



Canadian International
Trade Tribunal

Tribunal canadien du
commerce extérieur

CANADIAN
INTERNATIONAL
TRADE TRIBUNAL

Dumping and Subsidizing

ORDER AND REASONS

Expiry Review No. RR-2012-002

Seamless Carbon or Alloy Steel Oil
and Gas Well Casing

*Order issued
Monday, March 11, 2013*

*Reasons issued
Tuesday, March 26, 2013*

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IN THE MATTER OF an expiry review, pursuant to section 76.03 of the *Special Import Measures Act*, of the finding made by the Canadian International Trade Tribunal on March 10, 2008, in Inquiry No. NQ-2007-001, concerning:

**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**

ORDER

The Canadian International Trade Tribunal, pursuant to section 76.03 of the *Special Import Measures Act*, has conducted an expiry review of its finding made on March 10, 2008, in Inquiry No. NQ-2007-001, concerning the 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.

Pursuant to paragraph 76.03(12)(b) of the *Special Import Measures Act*, the Canadian International Trade Tribunal hereby continues its finding in respect of the aforementioned goods.

Pasquale Michaele Saroli
Pasquale Michaele Saroli
Presiding Member

Serge Fréchette
Serge Fréchette
Member

Jason W. Downey
Jason W. Downey
Member

Eric Wildhaber
Eric Wildhaber
Secretary

The statement of reasons will be issued within 15 days.

Place of Hearing: Ottawa, Ontario
Dates of Hearing: January 21 and 22, 2013

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STATEMENT OF REASONS

BACKGROUND

1. This is an expiry review, pursuant to section 76.03 of the *Special Import Measures Act*,¹ of the finding made by the Canadian International Trade Tribunal (the Tribunal) on March 10, 2008, in Inquiry No. NQ-2007-001, concerning the dumping and subsidizing of seamless 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 (China) (the subject goods).
2. The Tribunal initiated this expiry review on June 27, 2012.² It notified the Canada Border Services Agency (CBSA) and sent letters to known domestic producers, importers, foreign producers and exporters requesting that they complete expiry review questionnaires for the period from January 1, 2009, to March 31, 2012. The Tribunal requested that, if the CBSA found a likelihood of continued or resumed dumping and/or subsidizing, domestic producers, importers, foreign producers and exporters update their responses to questionnaires submitted to the CBSA to include data up to September 30, 2012, consistent with the Tribunal's period of review (POR), which covers the period from January 1, 2009, to September 30, 2012. The Tribunal also requested that domestic producers complete Part E of the *Expiry Review Questionnaire – Domestic Producer*.
3. On June 28, 2012, the CBSA initiated an investigation to determine whether the expiry of the Tribunal's finding was likely to result in the continuation or resumption of dumping and/or subsidizing of the subject goods.
4. On October 25, 2012, the CBSA determined, pursuant to paragraph 76.03(7)(a) of *SIMA*, that the expiry of the finding was likely to result in the continuation or resumption of dumping and subsidizing of the subject goods.
5. On October 26, 2012, following the CBSA's determination, the Tribunal began its expiry review to determine, pursuant to subsection 76.03(10) of *SIMA*, whether the expiry of the finding was likely to result in injury or retardation. On October 29, 2012, as part of these proceedings, the Tribunal sent a short-form importers' questionnaire to importers that had not completed the *Expiry Review Questionnaire – Importer*.
6. The Tribunal held a public hearing in Ottawa, Ontario, on January 21 and 22, 2013.
7. Tenaris Canada (Tenaris) submitted evidence and made arguments in support of the continuation of the finding. Tenaris was represented by counsel at the hearing and presented Mr. Guillermo Moreno, Managing Director Canada, and Mr. Dave McHattie, Planning Director Canada, as witnesses.
8. Energex Tube (Energex) also submitted evidence and made arguments in support of the continuation of the finding. Energex was represented by counsel at the hearing and presented Mr. Angus Somerville, General Manager – OCTG & LP Sales Canada, and Mr. David Seeger, President, JMC Steel Group, as witnesses.

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

2. C. Gaz. 2012.I.1883.

9. Welded Tube of Canada (Welded Tube) did the same, was represented by counsel at the hearing and presented Mr. Andrew Weston, General Sales Manager, as a witness.
10. Evraz Inc. NA Canada (Evraz) filed a statement indicating that it supported a continuation of the finding. It did not however file evidence, make submissions or appear at the hearing.
11. No parties provided submissions or made arguments in opposition to a continuation of the finding.
12. The Tribunal did not receive any requests for product exclusions.
13. The record of these proceedings consists of all relevant documents filed or accepted for filing by the Tribunal, including the following: the CBSA's protected expiry review report, public statement of reasons, index of background information and related documents; written Tribunal communications; the Tribunal's notice of expiry review; the protected and public replies to the expiry review questionnaires and short-form importers' questionnaires; the public and protected staff reports prepared for this expiry review and revisions thereto; witness statements and other exhibits; and the exhibit list and Tribunal's finding, statement of reasons and public and protected staff reports prepared for Inquiry No. NQ-2007-001 and revisions thereto.
14. All public exhibits were made available to interested parties, while protected exhibits were provided only to counsel who had filed a declaration and undertaking with the Tribunal in respect of the protection of confidential information.

PRODUCT

Product Definition

15. The goods subject to this expiry review are 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 China.

Additional Product Information

16. Seamless casing falls within a category of products commonly referred to as oil country tubular goods (OCTG), which include drill pipe, casing and tubing. OCTG are used in the drilling of oil and gas wells and in the conveyance of these products to the surface. Casing is used to prevent the walls of the bored hole from collapsing, both during drilling and after the well has been completed.
17. Casing must be able to withstand outside pressure and internal yield pressures within the well. It must also have sufficient joint strength to hold its own weight and must be equipped with threads sufficiently tight to contain the well pressure where lengths are jointed. Various factors limit the total amount of open hole that can be drilled at any one time, and it may be necessary to set more than one string of casing concentrically for certain portions of well depth.

Production Process

18. Casing is produced using one of two processes: the seamless process or the electric resistance welded (ERW) process.

19. Seamless casing is produced by first cutting steel bars of the appropriate chemistry for the desired grade of casing into billets. The billets are heated and pierced under pressure to form a central cavity. The resulting shell is then rolled on a retained mandrel and reduced in a stretch reduction mill to produce the finished size before being cooled on a walking beam cooling bed. The tube rounds are then inspected and cut to the required length. High-strength casing³ requires heat treatment (normalization) to meet American Petroleum Institute (API) specifications. Beveling and threading both ends finish the casing.⁴

20. ERW casing can be produced in two different ways. One process involves slitting flat hot-rolled steel in coil form (skelp) to the proper width required to produce the desired diameter of pipe. The skelp is then sent through a series of forming electric resistance welding rolls that bend it into a tubular shape. As the edges of the skelp come together under pressure in the final forming rolls, an electric current is passed between them. The resistance to the current heats the edges of the skelp to the welding temperature, and the weld is formed as the two edges are pressed together.

21. The other production process used to make ERW casing is the stretch reduction method. Hot-rolled steel strip is received slit-to-width from a steel processor. The strip is uncoiled and butt-welded together (i.e. the front end of one coil to the back end of the last coil), and then fed into a series of forming rolls that bend the steel in a circular (tubular) shape. An electric current is introduced into the steel to heat the edges of the strip; the edges are then welded to one another under pressure in the side welding rolls. This combination of heat and pressure causes the steel to form a metallurgical bond or weld. Excess molten steel (flash) from the welding process is removed from the outside and inside welded seam of the pipe. The pipe is heated to approximately 1,850 degrees Fahrenheit and passed through a series of stretch reduction roll stands until the final outside diameter and wall thickness are achieved.

22. The resulting ERW casing is cut to length and, in the case of high-strength ERW casing, heat-treated to meet API specifications. ERW casing may have a variety of end finishes, including plain end or threaded.

23. In a final inspection, the finished casing is checked for size, wall thickness, concentricity straightness and surface quality. A coupling and a coupling protector may be applied to one end and a thread protector to the other end of the casing before it is ready for shipment.

Marketing and Distribution

24. In Canada, domestically produced and imported casing are sold either to oilfield supply distributors that, in turn, sell the products to end users (oil and gas operating companies), or directly to large end users.

