ-2009-004 and in Expiry Review No. RR-2014-003, the Tribunal determined that domestically produced tubing and casing of the same description as the subject goods were like goods in relation to the subject goods. In addition, the Tribunal found that domestically produced seamless casing having an outside diameter of up to 11 3/4 inches was also sufficiently similar to the subject goods, despite being excluded from the definition of subject goods, to be considered like goods in relation to the subject goods. Furthermore, the Tribunal found that the like goods constitute a single class of goods, having regard to their API specifications, appearance and composition, substitutability, distribution channels and end use.

[23] Evraz and Welded Tube argued that the Tribunal should maintain the same conclusions in this expiry review, as none of the facts underlying the Tribunal's prior decisions on this issue have changed. No other party made arguments on these issues.

[24] There is no evidence in the present expiry review that would suggest that the circumstances have changed and that the above conclusions should be revisited. To the contrary, the evidence indicates that the facts underlying the Tribunal's prior decisions on this issue have not changed.⁷

[25] In several recent cases,⁸ the Tribunal has stated that the scope of the like goods should be coextensive with the scope of the subject goods, i.e. the scope of the like goods may not be broader than that of the subject goods. That said, in exercising its discretion to determine the scope of the like goods under subsection 2(1) of *SIMA*, the Tribunal has at times deemed it appropriate, in light of the circumstances of a particular case, to maintain a broader definition of the like goods. In particular, in *Seamless Casing*,⁹ the Tribunal stated as follows:

In this case, the Tribunal has exercised its discretion to not change the definition of the like goods that it adopted in *Seamless Casing NQ* and in Expiry Review No. RR 2012-002, given the absence of a party requesting such a change, the resulting unfairness to the parties and the fact that the issue is not central to the current review. This issue is, however, one that the Tribunal may well revisit in the context of a future expiry review.

[26] The circumstances in this expiry review are similar. The Tribunal finds that the history of the case, the approach taken by the Tribunal in the closely related *Seamless Casing* proceedings, and the undisputed evidence that welded and seamless OCTG compete directly in the marketplace in the vast majority of end-use applications provide sufficient support for keeping the same definition of like goods, particularly as no party has argued that the Tribunal should change its approach.

[27] The Tribunal therefore finds that domestically produced OCTG (both seamless and welded) are like goods in relation to the subject goods and that they constitute a single class of goods.

⁷ For example, questionnaire responses received from importers generally support the view that the like and subject goods are generally interchangeable, although there can be exceptions such as proprietary grades: Exhibit RR-2019-005-16.15 at 5; Exhibit RR-2019-005-16.19 at 6-7; Exhibit RR-2019-005-16.29 at 5. The evidence also indicates that welded and seamless OCTG have similar physical and market characteristics, being made to the same API 5CT standard, and that they directly compete in the vast majority of end-use applications: Exhibit RR-2019-005-B-03 at para. 9; Exhibit RR-2019-005-B-07 at paras. 9-13; Exhibit RR-2019-005-C-03 at paras. 11-12.

⁸ For example, *Corrosion-resistant Steel Sheet* (7 January 2019), PI-2019-002 (CITT) at para. 19; *Unitized Wall Modules* (12 November 2013), NQ-2013-002 (CITT) at para. 34; *Certain Fabricated Industrial Steel Components* (25 May 2017), NQ-2016-004 (CITT) [FISC] at para. 47; *Steel Piling Pipe* (4 July 2018), RR-2017-003 (CITT) [Piling Pipe] at paras. 30-33; *Gypsum Board* (20 August 2018), PI-2018-003 (CITT) at paras. 32-34.

⁹ *Seamless Carbon or Alloy Steel Oil and Gas Well Casing* (28 November 2018), RR-2017-006 (CITT) [*Seamless Casing*] at para. 31.

DOMESTIC INDUSTRY

[28] Subsection 2(1) of *SIMA* defines “domestic industry” as follows:

... the domestic producers as a whole of the like goods or those domestic producers whose collective production of the like goods constitutes a major proportion of the total domestic production of the like goods except that, where a domestic producer is related to an exporter or importer of dumped or subsidized goods, or is an importer of such goods, “domestic industry” may be interpreted as meaning the rest of those domestic producers.

[29] The Tribunal must therefore determine whether there is a likelihood of injury to the domestic producers as a whole or those domestic producers whose production represents a major proportion of the total production of like goods.¹⁰

[30] The evidence indicates that there were three known Canadian producers of like goods during the POR,¹¹ i.e. Evraz, Welded Tube, and Tenaris.¹² Accordingly, the Tribunal finds that these producers constitute the domestic industry within the meaning of subsection 2(1) of *SIMA* and will assess whether the expiry of the order is likely to result in injury on this basis.

CROSS-CUMULATION

[31] As the CBSA has found that the subject goods are likely to be both dumped and subsidized should the order expire, the Tribunal must also determine whether it will make an assessment of the cumulative effect of the dumping and subsidizing of the subject goods.

[32] There are no legislative provisions that directly address the issue of cross-cumulation of the effects of both dumping and subsidizing. However, as noted in previous cases,¹³ the effects of dumping and subsidizing of the same goods from a particular country are manifested in a single set of injurious price effects and it is not possible to isolate the effects caused by the dumping from the effects caused by the subsidizing. In reality, when the dumped and subsidized goods originate from a

¹⁰ The term “major proportion” means an important or significant proportion of total domestic production of the like goods and not necessarily a majority of these goods: *Japan Electrical Manufacturers Assn. v. Canada* (Anti-Dumping Tribunal), [1986] F.C.J. No. 652 (FCA); *McCulloch of Canada Limited and McCulloch Corporation v. Anti-Dumping Tribunal*, [1978] 1 F.C. 222 (FCA); Panel Report, *China – Autos (US)*, WT/DS440/R at para. 7.207; Appellate Body Report, *EC – Fasteners (China)*, WT/DS397/AB/R at paras. 411, 412, 419; Panel Report, *Argentina – Poultry Anti-dumping Duties*, WT/DS241/R at paras. 7.341-7.344.

¹¹ At the time of the last expiry review, there was a fourth domestic producer, Energex Tube. However, it has since ceased production of like goods. See *Seamless Casing* at para. 35.

