



Canadian International
Trade Tribunal

Tribunal canadien du
commerce extérieur

CANADIAN
INTERNATIONAL
TRADE TRIBUNAL

Dumping and Subsidizing

DETERMINATION AND REASONS

Preliminary Injury Inquiry
No. PI-2021-004

Oil Country Tubular Goods



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Monday, September 20, 2021*

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

OIL COUNTRY TUBULAR GOODS

PRELIMINARY DETERMINATION OF INJURY

The Canadian International Trade Tribunal, pursuant to the provisions of subsection 34(2) of the *Special Import Measures Act* (*SIMA*), has conducted a preliminary injury inquiry into whether there is evidence that discloses a reasonable indication that the dumping of oil country tubular goods, which are casing, tubing and green tubes made of carbon or alloy steel, welded or seamless, heat treated or not heat treated, regardless of end finish, having an outside diameter from 2 3/8 inches to 13 3/8 inches (60.3 mm to 339.7 mm), meeting or supplied to meet American Petroleum Institute specification 5CT or equivalent and/or enhanced proprietary standards, in all grades, excluding drill pipe, pup joints, couplings, coupling stock and stainless steel casing, tubing or green tubes containing 10.5 percent or more by weight of chromium, originating in or exported from the Republic of Austria (the subject goods), has caused injury or retardation or is threatening to cause injury, as these words are defined in *SIMA*.

This preliminary injury inquiry follows the notification, on July 7, 2021, that the President of the Canada Border Services Agency had initiated an investigation into the alleged injurious dumping of the subject goods.

Pursuant to subsection 37.1(1) of *SIMA*, the Tribunal hereby determines there is evidence that discloses a reasonable indication that the dumping of the subject goods has caused injury to the domestic industry.

Frédéric Seppey

Frédéric Seppey
Presiding Member

Peter Burn

Peter Burn
Member

Serge Fréchette

Serge Fréchette
Member

The statement of reasons will be issued within 15 days.

| | |
|-----------------|--|
| Tribunal Panel: | Frédéric Seppey, Presiding Member Peter Burn, Member Serge Fréchette, Member |
| Support Staff: | Helen Byon, Lead Counsel Sarah Perlman, Counsel Shawn Jeffrey, Lead Analyst Chelsea Lappin, Analyst Joseph Long, Analyst |

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| EU Delegation to Canada | Maud Labat |
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STATEMENT OF REASONS

INTRODUCTION

[1] On May 17, 2021, Algoma Tubes Inc. (Algoma), Prudential Steel ULC (Prudential), Tenaris Global Services (Canada) Inc. and Hydril Canadian Company LP (collectively, Tenaris Canada) filed a complaint with the Canada Border Services Agency (CBSA) alleging that the dumping of certain oil country tubular goods (OCTG) originating in or exported from the Republic of Austria (Austria) (the subject goods) have caused injury or are threatening to cause injury to the domestic industry.

[2] On July 7, 2021, the CBSA initiated an investigation respecting the dumping of the subject goods pursuant to subsection 31(1) of the *Special Import Measures Act*.¹

[3] As a result of the CBSA's decision to initiate an investigation, on July 8, 2021, the Canadian International Trade Tribunal began its preliminary injury inquiry pursuant to subsection 34(2) of *SIMA*, to determine whether the evidence discloses a reasonable indication that the dumping of the subject goods has caused injury or is threatening to cause injury to the domestic industry.²

[4] This preliminary injury inquiry closely follows the Tribunal's preliminary determination in *OCTG III*³ regarding the dumping of OCTG from the United Mexican States (Mexico).

[5] Prior to *OCTG III*, the Tribunal found in *Seamless Casing*⁴ that the dumping and subsidizing of seamless carbon or alloy steel oil and gas well casing from the People's Republic of China was threatening to cause injury to the domestic industry, and in *OCTG I*⁵ that the dumping and subsidizing of OCTG from the People's Republic of China had caused injury to the domestic industry. In *OCTG II*⁶ the Tribunal found that the dumping of OCTG from the Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu, the Republic of India, the Republic of Indonesia, the Republic of the Philippines, the Republic of Korea, the Kingdom of Thailand, the Republic of Turkey, Ukraine and the Socialist Republic of Vietnam had not caused injury but was threatening to cause injury to the domestic industry.

[6] The complaint is opposed by the EU Delegation to Canada (EU Delegation). Submissions were filed by the EU Delegation on behalf of the European Commission.

