



Canadian International  
Trade Tribunal

Tribunal canadien du  
commerce extérieur

CANADIAN  
INTERNATIONAL  
TRADE TRIBUNAL

# Dumping and Subsidizing

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## DETERMINATION AND REASONS

Preliminary Injury Inquiry  
No. PI-2007-001

Seamless Carbon or Alloy Steel Oil  
and Gas Well Casing

*Determination issued  
Friday, October 12, 2007*

*Reasons issued  
Friday, October 26, 2007*

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IN THE MATTER OF a preliminary injury inquiry, under subsection 34(2) of the *Special Import Measures Act*, respecting:

**THE DUMPING AND SUBSIDIZING OF SEAMLESS CARBON OR ALLOY  
STEEL OIL AND GAS WELL CASING ORIGINATING IN OR EXPORTED  
FROM THE PEOPLE'S REPUBLIC OF CHINA**

**PRELIMINARY DETERMINATION OF INJURY**

The Canadian International Trade Tribunal, under the provisions of subsection 34(2) of the *Special Import Measures Act*, has conducted a preliminary injury inquiry into whether the evidence discloses a reasonable indication that the alleged dumping and subsidizing of seamless carbon or alloy steel oil and gas well casing, whether plain end, beveled, threaded or threaded and coupled, heat-treated or non-heat-treated, meeting American Petroleum Institute specification 5CT, with an outside diameter not exceeding 11.75 inches (298.5 mm), in all grades, including proprietary grades, originating in or exported from the People's Republic of China have caused injury or retardation or are threatening to cause injury.

This preliminary injury inquiry is pursuant to the notification, on August 13, 2007, that the President of the Canada Border Services Agency had initiated an investigation into the alleged injurious dumping and subsidizing of the above-mentioned goods.

Pursuant to subsection 37.1(1) of the *Special Import Measures Act*, the Canadian International Trade Tribunal hereby determines that there is evidence that discloses a reasonable indication that the dumping and subsidizing of the above-mentioned goods have caused injury.

Serge Fréchette  
Serge Fréchette  
Presiding Member

James A. Ogilvy  
James A. Ogilvy  
Member

Ellen Fry  
Ellen Fry  
Member

Susanne Grimes  
Susanne Grimes  
Acting Secretary

The statement of reasons will be issued within 15 days.

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Nexen Inc.	Gregory Kanargelidis Prakash Narayanan Elysia Van Zeyl
Cantak Corporation	Peter Clark Chris Hines Gordon LaFortune Wallis Stagg Ryan Clarke
China Iron and Steel Association (CISA)	Peter Clark Chris Hines Gordon LaFortune Wallis Stagg Ryan Clarke
Imex Canada Inc.	Peter Clark Chris Hines Wallis Stagg Ryan Clarke

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## STATEMENT OF REASONS

### BACKGROUND

1. On August 13, 2007, the President of the Canada Border Services Agency (CBSA) initiated an investigation into the alleged injurious dumping and subsidizing of seamless carbon or alloy steel oil and gas well casing, whether plain end, beveled, threaded or threaded and coupled, heat-treated or non-heat-treated, meeting American Petroleum Institute (API) specification 5CT, with an outside diameter not exceeding 11.75 inches (298.5 mm), in all grades, including proprietary grades, originating in or exported from the People's Republic of China (China) (the subject goods), following a complaint filed on June 22, 2007, by TenarisAlgoMaTubes Inc. (TAT).
2. On August 14, 2007, the Canadian International Trade Tribunal (the Tribunal) issued a notice of commencement of preliminary injury inquiry. On August 21, 2007, the Tribunal requested additional information from TAT, including updated data for the second quarter of 2007.
3. On October 12, 2007, pursuant to subsection 37.1(1) of the *Special Import Measures Act*,<sup>1</sup> the Tribunal determined that there was evidence that disclosed a reasonable indication that the dumping and subsidizing of the subject goods had caused injury.
4. On October 22, 2007, in a letter to the CBSA, the Tribunal requested that the CBSA collect, in addition to the single class of subject goods as defined at initiation, separate information on the dumping and subsidizing of (1) high-strength seamless oil and gas well casing, and (2) low-strength seamless oil and gas well casing.

