



Canadian International  
Trade Tribunal

Tribunal canadien du  
commerce extérieur

CANADIAN  
INTERNATIONAL  
TRADE TRIBUNAL

# Dumping and Subsidizing

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## ORDER

Inquiry No. NQ-2006-001

Cross-linked Polyethylene Tubing

*Order issued  
Friday, July 7, 2006*

Canada

IN THE MATTER OF an inquiry, pursuant to section 42 of the *Special Import Measures Act*, concerning the dumping of single or multilayer cross-linked polyethylene tubing in nominal tubing sizes up to and including 1 inch or the metric equivalent, excluding cross-linked polyethylene tubing with an oxygen barrier layer, originating in or exported from the United States of America.

## ORDER

WHEREAS the Canadian International Trade Tribunal (the Tribunal) is required, pursuant to section 42 of the *Special Import Measures Act*, to make inquiry as to whether the dumping of the goods which are the subject of the Tribunal's inquiry has caused injury or retardation or is threatening to cause injury to a domestic industry;

AND WHEREAS, based upon information publicly available, it appears that UPONOR LTD. is a significant domestic producer of goods that are like goods to the goods that are the subject of the Tribunal's inquiry;

AND WHEREAS UPONOR LTD. has failed to provide certain information requested by the Tribunal in its questionnaire request;

AND WHEREAS the Tribunal considers such information to be relevant and important to the conduct of its inquiry;

AND WHEREAS, pursuant to subsection 17(2) of the *Canadian International Trade Tribunal Act*, the Tribunal has, as regards the production and inspection of documents, the enforcement of its orders and other matters necessary or proper for the due exercise of its jurisdiction, all such powers, rights and privileges as are vested in a superior court of record;

UPON the Tribunal's own motion;

AND UPON being satisfied that UPONOR LTD. has or is likely to have information in its possession or control relevant to the Tribunal's inquiry;

THE TRIBUNAL ORDERS THAT:

1. A duly authorized representative of UPONOR LTD. shall make and deliver to the Tribunal a written return of information under oath or solemn affirmation in fulfilment of the information requirements listed in the attached schedule.
2. Unless UPONOR LTD. attends before the Tribunal **before July 14, 2006**, and satisfies the Tribunal that this order should not have been issued or that the required information cannot reasonably be provided, the required information identified in the attached schedule is to be received **on or before July 21, 2006**, at the office of the Secretary of the Tribunal at the following address:

The Secretary  
Canadian International Trade Tribunal  
Standard Life Centre  
333 Laurier Avenue West  
15th Floor  
Ottawa, Ontario  
K1A 0G7

3. The information provided by UPONOR LTD. in fulfilment of the information requirements listed in the attached schedule may be designated as confidential by UPONOR LTD. in accordance with sections 43 to 49 of the *Canadian International Trade Tribunal Act*.

Ellen Fry

Ellen Fry  
Presiding Member

James A. Ogilvy

James A. Ogilvy  
Member

Serge Fréchette

Serge Fréchette  
Member

Hélène Nadeau

Hélène Nadeau  
Secretary

## SCHEDULE

### Definitions and Instructions

The following definitions and instructions apply for the purposes of completing this information return:

- “PEX tubing” is defined as single or multilayer cross-linked polyethylene tubing in nominal tubing sizes up to and including 1 inch or the metric equivalent, excluding cross-linked polyethylene tubing with an oxygen barrier layer.
- “PEX-a” is defined as PEX tubing manufactured using the Engel or peroxide method.
- “PEX-b” is defined as PEX tubing manufactured using the silane method.
- “Net Delivered Purchase Value” and “Net Delivered Selling Value” are as defined under “Other Definitions” in the Tribunal’s Producers’ Questionnaire on PEX tubing (copy attached).
- “Gross margin” and “operating income” are to be calculated as shown in Schedule VI of the Tribunal’s Producers’ Questionnaire on PEX tubing (copy attached).
- All volume information is to be provided in linear feet. All value information is to be provided in Canadian dollars.

