Canadian International Trade Tribunal

Tribunal canadien du commerce extérieur

CANADIAN INTERNATIONAL TRADE TRIBUNAL

Dumping and Subsidizing

ORDER AND REASONS

Expiry Review RR-2020-004

Carbon and Alloy Steel Line Pipe

Order and reasons issued
Thursday, January 6, 2022

TABLE OF CONTENTS

IN THE MATTER OF an expiry review, pursuant to subsection 76.03(3) of the *Special Import Measures Act*, of the finding made by the Canadian International Trade Tribunal on March 29, 2016, in inquiry NQ-2015-002, concerning:

CARBON AND ALLOY STEEL LINE PIPE ORIGINATING IN OR EXPORTED FROM THE PEOPLE'S REPUBLIC OF CHINA

ORDER

The Canadian International Trade Tribunal, pursuant to subsection 76.03(3) of the *Special Import Measures Act* (SIMA), has conducted an expiry review of the finding made on March 29, 2016, in inquiry NQ-2015-002, concerning the dumping and subsidizing of carbon and alloy steel line pipe originating in or exported from the People's Republic of China (China), welded or seamless, having an outside diameter from 2.375 inches (60.3 mm) up to and including 24 inches (609.6 mm), including line pipe meeting or supplied to meet any one or several of API 5L, CSA Z245.1, ISO 3183, ASTM A333, ASTM A106, ASTM A53-B or their equivalents, in all grades, whether or not meeting specifications for other end uses (e.g. single-, dual-, or multiple-certified, for use in oil and gas, piling pipe, or other applications), and regardless of end finish (plain ends, beveled ends, threaded ends, or threaded and coupled ends), surface finish (coated or uncoated), wall thickness, or length, excluding galvanized line pipe and excluding stainless steel line pipe (containing 10.5 percent or more by weight of chromium), excluding goods covered by the Tribunal's finding in inquiry NQ-2012-002 and goods covered by the Tribunal's order in expiry review RR-2012-003 (the subject goods).

For greater certainty, the product definition includes unfinished line pipe (including pipe that may or may not already be tested, inspected and/or certified to line pipe specifications) originating in China and imported for use in the production or finishing of line pipe meeting final specifications, including outside diameter, grade, wall thickness, length, end finish or surface finish, and non-prime and secondary pipes ("limited service products").

In accordance with the Tribunal's finding in inquiry NQ-2015-002, the subject goods also exclude unfinished seamless carbon or alloy steel line pipe in the form of mother tubes having outside diameters of 184, 197, 210, 235, 260, 286, 328, 350, 368, 377, 394, 402, 419, 426, 450, 475, 480, 500, 521, 530, 560, 585 or 610 mm, in wall thicknesses from 9 mm to 110 mm and in lengths ranging from 7.72 m to 15.24 m, not stenciled as meeting any line pipe product specification, but imported for use in the production, and not solely for finishing, of seamless line pipe made to any one or several of API 5L, CSA Z245.1, ISO 3183, ASTM A333, ASTM A335, ASTM A106, ASTM A53 or their equivalents.

Pursuant to paragraph 76.03(12)(b) of SIMA, the Tribunal hereby continues its finding in respect of the aforementioned goods.

Georges Bujold
Georges Bujold
Presiding Member

Cheryl Beckett
Cheryl Beckett
Member

Susan D. Beaubien
Susan D. Beaubien
Member

Place of Hearing:	Ottawa, Ontario
Date of Hearing:	November 1, 2021
Tribunal Panel:	Georges Bujold, Presiding Member Cheryl Beckett, Member Susan D. Beaubien, Member
Tribunal Secretariat Staff:	Sarah Perlman, Lead Counsel Isaac Turner, Counsel Shawn Jeffrey, Lead Analyst Rhonda Heintzman, Analyst Chelsea Lappin, Analyst Patrick Stidwill, Data Services Advisor Morgan Oda, Registrar Officer Stephanie Blondeau, Registrar Officer

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STATEMENT OF REASONS

INTRODUCTION

[1] The Canadian International Trade Tribunal, pursuant to subsection 76.03(3) of the *Special Import Measures Act*,[1] has conducted an expiry review of the finding made on March 29, 2016, in inquiry NQ-2015-002, concerning the dumping and subsidizing of certain carbon and alloy steel line pipe (line pipe) originating in or exported from the People's Republic of China (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 finding in inquiry NQ-2015-002 was scheduled to expire on March 28, 2021.

