

[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#### Likely impact on the domestic industry if the order is rescinded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[94] Evraz and Welded Tube argued that, if this order is rescinded and the likely volume and price effects noted above are allowed to occur in the Canadian market, the competition from Chinese OCTG would jeopardize significant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.<sup>84</sup>

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<sup>84</sup> 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.<sup>85</sup>

[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.<sup>86</sup>

[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.<sup>87</sup>

[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.

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

<sup>86</sup> 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.

<sup>87</sup> 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.