



Canadian International
Trade Tribunal

Tribunal canadien du
commerce extérieur

CANADIAN
INTERNATIONAL
TRADE TRIBUNAL

Dumping and Subsidizing

ORDER AND REASONS

Expiry Review No. RR-2017-006

Seamless Carbon or Alloy Steel Oil
and Gas Well Casing

*Order and reasons issued
Wednesday, November 28, 2018*

TABLE OF CONTENTS

ORDER	i
STATEMENT OF REASONS	1
INTRODUCTION	1
PROCEDURAL BACKGROUND	1
PRODUCT	2
Product Definition	2
Additional Product Information	2
Marketing and Distribution	3
LEGAL FRAMEWORK	3
LIKE GOODS AND CLASSES OF GOODS	3
DOMESTIC INDUSTRY	5
CROSS-CUMULATION	6
LIKELIHOOD OF INJURY ANALYSIS	7
Changes in Market Conditions	7
Likely Import Volume of Dumped and Subsidized Goods	9
Likely Price Effects of Dumped and Subsidized Goods	11
Likely Impact on the Domestic Industry if the Order Is Rescinded	14
DETERMINATION	17

IN THE MATTER OF an expiry review, pursuant to subsection 76.03(3) of the *Special Import Measures Act*, of the order made by the Canadian International Trade Tribunal on March 11, 2013, in Expiry Review No. RR-2012-002, continuing, without amendment, its finding made on March 10, 2008, in Inquiry No. NQ-2007-001 concerning:

SEAMLESS CARBON OR ALLOY STEEL OIL AND GAS WELL CASING

ORDER

The Canadian International Trade Tribunal, pursuant to subsection 76.03(3) of the *Special Import Measures Act*, has conducted an expiry review of the order made on March 11, 2013, in Expiry Review No. RR-2012-002, continuing, without amendment, 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 order in respect of the aforementioned goods.

Peter Burn

Peter Burn
Presiding Member

Ann Penner

Ann Penner
Member

Rose Ann Ritcey

Rose Ann Ritcey

Member

Place of Hearing: Ottawa, Ontario
Dates of Hearing: September 17, 2018
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Ann Penner, Member
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STATEMENT OF REASONS

INTRODUCTION

[1] This is an expiry review, pursuant to subsection 76.03(3) of the *Special Import Measures Act*,¹ of the order made by the Canadian International Trade Tribunal (the Tribunal) on March 11, 2013, in Expiry Review No. RR-2012-002, continuing, without amendment, 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 originating in or exported from the People's Republic of China (the subject goods).

[2] Under *SIMA*, findings of injury or threat of injury and the associated protection in the form of anti-dumping or countervailing duties expire five years from the date of the finding or, if one or more orders continuing the finding have been made, the date of the last order made under paragraph 76.03(12)(b), unless the Tribunal initiates an expiry review before that date. The order in Expiry Review No. RR-2012-002 was therefore scheduled to expire on March 11, 2018.

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

[4] The period of review (POR) for this investigation report covers three calendar years, from January 1, 2015, to December 31, 2017, as well as the interim period of January 1 to March 31, 2018. For comparative purposes, information was also collected and presented for the interim period of January 1 to March 31, 2017.

PROCEDURAL BACKGROUND

[5] The Tribunal issued its notice of expiry review on January 19, 2018. This notice triggered the initiation of an investigation by the Canada Border Services Agency (CBSA) on January 22, 2018, to determine whether the expiry of the Tribunal's order was likely to result in the continuation or resumption of dumping and/or subsidizing.

[6] On June 21, 2018, the CBSA determined, pursuant to paragraph 76.03(7)(a) of *SIMA*, that the expiry of the order was likely to result in the continuation or resumption of dumping and/or subsidizing of the subject goods.²

[7] On June 22, 2018, the Tribunal began its expiry review to determine, pursuant to subsection 76.03(10) of *SIMA*, whether the expiry of the order was likely to result in injury.

[8] The Tribunal sent questionnaires to domestic producers and importers of seamless and/or electric resistance welded (ERW) casing, and to foreign producers of the subject goods. The Tribunal received three responses to the domestic producers' questionnaire from companies stating that they produced seamless and/or ERW casing. The Tribunal received 16 replies to the importers' questionnaire. Of the 16 importers, 15 reported imports of both seamless and ERW casing, and one reported imports of ERW casing only. In addition, the Tribunal received three responses from

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

2 Exhibit RR-2017-006-3, Vol. 1 at 143.

importers stating that they did not import seamless casing meeting the product definition and/or ERW casing over the period of review.³ Finally, the Tribunal did not receive any replies to the foreign producers' questionnaire. In addition, the Tribunal sent requests for information to two firms, and received public and protected replies that were placed on the record.⁴

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

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

[11] Having consulted the parties, and given that the case was not opposed, the Tribunal decided to hold a hearing by way of written submissions. The Tribunal also invited the parties to file written closing submissions, in which they could address the issue of whether certain activities of a domestic producer constituted domestic production.⁵

[12] The Tribunal held its file hearing on September 17, 2018.

[13] The Tribunal did not receive any requests for product exclusions.

PRODUCT

Product Definition

[14] The goods that are the subject of 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 the People's Republic of China.

Additional Product Information

[15] 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, which is produced using the seamless or electric resistance welding (ERW) process, is used to prevent the walls of the bored hole from collapsing, both during drilling and after the well has been completed.

3. Exhibit RR-2017-006-5, Vol. 1.1 at 11-12 and Table 1.

4. The Tribunal also issued, on July 30, 2018, production orders to three importers, Alberta Tubular Products Ltd., 2045662 Alberta Inc., and Prairie Tubulars (2015) Inc., requesting the completion of specific parts of the importers' questionnaire. (Exhibit RR-2017-006-18.18.01, Vol. 5 at 191.2; Exhibit RR-2017-006-18.19.01, Vol. 5 at 200.2; Exhibit RR-2017-006-18.20.01, Vol. 5 at 210.2). The Tribunal subsequently received questionnaire responses from these importers.