¹² During the POR, the Tenaris companies in Canada consisted of Algoma Tubes Inc. (the only domestic producer of seamless OCTG), Prudential Steel ULC (which makes OCTG by the electric resistance welding method), Tenaris Global Services (Canada) Inc., and Hydril Canadian Company Inc. Tenaris Global Services (Canada) Inc. provides management, sales and marketing support to the production facilities of Algoma Tubes Inc. and Prudential Steel ULC. Hydril Canadian Company LP provides specialized threading and coupling operations to produce accessories and premium connections for OCTG casing and tubing.

¹³ See, for example, *Unitized Wall Modules* (3 July 2019), RR-2018-002 (CITT) at para. 47; *Piling Pipe* at para. 42; *FISC* at paras. 72-73; *Silicon Metal* (2 November 2017), NQ-2017-001 (CITT) at para. 59; *Pup Joints* (7 April 2017), RR-2016-001 (CITT) at paras. 30-31; *Welded Large Diameter Carbon and Alloy Steel Line Pipe* (20 October 2016), NQ-2016-001 (CITT) at para. 84; *Carbon and Alloy Steel Line Pipe* (29 March 2016), NQ-2015-002 (CITT) at paras. 84-85; *Aluminum Extrusions* (17 March 2014), RR-2013-003 (CITT) at paras. 56-57.

single country, the effects are so closely intertwined as to render it impossible to allocate discrete portions of injury to the dumping and the subsidizing.

[33] Given that this expiry review is in respect of dumped and subsidized goods from a single country, the likely effects of the resumption of dumping and subsidizing of the subject goods will likewise be manifested in a single set of prices. Therefore, the Tribunal will make a cumulative assessment of the likely impact of the continued or resumed dumping and subsidizing of the subject goods on the domestic industry.

LIKELIHOOD OF INJURY ANALYSIS

[34] An expiry review is forward-looking.¹⁴ It follows that evidence from the period during which an order or a finding was being enforced is relevant insofar as it bears upon the prospective analysis of whether the expiry of the order or finding is likely to result in injury.¹⁵

[35] There is no presumption of injury in an expiry review; findings must be based on positive evidence, in compliance with domestic law and consistent with the requirements of the World Trade Organization.¹⁶ In the context of an expiry review, positive evidence can include evidence based on past facts that tend to support forward-looking conclusions.¹⁷

[36] In making its assessment of likelihood of injury, the Tribunal has consistently taken the view that the focus should be on circumstances that can reasonably be expected to exist in the near to medium term. This is generally considered to be a period that can extend to up to 24 months from the date on which the finding or order would be rescinded.¹⁸ In this case, the Tribunal finds no reason to depart from this approach, but notes that, as submitted by Evraz and Welded Tube,¹⁹ the adverse effects of the subject goods are likely to occur within the next 12 to 18 months.

[37] Due to the small number of domestic producers and importers involved in this expiry review, and in order to protect the confidential information of the respondents, most of the imports, sales, pricing, production and financial data, even in aggregate form, cannot be publicly disclosed. Where possible, these reasons provide a general range of magnitude.

[38] Subsection 37.2(2) of the *Special Import Measures Regulations*²⁰ lists factors that the Tribunal may consider in addressing the likelihood of injury in cases where the CBSA has determined that there is a likelihood of continued or resumed dumping or subsidizing. The factors that the Tribunal considers relevant in this expiry review are discussed below.

¹⁴ *Certain Dishwashers and Dryers* (procedural order dated 25 April 2005), RR-2004-005 (CITT) at para. 16.

¹⁵ *Copper Pipe Fittings* (17 February 2012), RR-2011-001 (CITT) at para. 56. In *Thermoelectric Containers* (9 December 2013), RR-2012-004 (CITT) [*Thermoelectric Containers*] at para. 14, the Tribunal stated that the analytical context pursuant to which an expiry review must be adjudged often includes the assessment of retrospective evidence supportive of prospective conclusions. See also *Aluminum Extrusions* (17 March 2014), RR-2013-003 (CITT) [*Aluminum Extrusions*] at para. 21.

¹⁶ *Flat Hot-rolled Carbon and Alloy Steel Sheet and Strip* (16 August 2006), RR-2005-002 (CITT) at para. 59.

¹⁷ *Thermoelectric Containers* at para. 14; *Aluminum Extrusions* at para. 21.

¹⁸ See e.g. *Seamless Casing* at para. 47; *Hot-rolled Carbon Steel Plate and High-strength Low-alloy Steel Plate* (31 October 2019), RR-2018-007 (CITT) at para. 42.

¹⁹ Exhibit RR-2019-005-C-01 at para. 85.

²⁰ S.O.R./84-927 [*Regulations*].

Changes in market conditions

[39] In order to assess the likely volumes and prices of the subject goods and their impact on the domestic industry if the order is allowed to expire, the Tribunal will first consider changes in international and domestic market conditions.²¹ These changes provide important general context for the Tribunal's analysis.

[40] The fundamental characteristics of the Canadian market and key factors that affect the supply and demand of OCTG were described in 2018 in the related *Seamless Casing* expiry review,²² and remain largely unchanged. In particular, the Canadian OCTG market moves in tandem with oil and gas exploration and production, and is closely tied to the number of operating rigs or wells at any given time. As oil and gas drilling increases, so does demand for OCTG. Rig or well count and drilling activity are, in turn, influenced by the price of oil and gas; the higher the price, the more drilling activity occurs and vice versa.

[41] Further, perennial excess global steel capacity, largely attributable to massive production capacity in China, remains an important issue overhanging the Canadian and global steel markets, including for OCTG. Excess capacity creates significant incentive for Chinese producers to pursue export sales, at low prices, in order to maintain high capacity utilization.²³

[42] In terms of recent trends in market conditions, the following facts and evidence indicate that the conditions present at the time of the 2018 *Seamless Casing* review worsened significantly starting in 2019.