¹ R.S.C., 1985, c. S-15 [*SIMA*].

² As a domestic industry is already established, the Tribunal need not consider the question of retardation.

³ *Oil Country Tubular Goods* (30 August 2021), PI-2021-003 (CITT) [*OCTG III*].

⁴ See *Seamless Carbon or Alloy Steel Oil and Gas Well Casing* (10 March 2008), NQ-2007-001 (CITT) [*Seamless Casing*]. The Tribunal's finding in *Seamless Casing* was most recently continued following the conduct of an expiry review pursuant to section 76.03 of *SIMA* in *Seamless Carbon or Alloy Steel Oil and Gas Well Casing* (28 November 2018), RR-2017-006 (CITT) [*Seamless Casing RR*].

⁵ See *Oil Country Tubular Goods* (23 March 2010), NQ-2009-004 (CITT) [*OCTG I*]. The Tribunal's finding in *OCTG I* was most recently continued following the conduct of an expiry review pursuant to section 76.03 of *SIMA* in *Oil Country Tubular Goods* (10 December 2020), RR-2019-005 (CITT) [*OCTG I RR*].

⁶ See *Oil Country Tubular Goods* (2 April 2015), NQ-2014-002 (CITT) [*OCTG II*]. The Tribunal's finding in *OCTG II* was continued following the conduct of an expiry review pursuant to section 76.03 of *SIMA* in *Oil Country Tubular Goods* (30 December 2020), RR-2019-006 (CITT) [*OCTG II RR*], with the exception of the Republic of the Philippines.

[7] The Tribunal received submissions supporting a preliminary determination of injury from the United Steelworkers (USW), a trade union representing a number of workers employed by Algoma and Prudential,⁷ as well as Evraz Inc. (Evraz) and Welded Tube of Canada Corporation (WTC).

[8] Evraz, WTC, and Voestalpine Tubulars GmbH & Co KG (Voest) filed notices of participation but made no submissions during this preliminary injury inquiry.

[9] On September 7, 2021, pursuant to subsection 37.1(1) of *SIMA*, the Tribunal determined that there was evidence that disclosed a reasonable indication that the dumping of the subject goods has caused injury to the domestic industry. The reasons for that determination are set out below.

PRELIMINARY MATTER

Arguments regarding the non-confidential version of the complaint

[10] The European Commission submitted that the non-confidential version of the complaint was deficient with respect to the obligations pursuant to Articles 5.2 and 6.5.1 of the World Trade Organization (WTO) Anti-dumping Agreement.⁸ Article 5.2 requires certain information to be included in the complaint. Article 6.5.1 states the following:

The authorities shall require interested parties providing confidential information to furnish non-confidential summaries thereof. These summaries shall be in sufficient detail to permit a reasonable understanding of the substance of the information submitted in confidence. . . .

[11] The European Commission argued that the “majority” of information in the complaint was redacted and did not allow a reasonable understanding of the information and, therefore, opposing parties could not exercise their “rights of defence.” It was requested that the Tribunal provide summaries of the information provided in confidence and place them on the public record, e.g. in the form of indices or ranges, in particular regarding dumping margins and injury indicators.

[12] For its part, Tenaris Canada submitted that the complaint provided ample evidence of material injury caused by the subject goods as well as a reasonable indication of a threat of injury. The evidence was as complete and exhaustive “as is possible” and, in any event, was “more” than required at this stage of the proceedings.

[13] Tenaris Canada also noted that no specific passages requiring further disclosure were identified by the European Commission and that Tenaris Canada had provided as much public information as was possible in the circumstances. Given Tenaris Canada’s status as the only Canadian producer supporting the complaint, the confidential information cannot be aggregated and disclosed publicly.

[14] The Tribunal notes that the evidence submitted in the complaint included information that is typically treated as confidential in proceedings under *SIMA* and that Tenaris Canada has provided a reasonable explanation for its designations of confidential information.⁹ Furthermore, as the Tribunal has

⁷ Although the Prudential mill was permanently closed in August 2020, the Prudential workers remain USW members in good standing until Prudential settles its pension liabilities; see Exhibit PI-2021-004-08.01 at 2.

⁸ WTO Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994 (Anti-dumping Agreement).