5. See the discussion below in the section on the domestic industry.

[16] 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.

Marketing and Distribution

[17] 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.

LEGAL FRAMEWORK

[18] The Tribunal is required, pursuant to subsection 76.03(10) of *SIMA*, to determine whether the expiry of the order issued in Expiry Review No. RR-2012-002 in respect of the subject goods is likely to result in injury or retardation to the domestic industry.⁶ Pursuant to subsection 76.03(12), if the Tribunal determines that the expiry of the order is unlikely to result in injury, it is required to rescind the order. However, if it determines that the expiry of the order is likely to result in injury, the Tribunal is required to continue the order, with or without amendment.

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

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

LIKE GOODS AND CLASSES OF GOODS

[21] In order for the Tribunal to determine whether the resumed or continued dumping and subsidizing of the subject goods is likely to cause material injury to the domestic producers of like goods, it must determine which domestically produced goods, if any, constitute like goods in relation to the subject goods. The Tribunal must also assess whether there is, within the subject goods and the like goods, more than one class of goods.⁷

[22] 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

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

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

- b. in the absence of any goods described in paragraph (a), goods the uses and other characteristics of which closely resemble those of the other goods.

[23] In deciding the issue of like goods when goods are not identical in all respects to the other goods, the Tribunal typically considers a number of factors, including the physical characteristics of the goods (such as composition and appearance) and their market characteristics (such as substitutability, pricing, distribution channels, end uses and whether the goods fulfill the same customer needs).⁸

[24] In Inquiry No. NQ-2007-001 (*Seamless Casing NQ*) (issued in March 2008), the Tribunal determined that domestically produced seamless and ERW oil and gas well casing were like goods to one another and to the subject goods on the basis of their physical and market characteristics⁹ and that oil and gas well casing constituted a single class of goods.¹⁰

[25] Subsequently, in 2009, the Tribunal initiated an inquiry concerning the dumping and subsidizing of “oil country tubular goods” (OCTG) from the People’s Republic of China (Inquiry No. NQ-2009-004),¹¹ in which the subject goods included both seamless and ERW casing (with the exception of seamless casing already covered by the *Seamless Casing NQ* finding). Notwithstanding this exception, the Tribunal determined that the domestic like goods included all sizes of seamless and ERW casing. The Tribunal continued this decision in Expiry Review No. RR-2014-003.¹²

[26] In Expiry Review No. RR-2012-002, the Tribunal continued to be of the view that there was one class of goods and that domestically produced seamless and ERW oil and gas well casing were “like goods” in relation to the subject goods. The Tribunal also determined that oil and gas well casing formed a single class of goods.¹³

[27] The Tribunal notes that in several recent decisions, it has considered that the scope of the like goods should be co-extensive with the scope of the subject goods.¹⁴ Adopting a similar approach in the present expiry review would mean excluding ERW casing from the scope of the like goods.

[28] In this review, the Tribunal’s domestic producers’ questionnaires requested information on both domestically produced seamless and ERW casing. Data concerning seamless and ERW casing were presented separately in the Investigation Report to facilitate a segregated analysis, if the Tribunal decided that such an analysis was needed.¹⁵

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

9. *Seamless Carbon or Alloy Steel Oil and Gas Well Casing* (10 March 2008), NQ-2007-001 (CITT) [*Seamless Casing NQ*] at paras. 51-71. *Seamless Casing NQ* was initiated in 2007 following a complaint by the domestic industry concerning the dumping and subsidizing of seamless casing from the People’s Republic of China. ERW casing was not included in the product definition of the subject goods in the inquiry.

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

11. *Oil Country Tubular Goods* (23 March 2010), NQ-2009-004 (CITT).

12. *Oil Country Tubular Goods* (2 March 2015), RR-2014-003 (CITT).

13. RR-2012-002 at para. 57.

14. *Unitized Wall Modules* (12 November 2013), NQ-2013-002 (CITT) at para. 34; *Fabricated Industrial Steel Components* (25 May 2017), NQ-2016-004 (CITT) at para. 47; *Steel Piling Pipe* (4 July 2018), RR-2017-003 (CITT) at paras. 30-33; *Gypsum Board* (20 August 2018), PI-2018-003 (CITT) at paras. 32-34.

15. The same is true with respect to non-subject imports.

[29] Domestically produced ERW casing accounts for the vast majority of the domestic industry's production and sales of domestic like goods, with only Tenaris among the three Canadian producers producing seamless casing.¹⁶ It follows that excluding ERW casing from the domestic like goods would have a significant impact on the Tribunal's analysis of the state of the domestic industry.

[30] No arguments or evidence were submitted to suggest that the Tribunal should reach a different conclusion from *Seamless Casing NQ* and Expiry Review No. RR-2012-002. On the contrary, Evraz submitted that the Tribunal has discretion to deviate from the "co-extensiveness" approach applied in previous cases, and that the Tribunal should continue to find that the domestic industry is composed of both seamless and ERW producers, namely, Tenaris, Evraz, and Welded Tube.

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

[32] In light of the foregoing, the Tribunal is satisfied that there is one class of goods and that domestically produced seamless and ERW casing constitute "like goods" in relation to the subject goods.

DOMESTIC INDUSTRY

[33] Subsection 2(1) of *SIMA* defines "domestic industry" as follows:

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

[34] The Tribunal must therefore determine whether there is a likelihood of injury to the domestic producers as a whole or those domestic producers whose production represents a major proportion of the total production of like goods.¹⁷

[35] The composition of the domestic industry has changed since Expiry Review No. RR-2012-002 in 2012. At that time, there were four domestic producers of seamless and ERW casing: Energex,

16. Exhibit RR-2017-006-06 (protected), Tables 7 and 34, and Schedule 9, Vol. 2.1.

17. The term "major proportion" means an important, serious or significant proportion of total domestic production of like goods and not necessarily a majority: *Japan Electrical Manufacturers Assn. v. Canada (Anti-Dumping Tribunal)*, [1986] F.C.J. No. 652 (FCA); *McCulloch of Canada Limited and McCulloch Corporation v. Anti-Dumping Tribunal*, [1978] 1 F.C. 222 (FCA); *China – Anti-dumping and Countervailing Duties on Certain Automobiles from the United States* (23 May 2014), WTO Docs. WT/DS440/R, Report of the Panel at para. 7.207; *European Community – Definitive Anti-dumping Measures on Certain Iron or Steel Fasteners from China* (15 July 2011), WTO Docs. WT/DS397/AB/R, Report of the Appellate Body at paras. 411, 419, 430; *Argentina – Definitive Anti-dumping Duties on Poultry from Brazil* (22 April 2003), WTO Docs. WT/DS241/R, Report of the Panel at paras. 7.341-7.344.