DOMESTIC PRODUCERS

25. There are four domestic producers of casing: Energex, Evraz, Tenaris and Welded Tube. Each producer received and replied to the *Expiry Review Questionnaire – Domestic Producer*.

3. High-strength casing is used in deeper wells and more severe environments, such as low-temperature services, “sour” environments, heavy oil recovery, etc. Its chemistry also provides for special combinations of mechanical properties and/or resistance to corrosion and environmental cracking. These properties may be for maximum strength, high-strength with low ductility (normally proprietary enhancements of API grades) and high-strength combined with resistance to corrosion and environmental cracking. High-strength grades include N80, P110 and L80.

4. Threading may be performed by a third party.

26. Tenaris is the only domestic producer of seamless casing. Energex, Evraz, Tenaris and Welded Tube all produce ERW casing.

Energex

27. Energex, a wholly owned subsidiary of JMC Steel Group, operates three piping and tubing manufacturing mills in Welland, Ontario, that were previously owned by Lakeside Steel Corporation.

28. Energex's Welland operations consist of the following mills: (i) an ERW/stretch reduction mill capable of producing tubing and casing products with an outside diameter of 1 inch to 4 1/2 inches; (ii) an ERW mill capable of producing casing and line pipe products with an outside diameter of 4 1/2 inches to 8 5/8 inches; and (iii) an upsetting, threading, and coupling line capable of end finishing tubing products with an outside diameter of 2 3/8 inches to 2 7/8 inches.

29. Energex sells ERW casing to major Canadian distributors. In addition to its domestic sales, Energex exports its domestically produced ERW casing.

30. Energex did not import any seamless or ERW casing during the Tribunal's POR.

Evraz

31. Evraz is wholly owned by Evraz Group S.A. (Evraz S.A.) of Luxembourg, a vertically integrated steel, mining and vanadium business.

32. Evraz produces ERW casing in Regina, Saskatchewan, Red Deer, Alberta, Calgary, Alberta, and Camrose, Alberta. Evraz produces ERW casing with an outside diameter of 4 1/2 inches to 13 3/8 inches. In addition, Evraz produces other products, including OCTG tubing, hollow structural sections, line pipe, and carbon and alloy hot rolled sheet and plate.

33. Evraz sells ERW casing to distributors and end users. In addition to its domestic sales, Evraz exports its domestically produced ERW casing.

34. Evraz was an importer of ERW casing during the Tribunal's POR.

Tenaris

35. Tenaris is wholly owned by Tenaris SA of Luxembourg, a global manufacturer of seamless and welded pipe products.

36. Tenaris has two manufacturing facilities that produce OCTG in Canada: seamless casing at its TenarisAlgomaTubes Inc. (TAT) facility in Sault Ste. Marie, Ontario; and ERW casing at its TenarisPrudential location in Calgary.

37. Tenaris sells casing made at the above facilities through Tenaris Global Services (Canada) Inc. (TGS) of Calgary to both distributors and end users. In addition to its domestic sales, Tenaris exports domestically produced seamless and ERW casing.

38. Tenaris was an importer of ERW casing and non-subject seamless casing during the Tribunal's POR.

Welded Tube

39. Welded Tube, of Concord, Ontario, has been operating since 1970. It obtained an API licence in 2005 and began producing ERW casing of various API and proprietary grades in outside diameters ranging from 4 1/2 inches to 9 5/8 inches at its Concord facility. Welded Tube has a threading and finishing operation in Port Colborne, Ontario. In 2011, Welded Tube built a thermal treating facility in Welland in order to make API alloy grades of casing.

40. Welded Tube sells ERW casing to both distributors and end users. In addition to its domestic sales, Welded Tube exports domestically produced ERW casing.

41. Welded Tube was an importer of ERW casing during the Tribunal's POR.

IMPORTERS AND EXPORTERS

42. At the outset of the expiry review, 29 importers were requested by the CBSA to complete an expiry review questionnaire. Nine importers replied, including one company that had not been asked to complete the questionnaire. These same importers also provided updated information to the Tribunal. The questionnaire responses submitted form part of the record of this expiry review.

43. Ten additional importers responded to the Tribunal's short-form importers' questionnaire. Three of these respondents indicated that they had not imported the subject goods or non-subject seamless or ERW casing during the POR.

44. Twenty-two potential exporters of the subject goods were asked to complete an expiry review questionnaire. The CBSA and the Tribunal received replies from four foreign producers.

PREVIOUS FINDING

Original Finding

45. In Inquiry No. NQ-2007-001, the Tribunal inquired into whether the dumping and subsidizing of the subject goods had caused injury or retardation or were threatening to cause injury.

46. In its notice of commencement of inquiry, the Tribunal invited the parties to file submissions on the issues of like goods and classes of goods.

47. On December 18, 2007, the Tribunal informed the parties that it had determined that high-strength and low-strength⁵ casing constituted a single class of goods and that ERW casing was like goods in relation to seamless casing. The Tribunal informed the parties that it would, therefore, conduct its injury analysis on the basis of a single class of goods and that the like goods included seamless and ERW oil and gas well casing.

48. On March 10, 2008, the Tribunal found that the dumping and subsidizing of the subject goods had not caused injury but were threatening to cause injury to the domestic industry.

5. Low-strength grades, such as H40, J55 and K55, have minimum yield strengths of less than 80 ksi.

ANALYSIS

49. On October 25, 2012, the CBSA determined, pursuant to paragraph 76.03(7)(a) of *SIMA*, that the expiry of the finding was likely to result in the continuation or resumption of dumping and subsidizing of the subject goods. Consequently, the Tribunal is required, pursuant to subsection 76.03(10), to determine whether the expiry of the finding in respect of the subject goods is likely to result in injury or retardation to the domestic industry.⁶

50. The Tribunal is also required, pursuant to subsection 76.03(12) of *SIMA*, to make an order either rescinding the finding in Inquiry No. NQ-2007-001, if it determines that its expiry is unlikely to result in injury, or continuing the finding, with or without amendment, if it determines that the expiry of the finding is likely to result in injury.

51. Before proceeding with its analysis of the likelihood of injury from the continuation or resumption of dumping and subsidizing of the subject goods, the Tribunal will first address a preliminary matter raised at the conclusion of the hearing. Also, the Tribunal will determine (1) what domestically produced goods are “like goods” in relation to the subject goods, (2) what constitutes the “domestic industry” for the purposes of its analysis, and (3) whether the analysis must be done separately for the dumping and subsidizing of the subject goods.

Preliminary Matter

52. During final argument, counsel for Welded Tube and Energex suggested that the Tribunal should take into account the fact that importers and foreign producers of the subject goods did not participate in the expiry review.⁷

53. The Tribunal notes that, pursuant to Article 6.2 of the *Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994*,⁸ failure by a party to participate in proceedings shall not be prejudicial to that party’s case. Therefore, the Tribunal has not drawn any negative inference from the importers’ and foreign producers’ lack of participation.⁹ This approach is consistent with the Tribunal’s past practice.¹⁰

Like Goods

54. 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 [such] goods . . . goods the uses and other characteristics of which closely resemble those of the other goods.”

6. Subsection 2(1) of *SIMA* defines “injury” as “material injury to the domestic industry” and “retardation” as “material retardation to the *establishment* of a domestic industry” [emphasis added]. 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.

7. *Transcript of Public Hearing*, Vol. 2, 22 January 2013, at 99-100.

8. 15 April 1994, 1868 U.N.T.S. 201 (entered into force 1 January 1995) [*Antidumping Agreement*], available at: World Trade Organization <http://www.wto.org/english/docs_e/legal_e/19-adp_01_e.htm>.

9. The Tribunal notes that *SIMA* is, insofar as possible, to be applied in a manner consistent with Canada’s international treaty obligations, including the *Antidumping Agreement*. See *Németh v. Canada (Justice)*, 2010 SCC 56, [2010] 3 SCR. 281, at para. 34, and cases cited therein.

10. See *Carbon Steel Welded Pipe* (3 June 2005), RR-2004-003 (CITT) at para. 34; *Hot-rolled Carbon Steel Plate and High-strength Low-alloy Plate* (17 May 2004), RR-2003-001 (CITT) at para. 104.