⁹ *Circular Copper Tube* (25 September 2019), RR-2018-005 (CITT) at paras. 9, 10.

previously stated, in a preliminary injury inquiry, the Tribunal refers to the information on the CBSA's administrative record, which is transmitted to the Tribunal for the purposes of its inquiry. As such, the Tribunal is not the proper forum for addressing concerns with respect to the confidential information contained in the complaint.¹⁰ Finally, as noted in past cases, it is open to the European Commission to retain counsel should it prefer to have access to the entirety of the confidential information on the record for the purposes of making its submissions in those proceedings.

PRODUCT DEFINITION

[15] The CBSA defined the subject goods as follows:¹¹

Oil country tubular goods, which are casing, tubing and green tubes made of carbon or alloy steel, welded or seamless, heat treated or not heat treated, regardless of end finish, having an outside diameter from 2 3/8 inches to 13 3/8 inches (60.3 mm to 339.7 mm), meeting or supplied to meet American Petroleum Institute specification 5CT or equivalent and/or enhanced proprietary standards, in all grades, excluding drill pipe, pup joints, couplings, coupling stock and stainless steel casing, tubing or green tubes containing 10.5 percent or more by weight of chromium, originating in or exported from Austria.

THE CBSA'S DECISION TO INITIATE THE INVESTIGATION

[16] The CBSA initiated an investigation pursuant to subsection 31(1) of *SIMA*, as it was of the opinion that there was evidence that the subject goods had been dumped, and that there was a reasonable indication that the dumping had caused injury or was threatening to cause injury to the domestic industry.

[17] For the period of January 1, 2020, to December 31, 2020, the CBSA estimated that the subject goods were dumped by a margin of 7.7 percent, expressed as a percentage of the estimated export price.¹²

LEGISLATIVE FRAMEWORK

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

Reasonable indication

[19] The term "reasonable indication" is not defined in *SIMA*, but is understood to mean that the evidence need not be "conclusive, or probative on a balance of probabilities."¹³ The reasonable

¹⁰ *Nitisinone Capsules* (20 November 2018), PI-2018-006 (CITT) at paras. 9, 10.

¹¹ Exhibit PI-2021-004-05 at para. 15.

¹² *Ibid.* at paras. 79-80.

¹³ *Ronald A. Chisholm Ltd. v. Deputy M.N.R.C.E.* (1986), 11 CER 309 (FCTD).

indication standard is lower than the standard that applies in a final injury inquiry under section 42 of *SIMA*.¹⁴

[20] The Tribunal expects that the evidence at the preliminary phase of proceedings will be significantly less detailed and comprehensive than the evidence in a final injury inquiry. Not all the evidence is available at the preliminary phase, and the evidence cannot be tested to the same extent as it would during a final injury inquiry.

[21] However, the outcome of preliminary injury inquiries must not be taken for granted.¹⁵ Simple assertions are not sufficient.¹⁶ Complaints, as well as the cases of parties opposed, must be supported by positive evidence that is both relevant and sufficient, in that it addresses the necessary requirements in *SIMA* and the relevant factors of the *Special Import Measures Regulations*¹⁷ and does so in a manner that is sufficiently convincing at this stage of the inquiry.

Injury factors and framework issues

[22] In making its preliminary determination of injury, the Tribunal takes into account the injury and threat of injury factors that are prescribed in section 37.1 of the *Regulations*. These include the import volumes of the dumped goods and the effects of the dumped goods on the price of like goods, the resulting economic impact of the dumped goods on the state of the domestic industry, and, if injury or threat of injury is found to exist, whether a causal relationship exists between the dumping of the goods and any injury or threat of injury.

[23] However, before examining whether there is evidence of injury and threat of injury, the Tribunal must identify the domestically produced goods that are “like goods” in relation to the subject goods, determine whether there is more than one class of goods, and identify the domestic industry that produces those like goods. This is required because subsection 2(1) of *SIMA* defines “injury” as “material injury to a domestic industry.”

LIKE GOODS AND CLASSES OF GOODS

[24] 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 goods described in paragraph (a), goods the uses and other characteristics of which closely resemble those of the other goods.

¹⁴ *Sucker Rods* (17 July 2018), PI-2018-001 (CITT) at para. 11; *Certain Fabricated Industrial Steel Components* (10 November 2016), PI-2016-003 (CITT) at para. 12.

¹⁵ *Concrete Reinforcing Bar* (12 August 2014), PI-2014-001 (CITT) at paras. 18-19.