[43] While 2017 and 2018 saw improvement in oil prices compared to the lows reached in late 2015 and early 2016,²⁴ prices declined again in 2019 and further in interim 2020. On an average basis, crude oil (West Texas Intermediate (WTI)) traded at USD 51/barrel in 2017, USD 65/barrel in 2018, USD 57/barrel in 2019 and USD 37/barrel in interim 2020.²⁵

[44] Moreover, the first half of 2020 saw the onset of the COVID-19 pandemic, which caused jurisdictions worldwide to impose containment measures. This pushed the global economy into a deep recession, disrupting economic activity and affecting oil demand. The oil and gas sector was further adversely affected by the "oil price war" between Russia and OPEC. As a result of these factors, oil prices fell to new lows, with the WTI oil price dropping from around USD 60 per barrel in January 2020 to around USD 20 in March.²⁶

[45] Canadian oil prices remained additionally challenged, due to Canadian oil and gas being landlocked and the delivery of Western Canadian oil and gas to market being constrained by transportation bottlenecks. These low prices led the government of Alberta to impose a mandatory oil

²¹ See paragraph 37.2(2)(j) of the *Regulations*.

²² *Seamless Casing* at paras. 50-60.

²³ For example, *Seamless Carbon or Alloy Steel Oil and Gas Well Casing* (28 November 2018), RR-2017-006 (CITT) at para. 53; *Safeguard Inquiry into the Importation of Certain Steel Goods* (3 April 2019), GC-2018-001 (CITT) at 78-79; CBSA Statement of Reasons, Exhibit RR-2019-005-03A at paras. 70-71.

²⁴ At the time of the last expiry review, the Tribunal noted that the decline in oil prices in the second half of 2014 was likely the most significant factor affecting the global and domestic OCTG industries at the time. *Oil Country Tubular Goods* (2 March 2015), RR-2014-003 (CITT) [*Oil Country Tubular Goods*] at para. 57.

²⁵ Exhibit RR-2019-005-05, Table 51.

²⁶ Exhibit RR-2019-005-C-09 at 94-96.

production cut, effective January 2019. Further, due to the Russia-OPEC oil price war and the outbreak of COVID-19 in 2020, the price of Western Canadian Select (WCS) oil declined from an average of USD 36.82/bbl in January 2020 to USD 3.50/bbl in April 2020.²⁷

[46] Drilling activity in Canada has tracked the oil price trends. According to the Petroleum Services Association of Canada (PSAC), the number of wells drilled declined consistently in each year of the POR, from just over 7,000 in 2017 to under 5,000 in 2019, and, as of July 2020, the forecast was for a total of only 2,800 wells to be drilled in 2020.²⁸

[47] The notable reduction in oil and gas drilling activities in Western Canada and resulting impact on demand for OCTG is clearly reflected in the Tribunal's investigation data. The domestic OCTG market declined from a high of 770,161 tonnes in 2017, to 705,327 tonnes in 2018, before dropping to 503,487 tonnes in 2019; in interim 2020, it dropped to 200,127 tonnes, compared to 247,352 in interim 2019.²⁹ The domestic industry's witnesses qualified the situation as "unprecedented" and as an "all-time low for drilling activity in Canada", and highlighted the domestic industry's vulnerable state in these circumstances.³⁰

[48] While oil pricing recovered somewhat following the first half of 2020, it remains volatile. Based on an August 2020 forecast, it is expected to remain below US\$40 in 2020 and at around US\$45 in 2021.³¹ Canadian oil prices are expected to continue trading at a discount until additional export capacity is available.³² The evidence indicates a few bright spots. Growth in the natural gas market may offset weakness in the oil industry, at least to some extent.³³ Canada's GDP is also projected to grow by 4.9 percent in 2021, after contracting by 8.4 percent in 2020 as a result of the COVID-19 pandemic.³⁴

[49] At the global level, the IMF's June 2020 World Economic Outlook Update projected global output to contract by 4.9 percent in 2020, then grow by 5.4 percent in 2021, leaving global GDP in 2021 about 6 percentage points lower overall than in the pre-COVID-19 projections from January 2020. The IMF Update warns that these projections involve a higher-than-usual degree of uncertainty, as they hinge on assumptions concerning the future evolution of the pandemic.³⁵ Downside risks signaled by the IMF also include trade tensions between the U.S. and China and the frayed relationships among the OPEC+ coalition of oil producers.³⁶ Forecasts for global OCTG demand expect a significant decline in 2020, with both volumes and pricing coming under pressure, followed by improvement from 2022 onwards.³⁷

²⁷ Exhibit RR-2019-005-B-07 at para. 23; Exhibit RR-2019-005-B-09 at 98-99; Exhibit RR-2019-005-C-09 at 116-118, 120.

²⁸ Exhibit RR-2019-005-28.01 (protected) at 742-3; Exhibit RR-2019-005-C-01 at para. 38; Exhibit RR-2019-005-A-07 at 292.

²⁹ Exhibit RR-2019-005-05F, Table 10.

³⁰ Exhibit RR-2019-005-C-03 at para. 4; Exhibit RR-2019-005-B-07 at paras. 23-30; Exhibit RR-2019-005-A-03 at para. 43.

³¹ Exhibit RR-2019-005-C-09 at 114.

³² Exhibit RR-2019-005-C-09 at 121; Exhibit RR-2019-005-A-03 at paras. 24-26, 30-33.

³³ Exhibit RR-2019-005-A-05 at paras. 30-31; Exhibit RR-2019-005-A-07 at 308-309.

³⁴ Exhibit RR-2019-005-B-09 at 56.

³⁵ Exhibit RR-2019-005-B-09 at 50.

³⁶ Exhibit RR-2019-005-B-09 at 50, 56, 58.

³⁷ Exhibit RR-2019-002-B-09, Tab 2; see also Exhibit RR-2019-005-B-10 (protected) at 426.

[50] The IMF's June 2020 World Economic Outlook Update downgraded the growth rate for the Chinese economy to 1 percent in 2020 and 8.2 percent in 2021.³⁸ Regarding the Chinese OCTG sector in particular, reports on record differed somewhat in their predictions of Chinese OCTG demand in 2020, some of them suggesting some possible setback. The evidence also indicates that Chinese OCTG producers will be facing weak export markets, including in the Middle East – a key export market for Chinese steel pipe and tube products.³⁹ Both Chinese domestic demand and production of OCTG are expected to grow steadily after 2020, with production continuing to exceed domestic consumption.⁴⁰

[51] Other developments of note during the POR include the proliferation of trade measures on steel. Most notably, in March 2018, acting pursuant to Section 232 of the *U.S. Trade Expansion Act of 1962*, the United States imposed tariff surcharges of 25 percent on imports of steel products, including OCTG, from most countries (Section 232 measures). Although Canada was initially excluded from the application of the Section 232 measures, the United States extended them to Canada on May 31, 2018. On July 1, 2018, Canada responded by imposing retaliatory tariffs, i.e. a 25 percent surtax on imports of certain products from the United States. On May 17, 2019, the United States and Canada reached an agreement whereby the United States agreed to eliminate all tariffs imposed by the Section 232 measures on imports of steel products from Canada, and Canada agreed to eliminate all tariffs imposed in retaliation thereof.