Evraz, Tenaris and Welded Tube. Energex has since ceased production of casing. Consequently, the domestic industry is now composed of Evraz, Tenaris, and Welded Tube. Among those, only Tenaris produces seamless casing. All three produce ERW casing.

[36] In addition to their domestic production activities, during the POR, all three domestic producers imported seamless and/or ERW casing from non-subject countries.¹⁸

[37] In considering whether certain activities constitute “production”, the Tribunal typically considers whether the original good undergoes a substantial transformation into a new and significantly different good, as opposed to mere “finishing”.¹⁹

[38] The Tribunal invited parties to discuss, in their written closing submissions, whether the heat treatment of semi-finished casing (“green tubes”) in Canada constitutes domestic production. More specifically, the Tribunal asked whether the transformation through heat treatment of imported green tubes from the United States into casing meeting API 5CT specifications by one of the Canadian producers in its Canadian facilities amounted to production of domestic like goods.²⁰

[39] In their submissions, all parties took the view that the heat treatment of green tubes is a finishing process that does not amount to production of casing.

[40] The domestic producers placed before the Tribunal evidence that heat-treating does not transform the green tubes into different products, as green tubes already possess the essential characteristics of finished OCTG, and heat-treating only affects the tensile strength and hardness of the OCTG.²¹ They also submitted evidence that certain types of green tubes do not need to be heat-treated in order to be sold as fully finished OCTG (though they may require threading and coupling to meet the API 5CT specifications).²²

[41] On the basis of this evidence, the Tribunal is satisfied that heat treating does not constitute “production” – a conclusion that is consistent with the conclusion reached by the Tribunal in Inquiry No. NQ-2014-002.²³

CROSS-CUMULATION

[42] In its analysis in *Seamless Casing NQ*, the Tribunal did not differentiate the effects resulting from the dumping of the subject goods from the effects resulting from the subsidizing of the same goods. The Tribunal explained 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 were so closely intertwined that it was impossible to unravel them so as to allocate specific or discrete portions to the dumping and subsidizing.²⁴

18. Exhibit RR-2017-006-05, Table 1, Vol. 1.1.

19. See, e.g., *Flat Hot-rolled Carbon and Alloy Steel Sheet and Strip* (12 August 2016), RR-2015-002 (CITT) at para. 40.

20. In addition, the Secretariat of the Tribunal issued an Investigation Report Supplement presenting data that included the corresponding volumes as part of the domestically produced like goods.

21. Exhibit RR-2017-006-A-11 at para. 6, Vol. 11.

22. *Ibid.* at para. 9.

23. *Oil Country Tubular Goods* (2 April 2015), NQ-2014-002 (CITT) at paras. 48-53.

24. NQ-2007-001 at paras. 76-77.

[43] The Tribunal adopted the same approach in Expiry Review No. RR-2012-002.²⁵

[44] The Tribunal was presented with no evidence or argument that warrants departing from this approach in the present expiry review. Therefore, in its analysis below, the Tribunal has cumulatively assessed the likely impact of the continuation or resumption of dumping and subsidizing of the subject goods on the domestic industry should the order be rescinded.

LIKELIHOOD OF INJURY ANALYSIS

[45] An expiry review is forward-looking.²⁶ It follows that evidence from the POR during which an order or a finding was being enforced is relevant insofar as it bears upon the prospective analysis of whether the expiry of the order or finding is likely to result in injury.²⁷

[46] There is no presumption of injury in an expiry review; findings must be based on positive evidence, in compliance with domestic law and consistent with the requirements of the World Trade Organization.²⁸ In the context of an expiry review, positive evidence can include evidence based on past facts that tend to support forward-looking conclusions.²⁹

[47] In making its assessment of likelihood of injury, the Tribunal has consistently taken the view that the focus should be on circumstances that can reasonably be expected to exist in the near to medium term, which is generally considered to be within 18 to 24 months from the date on which the finding or order would expire. In this case, the Tribunal finds no reason to depart from its usual approach.

[48] Due to the small number of domestic producers and importers involved in this expiry review, most of the imports, sales, pricing, production and financial data, even in aggregate form, cannot be disclosed publicly in order to protect the confidential information of the respondents.

[49] Subsection 37.2(2) of the *Special Import Measures Regulations*³⁰ lists factors that the Tribunal may consider in addressing the likelihood of injury in cases where the CBSA has determined that there is a likelihood of continued or resumed dumping and/or subsidizing.

Changes in Market Conditions

[50] The Tribunal will first describe the Canadian market and review the changes in international and domestic market conditions that occurred over the POR.³¹

[51] Canada is the fifth largest producer of natural gas and the sixth largest producer of crude oil in the world. As such, it is an important market for OCTG products, including casing.³²

25. RR-2012-002 at para. 62.

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

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

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

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

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

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

[52] The Canadian casing market moves in tandem with oil and gas exploration and production and is closely tied to the number of operating rigs at any given time.³³ As oil and gas drilling increases, so does demand for seamless and ERW casing.³⁴ Rig count and drilling activity are, in turn, influenced by the price of oil and gas; the higher the price, the more drilling activity occurs and vice versa.

[53] Overhanging the Canadian steel market in general, and casing market in particular, is the reality of significant, chronic global steel overcapacity.³⁵ This is largely attributable to production capacity in China which, in the case of seamless OCTG, is approximately double the size of the domestic market.³⁶ Excess capacity in turn creates significant incentive for Chinese producers to pursue export sales, at low prices, in order to maintain high capacity utilization.