¹⁶ Article 5 of the WTO Anti-dumping Agreement requires an investigating authority to examine the accuracy and adequacy of the evidence provided in a dumping complaint to determine whether there is sufficient evidence to justify the initiation of an investigation, and to reject a complaint or to terminate an investigation as soon as an investigating authority is satisfied that there is not sufficient evidence of dumping or injury. Article 5 also specifies that simple assertions that are not substantiated with relevant evidence cannot be considered sufficient to meet the requirements of the article.

¹⁷ S.O.R./84-927 [*Regulations*].

[25] In determining the like goods and whether there is more than one class of goods,¹⁸ 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).¹⁹

[26] The Tribunal notes that the CBSA's product definition is similar to those in *OCTG II* and *OCTG III*. It encompasses both electric resistance welded (ERW) and seamless OCTG, in different grades, sizes and finishes.

[27] Tenaris Canada submitted that the range of goods produced by the domestic industry include goods that are identical to, or substitutable for, products within the scope of the subject goods and that the OCTG covered by its complaint constitute a single class of goods. It also noted that, in previous proceedings involving similarly defined goods, the Tribunal consistently determined that OCTG cover a range of products falling along a "continuum" of like goods,²⁰ including both welded and seamless OCTG, high-strength and low-strength OCTG, finished OCTG and semi-finished green tubes, and OCTG of different grades. Additionally, OCTG casing and tubing are made to the same API specifications or to other proprietary equivalent specifications, and are both used down well. All OCTG are produced on the same equipment and have the same channels of distribution.

[28] The European Commission has presented no evidence or argument to the contrary in the context of this preliminary injury inquiry.

[29] The Tribunal finds that OCTG produced in Canada that are of the same description as the subject goods are "like goods" in relation to the subject goods, and that there is one class of goods.

DOMESTIC INDUSTRY

[30] 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

[31] In this preliminary injury inquiry, the Tribunal must therefore determine whether the evidence discloses a reasonable indication of injury, or threat of injury, to the domestic producers as a whole or to those domestic producers whose production represents a major proportion of the total production of like goods. The term "major proportion" is not defined in *SIMA*. However, it has been

¹⁸ In order to decide whether there is more than one class of goods, the Tribunal must determine whether goods potentially included in separate classes of goods constitute "like goods" in relation to each other. If they do, they will be regarded as comprising one class of goods. See, for example, *Aluminum Extrusions* (17 March 2009), NQ-2008-003 (CITT) at para. 115; *Thermal Insulation Board* (11 April 1997), NQ-96-003 (CITT) at 10.

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

²⁰ *OCTG I* at para. 83; *Oil Country Tubular Goods* (2 March 2015), RR-2014-003 (CITT) at paras. 29-33; *OCTG I RR* at paras. 22-27; *OCTG II* at paras. 32-34, 42-44; *OCTG II RR* at paras. 33-36. See also *Oil and Gas Well Casing* (4 July 2001), RR-2000-001 (CITT) at 4; *Seamless Casing* at para. 71; *Seamless Carbon or Alloy Steel Oil and Gas Well Casing* (11 March 2013), RR-2012-002 (CITT) at paras. 56-57; *Seamless Casing RR* at paras. 24-32.

interpreted to mean an important, serious or significant proportion of total domestic production of like goods and not necessarily a majority.²¹

[32] There are three known domestic producers of the like goods: Tenaris Canada, Evraz and WTC. Tenaris Canada is the sole complainant in this preliminary injury inquiry. Tenaris Canada, at its Algoma facility, manufactures OCTG using the seamless process, while Prudential, a wholly owned subsidiary of Algoma which was closed in July 2020, housed ERW production capability. Tenaris Canada is in the process of relocating this production capability to the Algoma facility.

[33] As noted above, in these proceedings, Evraz and WTC have made no submissions with respect to the complaint and complete data is not available on the record of these proceedings for these two producers, including with respect to their domestic production, sales and financial performance.

[34] Tenaris Canada's estimation of its share of domestic production is well above thresholds previously considered to qualify as a "major proportion" of the domestic production.²² The CBSA obtained production information from both Evraz and WTC for 2019 and 2020. According to the CBSA's estimates of domestic production, Tenaris Canada represented 49.10 percent and 59.80 percent of total domestic production in 2019 and 2020, respectively.²³

[35] The Tribunal is satisfied that Tenaris Canada's production accounts for a major proportion of the total domestic production of the like goods. Accordingly, the Tribunal will conduct its preliminary injury analysis based on Tenaris Canada constituting the domestic industry.

INJURY ANALYSIS

[36] The analysis below covers only the period from 2018 to 2020 given the limited data on the record with respect to the first quarter of 2021.