### Information Required

1. The volume for each of PEX-a tubing and PEX-b tubing produced in Canada for domestic and export sales by UPONOR LTD., its affiliates and predecessors for each of 2003, 2004, 2005, Q1 2005 and Q1 2006.
2. The volume and total net delivered purchase value for each of PEX-a tubing and PEX-b tubing imported from the United States into Canada by UPONOR LTD., its affiliates and predecessors for each of 2003, 2004, 2005, Q1 2005 and Q1 2006.
3. The volume and total net delivered selling value for each of PEX-a tubing and PEX-b tubing produced and sold in Canada by UPONOR LTD., its affiliates and predecessors for each of 2003, 2004, 2005, Q1 2005 and Q1 2006.
4. The volume and total net delivered selling value for each of PEX-a tubing and PEX-b tubing produced in and exported from Canada by UPONOR LTD., its affiliates and predecessors for each of 2003, 2004, 2005, Q1 2005 and Q1 2006.
5. The gross margin and operating income associated with each of PEX-a tubing and PEX-b tubing sold from domestic production for consumption in Canada by UPONOR LTD., its affiliates and predecessors for each of 2003, 2004, 2005, Q1 2005 and Q1 2006.

**CANADIAN INTERNATIONAL TRADE TRIBUNAL**

**PRODUCERS' QUESTIONNAIRE**

**PEX TUBING**

**INQUIRY NO.: NQ-2006-001**

The information requested in this questionnaire is for use by the Canadian International Trade Tribunal in connection with its inquiry respecting **single or multilayer cross-linked polyethylene tubing in nominal tubing sizes up to and including 1 inch or the metric equivalent, excluding cross-linked polyethylene tubing with an oxygen barrier layer, originating in or exported from the United State of America**. The information is needed to supplement data available from other sources and is requested pursuant to subsection 17(2) of the *Canadian International Trade Tribunal Act*.

As a producer of the products in question, you are required to complete this questionnaire and return it to the Secretary, Canadian International Trade Tribunal, Standard Life Centre, 333 Laurier Avenue West, 15th Floor, Ottawa, Ontario K1A 0G7, fax No. (613) 990-2439, E-mail secretary@citt-tcce.gc.ca. Please ensure that the completed questionnaire is returned to the Secretary **no later than June 23, 2006**.

In conducting this inquiry, the Tribunal is required to gather the best possible evidence. In order to obtain such evidence, the Tribunal can, where necessary, subpoena witnesses and require the production of documents. It is in your interest to ensure that your response to this questionnaire is accurate, complete and returned to the Tribunal on time.

Information that is confidential in nature will be treated in accordance with sections 43 to 49 of the *Canadian International Trade Tribunal Act*, which require that it shall not be made public in such a manner as to be available for the use of any business competitor or rival of the reporting person, firm or corporation.

**GENERAL INSTRUCTIONS**

1. This questionnaire is divided into two parts.  
PART I — deals with information that is public in nature. Any request to treat this information as confidential must be fully justified in writing.  
PART II — deals with information that is confidential in nature and that will not be made public in such a manner as to be available for the use of any business competitor or rival of the reporting person, firm or corporation.

**LIST OF TOPICS IN PART II**

Production	Capacity
Imports	Prices
Sales	Injury Allegations
Inventories	Negative Effects
Financial	Forecasts
Transfers	Schedules
Employment	

2. If the answer to any question is “none,” “not applicable” or “not available,” please indicate which of these situations applies rather than leave the space blank.
3. Please return a hard copy OR an electronic version (NOT BOTH) on diskette or CD of the completed questionnaire to the Tribunal.