[54] Over the course of the POR, domestic producers continued to supply a significant share of the Canadian casing market through domestic production, with ERW casing accounting for the majority of their production and sales. In addition, the domestic producers supplied part of the market through imports of seamless and ERW casing from non-subject countries. The rest of the market was supplied by non-subject imports by other importers, and, notwithstanding the existence of anti-dumping and countervailing duties, by the subject goods. Chinese producers continued to benefit from well-established channels of distribution in Canada and competed with the domestic industry at the distributor and end-user levels.

[55] In addition to the constant reality of global overcapacity, the Canadian market was impacted significantly by two key changes in market conditions over the course of the POR.

(1) The Collapse of Oil and Gas Prices

[56] Oil and gas prices collapsed in 2014 and 2015, and caused a major decline in oil exploration and production in Western Canada from mid-2014 until 2016. This had a direct impact on demand for seamless and ERW casing.³⁷ Starting at 430,093 tonnes in 2015, the total apparent Canadian market fell 28% to 310,587 tonnes in 2016.³⁸

[57] Since 2017, oil prices have improved, though they remain significantly below what they were between 2011 and 2014.³⁹ Natural gas prices in Canada have also improved 10% and 25% year-over-year in 2017 and Q1 2018, respectively.⁴⁰ Stronger oil and gas prices have led to greater demand for

32. Exhibit RR-2017-006-A-07, Attachment 8, Vol. 11.

33. Exhibit RR-2017-006-03A at paras. 81-83, Vol. 1; NQ-2007-001 at para. 132, Vol. 1.

34. Exhibit RR-2017-006-C-03 at para. 12, Vol. 11B; Exhibit RR-2017-006-B-03 at para. 14, Vol. 11.

35. See, for example, *Steel Piling Pipe* (4 July 2018), RR-2017-003 (CITT) at para 50; *Pup Joints* (7 April 2017), RR-2016-001 (CITT) at para. 53; *Oil Country Tubular Goods* (23 March 2015), RR-2014-003 (CITT) at para. 111.

36. See the discussion concerning likely import volumes below.

37. Exhibit RR-2017-006-B-03 at para. 15, Vol. 11.

38. Exhibit RR-2017-006-05, Table 7, Vol. 1.1

39. Exhibit RR-2017-006-B-03 at para. 18. West Texas Intermediate (WTI) prices dropped from over US\$100/bbl in mid-2014 to under US\$30/bbl in late 2015 and early 2016. WTI prices are currently around US\$60-70/bbl. Exhibit RR-2017-006-25.01 at 9, Vol. 7.1C; Exhibit RR-2017-006-B-03 at para. 18, Vol. 11.

40. Exhibit RR-2017-006-05, Table 41, Vol. 1.1; Exhibit RR-2017-006-B-07 at 237, Vol. 11A.

casing, with an increase to 732,134 tonnes in 2017 and 202,633 tonnes in Q1 2018, representing increases of 136% and 10% over 2016 and Q1 2017, respectively.⁴¹

(2) US Tariffs on Steel

[58] In March 2018, acting pursuant to Section 232 of the U.S. *Trade Expansion Act* of 1962, the United States imposed tariff surcharges of 25% on imports of steel products, including seamless and ERW casing, from most countries (“Section 232 tariffs”).⁴² On June 1, 2018, these tariffs surcharges were applied to imports of Canadian steel products into the United States.⁴³ This American action was followed by the imposition of a provisional safeguard measure by the European Union.⁴⁴

[59] On July 1, 2018, Canada reacted by imposing retaliatory tariffs on certain goods, including steel products, from the United States.⁴⁵

[60] The highly integrated nature of the cross-border Canada-U.S. steel market means that the U.S. tariffs will undoubtedly impact the export and financial performance of the Canadian domestic industry. While Chinese seamless and ERW casing was already subject to anti-dumping and countervailing duties in several countries prior to the imposition of the Section 232 tariffs,⁴⁶ the recent American and European actions have limited the access that foreign producers have to key markets and increased the risk that steel from China, and other countries, will be diverted to Canada.⁴⁷

Likely Import Volume of Dumped and Subsidized Goods

[61] Paragraph 37.2(2)(a) of the *Regulations* directs the Tribunal to consider the likely volume of the dumped or subsidized goods if the order is allowed to expire, and, in particular, whether there is likely to be a significant increase in the volume of imports of the dumped or subsidized goods, either in absolute terms or relative to the production or consumption of like goods.

[62] 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 in other jurisdictions, and whether measures adopted by other jurisdictions are likely to cause a diversion of the subject goods to Canada.⁴⁸

41. Exhibit RR-2017-006-05, Table 7, Vol. 1.1

42. Exhibit RR-2017-006-15.01 at 89-110, Vol. 3.

43. Exhibit RR-2017-006-15.01 at 89-100, Vol. 3; Exhibit RR-2017-006-A-03 at para. 32, Vol. 11.

44. The European Union initiated a safeguard investigation on certain steel products on March 26, 2018, and imposed a provisional safeguard measure on certain categories of steel products, including ERW casing, on July 17, 2018. Exhibit RR-2017-15.01 at 37-43, Vol. 3; Exhibit RR-2017-006-A-07, Attachment 9, Vol. 11. Turkey also initiated a safeguard investigation on certain steel products. Exhibit RR-2017-006-B-07 at 219-220, Vol. 11A.

45. Exhibit RR-2017-001 at paras. 30-31, Vol 11B. On August 14, 2018, Canada’s Finance Minister launched a public consultation on possible safeguard action on imports of certain categories of steel products, including energy tubular products. Exhibit RR-2017-001 at paras. 30-31, Vol 11B; Exhibit RR-2017-006-C-01 at para. 24, Vol. 11B.