Import volume of dumped goods

[37] Tenaris Canada submitted that the subject goods had been imported in significant and increasing volumes relative to domestic production and consumption.

²¹ *Japan Electrical Manufacturers Assoc. v. Canada (Anti-Dumping Tribunal)*, [1982] 2 FC 816 (FCA); *McCulloch of Canada Limited and McCulloch Corporation v. Anti-Dumping Tribunal*, [1978] 1 F.C. 222 (FCA); Panel Report, *China – Automobiles (US)*, WT/DS440/R at para. 7.207; Appellate Body Report, *EC – Fasteners (China)*, WT/DS397/AB/R at paras. 411, 419, 430; Panel Report, *Argentina – Poultry (Brazil)*, WT/DS241/R at paras. 7.341-7.344.

²² Exhibit PI-2021-004-03.01 (protected) at 625; Exhibit PI-2021-004-03.01B (protected) at 5814-5815, 5834; Exhibit PI-2021-004-03.01C (protected) at 6563-6566. The Tribunal has previously implied that it considers 20 percent or more to constitute a major proportion; *Wood Venetian Blinds and Slats* (18 June 2004), NQ-2003-003 (CITT) at paras. 66-67.

²³ Exhibit PI-2021-004-05 at para. 88.

[38] The CBSA's estimate of subject imports in absolute volumes decreased from 2018 to 2020. Further, the CBSA estimated that total import volumes fell consistently from 2018 to 2020.²⁴ The CBSA estimated that the subject imports' share of the total import volume increased from 13.6 percent in 2018 to 15.9 percent in 2020.²⁵ As, discussed below, over the period examined, the OCTG domestic market experienced a year-over-year decline.²⁶

[39] The relative share of subject imports as a proportion of domestic production increased by 4 percentage points from 2018 to 2020.²⁷ Relative to domestic sales of domestic production, the import volumes of subject imports decreased by 9 percentage points from 2018 to 2020.²⁸

[40] Having considered the evidence on the record, the Tribunal finds that there is a reasonable indication of a significant increase in imports of subject goods relative to domestic production.

Effects on prices of like goods

[41] Tenaris Canada alleged that in the face of low-priced subject goods, it has fought to maintain sales volumes by lowering prices or minimizing price increases during periods of cost increases to match prices of the subject goods. This has resulted in a race to the bottom.

[42] It has been established in previous findings of the Tribunal²⁹ that OCTG are a commodity product that trades on price. Nothing suggests otherwise in the present case. Tenaris Canada also noted that there is price transparency in the market.³⁰

[43] Tenaris Canada also submitted that the Tribunal should place more weight on price comparisons of specific products as opposed to aggregate pricing trends, as the latter mask the price effects of the subject goods. The Tribunal agrees that, when comparing average selling prices of the like goods with those of the subject goods, the product range in OCTG may be a factor masking price differentials between comparable products. While the Tribunal does not have extensive data at this preliminary stage to conduct a comparative price analysis of benchmark products, it will assess the evidence before it with this issue in mind.

[44] The evidence in the complaint indicates that, on an average annual aggregate basis, the subject goods have undercut the price of like goods in each year between 2018 and 2020. The price undercutting was most significant in 2018.³¹

[45] Tenaris Canada also submitted evidence for two specific products (P110 with semi-premium connections and P110 with API connections). The quarterly prices of the subject goods and

²⁴ The CBSA indicated that for the first quarter of 2021, subject imports increased in comparison to the first quarter of 2020. Within this same period, total imports fell. The CBSA did not provide any further data with respect to the first quarter of 2021. Furthermore, Tenaris Canada did not provide volume data beyond 2020. Exhibit PI-2021-004-03.07 (protected) at 18; Exhibit PI-2021-004-05 at 11.

²⁵ Exhibit PI-2021-004-05 at 11.

²⁶ Exhibit PI-2021-004-03.07 (protected) at 20.

²⁷ *Ibid.* at 11, 18.

²⁸ *Ibid.* at 18-20.

²⁹ For example, *OCTG II* at para. 125 and *OCTG I* at paras. 139-142; *OCTG I RR* at para. 73 and *OCTG II RR* at para. 45.

³⁰ Exhibit PI-2021-004-02.01 at paras. 353, 439.