4. All information is requested on a calendar year basis. Where adjustments are required to comply with our request, please identify the adjustments and give a full explanation of how they were made.
5. **Reconciliation** - Please ensure that quantities for production, imports, sales and inventories reconcile as follows:
  - inventory at the beginning of the period,
  - plus production,
  - plus imports (and domestic purchases),
  - less domestic and export sales,
  - should equal inventory at the end of the period.
6. If the information requested is not readily available from your records in exactly the form requested, please furnish prepared estimates, with a full explanation of the methodology used to prepare these estimates.
7. Necessary comments or explanations with respect to any question should be made in the space provided or on separate sheets, and attached to the questionnaire.
8. Any questions relating to this questionnaire should be directed to Josée St-Amand at (613) 990-2422, Rhonda Heintzman at (613) 998-7173 or Geneviève Chaloux at (613) 998-3868.

## PRODUCT DEFINITION

The goods subject to this inquiry are defined as:

**single or multilayer cross-linked polyethylene tubing in nominal tubing sizes up to and including 1 inch or the metric equivalent, excluding cross-linked polyethylene tubing with an oxygen barrier layer (hereinafter referred to as “PEX tubing”), originating in or exported from the United State of America.**

**NOTE:** You should report your imports of these products from all countries named in this inquiry **and** any other countries from which you imported these products during the period of inquiry.

## PRODUCT CATEGORY DEFINITIONS

1/2 inches diameter	single or multilayer cross-linked polyethylene tubing in nominal tubing sizes of 1/2 inch or the metric equivalent, excluding cross-linked polyethylene tubing with an oxygen barrier layer.
3/4 inches diameter	single or multilayer cross-linked polyethylene tubing in nominal tubing sizes of 3/4 inch or the metric equivalent, excluding cross-linked polyethylene tubing with an oxygen barrier layer.
Other	single or multilayer cross-linked polyethylene tubing in nominal tubing sizes other than 1/2 or 3/4 inch or the metric equivalent, excluding cross-linked polyethylene tubing with an oxygen barrier layer (for example 1/4 inch or 3/8 inch)

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## OTHER DEFINITIONS

- Associated Firms:** Firms that are related to each other in **any manner**. For example: firms are associated or related if an officer or director of one firm is an officer or director of the other, or if a firm directly or indirectly owns, holds or controls shares of the other firm, or if a firm is the exclusive distributor for another. A customer/supplier relationship, by itself, does not mean firms are “associated”.
- Delivery Costs:** The average delivery costs (freight, handling and insurance), from the point of direct shipment in Canada to your customers, whether included in the selling value or incurred separately by your customers, expressed as a percentage of the net delivered selling value.
- Direct Employment:** Employees whose tasks can be readily traced (by observation) to the production of PEX tubing are properly considered direct labour costs in the company’s income statement for PEX tubing in response to question 23 in the “Financial” section of this questionnaire.
- Indirect Employment:** Includes plant personnel such as supervisors, superintendents and quality control employees, but does not include sales and administrative personnel.
- Period of Inquiry:** This inquiry covers the period from January 1, 2003 to March 31, 2006 (i.e. full years 2003 to 2005 and the first quarter of 2006). In some questions, information is requested on an “Interim” basis. Interim refers to January 1 to March 31 of the years specified. Please note that financial questions in this questionnaire request information for **calendar years** 2003 to 2005 as well as for the first quarters of 2005 and 2006.
- Practical Plant Capacity:** This is the greatest level of output from the machinery and equipment used in the production of PEX tubing that your plant can achieve on a continuous basis within the framework of a realistic work pattern. Consideration should be given to the typical product mix, number of shifts per day, annual operating days, etc., experienced during the past five years.
- Net Delivered Purchase Value:** For **domestic purchases**, the net delivered purchase value is the laid-in cost net of cash, quantity or deferred discounts, allowances, taxes, rebates and incentives, but **including** delivery costs (freight, handling and insurance) to your warehouse.
- Net Delivered Selling Value:**
- a) For **sales from domestic production**, the net delivered selling value is net of cash, quantity or deferred discounts, allowances and taxes whether or not shown on every invoice. These discounts, allowances and taxes include, but are not limited to, discounts and cash discounts, rebates and incentives. However, it **includes** delivery costs (freight, handling and insurance) from the point of direct shipment in Canada paid by your firm and included in the selling price or an estimate of the delivery costs incurred by your customer.