[52] The European Union also imposed provisional safeguard measures on July 19, 2018, and definitive measures on February 1, 2019, on steel products including seamless pipe, in the form of tariff-rate quotas based on historic volumes. These measures are set to remain in place until the end of June 2021 according to publicly available information, of which the Tribunal takes judicial notice. Chinese OCTG and other pipe and tube products also remain subject to various anti-dumping and countervailing duties in several countries.⁴¹

[53] As a result of such measures, Chinese producers and exporters are less likely to be able to export OCTG to markets like the United States and Europe in the near to medium term. There is thus an increased risk that steel, including the subject goods, will be diverted to other markets, including Canada. This risk is heightened as compared to the last expiry review.

[54] From this evidence, the Tribunal finds that, while there are indications of potential limited improvement in market conditions in 2021 and 2022 as compared to 2020, the domestic market is not likely to experience significant growth in the next 18-24 months.⁴² On balance, the current and foreseeable market conditions are likely to be such as to increase the domestic industry's vulnerability to the resumed or continued dumping and subsidizing of the subject goods.

Likely import volume of the subject goods

[55] Paragraph 37.2(2)(a) of the *Regulations* directs the Tribunal to consider the likely volume of the dumped or subsidized goods if the order is rescinded, and, in particular, whether there is likely to

³⁸ Exhibit RR-2019-005-B-09 at 56.

³⁹ Exhibit RR-2019-005-B-09 at 42, 78, 101; Exhibit RR-2019-005-A-08 (protected) at 5, 9, 64, 65; Exhibit RR-2019-005-A-07 at 336; Exhibit RR-2019-005-B-10 (protected) at 426.

⁴⁰ Exhibit RR-2019-005-A-08 (protected) at 9.

⁴¹ Exhibit RR-2019-005-05, Table 50. Exhibit RR-2019-005-03A at paras. 98, 99, 122.

⁴² Exhibit RR-2019-005-A-03 at paras. 27-28, 30-33; Exhibit RR-2019-005-C-09 at 114; Exhibit RR-2019-005-C-03 at paras. 28, 35; Exhibit RR-2019-005-B-07 at paras. 36-37; Exhibit RR-2019-005-A-08 (protected) at 11.

be a significant increase in the volume of imports of the dumped or subsidized goods, either in absolute terms or relative to the production or consumption of like goods. This assessment encompasses the likely performance of the foreign industry, the potential for the foreign producers to produce goods in facilities that are currently used to produce other goods, evidence of the imposition of anti-dumping and/or countervailing measures in other jurisdictions, and whether measures adopted by other jurisdictions are likely to cause a diversion of the subject goods to Canada.⁴³

[56] Evraz and Welded Tube argued that the Chinese OCTG producers and exporters would be expected to increase their presence in absolute and relative terms should the order be allowed to expire. They submitted that export markets are the only viable markets for Chinese OCTG producers, given that demand for OCTG in China is not sufficient to absorb domestic production capacity.

[57] Tenaris made similar arguments. Tenaris also argued that the current domestic OCTG market in China is below historic highs, with respect to demand. Tenaris added that there is continued growth in the supply of Chinese hot-rolled steel, an OCTG input, and a continued willingness and ability to enter the Canadian market, which would lead to an increase in subject imports should the finding be rescinded. The USW highlighted concerns around China's significant capacity for OCTG and steel production.

[58] Previous cases assessed the OCTG capacity for China in the realm of 7 to 11.7 million tonnes, with Chinese OCTG producer capacity utilization figures at approximately 50 percent. This means that excess capacity was around 3.5 to 5.6 million tonnes.⁴⁴

[59] The evidence in this case indicates the continued existence of very significant Chinese OCTG production capacity, as well as excess capacity. In particular, the record evidence indicates the existence of Chinese seamless and welded effective OCTG capacity that largely exceeds the size of the entire Canadian market throughout the POR.⁴⁵ The combined excess capacity for welded and seamless OCTG is projected to remain, over the next 24 months, multiple times the size of the Canadian market.⁴⁶ The Tribunal also recognizes that this capacity is most likely understated. The MBR report on record encompasses only a fraction of Chinese companies holding API-5CT licences associated with the production of OCTG.⁴⁷ It is also worth noting that these capacity figures do not include the potential additional capacity available at facilities that have the ability to switch product, such as those that hold API-5L⁴⁸ certifications or produce mechanical pipe,⁴⁹ should there be increased opportunities to export OCTG.

[60] Chinese OCTG producers are strongly focused on exports. China is reported to be the largest exporter of OCTG to global markets.⁵⁰ The after effects of the recent oil disputes coupled with the impact of the COVID-19 pandemic containment measures have limited the demand for OCTG in

⁴³ Paragraphs 37.2(2)(a), (d), (f), (h) and (i) of the *Regulations*.

⁴⁴ *Certain Seamless Casing*, SC 2018 ER (CBSA), Statement of Reasons at para. 91; *Oil Country Tubular Goods* at para. 111.

⁴⁵ Exhibit RR-2019-005-05F, Table 10; Exhibit RR-2019-005-A-08 (protected) at 7-9.

⁴⁶ Exhibit RR-2019-005-A-08 (protected) at 7-9, 11.

⁴⁷ Exhibit RR-2019-005-A-07, Tab 2. See also Exhibit RR-2019-005-B-10 (protected) at 398-400.

⁴⁸ Exhibit RR-2019-005-A-07, Tab 2; Exhibit RR-2019-005-C-03 at para. 9.

⁴⁹ CBSA expiry review SOR at para. 85; Exhibit RR-2019-005-B-03 at para. 10.

⁵⁰ Exhibit RR-2019-005-B-09, Tab 2. See also Exhibit RR-2019-005-A-08 (protected) at 9.