46. Exhibit RR-2017-006-05, Table 40, Vol. 1.1.

47. Exhibit RR-2017-006-B-04 (protected) at para. 35, Vol. 12; Exhibit RR-2017-006-B-07 at 222, Vol. 11A.

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

[63] The domestic industry argued that the volume of subject goods will increase significantly should the order be rescinded due to the high production capacity and export orientation of the Chinese producers, the weakness of the Chinese domestic demand for seamless casing, the Chinese producers' continued presence in the Canadian market notwithstanding the existence of the order, and the diversionary impact of trade remedy measures against Chinese goods in other major markets, including the U.S. Section 232 tariffs.

[64] Evidence indicates that the subject goods continued to enter the Canadian market notwithstanding the existence of the order and the significant duties that domestic importers and Chinese exporters have incurred.⁴⁹ Their market presence grew significantly and the volume of subject goods increased markedly throughout the POR, particularly in 2017, both in absolute and relative terms.⁵⁰ With well-established distribution channels in Canada,⁵¹ there has been, and will be, no barrier preventing even more subject goods from being imported should the order be rescinded.

[65] These actual and projected increases in volume are consistent with the undisputed fact that China remains the world's leading producer and exporter of pipe and tube products, including seamless pipes and OCTG.⁵² In terms of seamless casing, Chinese production capacity for seamless OCTG is approximately double the size of the Chinese domestic market, and Chinese excess capacity is many times greater than the entire Canadian seamless casing market.⁵³ If that were not enough, Chinese producers are continuing to add production capacity.⁵⁴

[66] Prices for OCTG casing in the Chinese market are lower than in most other major markets,⁵⁵ and Chinese consumption of seamless OCTG is expected to remain essentially stable over the next 18 to 24 months.⁵⁶ Combined with their massive excess capacity, already export-dependent Chinese producers have an even greater incentive to seek export markets for their products. This is particularly the case given the capital-intensive nature of steel production and the fact that high fixed costs must be spread across a high level of production, which provides an incentive for producers to maintain high production levels, and hence to pursue sales even at low prices in order to maintain capacity utilization.⁵⁷

[67] Given the Chinese producers' excess capacity and export orientation, they will likely significantly increase their export volumes to Canada if the anti-dumping and countervailing duties are removed. This is particularly the case given the extent to which their exports are already limited by existing anti-dumping duties⁵⁸ (as well as, in one case, countervailing duties⁵⁹) in key markets.

49. More than 21 million dollars in anti-dumping and countervailing duties were collected over the POR. Exhibit RR-2017-006-05, Table 37, Vol. 1.1.

50. Exhibit RR-2017-006-06 (protected), Tables 3 and 4, Vol. 2.1.

51. Exhibit RR-2017-006-A-03 at para. 22, Vol. 11.

52. Exhibit RR-2017-006-B-08 (protected) at 24, Vol. 12A; RR-2012-002 at para. 68.

53. Exhibit RR-2017-006-B-03 at para. 6, Vol. 11; Exhibit RR-2017-006-B-08 (protected) at 28-30, Vol. 12A; Exhibit RR-2017-006-16.01 (protected) at 129-130, Vol. 4.

54. Exhibit RR-2017-006-B-08 (protected) at 19, 46, Vol. 12A.

55. Exhibit RR-2017-006-B-08 (protected) at 34, Vol. 12A.

56. Exhibit RR-2017-006-05, Table 44, Vol. 1.1.

57. Exhibit RR-2017-006-03A at 168-169, Vol. 1.

58. Exhibit RR-2017-006-05, Table 40, Vol. 1.1. See also Exhibit RR-2017-006-03A at paras. 112-114, Vol. 1. In addition, other anti-dumping measures are directed at goods produced on the same equipment as subject goods (i.e. line pipe).

Moreover, the Gulf Cooperation Council, which includes important markets, such as Kuwait, the United Arab Emirates, Oman, and Saudi Arabia, is currently conducting an investigation on Chinese seamless OCTG.⁶⁰

[68] In addition, the rescission of the order would exacerbate the effects of the U.S. Section 232 tariffs, which create a risk of diversion of imports from China and other countries. The subject goods are likely to face increased competition in other markets from casing deterred from entering the U.S. market by the 25% Section 232 tariffs, with Canada becoming an extremely attractive outlet should existing measures be lifted.

[69] Finally, Chinese producers of seamless casing could easily shift production of other seamless OCTG products to casing if the order were to lapse. This is because most of the Chinese production facilities that are licensed to produce API 5CT seamless casing are also licensed to produce line pipe under API 5L.⁶¹

[70] In sum, the significant excess production capacity of Chinese producers, the export orientation and behaviour of the Chinese producers of the subject goods during the POR – in particular the significant increase in the volumes of subject imports despite measures being in place and the significant duties paid on these imports – as well as the existence of well-established distribution channels for their goods, all strongly suggest that they will likely continue to view Canada as an attractive export destination in the event that the order is rescinded.

[71] Based on the foregoing, and particularly in light of the Chinese producers' ability and willingness to sell the subject goods at low prices (discussed below), the Tribunal finds that there will likely be a significant increase in the volume of imports of the subject goods over the next 18 to 24 months if the order is rescinded.

Likely Price Effects of Dumped and Subsidized Goods

[72] The Tribunal must consider whether, if the order is allowed to expire, the dumping or subsidizing of subject goods is likely to significantly undercut the prices of like goods, depress those prices, or suppress them by preventing increases in those prices that would likely have otherwise occurred.⁶² In this regard, the Tribunal distinguishes the price effects of the dumped or subsidized goods from any price effects that would likely result from other factors affecting prices.

[73] Oil and gas well casing, whether seamless or ERW, is largely a commodity product that is largely traded on the basis of price.⁶³ Generally, casing is produced to meet certain API 5CT specifications, at which point the product becomes largely interchangeable regardless of origin. Witness statements submitted to the Tribunal indicate that price is a primary consideration affecting purchasing decisions, that there is considerable price transparency in the Canadian OCTG market,

59. Exhibit RR-2017-006-05, Table 40, Vol. 1.1.

60. Exhibit RR-2017-006-03A at paras. 51, 112-114, Vol. 1.

61. Exhibit RR-2017-006-B-01 at paras. 10, 105-110, Vol. 11; Exhibit RR-2017-006-B-07 at 138-140, Vol. 11A. See also Exhibit RR-2017-006-B-06 (protected) at para. 14, Vol. 12A.