- b) For **sales from imports**, the net delivered selling value is net of cash, quantity or deferred discounts, allowances and taxes whether or not shown on every invoice. These discounts, allowances and taxes include, but are not limited to, discounts and cash discounts, rebates and incentives. However, it **includes** delivery costs (freight, handling and insurance) from the point of direct shipment in Canada paid by your firm and included in the selling value or an estimate of the delivery costs incurred by your customer in Canadian dollars.

**Trade Level:**

Where this information is requested, it refers to the level at which the customer or the account conducts its business. Examples of different trade levels that might be indicated in your replies would include wholesalers, distributors, retailers, end users, contractors, service centres, institutions, independent owners, franchises.

**Units of Volume:**

All responses to volume questions in this questionnaire should be expressed in linear feet.



**SCHEDULE VI**

**INCOME STATEMENT FOR PEX TUBING AND ALL PRODUCTS**

(\$000)

**This information is requested on a calendar-year basis**

	2003			2004			2005		
	DC	E	T	DC	E	T	DC	E	T
Volume of Sales (linear feet)	_____	_____	_____	_____	_____	_____	_____	_____	_____
Gross Sales	_____	_____	_____	_____	_____	_____	_____	_____	_____
Discounts, Rebates and Incentives	_____	_____	_____	_____	_____	_____	_____	_____	_____
Net Sales	_____	_____	_____	_____	_____	_____	_____	_____	_____
Cost of Goods Sold:									
Beginning Inventory	_____	_____	_____	_____	_____	_____	_____	_____	_____
Plus: Cost of Goods Manufactured	_____	_____	_____	_____	_____	_____	_____	_____	_____
Less: Ending Inventory	_____	_____	_____	_____	_____	_____	_____	_____	_____
Cost of Goods Sold	_____	_____	_____	_____	_____	_____	_____	_____	_____
Gross Margin	_____	_____	_____	_____	_____	_____	_____	_____	_____
General, Selling and Administrative Expenses	_____	_____	_____	_____	_____	_____	_____	_____	_____
Financial Expenses	_____	_____	_____	_____	_____	_____	_____	_____	_____
Operating income	_____	_____	_____	_____	_____	_____	_____	_____	_____

DC - certain PEX tubing **sold from domestic production for domestic consumption.**

E - certain PEX tubing **sold from domestic production for export.**

T - Total results for all products **sold** by your company, including, but not limited to certain PEX tubing.

**Note:**

- The above figures (including sales volumes) should be based on calendar years. The results for total operations (T) should correspond to those reported in the company's audited financial statements. Please attach working papers and supporting source documents (or summary reports) used in the preparation of the results for domestic and export sales for 2005. If the methods differed significantly for earlier years, also provide working papers and source documents for those years. Please indicate on the completed schedule that the income statement is prepared using a full absorption costing method and also indicate whether the company regularly uses full absorption costing in reporting its financial results.

SCHEDULE VI (continued)

**INCOME STATEMENT FOR PEX TUBING AND ALL PRODUCTS**

(\$000)

This information is requested on a calendar-year basis

	Jan. 1 to March 31 2005			Jan. 1 to March 31 2006		
	DC	E	T	DC	E	T
Volume of Sales (linear feet)						
Gross Sales						
Discounts, Rebates and Incentives						
Net Sales						
Cost of Goods Sold:						
Beginning Inventory						
Plus: Cost of Goods Manufactured						
Less: Ending Inventory						
Cost of Goods Sold						
Gross Margin						
General, Selling and Administrative Expenses						
Financial Expenses						
Operating income						

DC - certain PEX tubing **sold from domestic production for domestic consumption.**

E - certain PEX tubing **sold from domestic production for export.**

T - Total results for all products **sold** by your company, including, but not limited to certain PEX tubing.