China's export markets. Given that Chinese OCTG producers still continue to produce goods, the need to seek alternate markets exists and is being exacerbated.⁵¹

[61] The Tribunal further finds that the Canadian market would be a likely destination should the order be rescinded. According to 2018 figures, Canada remains the fourth largest consumer of OCTG worldwide, after the United States, Russia and China.⁵² Given that there are a number of existing trade measures already in place for Chinese OCTG, in particular in the United States and the Russian Federation, it is very likely that Chinese OCTG will find its way to the Canadian market if the order is rescinded. In addition, the depressed market globally means that producers in China would look to export to any available market. In turn, and as discussed further in the next section, the weaker oil market is likely to make low-priced OCTG imports attractive to buyers looking to cut costs.

[62] Since the imposition of the measures, Chinese exporters of OCTG have continued to make the Canadian market a destination for their goods. Prior to the Tribunal's finding, Chinese OCTG accounted for as much as 25 percent of the Canadian market during the first three quarters of 2009.⁵³ In the first expiry review, by 2013, Chinese OCTG accounted for only 1 percent of the Canadian market.⁵⁴ However, during the current POR, Chinese producers continued to export OCTG to Canada, in greater volumes, in both absolute and relative terms, when compared with those of the previous review.⁵⁵ Therefore, there is no doubt that Chinese exporters have a continued interest in the Canadian market. The existence of well-established distribution channels in Canada is also likely to facilitate the entry of subject goods in increased volumes, should the order be rescinded.

[63] In light of the foregoing, the Tribunal finds that, if the order is rescinded, Chinese exporters will seek to regain the market share that they held prior to the issuance of the Tribunal's findings, likely resulting in a significant increase, in absolute and relative terms, in the import volume of the subject goods during the next 24 months.

Likely price effects of the subject goods

[64] The Tribunal must consider whether, if the order is allowed to expire, the dumping and subsidizing of the subject goods is likely to significantly undercut the prices of the like goods, depress those prices, or suppress them by preventing increases in those prices that would likely have otherwise occurred.⁵⁶ In this regard, the Tribunal distinguishes the price effects of the subject goods from any price effects that would likely result from other factors affecting prices.

[65] In Expiry Review No. RR-2014-003, the Tribunal found that oil country tubular goods are a commodity product for which price is an important factor in purchasing decisions.⁵⁷ More recently, in Expiry Review No. RR-2017-006, the Tribunal found the same, stating that "oil and gas well casing, whether seamless or ERW, is a largely commodity product that is traded on the basis of price."⁵⁸ Accordingly, price becomes the primary consideration affecting purchasing decisions.⁵⁹

⁵¹ Exhibit RR-2019-005-A-8 (protected) at 9; Exhibit RR-2019-005-A-07 at 328-333.

⁵² Exhibit RR-2019-005-A-08 (protected) at 11-12.

⁵³ *Oil Country Tubular Goods* at para. 121.

⁵⁴ *Ibid.*

⁵⁵ Exhibit RR-2019-005-05F, Table 10.

⁵⁶ Paragraph 37.2(2)(b) of the *Regulations*.

⁵⁷ *Oil Country Tubular Goods* at paras. 122, 133.

⁵⁸ *Seamless Casing* at para. 73.

⁵⁹ *Ibid.*

[66] The evidence on the record of the present expiry review indicates that these conclusions remain valid. For example, Mr. Coffin and Mr. Smith of Evraz state that “OCTG is purchased by distributors and end users on the basis of price. The lowest-priced bid for these products will usually win among the qualified bids that meet the purchaser’s minimum requirements.”⁶⁰ Mr. Hanley of Welded Tube likewise expresses similar descriptions of the OCTG market with respect to price and purchasing decisions, specifically that OCTG ultimately compete with one another on price.⁶¹

[67] Therefore, for the purposes of its analysis, the Tribunal finds that, subject to few exceptions, purchases of oil country tubular goods are made largely on the basis of price. Consequently, customers would, by and large, likely switch suppliers solely on this basis, particularly in the current and foreseeable market conditions.

[68] In this regard, the degree of price sensitivity in the OCTG market appears to have further increased since Expiry Reviews No. RR-2014-003 and RR-2017-006. The evidence indicates that purchasers are even more price-sensitive, in large part due to current market conditions and to considerable price transparency in the market. This situation is attributable to a small and competitive OCTG distribution network, which negotiates pricing with the domestic producers based on its knowledge of import pricing.⁶² As a result, even small volumes of unfairly priced goods in the market can establish a new low-pricing point for which distributors need to compete in order to maintain or gain sales. As Mr. Coffin and Mr. Smith of Evraz explain, “[i]f our price to one of our distributors is not competitive with the subject import pricing, these distributors will lose sales to their competitors who source the subject imports and will therefore have little choice but to demand better pricing from us or seek supply from elsewhere”⁶³ As such, domestic producers face considerable pressure to offer lower prices to remain competitive in a contracting market.⁶⁴

Price undercutting

[69] Limited volumes of sales of the subject goods occurred during the POR. Data from the Investigation Report shows that the average unit values of domestic sales from domestic production were lower than those of the subject goods in the market, as well as, in most instances, the average unit values of sales from other imports.⁶⁵

[70] Average unit value data collected by trade level and benchmark product similarly shows little undercutting of domestic sales by average unit values of the subject goods. Benchmark data show undercutting in about 40 percent of the points of competition from non-subject imports, although the associated volumes were relatively small in comparison to total sales in those same periods.⁶⁶

⁶⁰ Exhibit RR-2019-005-C-03 at para. 19.

⁶¹ Exhibit RR-2019-005-B-08 (protected) at paras. 11, 26.

⁶² Exhibit RR-2019-005-C-03 at para. 17.

⁶³ Exhibit RR-2019-005-C-03 at para. 16.

⁶⁴ Exhibit RR-2019-005-C-03 at paras. 16, 20; Exhibit RR-2019-005-B-07 at paras. 11, 26; Exhibit RR-2019-005-B-08 (protected) at paras. 11, 26.

⁶⁵ Exhibit RR-2019-005-6A (protected), Table 21. It is possible that the average unit values of subject goods observed over the POR are overestimated or underestimated, given that unit values for sales from subject imports were derived from a limited coverage of questionnaire responses.

⁶⁶ Exhibit RR-2019-005-05A, Table 42; Exhibit RR-2019-005-6 (protected), Tables 36-38. The Tribunal notes that benchmark pricing data is limited due to the lower response rate to its questionnaire in this expiry review, which was conducted during the COVID-19 pandemic.