### CBSA'S DECISION

5. The CBSA's estimated margins of dumping for the period from January 1, 2006, to April 30, 2007, expressed as a percentage of the export price, ranged from 9 percent to 35 percent, with an estimated overall weighted average margin of dumping of 16 percent. The CBSA's analysis indicated that 85 percent of the subject goods were dumped. It also indicated that the subject goods accounted for 35 percent of seamless oil and gas well casing imported into Canada during its period of investigation. The CBSA's analysis indicated that the estimated volume of the dumped goods was not negligible and that the estimated overall weighted average margin of dumping was not insignificant.<sup>2</sup>
6. The CBSA estimated the average amount of subsidy to be equal to 8.9 percent of the export price of the subject goods. As well, the CBSA considers that the alleged subsidies have benefited 100.0 percent of the subject goods. Accordingly, the CBSA determined that the volume of subsidized goods was not negligible and that the amount of subsidy was not insignificant.<sup>3</sup>
7. In summary, the CBSA was of the opinion that there was evidence that the subject goods had been dumped and subsidized. Furthermore, it stated that there was evidence that disclosed a reasonable indication that the dumping and subsidizing had caused injury or were threatening to cause injury to the domestic industry.

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1. R.S.C. 1985, c. S-15 [*SIMA*].

2. Administrative Record, Vol. 1B at 408-409.

3. *Ibid.* at 415-16. Since the CBSA considered China a developing country, the thresholds for negligibility and insignificance for China were 4 percent and 2 percent respectively.

## SUBMISSIONS ON INJURY

### Domestic Industry

8. In its complaint, TAT claimed that the dumping and subsidizing of the subject goods had caused and threatened to cause injury to the domestic industry. TAT alleged that it suffered material injury in the form of lost sales, price erosion, price suppression, lost revenues, reduced profitability, loss of employment, reduced returns on investment, underutilization of capacity and an impairment in the ability to make future investments. TAT submitted that it is threatened with material injury through these same factors and, in particular, the inability to obtain the benefits of the top of the steel cycle to generate capital for investments in process and technology that would allow it to remain competitive when market conditions weaken in the oil country tubular goods (OCTG) sector. In support of its allegations, TAT provided evidence of increased volumes of dumped and subsidized goods, price erosion, price suppression, lost sales, lost revenues, reduced profitability, loss of employment, underutilization of capacity and impairment of its ability to make future investments.

9. IPSCO Inc., a producer of electric resistance welded (ERW) oil and gas well casing, submitted that it supported TAT's complaint.

### Parties Opposed to the Complaint

10. The Tribunal received submissions from four parties opposed to the complaint: Cantak Corporation, the China Iron and Steel Association (CISA), Hallmark Tubulars Ltd. (Hallmark) and Nexen Inc. (Nexen).

11. Parties opposed submitted that any injury suffered by TAT was due to other factors, such as a contraction in demand for OCTG, a strengthening in the value of the Canadian dollar, inefficiencies due to its own costing and supply line inflexibilities, competition with Canadian producers of ERW casing, and its decision and marketing practices. In addition, Cantak and the CISA submitted that TAT, as a subsidiary of a strong parent company, was taking strategic steps to occupy a dominant position in the Canadian market. It was further argued that, notwithstanding TAT's strong financial performance, it has used aggressive pricing to gain market share and that the imposition of anti-dumping duties would therefore severely restrict competition and increase costs to end users.

12. With respect to threat of injury, parties opposed argued that the evidence provided by TAT is based on allegation, conjecture and remote possibilities on which the Tribunal cannot rely to make its determination.

13. Finally, parties opposed submitted that the Tribunal is not precluded from terminating an investigation in a preliminary injury inquiry and that the evidence in this case supports doing so.

## ANALYSIS

### Legislative Framework

14. The Tribunal's mandate in a preliminary injury inquiry is set out in subsection 34(2) of *SIMA*, which requires the Tribunal to determine whether the evidence discloses a reasonable indication that the dumping and subsidizing of the subject goods have caused injury or retardation or are threatening to cause

injury.<sup>4</sup> In making its determination, the Tribunal took into account the factors prescribed in section 37.1 of the *Special Import Measures Regulations*.<sup>5</sup>

15. Subsection 2(1) of *SIMA* defines “injury” as “. . . material injury to a domestic industry”. It also defines “domestic industry” as “. . . 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”. Therefore, the Tribunal must identify the like goods and the domestic industry that produces those goods before addressing the issues of injury, retardation or threat of injury.

### **Like Goods and Classes of Goods**

16. The Tribunal notes that, in initiating its investigation, the CBSA defined the subject goods as seamless carbon or alloy steel oil and gas well casing having certain characteristics and that the CBSA’s definition of the subject goods does not include ERW oil and gas well casing.