³¹ Exhibit PI-2021-004-03.07 (protected) at 20; Exhibit PI-2021-004-03.01 (protected) at 2935.

comparable products of Tenaris Canada in 2019 and 2020 show a pattern of Tenaris Canada's prices being undercut by the subject goods, as well as domestic prices moving down in near lockstep.³²

[46] With respect to price depression, Tenaris Canada's evidence indicates that its average unit value for sales from domestic production increased between 2018 and 2019 and then fell significantly in 2020. During the same period, the selling prices of the subject goods trended in the same direction as the like goods and remained the price leaders throughout. The selling prices of the subject goods declined at the same rate as the selling prices of the like goods from 2019 to 2020.³³

[47] Considering the above, the Tribunal finds that the evidence provides a reasonable indication of significant price depression at the aggregate level in 2020. Tenaris Canada's evidence examining the pricing trends of like and subject P110 with semi-premium connections and P110 with API connections over the last eight quarters also shows similar trends of price depression in 2020.³⁴

[48] Tenaris Canada further submitted that higher-end subject products sold at low prices can depress the prices of lower grades of like goods. As an example, Tenaris Canada submitted that a lower-priced heat-treated L80 or P110 for the same price as a domestically produced non-heat-treated J55 may motivate the customer to switch to the higher-end product. In this scenario, Tenaris Canada would have to further discount the price of the lower-end product.

[49] In further support of the price depressive effects of lower-priced subject goods, Tenaris Canada provided account-specific examples of price depression and lost sales starting in 2019. It submitted that to retain sales volumes, it has been forced to lower its selling prices on the next tender opportunity. The price transparency in the market has exacerbated the need for making lower-priced offers to its customers.

[50] The Tribunal finds that the account specific examples of injury from the subject goods submitted by Tenaris Canada for 2019 and 2020³⁵ further indicate that the subject goods, through their lower pricing, have undercut and depressed domestic prices.

[51] The evidence on the record also indicates that on a dollar-per-tonne basis, the cost of goods sold (COGS) increased in 2019 and in 2020. In this regard, Tenaris Canada explained that between 2018 and 2020, it was shifting towards higher-value products.³⁶ However, the evidence indicates that domestic prices did not follow the rising trend in COGS. Domestic sales prices increased in 2019 from 2018, but then declined in 2020 from 2019.³⁷ Tenaris Canada also pointed out that its COGS-to-net-sales ratio increased in each year from 2018 to 2020, which amounted to a significant

³² To conduct this analysis, Tenaris Canada used available pricing information for Austrian exports of the same products including an amount for delivery to Canadian stocking yards. It also noted that the products accounted for close to half of Voest's 2020 imports. Tenaris Canada's pricing was based on its delivered selling price to two accounts. Exhibit PI-2021-004-02.01 at paras. 291-96; Exhibit PI-2021-004-03.01 (protected) at paras. 290-96; Exhibit PI-2021-03.01D (protected) at 8718.

³³ Exhibit PI-2021-004-03.07 (protected) at 20; Exhibit PI-2021-004-03.01 (protected), at 2935.

³⁴ Exhibit PI-2021-004-02.01 at paras. 291, 295, 301; Exhibit PI-2021-004-03.01 (protected) at paras. 294, 296, 300-302; Exhibit PI-2021-004-3.01D (protected) at 8718.

³⁵ The Tribunal limited its review to allegations pertaining only to Austria for the years 2019 and 2020, given that there was no market data for the 2021 period. See account-specific examples #2, #3, #4, #6, #7 and #8 at Exhibit PI-2021-004-02.01 at 88-92, 94-97; Exhibit PI-2021-004-03.01 (protected) at 88-92, 94-97.

³⁶ Exhibit PI-2021-02.01 at para. 304; Exhibit PI-2021-004-03.01 (protected) at para. 304.

³⁷ Exhibit PI-2021-004-03.01 (protected) at paras. 273, 303 and at 2935.

price-cost squeeze over this period.³⁸ The Tribunal finds that the evidence provides a reasonable indication of significant price suppression in 2020.

[52] Accordingly, the Tribunal finds that the evidence discloses a reasonable indication that the subject goods significantly undercut the like goods in each year from 2018 to 2020, and depressed and suppressed prices of like goods in 2020.