[71] While the pricing data presented in the Investigation Report shows little evidence of price undercutting by the limited volumes of subject goods while the anti-dumping and countervailing duties were in place, the Tribunal does not consider that the prices of these subject goods are a good indicator of what prices would likely be in the absence of the order and the strict price discipline it imposes.

[72] The domestic producers submit that, in order to gain market share, Chinese exporters would have to undercut prevailing market pricing. The domestic producers argue that Chinese prices would likely be significantly below their prices with the measures in place and significantly below anything currently available in the Canadian market.

[73] Having regard to the commodity nature of OCTG as well as the high price sensitivity of the current and likely market, it is reasonable to find, as in past cases,⁶⁷ that, in order to increase sales to Canada, the subject goods would have to compete at or below prevailing market prices. Particularly in view of the previously discussed current and foreseeable market conditions, it stands to reason that, if the order is rescinded, the subject goods will compete on price to gain market shares at the expense of the like goods and non-subject goods in the Canadian market.

[74] Indeed, the evidence indicates that, in the absence of the order, Chinese exporters would have the ability to lower prices in the Canadian market significantly, when compared to levels seen during the POR.

[75] Over the POR, the CBSA collected \$29.7 million in anti-dumping and countervailing duties.⁶⁸ As a proportion of the value for duty of imported subject goods, the duties collected ranged from a high of 62 percent in 2017, to a low of 1 percent in interim 2020.⁶⁹ The significant duties paid over the period of review suggest that if the order is rescinded, the subject goods could be sold at significantly lower prices than during the POR.⁷⁰

[76] To support their argument with respect to likely Chinese pricing, the domestic producers submitted Chinese export pricing data that, they submit, demonstrates a significant potential for Chinese prices to decrease in the absence of the order.

[77] One set of data submitted by the parties is Chinese FOB pricing data for January 2020 from Fastmarkets MBR Seamless OCTG and Line Pipe Market Tracker (MBR Tracker). According to this data, Chinese FOB energy tubular pricing is consistently the lowest among major markets.⁷¹ In addition, MBR Tracker prices for Chinese export FOB pricing for benchmark OCTG products J/K55 and P110 casing show potential price undercutting, when compared to the aggregate unit values of domestic sales for the relevant benchmark product.⁷²

[78] In addition, Evraz and Welded Tube submitted IHS Markit export pricing data for June 2020 for welded OCTG under HS Code 7306.29. Once estimated freight and delivery costs are added, the

⁶⁷ For example, *Seamless Casing* at para. 80.

⁶⁸ CBSA expiry review SOR at para. 39.

⁶⁹ Exhibit RR-2019-005-05F, Table 5.

⁷⁰ The Tribunal found a similar situation in *Seamless Casing* at para. 82.

⁷¹ Exhibit RR-2019-005-A-08 (protected), Tab 42; Exhibit RR-2019-005-A-05 at para. 15.

⁷² Exhibit RR-2019-005-A-01 at paras. 54-58; Exhibit RR-2019-005-A-02 (protected) at paras. 54-58.

prices derived from this data undercut the domestic industry's average unit selling prices, and any other selling prices in the Canadian market.⁷³

[79] Future pricing levels are difficult to predict, and these comparisons of Chinese export pricing and domestic industry pricing during the POR may amplify the undercutting observed.⁷⁴ Nonetheless, the domestic producers' estimations, which are based on available information, support the view that the prices of the subject goods are likely to decrease significantly in the absence of the order. On balance, the preponderant evidence indicates that Chinese goods will have to compete on price and in doing so, are likely to significantly undercut the prices of the domestic industry if the order is rescinded.

[80] In conclusion, should the order be rescinded, the subject goods would be able to enter the Canadian market at lower prices, and would do so in order to gain market share. These prices would be well below the prices at which subject goods were sold during the POR, and would likely significantly undercut the prices of like goods.

Price depression

[81] Given the likelihood of price undercutting should the order be rescinded, and the increasingly price-sensitive OCTG market, the domestic industry argues that it would have to significantly reduce its prices to secure the small volumes of anticipated sales in the next 12 to 18 months. Witness statements submitted by Evraz and WTC stress that the current OCTG demand in 2020 and expected slow 2021 demand has set a context in which "every sale and every tonne sold counts."⁷⁵

[82] The Tribunal accepts the domestic producers' submissions that they will have to lower prices in order to compete against low-priced Chinese imports for any available sales in a depressed market. As noted above, OCTG are a commodity product that competes predominantly on price. Moreover, without anti-dumping or countervailing duties in place, there is the potential for a significant decline in prices of the subject goods in the Canadian market, and of prevailing market pricing as a result. In this regard, the Tribunal recalls that it has previously found that a price difference "as small as 2 to 3% could sway a sale from one supplier to another."⁷⁶ In the present expiry review, the evidence is that purchasers are even more price-sensitive and thus even more inclined to seek out the lowest prices in the market. The evidence on the record indicates potential price undercutting substantially greater than 2-3 percent in the absence of the order.

[83] As low-priced imports increase, domestic producers would be forced to lower their prices to compete and attempt to maintain their market share. In the previous expiry review, the Tribunal found that the likely increase in subject goods should the finding be rescinded would "likely drive

⁷³ Exhibit RR-2019-005-C-02 at para. 113, as amended by Exhibit RR-2019-005-C-02A (protected) at 5, Exhibit RR-2019-005-C10A (protected) at 3 and Exhibit RR-2019-005-37 (protected) at 1-3.

⁷⁴ For example, the comparison at benchmark pricing included in Tenaris's submissions (Exhibit RR-2019-005-A-01 at paras. 55-58) includes certain assumptions to render the export price data of Chinese casing products, available from industry publications, comparable to equivalent benchmark prices of like goods. Further, it does not include delivery costs. Evraz's exercise built on export pricing data (Exhibit RR-2019-005-C-02 at para. 113, as amended by Exhibit RR-2019-005-C-02A (protected) at 5, and Exhibit RR-2019-005-C10A (protected) at 3) likely includes a larger basket of goods than the definition of the subject goods, which may exaggerate the degree of undercutting. Evraz's exercise does include a reasonable estimate for delivery.