55. In considering this issue, the Tribunal typically looks at 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 they fulfill the same customer needs).¹¹

56. In Inquiry No. NQ-2007-001, the Tribunal determined, on the basis of the above factors, that domestically produced ERW oil and gas well casing and seamless oil and gas well casing were like goods to one another and to the subject goods.¹² It also determined that oil and gas well casing of different grades or strengths fell at various points along a continuum within a single class of goods.¹³

57. In the current expiry review, the Tribunal was presented with no evidence or argument that warrants departing from these determinations. Accordingly, the Tribunal continues to be of the view that there is one class of goods in this expiry review and that domestically produced ERW oil and gas well casing and seamless oil and gas well casing are “like goods” in relation to the subject goods.

Domestic Industry

58. Having determined what constitutes the “like goods” in this expiry review, the Tribunal must now consider which producers constitute the domestic industry. Subsection 2(1) of *SIMA* defines “domestic industry” as follows: “. . . 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”

59. Energex, Evraz, Tenaris and Welded Tube together account for 100 percent of the total known domestic production of like goods¹⁴ and, as such, constitute the “domestic industry” for the purposes of the Tribunal’s analysis of likelihood of injury.

Cross-cumulation

60. The Tribunal must also determine whether it will make an assessment of the cumulative effect of the dumping and subsidizing of the subject goods.

61. In Inquiry No. NQ-2007-001, the Tribunal stated that it would not differentiate any effect resulting from the dumping of the subject goods from any effect resulting from the subsidizing of the same goods for the purposes of its analysis, as it continued to hold the view that it was not possible to isolate the effects caused by the dumping of goods from those caused by the subsidizing of the same goods because they are so closely intertwined that it was impossible to unravel them so as to allocate specific or discrete portions to the dumping and subsidizing.¹⁵

62. The Tribunal was presented with no evidence or argument that warrants departing from this approach. Accordingly, the Tribunal continues to be of the view that it is appropriate to assess the cumulative effect of the dumping and subsidizing of the subject goods for the purposes of its likelihood of injury analysis.

11. See, for example, *Copper Pipe Fittings* (17 February 2012), RR-2011-001 (CITT) at para. 66; *Stainless Steel Sinks* (24 May 2012), NQ-2011-002 (CITT) at para. 52.

12. *Seamless Carbon or Alloy Steel Oil and Gas Well Casing* (10 March 2008), NQ-2007-001 (CITT) [*Seamless Casing*] at paras. 51-71.

13. *Ibid.* at paras. 44-50.

14. *Staff Report*, Tribunal Exhibit RR-2012-002-05, Administrative Record, Vol. 1.1 at 16-19.

15. *Seamless Casing* at paras. 76-77.

Likelihood of Injury

63. As noted above, the Tribunal is required, pursuant to subsection 76.03(10) of *SIMA*, to determine whether the expiry of the finding is likely to result in injury to the domestic industry.

64. In a procedural order in Expiry Review No. RR-2004-005, the Tribunal stated that, in its view, “. . . subsections 76.03(7) and 76.03(10) of *SIMA* clearly indicate that the analyses conducted by the CBSA and the Tribunal in an expiry review are forward-looking.”¹⁶ In making its assessment of the likelihood of injury, the Tribunal has consistently taken the view that the focus must be on circumstances that can reasonably be expected to prevail in the near to medium term, which is generally 18 to 24 months from the expiry of the finding or order.¹⁷ The Tribunal heard no argument that it should consider a different time period in this expiry review.

65. In *Copper Pipe Fittings*, the Tribunal stated that “[i]t follows from the forward-looking nature of expiry reviews that evidence from the POR, during which an order or a finding was being enforced, is relevant only insofar as it bears upon the prospective analysis of whether the expiry of the order or finding is likely to result in injury.”¹⁸ The Tribunal also explained in Expiry Review No. RR-2005-002 that “. . . there is no presumption of injury in an expiry review . . .” and that the Tribunal’s findings “. . . must be based on positive evidence, in compliance with domestic law and consistent with the requirements of the World Trade Organization.”¹⁹ In this regard, and for reasons explained below, the Tribunal is of the view that there is sufficient unchallenged evidence on the record supporting the domestic industry’s claim that a rescission of the finding would likely result in injury to domestic producers of the like goods.

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

Changes in International and Domestic Market Conditions

67. In reaching a determination on the likely volumes and prices of the subject goods and their impact on the domestic industry if the finding is rescinded, the Tribunal will first consider changes in international and domestic market conditions, as contemplated by paragraph 37.2(2)(j) of the *Regulations*.

International Market Conditions

68. China is the world’s leading producer of pipe and tube products, and in particular, of seamless pipe. According to the Steel Business Briefing (SBB), China accounts for approximately 63 percent of global pipe and tube production and about three quarters of global seamless pipe output.²¹ SBB estimates that

16. *Certain Dishwashers and Dryers* (25 April 2005), RD-2004-010 (CITT) at para. 16.

17. *Wood Slats* (15 July 2009), RR-2008-003 (CITT) at para. 45; *Preformed Fibreglass Pipe Insulation* (17 November 2003), RR-2002-005 (CITT) at 11; *Certain Prepared Baby Foods* (28 April 2003), RR-2002-002 (CITT) at 8; *Certain Solder Joint Pressure Pipe Fittings* (16 October 1998), RR-97-008 (CITT) at 10.

18. *Copper Pipe Fittings* at para. 56.

19. *Flat Hot-rolled Carbon and Alloy Steel Sheet and Strip* (16 August 2006), RR-2005-002 (CITT) at paras. 57, 59.

20. S.O.R./84-927 [*Regulations*].

21. Manufacturer’s Exhibit D-08 (protected) at 15, Administrative Record, Vol. 12A.

China's current seamless pipe production capacity is 32 million tonnes, which represents over half of global production capacity.²²

69. Prior to the mid-2000s, China was a net importer of seamless pipe. In 2003, it began to increase its seamless pipe production capacity. OCTG production was a key driver of this growth, with production increasing 43 percent between 2005 and 2008.²³

70. SBB reported that much of the growth in Chinese OCTG production prior to the Tribunal's POR was driven by export demand in the United States. From 2005 to 2008, 40 percent of all seamless OCTG produced in China was exported. Exports declined in 2008, however, as a result of the United States and other countries initiating anti-dumping investigations into imports of Chinese OCTG and the global financial crisis that began late that year.²⁴

71. As a result of reduced export demand, Chinese OCTG production was 5 million tonnes in 2009, down 23 percent from 2008 levels. Though output has recovered since 2009, SBB estimates that production in 2011 remained 12 percent below the high reached in 2008.²⁵ Based upon this information, China's OCTG production in 2011 was approximately 5.75 million tonnes.²⁶

72. Turning to seamless OCTG production, Metal Bulletin Research (MBR) indicates that Chinese production of seamless OCTG increased in both 2011 and 2012. MBR reports seamless OCTG production of approximately 5.2 million tonnes for 2011 and 5.6 million tonnes for 2012. Looking forward, MBR forecasts an approximate 4 percent decline in Chinese seamless OCTG production in 2013 compared to 2012, but expects production to increase again in 2014, albeit to levels below those of 2012.²⁷

73. Evidence contained in the China Steel Pipe Industry 12th Five-Year Plan (Five-Year Plan) indicates that, in 2010, China's OCTG industry had a processing capability of 10 million tons (9.07 million tonnes), with excess capacity of more than 5 million tons (4.53 million tonnes) per year. The report notes that, in spite of such excess capacity, there are plans to further expand production capacity during the period of 2011-2016, which will introduce more competition in the Chinese domestic OCTG market.²⁸

74. The information published by SBB corroborates the evidence on excess capacity from the Five-Year Plan, as SBB also considers that OCTG capacity utilization has fallen to 50 percent in recent years and that, despite this, China's seamless pipe producers have continued to add new OCTG production capacity over the last three years.²⁹

75. SBB reported that an increase in Chinese domestic consumption of OCTG helped offset some of the decreasing export demand, but that with an annual growth rate of 3 to 7 percent in recent years, the increase in domestic consumption was too little to fully offset the decrease in exports. According to SBB,

22. *Ibid.*

23. *Ibid.*

24. *Ibid.*

25. *Ibid.*

26. If 5 million tonnes of OCTG production in 2009 was 23 percent lower than production in 2008, 2008 production of OCTG would be approximately 6.5 million tonnes. If OCTG production in 2011 was 12 percent below 2008 levels, it would be approximately 5.75 million tonnes.