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

PROCEDURAL BACKGROUND

[4] The Tribunal issued its notice of expiry review on March 5, 2021. This notice triggered the initiation of an investigation by the President of the Canada Border Services Agency (CBSA) on March 8, 2021, to determine whether the expiry of the Tribunal's finding was likely to result in the continuation or resumption of dumping or subsidizing.

[5] On July 30, 2021, the CBSA determined, pursuant to paragraph 76.03(7)(a) of SIMA, that the expiry of the finding was:

a) likely to result in the continuation or resumption of dumping of the subject goods; and
b) likely to result in the continuation or resumption of subsidizing of the subject goods.[2]

[6] On August 3, 2021, following the CBSA's determination, the Tribunal began its expiry review, pursuant to subsection 76.03(10) of SIMA, to determine whether the expiry of the finding was likely to result in injury to the domestic industry.

[7] The period of review (POR) for the Tribunal's expiry review covered three calendar years, from January 1, 2018, to December 31, 2020, as well as the interim period of January 1 to June 30, 2021 (interim 2021). For comparative purposes, information was also collected and presented for the interim period of January 1 to June 30, 2020 (interim 2020).

[8] Domestic producers and importers of line pipe, and foreign producers of the subject goods, were asked to respond to questionnaires from the Tribunal. The Tribunal received three responses to the domestic producers' questionnaire from companies stating that they produce like goods in relation to the subject goods. The Tribunal received 13 completed replies to the importers'

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1 R.S.C., 1985, c. S-15 [SIMA].
2 Exhibit RR-2020-004-03 at 4.

questionnaire, including one from a domestic producer. Finally, the Tribunal did not receive any replies to the foreign producers' questionnaire.

[9] Using the questionnaire replies and other information on the record, staff of the Secretariat to the Canadian International Trade Tribunal prepared public and protected versions of the investigation report.

[10] Algoma Tubes Inc., Prudential Steel ULC, Tenaris Global Services (Canada) Inc. (collectively Tenaris Canada), Evraz Inc. NA Canada (Evraz), and the United Steelworkers (a trade union) filed written submissions in support of a continuation of the finding. DFI Corporation, a Canadian producer of piling pipe, also filed a witness statement in support of a continuation of the finding.[3] Bri-Steel Manufacturing (Bri-Steel) filed a notice of participation but did not make submissions in this proceeding. The Tribunal did not receive any submissions opposing the continuation of the finding.

[11] The Tribunal held a hearing by way of written submissions pursuant to rule 25.1 of the *Canadian International Trade Tribunal Rules*.[4] A file hearing without the presence of the parties took place on November 1, 2021.

PRODUCT

Product definition

[12] The subject goods are defined as follows:

> carbon and alloy steel line pipe originating in or exported from China, welded or seamless, having an outside diameter from 2.375 inches (60.3 mm) up to and including 24 inches (609.6 mm), including line pipe meeting or supplied to meet any one or several of API 5L, CSA Z245.1, ISO 3183, ASTM A333, ASTM A106, ASTM A53-B or their equivalents, in all grades, whether or not meeting specifications for other end uses (e.g. single-, dual-, or multiple-certified, for use in oil and gas, piling pipe, or other applications), and regardless of end finish (plain ends, beveled ends, threaded ends, or threaded and coupled ends), surface finish (coated or uncoated), wall thickness, or length, excluding galvanized line pipe and excluding stainless steel line pipe (containing 10.5 percent or more by weight of chromium), excluding goods covered by the Tribunal's finding in Inquiry No. NQ-2012-002 and goods covered by the Tribunal's order in Expiry Review No. RR-2012-003.
>
> For greater certainty, the product definition includes unfinished line pipe (including pipe that may or may not already be tested, inspected and/or certified to line pipe specifications) originating in China and imported for use in the production or finishing of line pipe meeting final specifications, including outside diameter, grade, wall thickness, length, end finish or surface finish; and non-prime and secondary pipes ("limited service products").

[13] In accordance with the Tribunal's finding in inquiry NQ-2015-002, the subject goods also exclude unfinished seamless carbon or alloy steel line pipe in the form of mother tubes having outside diameters of 184, 197, 210, 235, 260, 286, 328, 350, 368, 377, 394, 402, 419, 426, 450, 475,

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3 Exhibit RR-2020-004-D-01.
4 SOR/91-499.