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

63. Expiry Review RR-2017-001 at para. 120; Exhibit RR-2017-006-C-03 at para. 26, Vol. 11B.

and that sales are very price-sensitive.⁶⁴ Moreover, the downturn in oil prices has made price an even more predominant consideration in customers' purchasing decisions.⁶⁵

[74] The domestic producers suggested that the rescission of the order would lead to a decline in the prices of subject goods. They argued that the likely prices of the subject goods would be substantially below the Chinese producers' existing normal values, and hundreds of dollars per tonne or more below price levels currently available in the Canadian market. In addition, the domestic producers argued that a rescission of the order would lead to a "race to the bottom" to match the price of low-priced non-subject imports that would result in price depression.

[75] The aggregate pricing data gathered by the Tribunal shows evidence of price undercutting by the subject goods during the POR even with the order in place. Price undercutting was particularly evident in 2015, 2016, and in Q1 2018 when comparing the prices of subject goods (seamless casing) to the prices of domestic *seamless* casing. The trend is different when the price of the subject goods is compared to the average of domestic *seamless* and *ERW* casing as there is undercutting only in 2015. (In fact, the price of the subject goods did not undercut the prices of domestic *ERW* casing during the POR.)⁶⁶

[76] As the Tribunal noted in Expiry Review RR-2012-002, macro pricing data may be misleading insofar as it includes a wide variety of product grades; product mix and associated variations in pricing may affect the results of an aggregate pricing comparison. Pricing data with respect to benchmark products provides a better insight into the relative pricing of subject goods and the like goods during the POR.

[77] The Tribunal gathered pricing data on two benchmark products, grades J55 and L80 casing. This benchmark data was collected for eight quarters, from Q2 2016 to Q1 2018.

[78] For benchmark product J55, pricing of subject goods undercut the prices of domestic J55 seamless casing, with significant margins in all periods during which both the domestic like goods and subject goods were sold (three of the eight quarters). However, there was no undercutting during the POR when comparing the prices of subject goods to the prices of domestically produced seamless and *ERW* casing combined.⁶⁷

[79] In terms of benchmark product L80, the pricing of subject goods undercut the prices of domestic L80 seamless casing in only one of eight quarters. There was undercutting in two of eight quarters when comparing the subject goods to the sales prices of domestically produced seamless and *ERW* combined.⁶⁸

[80] These price comparisons reflect the level of price undercutting that occurred during the POR, and highlight the fact that subject goods have remained competitive even with anti-dumping and countervailing measures in place. Given the commodity nature of casing, in order to increase sales and market share in Canada – whether to capture sales from the domestic industry or to compete with

64. Exhibit RR-2017-006-A-03 at paras. 17, 21, Vol. 11.

65. Exhibit RR-2017-006-A-04 (protected) at paras. 18-20, Vol. 12; Exhibit RR-2017-006-B-03 (protected) at para. 28, Vol. 11.

66. Exhibit RR-2017-006-06 (protected), Tables 18, 20 and 22, Vol. 2.1.

67. Exhibit RR-2017-006-06 (protected), Tables 24 and 27, Vol. 2.1

68. Exhibit RR-2017-006-06 (protected), Tables 25 and 27, Vol. 2.1

non-subject imports diverted to the Canadian market as a result of the U.S. Section 232 tariffs – subject goods would need to be sold at or below prevailing market prices.

[81] The evidence before the Tribunal shows that, without anti-dumping and countervailing measures in place, the price of the subject goods would likely have been significantly lower, and price undercutting, significantly more prevalent.

[82] During the POR, CBSA collected 21.6 million dollars in anti-dumping and countervailing duties. Depending on the year, the duties collected represented between 5% and 72% of the value of the subject imports in the periods concerned (excluding Q1 2018, for which the data is incomplete).⁶⁹ This enforcement data suggests that, if the order was rescinded, Chinese producers would be able to significantly lower their prices in order to capture sales volumes at the expense of the domestic like goods and of non-subject imports.

[83] This conclusion is supported by evidence of aggressive pricing on the part of Chinese producers and exporters of seamless casing placed on the record by the domestic producers. This evidence includes offers and quotes of low-priced Chinese casing from Chinese producers and exporters.⁷⁰ It also includes evidence showing that Chinese FOB selling prices are, and are expected to remain, significantly below prices in other markets and, even after accounting for delivery charges, below Canadian prices.⁷¹

[84] This evidence demonstrates that, should the order be rescinded, the subject goods would be able to enter the Canadian market at lower prices, similar to those of Chinese seamless casing in markets that do not have trade remedy measures in place. These prices would be well below the prices at which subject goods were sold during the POR, and would have significantly undercut the prices of the like goods. The ability of Chinese producers to lower their prices would allow them to capture sales volumes and market share from both the domestic producers and non-subject imports.

[85] On this basis, the Tribunal is of the view that, should the order be rescinded, the pricing of subject goods will likely decline and will likely undercut the prices of the domestic like goods. Given that oil and gas well casing is a commodity product that competes predominantly on price, as low-priced imports increase, domestic producers would be forced to lower their prices in order to compete and attempt to maintain their market share. In other words, the rescission of the order would likely result in price depression.

[86] The domestic producers also argued that the prices of their inputs have been increasing and that, if the order was rescinded, the subject imports would cause price suppression.

[87] The domestic producers' questionnaire responses and other record evidence show an increase in the prices of the raw materials used in the production of casing in 2017, and in Q1 2018 when

69. Exhibit RR-2017-006-05, Table 37, Vol. 1.1.

70. Exhibit RR-2017-006-A-02 (protected) at paras. 44-45, Vol. 12; Exhibit RR-2017-006-A-04 (protected) at paras. 40-41 and Attachments 6, 7; Exhibit RR-2017-006-16.02 at 67-68, Vol. 4A; Exhibit RR-2017-006-C-02 at paras. 74-79, Vol. 12A; Exhibit RR-2017-006-26.02A at 109-124, Vol. 8.1A.