27. Manufacturer's Exhibit D-08 (protected) at 32, Administrative Record, Vol. 12A.

28. Manufacturer's Exhibit D-07 at 22-23, Administrative Record, Vol. 11A.

29. Manufacturer's Exhibit D-08 (protected) at 15, Administrative Record, Vol. 12A.

Chinese consumption of seamless OCTG was approximately 4 million tonnes in 2011, up from approximately 3.5 million tonnes in 2009.³⁰

76. MBR estimates of Chinese domestic consumption closely resemble those of SBB. MBR reported Chinese seamless OCTG consumption of approximately 3.4 million tonnes in 2010, 3.6 million tonnes in 2011 and 3.9 million tonnes in 2012. This amounts to annual growth rates of about 6 to 7 percent. MBR forecasts that Chinese consumption of seamless OCTG will see a further 3 percent increase in 2013 and a 6 percent increase in 2014.³¹

77. SBB estimated that China exported 1.81 million tonnes of seamless OCTG in 2011, a 14 percent increase from the previous year, but 46 percent below 2008 export volumes. It noted that China's export markets have become significantly more diverse since 2009.³²

78. Prior to 2009, half of China's seamless OCTG exports were destined for the United States. In 2009, the United States initiated an anti-dumping investigation into Chinese OCTG, and, as a result, exports to the United States have since declined to represent only 8 percent of China's seamless OCTG exports.³³ South American nations, such as Columbia and Venezuela, have become key markets for Chinese seamless OCTG in the past three years, although recently introduced anti-dumping measures could have an impact on future exports to those countries.³⁴ SBB reported that some Chinese producers of seamless OCTG are building operations in other countries to counteract anti-dumping duties imposed by the United States.³⁵

79. MBR reported that Chinese exports of seamless OCTG grew in both 2011 and 2012 at approximate rates of 9 percent and 6 percent respectively, but forecasts exports to decline 20 percent in 2013 and a further 4 percent in 2014. MBR reported that China exported approximately 1.5 million tonnes of seamless OCTG in 2010, 1.65 million tonnes in 2011 and 1.75 million tonnes in 2012. It forecasts exports of approximately 1.4 million tonnes for 2013 and 1.35 million tonnes for 2014.³⁶

80. Turning to prices of Chinese OCTG, MBR, in its publication "The Five Year Outlook for the Global OCTG Industry" (Five-Year Outlook), published in 2011, noted that, following the run-up in prices in 2008, Chinese prices declined in 2009, reaching lows of \$800/tonne. Since then, prices have trended upwards, but J55/K55 plain-end material has not moved much past \$1,000/tonne and has generally traded in a very narrow price range of \$850-\$950/tonne.³⁷

81. MBR expects that a structural oversupply of Chinese OCTG will mean that OCTG prices will continue to trade in such a narrow band up to 2016 and at absolute levels lower than in the recent past. It noted, however, that some premium products that face less competition could see some price protection. MBR data show that Chinese OCTG prices for J55/K55 grades of oil and gas well casing increased over the Tribunal's POR, ranging from \$876/tonne in 2009 to \$979/tonne in 2011. Chinese OCTG prices are forecast to decline to \$920/tonne in 2012, \$800/tonne in 2013 and \$875/tonne in 2014.³⁸

30. *Ibid.* at 16.

31. *Ibid.* at 32.

32. *Ibid.* at 17.

33. *Ibid.*

34. *Ibid.*

35. *Ibid.* at 18.

36. *Ibid.* at 32.

37. *Ibid.* at 39.

38. *Ibid.* at 42.

82. For the N-80 Q grade of oil and gas well casing, MBR reported that prices increased from \$1,090/tonne in 2009 to \$1,153/tonne in 2011 after a slight decline in 2010. The final price for 2012 is forecast to be \$1,095/tonne. Projections for 2013 and 2014 peg the Chinese export price for the N-80 Q grade of casing at \$970/tonne and \$1,055/tonne respectively.³⁹

Domestic Market Conditions

83. Before turning to the likely impact of the rescission of its finding, the Tribunal considered the conditions in the Canadian oil and natural gas markets, as well as the total apparent market for oil and gas well casing in Canada during the POR.

84. The Tribunal notes that it is generally accepted by the oil and gas well casing industry that oil and gas drilling activity is the primary driver of demand for oil and gas well casing in Canada, and that drilling activity is driven by the prices of oil and natural gas.

85. According to the Alberta Energy Company (AECO), the annual average price of natural gas decreased substantially from \$7.75/GJ in 2008 to \$3.78/GJ in 2009. The average price remained relatively steady between 2009 and 2010, up slightly to \$3.81/GJ. The average price then declined in 2011 to \$3.45/GJ. As of November 2012, the average price of natural gas was down substantially to \$2.22/GJ.⁴⁰

86. Looking forward, the Petroleum Services Association of Canada's (PSAC) conservative forecast for natural gas drilling activity remains cautiously optimistic for 2013. PSAC based its 2013 drilling forecast on a natural gas price of \$3.08/GJ.⁴¹

87. Oil prices performed better than gas prices over the POR. The annual average West Texas Intermediate (WTI) oil price was down substantially from \$99.57/oil barrel (bbl) in 2008 to \$61.65/bbl in 2009. Average prices then increased to \$79.40/bbl in 2010 and \$94.87/bbl in 2011. As of November 2012, the average price of oil was \$94.67/bbl.⁴²

88. PSAC forecasts that oil prices will continue to rise in 2013 and based its 2013 drilling outlook on a WTI oil price of \$95.00/bbl.⁴³

89. With respect to trends in oil and gas drilling activity in Canada during the POR, PSAC reported that the total number of oil and gas wells drilled in 2009 was 8,450, down more than 50 percent from the 16,940 wells drilled in 2008. The number of wells drilled increased in both 2010 and 2011, with 12,158 wells drilled in 2010 and 12,850 wells drilled in 2011.⁴⁴

90. In November 2012, PSAC forecast that the total number of oil and gas wells drilled for 2012 would be 11,250. This represents a decrease of 12 percent over PSAC's final tally for oil and gas wells drilled in 2011. For 2013, PSAC forecasts a total of 11,400 wells drilled, a slight increase of 1 percent over its expected 2012 count.⁴⁵

39. *Ibid.*

40. AECO prices are in Canadian dollars. Manufacturer's Exhibit D-07 at 17, Administrative Record, Vol. 11A.

41. Tribunal Exhibit RR-2012-002-36.01, Administrative Record, Vol. 1A at 100. The cited evidence contains prices in \$/thousand cubic feet (mcf), which were converted to \$/GJ.

42. WTI prices are in US dollars. Manufacturer's Exhibit D-07 at 17, Administrative Record, Vol. 11A.

43. Tribunal Exhibit RR-2012-002-36.01, Administrative Record, Vol. 1A at 100.

44. *Ibid.* at 98, 104, 108, 111.

45. *Ibid.* at 98, 100.

91. Another development in drilling activity over the Tribunal's POR that could affect demand for oil and gas well casing in the foreseeable future is the tendency to drill deeper and more complex wells, which are accessing areas that were once thought unreachable or otherwise fully tapped. The average well in the first quarter of 2012 reached beyond 2,000 meters, as compared to an average well depth of 1,686 meters in 2010 and 1857 meters in 2011.⁴⁶ The Tribunal also notes the growing trend in horizontal drilling. A witness for Tenaris submitted that an increase in oil prices since 2009 has made more expensive horizontal drilling and fracturing technologies economically viable, and drilling activity has become heavily weighted towards horizontal drilling applications.⁴⁷ There is evidence that horizontal wells were expected to account for 55 percent of all wells drilled in 2012, compared to only 13 percent of wells drilled in 2007.⁴⁸

92. Turning to the Canadian market for both ERW and seamless oil and gas well casing over the Tribunal's POR, the evidence shows that the total apparent market for oil and gas well casing increased 79 percent between 2009 and 2010, and a further 18 percent in 2011. The domestic market was 402,623 tonnes in 2009, 721,435 tonnes in 2010 and 851,556 tonnes in 2011. For the first nine months of 2012, the apparent market was up 12 percent compared to the same period in 2011.⁴⁹

93. Domestic production accounted for 57 percent of the total apparent market in 2009. This increased to 67 percent in 2010 and returned to 56 percent in 2011. During the first nine months of 2012, domestic production represented 56 percent of the total apparent market, compared to 61 percent of the total apparent market during the same period of 2011.⁵⁰

94. The subject goods captured 8 percent of the total apparent market in 2009 and 9 percent of the total apparent market in 2010 and 2011. During the first nine months of 2012, the subject goods represented 6 percent of the total apparent market, compared to 10 percent of the total apparent market during the same period of 2011.⁵¹

95. Non-subject goods, which are comprised of imported ERW casing from China and imported seamless and ERW casing from countries other than China, accounted for 35 percent of the total apparent market in 2009, 23 percent in 2010 and 35 percent in 2011. During the first nine months of 2012, the non-subject goods represented 37 percent of the total apparent market, compared to 29 percent of the total apparent market during the same period of 2011.⁵²

96. The total apparent market as estimated in the Tribunal's staff report supports the inference that demand for oil and gas well casing is primarily derived from oil and gas drilling activity. The actual number of oil and gas wells drilled increased by more than 50 percent between 2009 and 2011, while the total Canadian apparent market for oil and gas well casing increased by more than 100 percent over the same period.⁵³

46. Tribunal Exhibit RR-2012-002-21.09 (protected), Administrative Record, Vol. 6A at 167; Tribunal Exhibit RR-2012-002-36.01, Administrative Record, Vol. 1A at 98.