⁷⁵ Exhibit RR-2019-005-C-03 at para. 35; Exhibit RR-2019-005-B-07 at para. 34.

⁷⁶ *Oil Country Tubular Goods* at para. 133.

down OCTG prices in the Canadian market, lowering the value of existing inventory and eroding the prices of the like goods.”⁷⁷ Given the likelihood of significant price undercutting found in this review, the Tribunal arrives at the same conclusion: the rescission of the order would likely result in significant price depression.

[84] On this basis, the Tribunal finds that, should the order be rescinded, the subject goods will likely significantly depress the prices of like goods.

Price suppression

[85] There is little cogent evidence regarding projections in costs trends. Besides, current market conditions appear to make any selling price increase unlikely, even without increased competition from low-priced Chinese imports. As a result, the Tribunal is unable to conclude that the rescission of the order would likely suppress domestic prices by preventing increases in those prices that would likely have otherwise occurred.

Conclusion

[86] In sum, the Tribunal finds that the resumed dumping and subsidizing of the subject goods are likely to cause significant adverse price effects, namely, price undercutting and price depression, over the next 24 months if the order is rescinded.

Likely impact of the subject goods on the domestic industry

[87] The Tribunal will now assess the likely impact of the above volumes and prices on the domestic industry, taking into consideration the recent performance of the domestic industry.⁷⁸ In this analysis, the Tribunal distinguishes the likely impact of the subject goods from the likely impact of any other factors affecting or likely to affect the domestic industry.⁷⁹

Recent performance of the domestic industry

[88] The domestic industry’s performance generally declined over the POR. While the domestic industry saw improvement at some indicators in 2018 over 2017, the improvement was short-lived, as its performance declined significantly in 2019 and interim 2020.

[89] For instance, total production, capacity utilization⁸⁰ and productivity declined during the POR, as did the volume of export sales.⁸¹ Following improvement in 2018 over 2017, the volume of domestic sales from domestic production and profitability deteriorated in 2019 over 2018 and in interim 2020 compared to interim 2019.⁸² By contrast, the domestic industry’s market share for sales from domestic production improved in 2018 over 2017, then remained relatively consistent.⁸³

⁷⁷ *Oil Country Tubular Goods* at para. 139.

⁷⁸ Paragraphs 37.2(2)(c), (e) and (g) of the *Regulations*.

⁷⁹ See paragraph 37.2(2)(k) of the *Regulations*.

⁸⁰ Practical plant capacity increased in 2018, but declined again in 2019 and interim 2020. Exhibit RR-2019-005-05B, Table 46.

⁸¹ Exhibit RR-2019-005-06B (protected), Table 46; Exhibit RR-2019-005-06A (protected), Table 44.

⁸² Exhibit RR-2019-005-06A (protected), Table 43. See also other performance indicators, Exhibit RR-2019-005-06B (protected), Table 46.

⁸³ Exhibit RR-2019-005-06A (protected), Table 12.

[90] From this evidence, given the improvement in its performance in 2018 over 2017, it appears that the domestic industry was able, to some degree, to benefit from the improved oil and gas market in that period. It was also able to improve and maintain market share during the POR.

[91] However, the available evidence of the domestic industry's performance in 2019 and 2020 indicates that the domestic industry remains sensitive to declining demand and vulnerable to pricing pressure. The overall deterioration in most performance indicators from 2017 to 2020 is notable. The recent economic downturn and uncertainty related to the timing and extent of the recovery, particularly in the oil and gas sector, are issues that the Tribunal cannot overlook.

[92] For the reasons that follow, the Tribunal finds that the recent negative trends are likely to worsen if the order is allowed to expire, given that it provides a degree of stability in the market. The Tribunal finds that, without the order, the domestic industry would likely struggle to perform in a sustainable range and would therefore be materially injured by the resumed or continued dumping and subsidizing of the subject goods.

Likely impact on the domestic industry if the order is rescinded

[93] The domestic producers submitted that the expiry of the order could not come at a worse time, as the domestic industry faces the difficult market conditions and attempts to benefit from any economic recovery towards the end of 2020 and into 2021.

[94] Evraz and Welded Tube argued that, if this order is rescinded and the likely volume and price effects noted above are allowed to occur in the Canadian market, the competition from Chinese OCTG would jeopardize significant investments made recently by the domestic industry and threaten the very viability of the domestic OCTG industry. Evraz and Welded Tube further argued that, given the difficult economic environment, depressed market and the focus of end users on cutting costs, any loss of sales or price undercutting by subject and non-subject imports will have a severe impact.

[95] Tenaris similarly argued that the deterioration in market conditions and shrinking demand for OCTG domestically and around the world further support the conclusion that allowing the finding to expire would likely cause injury to the domestic industry. It submitted that the likely price levels of the subject goods in the absence of the order would affect sales volumes, revenues, margins, capacity utilization and employment and the economic viability of the domestic industry.

[96] The USW highlighted the threat posed by the resumption of dumping and subsidizing of the subject goods to employment in this industry. It submitted that injury to the domestic industry resulting from the resumption of unfair trade practices in this case would have a profound negative impact in terms of lost employment and wages. Witness statements from employees of the domestic producers were filed in support of this argument.⁸⁴

⁸⁴ The USW also argued that the term "employment" in the *Regulations* should be construed broadly to include the terms and conditions of employment (e.g. pensions, benefits, training and safety measures) and submitted that the likely negative impact of the subject goods on such factors should be taken into account by the Tribunal. Given its conclusion that allowing the order to expire would likely result in injury to the domestic industry after its consideration of the evidence on the factors that it traditionally examines, for judicial economy reasons, the Tribunal decided not to address this statutory interpretation question.

[97] The Tribunal finds that the evidence credibly supports the arguments of the parties regarding the likely significant adverse impact of the resumed dumping and subsidizing of the subject goods on the domestic industry's performance in the next 24 months.

[98] The Tribunal has already found that, if the order is rescinded, the subject goods will likely significantly undercut domestic producers' sales prices and that, as a result, domestic pricing will likely be significantly depressed. The Tribunal finds that this price depression would in turn likely lead to a significant negative impact on the domestic industry's revenues and profits. Tenaris and Evraz provided data models showing the impact that certain levels of price depression caused by the subject goods, could have had on past performance and/or could have on expected performance in the near term, in the absence of the order.⁸⁵

[99] The Tribunal also tested the potential impact of the subject goods on the domestic industry's profitability. In doing so, the Tribunal applied a potential 10 percent reduction in price to the domestic industry's net sales value achieved in interim 2020. Based on the evidence, an estimate of undercutting by 10 percent is a conservative assumption. Even so, the scenario illustrates a material adverse impact on the domestic industry's performance, if the domestic industry had been placed in the position of having to reduce prices.