17. TAT submitted that the subject goods and seamless oil and gas well casing produced by the domestic industry have the same end use, are directly substitutable and compete directly with each other in the Canadian market and are therefore “like goods”. Hallmark and other parties opposed submitted that the scope of the “like goods” should be expanded to include ERW oil and gas well casing. They submitted, among other things, that the exclusion of ERW oil and gas well casing from the scope of the “like goods” conflicts with industry practice and is inconsistent with the Tribunal’s conclusions respecting the definition of “like goods” that was set out in Review No. RR-95-001<sup>6</sup> and Expiry Review No. RR-2000-001.<sup>7</sup> It was further argued that ERW oil and gas well casing meeting the same API specification or equivalent proprietary grades and seamless oil and gas well casing are like goods.

18. In deciding the issue of like goods and classes of goods, the Tribunal considers a number of factors, including the physical characteristics of the goods (such as composition and appearance), their market characteristics (such as substitutability, pricing and distribution) and whether the domestic goods fulfill the same customer needs as the imported goods.

19. In view of the evidence on the record, the Tribunal finds, in the context of this preliminary injury inquiry, that seamless oil and gas well casing produced by the domestic industry are “like goods” to the subject goods. Whether there is merit to expand the definition of the “like goods” to include ERW oil and gas well casing is an issue that will need to be fully addressed in the context of an inquiry under section 42 of *SIMA*, if the CBSA concludes in its preliminary determination that the subject goods have been dumped or subsidized. The Tribunal is of the opinion that additional evidence will be needed to assess all the

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4. In making a final injury inquiry, subsection 42(3) of *SIMA* provides that the Tribunal must make an assessment of the cumulative effect of the dumping or subsidizing of goods that are imported into Canada from more than one country if the Tribunal is satisfied that certain conditions are met. The Tribunal notes that it is its longstanding practice to make a cumulative assessment of the injurious effects of both dumped and subsidized goods (cross-cumulation) in the context of an inquiry under section 42. The Tribunal therefore considers that it would be inconsistent not to cross-cumulate the subject goods in a preliminary injury inquiry and has consequently cumulatively assessed the impact of the dumping and subsidizing of the subject goods on the domestic industry.

5. S.O.R./84-927.

6. *Oil and Gas Well Casing* (5 July 1996) (CITT).

7. *Oil and Gas Well Casing* (4 July 2001) (CITT).



elements required to reach a decision. Accordingly, should the CBSA conclude that the subject goods have been dumped or subsidized, the Tribunal will collect data relating to ERW oil and gas well casing and will also seek submissions from parties on this question.

20. Concerning the question of classes of goods, Nexen submitted that high-strength oil and gas well casing and low-strength oil and gas well casing constitute two distinct classes of goods. It argued that these classes of goods have different physical characteristics and end uses, are not substitutable and have a significant price difference. Furthermore, it is Nexen's position that China's limited ability to produce high-strength oil and gas well casing also distinguishes the class of goods with which TAT must compete.

21. In light of the evidence on the record, the Tribunal finds, in the context of this preliminary injury inquiry, that high-strength oil and gas well casing and low-strength oil and gas well casing constitute a single class of goods. The question as to whether high-strength oil and gas well casing and low-strength oil and gas well casing constitute two separate classes of goods is another issue that will need to be fully addressed in the context of an inquiry under section 42 of *SIMA*. Accordingly, the Tribunal will collect data relating to high-strength oil and gas well casing and low-strength oil and gas well casing and will also seek submissions from parties on this question. In addition, the Tribunal has requested the CBSA to collect separate information on the dumping and subsidizing of (1) high-strength seamless oil and gas well casing, and (2) low-strength seamless oil and gas well casing.

### **Domestic Industry**

22. The evidence before the Tribunal indicates that TAT is the only known producer of seamless oil and gas well casing in Canada. It therefore constitutes the "domestic industry" for the purposes of this preliminary injury inquiry.

### **Volume of Dumped and Subsidized Goods**

23. Data on the record of this preliminary injury inquiry indicate that the volume of imports of the subject goods grew by 130 percent between 2004 and 2006. China increased its share of the total volume of imports from 25 percent to approximately 37 percent over the same period, displacing the United States as the largest source of imported seamless oil and gas well casing.<sup>8</sup> The Tribunal estimates that China's market share increased significantly, from 14 percent in 2004 to approximately 24 percent in 2005, and remained at that level in 2006.<sup>9</sup>

24. Domestic production of the like goods increased by 45 percent between 2004 and 2005 and by a further 9 percent in 2006 compared with 2005.<sup>10</sup> Notwithstanding the growth in domestic production, the ratio of imports of the subject goods to domestic production increased by approximately 14 percentage points.