47. Manufacturer's Exhibit D-03 at 3, Administrative Record, Vol. 11A.

48. Tribunal Exhibit RR-2012-002-36.01, Administrative Record, Vol. 1A at 98; Tribunal Exhibit RR-2012-002-36.03, Administrative Record, Vol. 1C at 5.

49. *Staff Report*, revised, 13 January 2013, Tribunal Exhibit RR-2012-002-05A, Administrative Record, Vol. 1.1 at 146-47.

50. *Ibid.* at 148.

51. *Ibid.*

52. *Ibid.*

53. *Ibid.* at 146-47; Tribunal Exhibit RR-2012-002-36.01, Administrative Record, Vol. 1A at 98, 108.

Likely Volumes of Dumped and Subsidized Goods

97. The Tribunal's assessment of the likely volumes of dumped and subsidized imports 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 on seamless casing or similar goods in other jurisdictions, and whether measures adopted by other jurisdictions are likely to cause a diversion of the subject goods to Canada.⁵⁴

98. Energex and Welded Tube submitted that the subject goods are produced by large companies with sustained export strategies. They further noted that many companies in Western Canada are engaged in importing and distributing the subject goods, and that these imports compete with domestic production in the distributor segment of the market. They noted that, in Inquiry No. NQ-2007-001, the Tribunal paid close attention to the relationship between drilling activity in Canada and the effect it had on pulling in large quantities of imports of the subject goods. In that inquiry, the Tribunal determined that, absent a Tribunal finding, an expected increase in demand for oil and gas well casing in the foreseeable future would make Canada an attractive market for the subject goods.

99. Energex and Welded Tube submitted that, given the production imperative associated with the build-up in capacity for the subject goods, the size of Chinese production, the history of rapid import penetration in the lead up to the finding in Inquiry No. NQ-2007-001 and the large increases in Chinese production capacity combined with over-production of OCTG in the years following the Tribunal's finding, the potential volume of seamless casing exported to Canada will easily exceed current levels if the finding is rescinded.

100. Tenaris submitted that, if the finding is rescinded, there will be a significant increase in the volume of subject goods, both in absolute terms and relative to the production and consumption of like goods. It cited a number of reasons why it believed this would occur, including a substantial amount of excess production capacity for OCTG in China and a weak domestic market in China that is driving dumped and subsidized goods into export markets. Tenaris also submitted that only a small fraction of available OCTG capacity would be required to supply the entire Canadian market for oil and gas well casing.

101. First, the Tribunal will consider Chinese production capacity, production, and capacity utilization for the subject goods. As discussed below, multiple sources of evidence indicate that the existing OCTG production capacity in China is in the approximate range of 10 to 11 million tonnes, with excess capacity of approximately 5 million tonnes, resulting in a capacity utilization rate of approximately 50 percent.

102. As previously noted, the Five-Year Plan indicates that, as of 2010, China had an OCTG processing capability of 10 million tons (9.07 million tonnes) with an excess capacity of 5 million tons (4.53 million tonnes).⁵⁵

103. In early 2012, SBB reported that Chinese seamless OCTG capacity utilization had fallen to around 50 percent in recent years. Based upon SBB's estimated seamless OCTG production volumes for 2009, 2010 and 2011, this would place China's production capacity at approximately 10 million tonnes, with excess production capacity near 5 million tonnes.⁵⁶

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

55. Manufacturer's Exhibit D-07 at 22, Administrative Record, Vol. 11A.

56. Manufacturer's Exhibit D-08 (protected) at 15, Administrative Record, Vol. 12A.

104. Finally, MBR estimated that Chinese production of seamless OCTG in 2010 to 2012 was in the range of 4.9 to 5.6 million tonnes per year.⁵⁷ Using a capacity utilization rate of 50 percent, Chinese seamless OCTG production capacity would be approximately 10 to 11 million tonnes.

105. Despite having approximately 5 million tonnes of excess installed capacity dating back to 2010, Chinese producers continued adding production capacity in both 2011 and 2012. In particular, the evidence shows that Chinese producers holding an API 5CT license added 1.35 million tonnes of seamless pipe capacity in the last four months of 2011 and a further 2.57 million tonnes in 2012.⁵⁸

106. Other evidence shows that Chinese producers planned to add 2.75 million tonnes of seamless pipe capacity in 2012, on top of the 10 million tonnes installed between 2009 and 2011.⁵⁹ The Tribunal recognizes that this seamless pipe capacity was not necessarily intended to produce the subject goods, but considers that some of this added capacity could easily be shifted to the production of the subject goods if domestic or export markets conditions were favourable.

107. There is evidence that China's seamless pipe capacity was expected to reach 33 million tonnes in 2011.⁶⁰ In light of the evidence that China's seamless OCTG capacity that same year was in the range of 10 to 11 million tonnes, the Tribunal estimated the amount of seamless OCTG capacity added in 2012 to be 850,000 tonnes.⁶¹ Using a capacity utilization rate of 50 percent, this would result in an additional excess production capacity of 450,000 tonnes, enough to supply half of the Canadian oil and gas well casing market in 2011.⁶²

108. Taken as a whole, the evidence shows that there is considerable excess seamless OCTG production capacity in China, which is estimated to be in the order of approximately 5.5 million tonnes. The Tribunal considers that this is approximately 6.5 times the apparent Canadian oil and gas well casing market in 2011 and 14 times the apparent market in 2009.⁶³

109. The Tribunal is therefore satisfied that the evidence discloses significant excess seamless OCTG production capacity in China that can be used to produce the subject goods.

110. Having found that there is significant excess production capacity in China that could be used to produce the subject goods and that there are significant quantities of exports of the subject goods that could be diverted to Canada, the Tribunal must consider whether there would be a significant increase in the volume of subject goods exported to Canada if the finding is rescinded.

111. With China's excess production capacity in mind, the Tribunal first looked at the expected Chinese domestic consumption of seamless OCTG over the next 18 to 24 months. The evidence indicates that consumption of seamless OCTG in China is expected to grow by 3 percent, or 100,000 tonnes, in 2013 and a further 6 percent, or 250,000 tonnes, in 2014.⁶⁴ This is only a fraction of the excess production capacity

57. *Ibid.* at 32.

58. Manufacturer's Exhibit D-01 at 5, Administrative Record, Vol. 11A; Manufacturer's Exhibit D-08 (protected) at 21, 22, 24-26, 28-31, Administrative Record, Vol. 12A.

59. Manufacturer's Exhibit D-08 (protected) at 2, 33, Administrative Record, Vol. 12A.

60. *Ibid.* at 3.

61. This estimation is based on an allocation equivalent to one third of the reported 2.57 million tonnes of seamless pipe production capacity added in 2012 to seamless OCTG production capacity.

62. *Staff Report*, revised, 15 January 2013, Tribunal Exhibit RR-2012-002-05A, Administrative Record, Vol. 1.1 at 136.

63. *Ibid.*

64. Manufacturer's Exhibit D-08 (protected) at 32, Administrative Record, Vol. 12A.

available in China. The Tribunal is of the view that Chinese producers will, therefore, seek export markets for seamless OCTG, and more specifically, for the subject goods.