Resultant impact on the domestic industry

[53] As part of its analysis under paragraph 37.1(1)(c) of the *Regulations*, the Tribunal considers the impact of the dumped goods on the state of the domestic industry and, in particular, all relevant economic factors and indices that have a bearing on the state of the domestic industry.³⁹

[54] In a preliminary injury inquiry, the Tribunal must determine whether the evidence discloses a reasonable indication of a causal link between the dumping of the subject goods and the injury, on the basis of the resultant impact of the volume and price effects of the dumped goods on the domestic industry. The standard is whether there is a reasonable indication that the dumping of the subject goods has, *in and of itself*,⁴⁰ caused injury.

[55] Tenaris Canada submitted that the subject goods have increased their market share and, by depressing and suppressing domestic prices, adversely affected its financial performance. It has experienced both lost sales and profits as seen through its shrinking gross margins. Levels of production were also described as being unsustainable. As discussed below, these allegations are supported by the evidence on the record.

[56] According to the CBSA's estimate of the apparent domestic market, between 2018 and 2020, the domestic OCTG market declined significantly. While Tenaris Canada's sales of like goods similarly fell during this period,⁴¹ the domestic industry's market share increased from 24.2 percent in 2018 to 38 percent in 2020. However, during this same period, while sales of subject imports saw a year-over-year decrease, the subject goods' market share increased from 7.8 percent in 2018 to 8.6 percent in 2020.⁴²

[57] Although the evidence does not indicate that there has been an erosion of the domestic industry's market share due to the subject goods, during the period in which the subject goods increased their market share, Tenaris Canada's financial performance and levels of production suffered.

³⁸ *Ibid.* at 2935.

³⁹ Such factors and indices include (i) any actual or potential decline in output, sales, market share, profits, productivity, return on investments or the utilization of industrial capacity, (ii) any actual or potential negative effects on cash flow, inventories, employment, wages, growth or the ability to raise capital, (ii.1) the magnitude of the margin of dumping or amount of subsidy in respect of the dumped or subsidized goods.

⁴⁰ *Gypsum Board* (5 August 2016), PI-2016-001 (CITT) at para. 44; *Copper Rod* (30 October 2006), PI-2006-002 (CITT) at paras. 40, 43; *Galvanized Steel Wire* (22 March 2013), PI-2012-005 (CITT) at para. 75; *Circular Copper Tube* (22 July 2013), PI-2013-002 (CITT) at para. 82.

⁴¹ Exhibit PI-2021-004-03.07 (protected) at 20.

⁴² *Ibid.*; Exhibit PI-2021-004-05 at 12.

[58] Looking at the financial data on the record concerning Tenaris Canada's net sales value, net income and gross margin, the evidence indicates a decline in profitability between 2018 and 2020.⁴³ Tenaris Canada's financial information indicates decreasing gross margins and net margins on a per tonne basis.

[59] The evidence on the record also indicates that Tenaris Canada's production volumes declined significantly between 2018 and 2020.⁴⁴

[60] Tenaris Canada's account-specific examples of sales lost to the subject goods, price undercutting and price depression, discussed above, reasonably supports the existence of a causal connection between the subject imports and negative impacts on the domestic industry's financial performance and level of sales/production of like goods.

[61] Tenaris Canada also submitted that, as a result of the subject goods, it had delayed significant investments at its Sault Ste. Marie facility, including upgrading and expanding premium connecting lines and improving production efficiency. According to Tenaris Canada, these investment projects began in July 2019 instead of earlier in 2018.⁴⁵

[62] The evidence indicates that Tenaris Canada's employment levels have declined over the period between 2018 and 2020.⁴⁶ While Tenaris Canada acknowledged that there would likely have been some decline of employment over that period due to the decline in the overall market, it submitted that employment levels would have nevertheless been higher but for the dumping of the subject goods.

[63] It appears from the evidence on the record, and it is admitted by Tenaris Canada, that factors other than the subject goods have likely also negatively affected performance in the period from 2018 to 2020. Notably, there has been significant contraction in domestic demand for OCTG, which as Tenaris Canada submitted, negatively impacted domestic producers because available sales volumes have "naturally" decreased.⁴⁷ A major contributor to the declining OCTG market has been the collapse of global oil and gas prices, which has led to a significant decrease in well drilling activity.⁴⁸ Additionally, it was noted that there has been supply-chain constraints and regulatory delays, particular as a result of the outbreak of COVID-19. The global economic decline has further softened the demand for oil.⁴⁹

[64] However, Tenaris Canada submitted that notwithstanding the contracting market, significant sales volumes were lost to the subject goods that would have otherwise gone to the domestic industry. The reduction in sales volumes from the market downturn did not cause the downward trend in Tenaris Canada's gross margin and, in the absence of the subject goods, it would have seen reasonable returns. Additionally, Tenaris Canada noted that the decline of the domestic market

⁴³ Exhibit PI-2021-004-02.01 at para. 273; Exhibit PI-2021-004-03.01 (protected) at para. 273, at 2935-2936.