71. Exhibit RR-2017-006-A-02 (protected) at paras. 41, 44, Vol. 12; Exhibit RR-2017-006-30.01 (protected) at 120-127, Vol 8.1D; Exhibit RR-2017-006-A-08, Attachment 1; Exhibit RR-2017-006-B-08 (protected) at 34, Vol. 12A; Exhibit RR-2017-006-B-05 at para. 5, Vol. 11; Exhibit RR-2017-006-B-01 at 37-39, Vol. 11; Exhibit RR-2017-006-06 (protected), Table 18, Vol 2.1.

compared to Q1 2017.⁷² Increases in the domestic industry's cost of goods sold (COGS) and costs of goods manufactured (COGM), on a \$/tonne basis, can also be observed in Q1 2018 when compared to Q1 2017.⁷³

[88] For the above reasons, and while the likelihood of future increases in the cost of raw materials is difficult to predict, if prices of raw material were to continue to rise, and the domestic producers were to face price pressure from subject imports as a result of the rescission of the order, the producers would be unable to pass on costs increases, resulting in price suppression.

[89] It may be the case that the prices of like goods will be depressed and suppressed even if the order is continued due to the increased presence of non-subject goods diverted to the Canadian market as a result of the U.S. Section 232 tariffs.⁷⁴ However, the Tribunal is satisfied that if the order is rescinded, the subject goods will drive prices even lower, particularly as Chinese producers would be competing with the prices of non-subject imports and would have to match, if not undercut, them in order to maintain or increase sales volumes in the Canadian market. For this reason, the rescission of the order would result in the further undercutting of the prices of the like goods over the next 18 to 24 months, placing even greater limitations on domestic producers' ability to maintain prices or to raise them to cover increased raw materials costs.

[90] As a result, the Tribunal finds that, if the order is rescinded, the subject goods will likely result in significant adverse price effects on the domestic industry.

Likely Impact on the Domestic Industry if the Order Is Rescinded

[91] The Tribunal will now assess the likely impact of the above volumes and prices on the domestic industry if the order is rescinded,⁷⁵ first taking into consideration the performance of the domestic industry with the order in place, and then its likely performance were the order to be continued.⁷⁶ In this analysis, the Tribunal will distinguish the actual and likely impact of the dumped or subsidized goods from those of any other factors in the near to medium term.⁷⁷

Performance of the Domestic Industry with the Order in Place

72. Exhibit RR-2017-006-A-05 at para 28, Vol. 11; Exhibit RR-2017-006-06 (protected), Table 30, Vol. 2.1; Exhibit RR-2017-006-16.01A (protected) at 401, Vol. 4; Exhibit RR-2017-006-A-08 (protected), Attachments 2 and 3, Vol. 12.

73. Exhibit RR-2017-006-06 (protected), Table 31, Vol. 2.1.

74. There is evidence before the Tribunal indicating that prices of non-subject imports are already decreasing as a result of the U.S. Section 232 tariffs, resulting in a downward pressure on the domestic producers' pricing. Exhibit RR-2017-006-A-05 at 30, Vol. 11; Exhibit RR-2017-006-A-01 at paras. 48-54, Vol. 11; Exhibit RR-2017-005-A-03 at para. 36, Vol. 11.

75. Paragraphs 37.2(2)(e) and (g) of the *Regulations*.

76. See paragraph 37.2(2)(c) of the *Regulations; Hot-Rolled Carbon Steel Plate and High-Strength Low-Alloy Steel Plate* (7 January 2014), RR-2013-002 (CITT) at para. 85. In *Thermoelectric Containers*, the Tribunal stated the requirement in an expiry review is that the Tribunal draw logical conclusions from the relevant information before it, and that information will often appropriately include the performance of the domestic and foreign industries during the POR, when anti-dumping and countervailing duties were in place (at para. 14). See also *Aluminum Extrusions* at para. 21.

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

[92] The domestic producers alleged that they have only just begun to recover from the drop in oil and gas prices between 2014 and 2017 and the ensuing decrease in demand of seamless and ERW casing. They argued that the decrease in demand led to declines in production, capacity utilization, employment and other financial indicators during the POR. Moreover, the domestic producers had to suspend production and lay off employees in 2015-2016.⁷⁸

[93] With the order in place, evidence indicates that most of the domestic industry's principal performance indicators worsened markedly in 2016 when compared to 2015 but improved significantly in 2017 – in most cases, beyond the levels achieved in 2015. Key performance indicators, such as production, volume and value of sales, increased in 2017 by 479%, 269% and 306%, respectively, when compared to 2016. These same performance indicators continued to increase in Q1 2018 when compared to Q1 2017.⁷⁹ This trend is also true for the domestic industry's employment levels (direct and indirect), productivity, capacity utilization, market share from domestic production, as well as for net sales values, gross margins and net income before taxes.⁸⁰

[94] Thus, overall, the domestic industry's situation improved significantly compared to the lows reached in 2016. Most notably, on an annualized basis, the domestic industry's consolidated domestic net sales value reached its highest point over the POR in Q1 2018.⁸¹ However, despite these improvements during the later stages of the POR, the domestic industry has still not recovered fully from the 2014-2016 oil and gas crisis, and remains in a vulnerable condition.

[95] Although demand has somewhat recovered, the domestic producers do not expect a return to precrisis levels of demand. Rather, they are adjusting to a “new normal”, characterized by low oil and gas prices, and less drilling activity resulting in less demand, and expect this to persist in the near term.⁸² Assuming that the order remains in place, they expect to only modestly increase production and sales volumes.