480, 500, 521, 530, 560, 585 or 610 mm, in wall thicknesses from 9 mm to 110 mm and in lengths ranging from 7.72 m to 15.24 m, not stenciled as meeting any line pipe product specification, but imported for use in the production, and not solely for finishing, of seamless line pipe made to any one or several of API 5L, CSA Z245.1, ISO 3183, ASTM A333, ASTM A335, ASTM A106, ASTM A53 or their equivalents.[5]

Additional product information

[14] The CBSA provided the following additional product information:

> [18] Pipe that is being sold for oil and gas transmission purposes or process piping purposes is line pipe. The subject goods are used by the oil and gas industry in pipelines for the gathering and distribution of oil and gas or as process pipe used in steam generation facilities for steam assisted gravity drainage, petrochemical plants, upgraders, gas transmission facilities, and fabrication of modules.
>
> [19] The Canadian market for oil and gas line pipe is governed by two main design codes depending on whether the line pipe is for pipelines or for process piping. Each code specifies the standards and grades of pipe that are acceptable for use. Together, the complainants manufacture or have the capability to manufacture line pipe under both design codes, in all grades. Pipelines must conform or be equivalent to CSA Z662 (oil and gas pipeline systems), and process piping must conform or be equivalent to ASME B31.1. These systems standards cover multiple pipe standards and can cover multiple grades of pipe. Examples of pipe standards include:
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> - CSA Z245.1;
> - API 5L;
> - ISO 3183;
> - ASTM A333;
> - ASTM A53-B; and
> - ASTM A106.
>
> [20] Pipe manufactured to a particular standard may be compatible with the requirements of another standard. This means that a particular pipe may be certified as complying with multiple standards (if all the requirements of each standard/grade are met for that particular pipe). For example, CSA Z245.1 Grade 448 pipe is considered to be equivalent to API 5L Grade X65. The API 5L X grade numbers define the minimum yield strength required of the grade in kilopounds per square inch. Process piping is generally supplied with multiple stencils including API 5L, CSA Z245.1 and ASTM A106.
>
> [21] Equivalent grades of pipe specified under each design code represent products that are equivalent regardless of manufacturing process. As a result, any grade of pipe is considered to be substitutable by a similar grade of pipe designed with a different standard. It is common practice to certify multiple grades of pipe on a mill test report. It is also common practice to substitute grades other than that initially requested by a customer with an

5 *Carbon and Alloy Steel Line Pipe* (29 March 2016), NQ-2015-002 (CITT) [*Line Pipe*] at paras. 19, 264.

equivalent grade. Mill test reports are provided to show that the properties of the supplied pipe meet the requirements of the actual grade supplied.

[22] Line pipe is normally marked or stenciled in paint on the external surface with the API, ASME, or equivalent specifications to which it has been manufactured and tested. The subject goods cover all line pipe meeting or supplied to meet the above specifications, regardless of whether the pipe has been multiple stenciled to indicate that it meets or is supplied to meet additional end use specifications. Line pipe that is manufactured and tested to meet higher API specifications (or equivalent CSA and ISO specifications) is automatically in conformity with lower specifications and may therefore have multiple stencils identifying additional end uses, such as American Society for Testing and Materials (ASTM), and equivalent specifications for end use as standard pipe (for low-pressure conveyance of steam, water, natural gas, air and other liquids in plumbing and heating applications), piling pipe, and other such end uses. Seamless line pipe conforming to API 5L may also be marked as conforming to pressure pipe applications under ASME B31.3. Additionally and for the same reasons, line pipe that is single-stencilled as API 5L may be used in lower specifications absent stencilling identifying that lower specification. All line pipe that is marked as meeting or that is supplied to meet API 5L (or equivalent specifications) for use as oil and gas pipelines or as ASME B31.3 for use as pressure pipe are covered in this investigation as subject goods regardless of whether the pipe is marked as meeting any other end-uses or is supplied to meet any other end-uses.

[23] The subject goods may be manufactured by the seamless or welded process. The typical end finish is a beveled end to allow for welding in the field, although line pipe may also be supplied as plain end (square cut), threaded, and threaded and coupled.[6]

LEGAL FRAMEWORK

[15] The Tribunal is required, pursuant to subsection 76.03(10) of SIMA, to determine whether the expiry of the finding in respect of the subject goods is likely to result in injury to the domestic industry.[7] Pursuant to subsection 76.03(12), if the Tribunal determines that the expiry of the finding is unlikely to result in injury, it is required to rescind it. However, if it determines that the expiry of the finding is likely to result in injury, the Tribunal is required to continue the finding, with or without amendment.

[16] 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".