⁴⁴ Exhibit PI-2021-004-03.01 (protected) at para. 105; Exhibit PI-2021-004-03.01B (protected) at 5814-5818.

⁴⁵ Exhibit PI-2021-004-02.01 at paras. 423-427.

⁴⁶ *Ibid.* at 100, 851-858; Exhibit PI-2021-004-03.01 (protected) at 100, 3362-3364; Exhibit PI-2021-004-03.07 (protected) at 54.

⁴⁷ Exhibit PI-2021-004-02.01 at para. 428.

⁴⁸ *Ibid.* at 710, 779.

⁴⁹ *Ibid.* at 704-707.

motivated Voest to price more aggressively, even claiming that imports were being sold at a loss to the exporter in order to increase its market share in Canada.

[65] While Tenaris Canada's sales volumes were undoubtedly impacted by the market conditions that have existed over the recent past, at this preliminary stage of inquiry, the Tribunal is of the view that the evidence on the record reasonably indicates that the subject goods have also affected the domestic industry. This is consistent with the trends described above with respect to the subject goods' increasing market share during the period examined.

[66] With more comprehensive data, during the final injury inquiry, the Tribunal will assess in more detail the extent to which the subject goods caused injury to the domestic industry, in and of themselves.

[67] Additionally, Tenaris Canada has submitted that there is a large volume of inventory in the domestic market consisting of subject goods which has also contributed to price depression.⁵⁰ In the Tribunal's view, there is insufficient information on the record to establish inventory trends at Canadian stocking yards over the period examined. In the final injury inquiry, the Tribunal may further assess the impact of inventory volumes on the domestic industry.

[68] The presence of non-subject imports in the Canadian market is another factor that merits consideration. The evidence indicates that non-subject imports had a strong presence in the domestic market, particularly OCTG from Mexico and the United States,⁵¹ and that selling prices of non-subject imports from the United States undercut the domestic prices of like goods and the subject goods.⁵² However, as noted above, product mix should be considered in assessing the price effects of OCTG imports on like goods and, at this stage, the evidence on the record is insufficient. Therefore, the Tribunal does not find that the non-subject imports negate the injury caused by the subject goods, and the presence of non-subject imports in the domestic market will be examined further in the final injury inquiry.

[69] The performance of the domestic industry may also have been adversely affected by Tenaris Canada's decision to restructure its operations in 2020. The domestic industry, as represented by Tenaris Canada in this preliminary inquiry, has undertaken major changes, including the closure of the Prudential mill and the transfer of its ERW operations to Algoma's facility in Sault Ste. Marie. This may have had an impact on employment levels. A final injury inquiry would allow the Tribunal to examine these aspects in greater detail.

[70] Having considered the above, and keeping in mind the lower evidentiary threshold applicable at the preliminary inquiry stage, the Tribunal finds that the evidence reasonably indicates that, through their volume and price effects, the subject goods have caused injury, with a negative impact on Tenaris Canada's performance, namely its output, sales, profitability and employment level.

⁵⁰ *Ibid.* at paras. 415-416; Exhibit PI-2021-004-03.01 (protected) at paras. 415-416; Exhibit PI-2021-004-03.01B (protected) at 5828.

⁵¹ Exhibit PI-2021-004-05 at 11, 12.

⁵² Exhibit PI-2021-004-03.07 (protected) at 20. The CBSA's estimated Canadian market tables were adjusted to reflect goods re-exported by WTC as reported by Tenaris Canada. Exhibit PI-2021-004-05 at 12; Exhibit PI-2021-004-02.01 at 29.

THREAT OF INJURY

[71] In light of the finding that there is a reasonable indication that the dumping of the subject goods has caused injury, the Tribunal will exercise judicial economy and not consider whether there is a reasonable indication that the dumping of the subject goods is threatening to cause injury.

CONCLUSION

[72] On the basis of the foregoing analysis, the Tribunal determines there is evidence that discloses a reasonable indication that the dumping of the subject goods has caused injury to the domestic industry.

Frédéric Seppey

Frédéric Seppey
Presiding Member

Peter Burn

Peter Burn
Member

Serge Fréchette

Serge Fréchette
Member