[100] As such, the Tribunal finds that the domestic industry would find itself in a precarious financial position without the order in place, even before any potential sales volume losses are considered. To the extent that the domestic industry resists price declines, particularly in an extremely price-sensitive environment, it is likely to lose sales volumes to the subject goods. Such an outcome would lead to reduced production volumes and a compounding effect on the domestic industry's bottom line and operations, significantly exacerbating the situation already caused by the weak market demand. This outcome is particularly problematic and likely to result in material injury to the domestic industry given the capital-intensive nature of OCTG production.

[101] The Tribunal finds that the reduced profitability and output likely to be caused by the subject goods would also likely lead to decreases in capacity utilization and employment. It would also likely jeopardize the domestic industry's significant recent, ongoing or planned investments and reduce its ability to raise capital. This is supported by cogent evidence from domestic producer witnesses speaking to the impact of rescinding the order on each of these factors.⁸⁶

[102] Finally, the Tribunal notes that the responses received from certain importers to the Tribunal's expiry review questionnaire corroborate the producers' position that the order provides critical price stability and that its rescission would likely have a disruptive, injurious effect on the broader Canadian OCTG market and on the Canadian OCTG industry.⁸⁷

[103] The foregoing indicates that the rescission of the order will likely result in material injury to the domestic industry over the next 24 months.

⁸⁵ Exhibit RR-2019-005-A-02 (protected) at para. 108; Exhibit RR-2019-005-C-06A (protected) at 2 and 3.

⁸⁶ Exhibit RR-2019-005-C-06 (protected) at paras. 20-32; Exhibit RR-2019-005-C-06A (protected) at 2 and 3; Exhibit RR-2019-005-B-04 (protected) at para. 22; Exhibit RR-2019-005-B-03 at paras. 22-24; Exhibit RR-2019-005-A-05 at paras. 7, 17; Exhibit RR-2019-005-A-06 at para. 17; Exhibit RR-2019-005-A-04 (protected) at paras. 36-38, 40.

⁸⁷ Exhibit RR-2019-005-16.15 at 7; Exhibit RR-2019-005-16.16 at 6; Exhibit RR-2019-005-16.35 at 8; Exhibit RR-2019-005-16.19 at 10; Exhibit RR-2019-005-16.29 at 8.

Factors other than the subject goods

[104] Pursuant to paragraph 37.2(2)(k) of the *Regulations*, the Tribunal may consider certain other factors that are relevant in the circumstances.⁸⁸ Given the lack of any submissions opposing the continuation of the order, the Tribunal, on its own initiative, considered whether there were some factors unrelated to the dumping and subsidizing of the subject goods that could adversely affect the domestic industry in the next 24 months. The Tribunal ensured not to attribute the effects of such factors to an eventual rescission of the order.

[105] In this regard, the Tribunal cannot ignore that the domestic industry will face less than ideal market conditions in the near to medium term. However, these challenging circumstances do not eliminate the likely substantial adverse impact that the rescission of the order would have on the domestic industry. Put another way, the Tribunal finds that even if the domestic industry faces difficult market conditions in the next 24 months, the evidence indicates that the domestic industry's already vulnerable situation would be materially worse if the order is rescinded.

[106] In fact, the rescission of the order would likely nullify the effects of any market recovery in the next 24 months, by exerting downward pressure on prices of like goods and on their sales and production volumes. These factors would likely make it all but impossible for domestic producers to withstand the other challenges facing them.⁸⁹ In other words, the injury that will likely be caused by the subject goods, if the order is rescinded, will be, in and of itself, of a magnitude amounting to material injury and will be in addition to any negative impact on the domestic industry resulting from the COVID-19 pandemic or the other factors that are likely to limit the growth of the Canadian OCTG market in the near to medium term.

[107] There is also some evidence suggesting that the domestic industry's action during the POR might be a cause of self-inflicted injury, for instance, through domestic industry imports.⁹⁰ There is also some evidence to indicate that the domestic industry has, at times, been unable to fill certain demand requirements.⁹¹ Such factors have been noted by the Tribunal in different circumstances in past proceedings.⁹² However, there is simply an insufficient evidential basis to conclude that any likely future injury would be due to such other factors, to any material extent.

[108] On balance, having accounted for the impact of the above factors and ensured not to attribute their effects to the subject goods, the Tribunal finds that the resumption or continuation of the dumping and subsidizing of the subject goods from China will likely result, in and of itself, in material injury to the domestic industry over the next 24 months.

⁸⁸ Paragraph 37.2(2)(k) refers to "any other factor pertaining to the current or likely behaviour or state of the domestic or international economy, market for goods or industry as a whole or in relation to individual producers, exporters, brokers or traders."

⁸⁹ See e.g. Exhibit RR-2019-005-C-06 (protected) at paras. 12, 16-19; Exhibit RR-2019-005-C-06A (protected) at 1 and 2. See also Exhibit RR-2019-005-B-03 at paras. 21, 23-26; Exhibit RR-2019-005-B-06 (protected) at para. 14; Exhibit RR-2019-005-B-08 (protected) at paras. 38-39; Exhibit RR-2019-005-C-06 (protected) at para. 30; Exhibit RR-2019-005-C-03 at paras. 33-35.

⁹⁰ Exhibit RR-2019-005-06F (protected), Table 6.

⁹¹ Exhibit RR-2019-005-16.19 at 7; Exhibit RR-2019-005-16.16 at 4; Exhibit RR-2019-005-16.37 at 11.

⁹² *Certain Steel Goods* (3 April 2019), GC-2018-001 (CITT) at 84-85.

CONCLUSION

[109] On the basis of the foregoing analysis, and pursuant to paragraph 76.03(12)(b) of *SIMA*, the Tribunal hereby continues its order in respect of the subject goods.

Georges Bujold

Georges Bujold
Presiding Member

Jean Bédard

Jean Bédard
Member

Susan Beaubien

Susan Beaubien
Member