25. TAT's share of the apparent market, based on sales from domestic production, declined from 44 percent to 36 percent between 2004 and 2006. This decrease is almost equal to the increased share of the market held by the subject goods. Over the period from 2004 to 2006, imports of seamless oil and gas well casing from non-subject countries remained at approximately 23 percent of the apparent market.<sup>11</sup>

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8. Statistics Canada data.

9. *Ibid.*; confidential appendix 23 of the complaint and confidential replies to additional information requested by the Tribunal.

10. Confidential appendix 6 of the complaint.

11. Excluding imports of seamless steel casing by TAT. Statistics Canada data; confidential appendix 23 of the complaint; confidential replies to requests for additional information by the Tribunal.

### **Effect on the Price of Like Goods**

26. In its complaint, TAT stated that the low prices of the subject goods undercut, suppressed and depressed the prices of like goods, preventing TAT's attempts to increase prices at the same rate as prices have increased in other markets for oil and gas well casing, including the United States.

27. In this regard, the Tribunal notes that the average unit value for duty of the subject goods was significantly lower than the average unit value for duty of seamless oil and gas well casing from non-subject countries. The value for duty price advantage of the subject goods over the goods from non-subject countries increased from 9 percent in 2004 to 26 percent in 2006, although it declined somewhat in the first half of 2007. TAT's evidence of specific lost sales due to lower-priced subject goods suggests that the lower cost of the subject goods was used to capture sales and market share from domestic production, as described above.

### **Impact on the Domestic Industry**

28. Evidence submitted by TAT includes a number of specific allegations of lost sales due to competition from the dumped and subsidized subject goods. Indeed, TAT submitted that the effects of the dumped and subsidized subject goods have essentially pushed it out of the low-strength oil and gas well casing market.

29. The evidence also discloses an inability to increase prices in order to recoup rising costs, despite a 32 percent increase in the apparent market between 2004 and 2006. The annual aggregate losses in sales volume and revenue identified by TAT were significant and have led to reduced unit revenues and profits.

30. For the first half of 2007, the record provides a reasonable indication that the dumping and subsidizing of the subject goods resulted in price suppression. The evidence provides a reasonable indication that the pressure on prices caused by the subject goods resulted in significant reductions of the domestic industry's total and unit gross margin and its operating income.<sup>12</sup> During the first half of 2007, the prices that TAT was able to obtain in the market declined for the first time over the period of inquiry.<sup>13</sup> Faced with competition from dumped and subsidized imports, TAT was unable to increase its domestic unit selling price during a time when its costs increased. In the Tribunal's view, this contributed to TAT's large decrease in unit net income resulting in a loss for the first half of 2007.

31. On the basis of the above, the Tribunal is of the view that the evidence on the record provides a reasonable indication that the dumping and subsidizing of the subject goods have caused injury to the domestic industry.

### **Other Factors**

32. Parties opposed to the complaint argued that various non-dumping and non-subsidizing factors were the cause of the injury to the domestic industry. These other factors included, among other things, the downturn in the oil and gas industry, increased competition from ERW casing, the strengthening of the Canadian dollar relative to the U.S. dollar, the remote location of TAT's mill in relation to its customers and the choice of customers to maintain alternative sources of supply.<sup>14</sup>

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12. Confidential replies to requests for additional information by the Tribunal.

13. Confidential appendix 23 of the complaint; confidential replies to additional information requested by the Tribunal.

14. On the issue of the downturn in the industry, the Tribunal takes note of the sharp and unexpected contraction in the domestic market that began in the second half of 2006 and which resulted in a decline of about 55 percent in the apparent market between the first half of 2006 and the corresponding period in 2007. Statistics Canada data; confidential appendix 23 of the complaint; confidential replies to request for additional information by the Tribunal.

33. The Tribunal has considered all the above factors and is of the view that they may have contributed to the injury experienced by the domestic industry. However, the Tribunal is of the opinion, in this preliminary injury inquiry, that the evidence on the record regarding the impact of these other factors does not negate its conclusion that there is a reasonable indication of injury caused by the dumping and subsidizing of the subject goods. It is only in the context of an inquiry under section 42 of *SIMA* that the Tribunal will be in a position to fully assess the magnitude of these other factors.

## CONCLUSION

34. Having regard to the above analysis, the Tribunal is of the view that there is evidence that discloses a reasonable indication that the dumping and subsidizing of the subject goods have caused injury to the domestic industry.

Serge Fréchette  
Serge Fréchette  
Presiding Member

James A. Ogilvy  
James A. Ogilvy  
Member

Ellen Fry  
Ellen Fry  
Member