112. Turning to the Canadian market for oil and gas well casing, it is evident that the total market demand for these goods varies greatly from year to year, as demonstrated by the total apparent market during the Tribunal's POR and during the period of investigation covered in Inquiry No. NQ-2007-001.⁶⁵ This is corroborated by the witness for Welded Tube who stated that the Canadian oil and gas well casing market works in tandem with oil and gas exploration and production, and that as oil and gas drilling increases so does demand for oil and gas well casing.⁶⁶

113. In the "Drilling and Production Outlook" prepared by Spears & Associates Inc. (Spears & Associates) in September 2012, it is forecast that the WTI price for crude oil will remain at the relatively high price of \$95/bbl in 2013, but that spot gas prices will improve 30 percent in 2013 to the \$3.70/GJ or \$4.22/GJ level, resulting in an overall increase in oil and gas drilling activity.⁶⁷

114. Spears & Associates projects that winter oil and gas well drilling will be down 5 percent in 2013 compared to 2012, but that drilling activity in the second half of 2013 will be 20 percent higher than in 2012. As a whole, drilling activity in Canada is forecast to increase 8 percent in 2013 to an average of 396 active rigs for roughly 11,000 wells drilled. It is projected that oil drilling will increase 7 percent in Canada in 2013, while gas well drilling is forecast to rise 10 percent over the coming year. It is expected that there will be 7,300 new oil wells and 2,150 new gas wells drilled in Canada in 2013.⁶⁸

115. PSAC projects that 11,400 oil and gas wells will be drilled in 2013.⁶⁹ The Tribunal notes that oil and gas drilling forecasts can change from month to month and that the variance in outlooks is likely due, in large part, to the level of actual drilling completed in 2012 at the time the forecasts were prepared.

116. Looking to 2014, Spears & Associates expects an increase in the number of oil and gas wells drilled to 11,335 wells drilled, representing a 3 percent increase over 2013. Average active rigs in 2014 are expected to be 411, up 4 percent over 2013.⁷⁰

117. The forecasts by Spears & Associates and PSAC were corroborated by testimony of the witness for Energen, who expects continued growth in the oil sands market in Western Canada and a continuous stream of activity going into 2013 to 2015.⁷¹

118. On the basis of these forecasts, the Tribunal considers it reasonable to expect that the Canadian market for oil and gas well casing will grow in the next 18 to 24 months in lockstep with the expected growth in oil and gas well drilling activity.

119. The Tribunal observes that the subject goods remained in the market in significant quantities over the POR and experienced a small gain in market share despite the anti-dumping and countervailing duties in place.

65. *Staff Report*, revised, 15 January 2013, Tribunal Exhibit RR-2012-002-05A, Administrative Record, Vol. 1.1 at 136; Tribunal Exhibit RR-2012-002-12, Administrative Record, Vol. 1.3 at 168.

66. Manufacturer's Exhibit A-03 at 3, Administrative Record, Vol. 11.

67. Manufacturer's Exhibit A-08 (protected) at 57, Administrative Record, Vol. 12. The cited evidence contains prices in \$/million British thermal units (mmbtu), which were converted to \$/GJ.

68. Manufacturer's Exhibit A-08 (protected) at 57, Administrative Record, Vol. 12.

69. Tribunal Exhibit RR-2012-002-36.01, Administrative Record, Vol. 1A at 100.

70. Manufacturer's Exhibit A-08 (protected) at 60, Administrative Record, Vol. 12.

71. *Transcript of Public Hearing*, Vol. 1, 21 January 2013, at 32.

The ability of the subject goods to maintain market share while the total apparent market increased by 79 percent between 2009 and 2010 demonstrates that Chinese producers are able to adapt and increase shipments of subject goods as necessary, and that there are volumes of the subject goods available to be shipped to Canada in response to increased demand for those goods.⁷²

120. The evidence indicates that seamless casing is a commodity product that competes on price.⁷³ The continuation or resumption of dumping and subsidizing as a result of the rescission of the current finding would therefore likely lead to an increase in demand for those goods in the Canadian market given their price advantage over both imports from other countries and the domestically produced like goods. Coupled with evidence demonstrating that imports of subject goods could rapidly increase in response to higher demand, the Tribunal concludes that the growth in the volume of imports of the currently subject goods, upon rescission of the current finding, would likely be significant.

121. There are other factors, as well, that lead the Tribunal to conclude that a rescission of the finding would likely result in a significant increase in the volume of imports of subject goods.

122. The Tribunal notes that there is a production imperative in China for producers of seamless OCTG, which includes the subject goods, to maintain high capacity utilization rates such that Chinese producers must pursue export market opportunities to grow and maintain production volumes in underutilized plants.⁷⁴ The Tribunal is of the view that, if the finding is rescinded, the Canadian market will likely be an attractive destination for the subject goods, especially in light of the significant excess production capacity in China that could be brought on stream to exploit export opportunities associated with the anticipated growth in demand as a result of projected drilling activity in Canada the next 18 to 24 months.

123. In this regard, the Tribunal heard that Canada is the fourth largest OCTG market in the world and that the long-term prospects for the Canadian energy market are strong. It also heard that Canada is an important strategic market for China, as evidenced by the recent acquisition of Nexen and the forming of a joint venture with Encana.⁷⁵ The Tribunal finds that the importance of Canada to Chinese producers of the subject goods makes Canada an attractive market for the subject goods and that imports of the subject goods will likely increase significantly if the finding is rescinded.

124. Furthermore, there are currently a number of measures in place in other countries involving Chinese OCTG that will likely make Canada an attractive market for the subject goods if the finding is rescinded. While the domestic producers referenced a number of anti-dumping measures on Chinese tubular or pipe products as evidence of China's propensity to dump those goods, the Tribunal considers that the trade action that would have the most significant impact in diverting exports of the subject goods to Canada is the anti-dumping finding on OCTG in the United States. The witness for Energex submitted that, with the US order in place, if the finding is permitted to expire, the subject goods will be diverted to Canada by importers taking advantage of the strength of the Canadian oil sands production.⁷⁶

125. Data obtained by the Tribunal from the International Steel Statistics Bureau (ISSB) show that Chinese exports of seamless oil and gas well casing and tubing to the United States declined 89 percent between 2009 and 2010 after the United States initiated an anti-dumping investigation on OCTG. During

72. *Staff Report*, revised, 13 January 2013, Tribunal Exhibit RR-2012-002-05A, Administrative Record, Vol. 1.1 at 146-48.

73. *Transcript of Public Hearing*, Vol. 1, 21 January 2013, at 19, 51.

74. *Ibid.* at 39.

75. *Ibid.* at 23, 24, 48.

76. Manufacturer's Exhibit B-05 at 4, Administrative Record, Vol. 11.

the same period of 2009 to 2010, exports of seamless casing and tubing to Canada increased 98 percent.⁷⁷ While this increase may be attributed in part to a general growth in the Canadian market during that period, it is interesting to note that the increase in exports to Canada directly coincided with a decrease in exports to the United States following the initiation of the anti-dumping investigation on the goods.

126. The Tribunal is of the view that anti-dumping findings in other countries, particularly the United States, limit export opportunities for producers of the subject goods and that the rescission of the finding in Canada would likely result in a significant increase in imports of the subject goods in Canada.

127. Finally, as discussed above, imports of the subject goods maintained and even slightly increased their market share during the Tribunal's POR. This demonstrates that there is an established distribution network for the subject goods in Canada. The Tribunal also heard that ocean shipping rates have declined in recent months.⁷⁸ Shipping rates are therefore unlikely to be an impediment to the importation of the subject goods in the near term. The Tribunal therefore considers that subject imports will likely increase if the finding is rescinded. In fact, the Tribunal heard testimony that importers of the subject goods are looking forward to increasing their import volumes if the finding is rescinded.⁷⁹ Moreover, with rescission of the finding, one could reasonably expect that a number of new Chinese producers and former exporters who did not ship subject goods to Canada while the finding was in place would be drawn to Canada, which would further contribute to the likely increase in subject imports and exacerbate the intensity of price competition in the Canadian market.

128. Accordingly, the Tribunal is of the view that the continuing interest of Chinese producers in the Canadian market, as demonstrated, in particular, by the continuing presence of subject goods in the marketplace, the shipment of significant quantities of subject goods to Canada, significant excess capacity in the seamless OCTG industry in China, the expected increase in Canadian demand for seamless casing, the commodity nature of the subject and the like goods, the demonstrated ability of Chinese exporters to respond to increases in Canadian demand for the subject goods, findings in other jurisdictions that would likely prompt the diversion of exports of the subject goods to Canada, and an existing well-established distribution network for the subject goods in Canada, all support the conclusion that there is likely to be a significant increase in the volume of subject seamless casing that will be exported to Canada from China in the near to medium term if the finding is rescinded.