[96] A number of factors will continue to limit drilling activity and negatively impact demand for casing in the next 18 to 24 months, including the existence of transportation bottlenecks constraining the delivery of Western Canadian oil to market and the fact that the construction of new pipelines to address these transportation bottlenecks is uncertain and not imminent, as well as the lack of alternate export markets for natural gas other than the United States.⁸³ The ongoing market uncertainty has caused many investors in oil and gas exploration to focus on alternative markets where new pipelines are being built.⁸⁴

[97] Drilling remains at levels that are 30-40% lower than in 2014 and is forecast to, at best, increase modestly in 2018-2019 compared to 2017 levels.⁸⁵ As a result, despite the recovery in the

78. Exhibit RR-2017-006-B-03 at para. 17, Vol. 11; Exhibit RR-2017-006-F-03 at para. 14, Vol. 11B.

79. Exhibit RR-2017-006-06 (protected), Tables 34-35, Vol. 2.1

80. *Ibid.*, Tables 9, 31, 34-35. The same is true of the domestic industry's performance with respect to exports.

81. *Ibid.*, Table 31.

82. Exhibit RR-2017-006-A-01 at 1, Vol. 11; Exhibit RR-2017-006-A-03 at 8, Vol. 11.

83. Exhibit RR-2017-006-06-B-03 at paras. 22, 29-33, Vol. 11.

84. Exhibit RR-2017-006-A-03 at paras. 33-34, Vol. 11.

85. Exhibit RR-2017-006-25.02 at 151, Vol. 7.1E; Exhibit RR-2017-006-A-03, Attachment 8, Vol. 11; Exhibit RR-2017-006-B-07 at 3-13, 203-204, 242-244, Vol. 11A.

price of oil, demand for seamless and ERW casing is not expected to grow significantly in the near term. It may even decline modestly.⁸⁶

[98] The domestic producers also argued that their profitability remains at risk, in part due to the rising prices of raw materials. As noted above, the evidence on record shows that the prices of raw materials used in the production of seamless and ERW casing have been increasing since 2017.⁸⁷

[99] On the basis of the foregoing, the Tribunal is of the view that, if the order is continued, the domestic industry's overall performance will likely improve modestly in the near future, subject however to demand continuing to recover, to increasing raw material costs, and to the impact of the U.S. Section 232 tariffs. These factors pose significant challenges that will exist regardless of whether the order is continued or not. However, as will be discussed, the domestic industry's performance will likely be materially worse should the order be rescinded.

Likely Performance of the Domestic Industry Should the Order Be Rescinded

[100] Looking ahead, given that it remains vulnerable, the domestic industry argued any benefit that it has obtained from the recovery in demand will be completely eliminated if it is forced to compete with significantly increased volumes of dumped and subsidized subject goods at prices that undercut its prices. Should the order be rescinded, the negative effects on production would be immediate and would lead to seriously reduced revenues and a general deterioration of the domestic industry's financial condition. Employment would be severely impacted, prices would decline, and low profitability would make it difficult to justify investment in their facilities.

[101] As indicated above, the Tribunal finds that the rescission of the order is likely to result in significantly increased imports of the subject goods. As such, the relatively stagnant Canadian market will be unable to absorb any increase in imports in the next 18 to 24 months. A significant increase in volumes of subject imports will therefore likely capture an increasing share of the Canadian market at the expense of the domestic producers' sales of like goods, ultimately leading to a decline in sales, production, capacity utilization and employment for the domestic industry. The rescission of the order would place the domestic industry in an even more difficult situation than it was in during the POR.

[102] The capital-intensive nature of the steel industry⁸⁸ means that any lost sales volumes would lead to an increase in costs of goods manufactured and cost of goods sold on a per-tonne basis as a result of factory overhead costs being allocated over reduced production volumes.

[103] The rescission of the order would also exacerbate the effects of the U.S. Section 232 tariffs, which have resulted in significant uncertainty in the Canadian market and have created a risk of diversion of imports from China and other countries.

[104] Given that the domestic industry is already in a precarious financial situation, even a small reduction in prices or the impossibility of passing small costs increases along to customers would have significant consequences on the domestic producers' profitability. For this reason, the price depression and price suppression that is likely to result from the rescission of the order would likely

86. Exhibit RR-2017-006-06 (protected), Table 43, Vol. 2.1; Exhibit RR-2017-006-B-08 (protected) at 31, Vol. 12A.

87. See the discussion above, para. 43.

88. Exhibit RR-2017-006-A-05 at paras. 7, 16, Vol. 11.

have a severe negative impact on the financial performance of the domestic industry. In turn, this would affect domestic producers' ability to invest in their production facilities.

[105] Evraz submitted a "but for" analysis of the impact on its financial position had the order been rescinded in 2017 and Q1 2018.⁸⁹ Evraz's analysis assumes a 10% price decrease but no decrease in sales volume, a conservative assumption. Evraz's "but for" scenario shows that a rescission of the order would have a dramatic decrease on the domestic industry's gross margins and net income in 2017 and in Q1 2018, resulting in severe losses.

[106] Evraz's analysis supports the Tribunal's conclusion concerning the likely negative impact of the rescission of the order on the domestic industry's financial situation.

[107] In the near term, the domestic industry will likely face significant challenges related to a recovering market, the effects of the U.S. Section 232 tariffs, and potential further increases in the costs of raw materials. These challenges exist irrespective of whether the order is continued or rescinded and render the domestic industry particularly vulnerable to any additional injury resulting from the rescission of the order.

[108] However, the Tribunal finds that the domestic industry's situation will be materially worse if the order is rescinded. The rescission of the order would nullify the effects of the market recovery by exerting downward pressure on prices of domestically produced like goods and on their sales and production volumes. Thus, the rescission of the order would likely make it all but impossible for domestic producers to withstand the other challenges facing them and could put the viability of their Canadian operations at risk.

[109] On the basis of the foregoing analysis, the Tribunal finds that the rescission of the order would likely cause material injury to the domestic industry.

DETERMINATION

[110] Pursuant to paragraph 76.03(12)(b) of *SIMA*, and for the reasons stated above, the Tribunal continues its order, without amendment, in respect of the subject goods.

Peter Burn

Peter Burn
Presiding Member

89. Exhibit RR-2017-006-A-06 (protected) at paras. 32-38, Vol. 12; Exhibit RR-2017-006-A-02 (protected) at paras. 69-77, Vol. 12.

Ann Penner

Ann Penner

Member

Rose Ann Ritcey

Rose Ann Ritcey

Member