Likely Prices of Dumped and Subsidized Goods and Effects on Prices of Like Goods

129. In assessing the effects that the likely post-rescission prices of dumped or subsidized goods would have on prices of the like goods, the Tribunal will examine whether the subject goods are likely to significantly undercut, depress or suppress the prices of the like goods.⁸⁰

130. Energex and Welded Tube submitted that the fact that 15 Chinese exporters participated in the CBSA's most recent re-investigation, and a total of 17 exporters were issued revised normal values, shows that, even with the finding in place, Chinese exporters continue to challenge the domestic market. They also submitted that future delivered prices would reflect Chinese subsidization of the subject goods. Energex and Welded Tube noted that MBR reports demonstrate that Chinese OCTG pricing is consistently below that of other markets.

77. Tribunal Exhibit RR-2012-002-37.02 (protected), Administrative Record, Vol. 2.01 at 104-108.

78. *Transcript of Public Hearing*, Vol. 1, 21 January 2013, at 11.

79. *Ibid.* at 22.

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

131. Energex and Welded Tube argued that shipping costs are similar for the subject goods and like goods and that the subject goods must, therefore, compete on price. They argued that if the finding is rescinded, there will be significant price undercutting and that this undercutting will both depress and suppress domestic price levels.

132. Tenaris submitted that, if the finding is rescinded, the likely prices of the dumped and subsidized goods will substantially undercut current pricing in the Canadian market. Tenaris submitted that Chinese OCTG faces pricing pressure due to overcapacity, and that the MBR Five-Year Outlook for the global OCTG industry shows a longstanding pattern of Chinese OCTG prices being significantly lower than prices in other markets.

133. Tenaris also submitted that the Tribunal's staff report demonstrates the willingness of Chinese producers to price aggressively in the Canadian market, which is especially evident in the benchmark product data for 2011 and the first half of 2012.

134. The apparent market table from the Tribunal's staff report shows that the weighted average net delivered selling price of the subject goods exceeded that of the like goods during the POR, except for the period from January to September 2011.⁸¹ The Tribunal recognizes, however, that this macro pricing analysis may be misleading as the apparent market includes a wide range of product grades. In addition, the subject goods are limited to seamless casing, while the like goods include both welded and seamless casing. Consequently, the Tribunal is of the view that the benchmark product pricing information provides a better insight into prices of the subject goods and the like goods during the POR.⁸²

135. Looking at the net delivered selling prices for the benchmark products, it is evident that, for certain benchmark products, the prices of the subject goods and the like goods are similar.⁸³ The Tribunal accepts that this convergence in price is due, in part, to the application of anti-dumping and countervailing duties on the subject goods. The Tribunal is of the view that, if the finding is rescinded, the prices of the subject goods will likely decline and undercut prices of the like goods, leading to erosion in the prices of the like goods. Indeed, the Tribunal heard testimony that, if the finding is rescinded, prices of the J55/K55 grades of seamless oil and gas well casing could be expected to fall by at least \$500/tonne, while prices for the higher N80, L80 and P110 grades of seamless oil and gas well casing could be expected to fall by as much as \$900/tonne.⁸⁴

136. Despite some similarities in the prices of the subject goods and the like goods in the benchmark product pricing data, the benchmark product prices show that, in the majority of quarters where both the subject goods and the like goods were sold to either distributors or end users, the weighted average net delivered selling value of the subject goods undercut that of the like goods.

137. The Tribunal finds that, while the application of anti-dumping and countervailing duties may have resulted in similar prices for certain subject goods and like goods over the POR, the evidence shows that, in general, price undercutting of the like goods by the subject goods is both frequent and widespread. Given that such price undercutting occurred while the finding was in place, the Tribunal considers that, if the

81. *Staff Report*, revised, 13 January 2013, Tribunal Exhibit RR-2012-002-05A, Administrative Record, Vol. 1.1 at 154.

82. While the domestic producers' benchmark product data also include selling prices of seamless and ERW like goods, the information is considered to be more indicative of pricing in the market as it pertains to a single grade of oil and gas well casing.

83. *Protected Staff Report*, 18 December 2012, Tribunal Exhibit RR-2012-002-06 (protected), Administrative Record, Vol. 2.1 at 56, 59.

84. *Transcript of Public Hearing*, Vol. 1, 21 January 2013, at 23.

finding is rescinded, the result will likely be further price undercutting by the subject goods that will likely result in a decline in the prices of the like goods.⁸⁵

138. As previously noted, oil and gas well casing is a commodity product that competes predominantly on price. The witness for Tenaris testified that the lowest price often wins a bid, while that for Energex stated that, as long as quality and delivery requirements are met, price determines who is awarded the order.⁸⁶ The Tribunal is of the view that, if the finding is rescinded, prices of the subject goods will likely have a depressive effect on the prices of the like goods due to the commodity nature of the product, with the domestic industry likely being required to lower its selling prices in order to compete with the prices of the dumped and subsidized goods.

139. The Tribunal finds that, if the finding is rescinded, the subject goods will likely significantly undercut and have a depressive effect on prices of the like goods immediately afterward. This is supported by evidence of aggressive pricing on behalf of Chinese producers.

140. The Tribunal reviewed the pricing data on the record from MBR. The evidence shows that OCTG prices in the Chinese market were substantially lower than prices in other markets, such as the United States, Western Europe, Eastern Europe, Japan and the Middle East, during the Tribunal's POR and are expected to remain lower than prices in those other markets in the foreseeable future.⁸⁷

141. The Tribunal heard that seamless casing that sells in the range of \$2,000/tonne in Canada is being offered by Chinese producers at prices near \$1,000/tonne in other jurisdictions.⁸⁸ Further, the evidence shows that the prices offered by Chinese producers in Kuwait were substantially lower than those of other bidders, in some cases by more than 50 percent.⁸⁹

142. The Tribunal considers this as evidence of aggressive pricing by Chinese producers of the subject goods that is driven by their production imperative rather than by sound economic rationale. In fact, the Tribunal heard witness testimony that Chinese producers would sell the subject goods as low as, or below, variable cost of production.⁹⁰ The Tribunal believes that these imports would likely enter the Canadian market in significantly increased quantities if the finding is rescinded, driven in part by the Chinese producers' willingness to sell the goods at prices as low as, and perhaps even below, their variable costs of production.

143. Finally, the Tribunal heard that new non-subject sources are entering the Canadian seamless casing market and, in certain instances, at prices lower than those of the subject goods.⁹¹ In the Tribunal's view, if the finding is rescinded, Chinese exporters will likely compete head-to-head with these new entrants, and, in the process, exert further downward pressure on the price of domestically produced like goods.

144. With respect to price suppression, the Tribunal notes that the domestic industry's cost of goods sold per tonne decreased in 2010 but increased again in 2011 and in the first nine months of 2012 compared to the same period of 2011. The evidence also shows that the domestic industry's cost of goods manufactured

85. *Protected Staff Report*, 18 December 2012, Tribunal Exhibit RR-2012-002-06 (protected), Administrative Record, Vol. 2.1 at 56-63.

86. *Transcript of Public Hearing*, Vol. 1, 21 January 2013, at 20, 51.

87. Manufacturer's Exhibit D-08 (protected) at 42, Administrative Record, Vol. 12A.

88. *Transcript of Public Hearing*, Vol. 1, 21 January 2013, at 17.

89. Manufacturer's Exhibit D-07 at 13, Administrative Record, Vol. 11A.

90. *Transcript of Public Hearing*, Vol. 1, 21 January 2013, at 39-41.

91. *Ibid.* at 25.

followed the same trends.⁹² The Tribunal is of the view that, if costs continue to increase as they have since 2010, the prices of the subject goods will likely have a suppressing effect on those of the like goods, with domestic producers likely being unable to increase their prices in response to increases in the cost of goods sold and the cost of goods manufactured.

145. The Tribunal therefore expects that, a rescission of the finding would likely result in the subject goods entering Canada at dumped and subsidized prices over the next 18 to 24 months, that would both significantly undercut the prices of like goods, thereby causing price depression and significantly suppress these prices by preventing price increases that would otherwise have occurred.

Likely Performance of the Domestic Industry and Likely Impact of the Dumped and Subsidized Goods on the Domestic Industry

146. The Tribunal will now turn to an assessment of the likely impact that the above volumes and prices will have on the domestic industry if the finding is rescinded, taking into consideration the likely performance of the domestic industry.⁹³

147. Energex and Welded Tube submitted that the Tribunal's staff report shows that the domestic industry has recovered from the market downturn in 2008-2009, as a direct result of the anti-dumping and countervailing duties being in place. They submitted that, because of the duties, the disruptive effect of Chinese imports has been curtailed, and stability and orderly pricing have returned to the Canadian market, allowing the domestic industry to make considerable investments, increase sales and unit revenues, maintain positive margins and show overall profitability. They argued that, if the finding is rescinded, the domestic industry's gains over the POR will be "wiped out", with prices of the subject goods returning to levels seen in the 2006 to 2008 period.

148. Tenaris submitted that the finding on seamless oil and gas well casing, and consequent finding on OCTG, have permitted reasonable returns for Tenaris, but that, while the market has improved in recent years, recent changes in market conditions including an increase in horizontal drilling, a decline in oil prices in the second half of 2012, bottlenecks in getting Canadian oil to US refineries and reduced export opportunities to the United States as OCTG capacity is added in that market, make the Canadian industry vulnerable to a continuation or resumption of dumping and subsidizing of subject goods.

149. In considering the likely performance of the domestic industry and the likely impact of dumped and subsidized goods on the domestic industry, the Tribunal took into account relevant economic factors, including any potential decline in output, sales, market share, utilization of production capacity and profits.

150. The Tribunal heard testimony that, if the finding is rescinded, the volume of imports of subject goods will lead to intense competition at lower prices since Canada is the fourth largest OCTG market in the world, making it a strategic market for China.⁹⁴

92. *Protected Staff Report*, revised, 13 January 2013, Tribunal Exhibit RR-2012-002-06A (protected), Administrative Record, Vol. 2.1 at 159, 162.

93. Paragraph 37.2 (2)(c), (e) and (g) of the *Regulations*.

94. *Transcript of Public Hearing*, Vol. 1, 21 January 2013, at 20, 23-24.

151. Another witness testified that, with rescission of the finding, one could expect an increase in imports of the currently subject goods, which would lead to an underutilization of domestic capacity, pricing and cost pressures, compressed margins and a reduction in employment.⁹⁵

152. In assessing the likely impact of the subject goods if the finding is rescinded, the Tribunal began by examining the recent performance of the domestic industry. Between 2009 and 2011, domestic production of the like goods increased by 133 percent and sales of like goods increased by 111 percent. When comparing the first nine months of 2012 to the first nine months of 2011, the Tribunal observes that domestic production of the like goods increased by 6 percent and domestic sales of the like goods increased by 4 percent.⁹⁶

153. In terms of market share, sales of the like goods captured 57 percent of the total apparent market in 2009. This increased to 67 percent in 2010 and returned to 56 percent in 2011. In the first nine months of 2012, sales of like goods accounted for 56 percent of the total apparent market, compared to 61 percent in the first nine months of 2011.⁹⁷

154. As a result of increased production over the Tribunal's POR, the domestic industry was able to increase its capacity utilization rate by 22 percentage points over the period of 2009 to 2011. Capacity utilization in the first nine months of 2012 was 1 percentage point higher than in the comparable period of 2011.⁹⁸

155. The Tribunal also observes a correlation between domestic production and direct employment. When domestic production increased by 133 percent between 2009 and 2011, the number of direct employees increased by 116 percent. Additionally, both domestic production and direct employment increased by 6 percent when comparing the first nine months of 2012 to the first nine months of 2011.⁹⁹

156. Finally an examination of the domestic industry's financial results for domestic sales over the Tribunal's POR shows that the consolidated gross margin and net income of the domestic industry increased between the period of 2009 to 2011, but financial performance in 2010 was stronger than in 2011. There was also a decline in financial performance for the first nine months of 2012 compared to the same period of 2011.¹⁰⁰

157. Since the Tribunal expects a rescission of the finding to result in increased imports of the subject goods that will likely significantly undercut and depress prices of the like goods, it is of the view that the subject goods will likely capture an increasing share of the domestic market at the expense of sales of the like goods. It is also likely that the reduced demand for domestic like goods would lead to a decline in production and capacity utilization for the domestic industry.

95. *Ibid.* at 51.

96. *Staff Report*, 18 December 2012, Tribunal Exhibit RR-2012-002-05, Administrative Record, Vol. 1.1 at 28; *Staff Report*, revised, 13 January 2013, Tribunal Exhibit RR-2012-002-05A, Administrative Record, Vol. 1.1 at 146-47.

97. *Staff Report*, revised, 13 January 2013, *ibid.* at 148.

98. *Staff Report*, 18 December 2012, Tribunal Exhibit RR-2012-002-05, Administrative Record, Vol. 1.1 at 73.

99. *Ibid.* at 28, 70; *Staff Report*, revised, 13 January 2013, Tribunal Exhibit RR-2012-002-05A, Administrative Record, Vol. 1.1 at 136.

100. *Protected Staff Report*, revised, 13 January 2013, Tribunal Exhibit RR-2012-002-06A (protected), Administrative Record, Vol. 2.1 at 159.

158. Given the correlation observed between production and direct employment, it is likely that the expected decline in domestic production attributable to the subject goods would also lead to a decline in direct employment by the domestic industry.

159. The Tribunal considers that anticipated price erosion would have a negative impact on the financial performance of the domestic industry, even without a decline in sales. The Tribunal heard argument by counsel for Tenaris that a \$500/tonne decline in prices of the like goods would have a devastating impact on the financial performance of Tenaris. The Tribunal recognizes that even a decline in prices of half this amount would have serious negative consequences for Tenaris, who accounts for a significant proportion of domestic production of the like goods. Similarly, the evidence indicated that a price decrease of even 5 percent due to the subject goods would have a negative impact on Energex's financial performance.¹⁰¹

160. As the Tribunal has determined that the likely prices of the subject goods will likely lead to price erosion for the like goods, it is also of the view that this decline in prices will likely result in declining gross margins and net income for the domestic industry. The Tribunal considers that this decline in financial performance would likely manifest itself in other forms of injury, such as increased cost of goods sold/tonne as a result of factory overhead being allocated over reduced production levels, and a negative impact on the investments made by the domestic industry, such as in developing proprietary grades of oil and gas well casing.

161. In summary, the Tribunal is of the view that, if the finding is rescinded, the domestic industry will likely be materially injured by the resumption or continuation of dumping and subsidizing of the subject goods. In particular, the likely substantial increase in the volume of dumped and subsidized goods, at prices likely to significantly undercut, depress and suppress those of the like goods, can be expected to result in a decline in the domestic industry's sales and apparent market share, with a concomitant reduction in production, gross margin, net income, profits, return on investment, capacity utilization and employment.

Other Factors

162. Pursuant to paragraph 37.2(2)(k) of the *Regulations*, the Tribunal may consider any other factors that are relevant in the circumstances.

163. The Tribunal acknowledges that the performance of the domestic industry is directly related to the performance of oil and gas markets in Canada and the resulting oil and gas well drilling activity. As such, natural increases and decreases in the total apparent market will occur on a year-to-year basis. The Tribunal is of the view, however, that these swings in the market do not negate the likely impact of the dumped and subsidized goods and that these goods are likely to have a significant negative impact on the domestic industry regardless of the size of the total apparent market.

CONCLUSION

164. In conclusion, based on its review of the evidence on the record and taking into account the arguments put forth by the domestic industry, the Tribunal finds that a rescission of the current finding would likely result in a significant increase in imports of the subject goods at prices that could be expected to significantly undercut, depress and suppress those of the like goods, thereby causing material injury to the domestic industry.

101. Manufacturer's Exhibit B-05 at para. 34, Administrative Record, Vol. 11; Manufacturer's Exhibit B-06 (protected) at para. 36, Administrative Record, Vol. 12.

165. On the basis of the foregoing analysis, and pursuant to paragraph 76.03(12)(b) of *SIMA*, the Tribunal hereby continues its finding in respect of seamless carbon or alloy steel oil and gas well casing originating in or exported from China.

Pasquale Michaele Saroli
Pasquale Michaele Saroli
Presiding Member

Serge Fréchette
Serge Fréchette
Member

Jason W. Downey
Jason W. Downey
Member