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

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6 Exhibit RR-2020-004-03.A at paras. 18–23.

7 Subsection 2(1) of SIMA defines "injury" as "material injury to the domestic industry". Given that there is currently an established domestic industry, the issue of whether the expiry of the finding is likely to result in retardation does not arise in this expiry review.

LIKE GOODS AND CLASSES OF GOODS

[18] 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.[8]

[19] 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.

[20] 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.[9]

[21] In the original inquiry (inquiry NQ-2015-002), the Tribunal, upon consideration of the above factors, found that domestically produced line pipe, defined in the same manner as the subject goods, constituted like goods in relation to the subject goods. It also treated the subject and like goods as a single class of goods.[10]

[22] Evraz and Tenaris Canada submitted that there have been no material developments that would warrant a departure from these conclusions. They added that evidence on the record continues to show that imports of subject goods and domestically produced like goods are interchangeable and compete with one another.

[23] The Tribunal is satisfied that there is no evidence on the record of the present expiry review that would warrant departing from the conclusions it reached in the original inquiry. Accordingly, the Tribunal remains of the view that domestically produced line pipe constitutes like goods in relation to the subject goods and that there is a single class of goods.

DOMESTIC INDUSTRY

[24] 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

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8 Should the Tribunal determine that there is more than one class of goods in this expiry review, 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 FC 283 (FC).

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

10 *Line Pipe* at paras. 36, 48, 50.

> 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.

[25] 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.[11]

[26] The evidence indicates that, during the POR for the present expiry review, there were three known domestic producers of line pipe covered by the product definition. These are Evraz, Tenaris Canada, and Bri-Steel, the same producers determined to constitute the domestic industry in the original inquiry.

[27] The Tribunal is satisfied that Evraz, Tenaris Canada, and Bri-Steel comprise the domestic industry for the purposes of this expiry review.

[28] The Tribunal will therefore determine whether there is a likelihood of injury to the domestic industry consisting of these producers.

CROSS-CUMULATION

[29] As the CBSA has found that the subject goods are likely to be both dumped and subsidized should the finding be rescinded, the Tribunal must also determine whether it will make an assessment of the cumulative effect of the dumping and subsidizing of the subject goods.

[30] There are no legislative provisions that directly address the issue of cross-cumulation of the effects of both dumping and subsidizing. However, as noted in previous cases, the effects of dumping and subsidizing of the same goods from a particular country are manifested in a single set of injurious price effects and it is not possible to isolate the effects caused by the dumping from the effects caused by the subsidizing. In reality, when the dumped and subsidized goods originate from a single country, the effects are so closely intertwined as to render it impossible to allocate discrete portions of injury to the dumping and the subsidizing.[12]

[31] Given that this expiry review is in respect of dumped and subsidized goods from a single country, the likely effects of the resumption of dumping and subsidizing of the subject goods will likewise be manifested in a single set of prices. Therefore, the Tribunal will make a cumulative

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11 The term "major proportion" means an important or significant proportion of total domestic production of the like goods and not necessarily a majority of these goods: *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 FC 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, 412, 419; Panel Report, *Argentina – Poultry* (*Brazil*), WT/DS241/R, at para. 7.341.

12 See, for example, *Steel Piling Pipe* (4 July 2018), RR-2017-003 (CITT) at para. 42; *Certain Fabricated Industrial Steel Components* (25 May 2017), NQ-2016-004 (CITT) at paras. 72–73; *Silicon Metal* (2 November 2017), NQ-2017-001 (CITT) at para. 59; *Pup Joints* (7 April 2017), RR-2016-001 (CITT) at paras. 30–31; *Welded Large Diameter Carbon and Alloy Steel Line Pipe* (20 October 2016), NQ-2016-001 (CITT) at para. 84; *Line Pipe* at paras. 84–85; *Aluminum Extrusions* (17 March 2014), RR-2013-003 (CITT) [*Aluminum Extrusions*] at paras. 56–57.

assessment of the likely impact of the continued or resumed dumping and subsidizing of the subject goods on the domestic industry.

LIKELIHOOD OF INJURY ANALYSIS

[32] An expiry review is forward-looking.[13] It follows that evidence from the period 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.[14]

[33] 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.[15] In the context of an expiry review, positive evidence can include evidence based on past facts that tend to support forward-looking conclusions.[16]

[34] 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. This is generally considered to be a period that can extend to up to 24 months from the date on which the finding or order would be rescinded.[17]

[35] The Tribunal finds that a timeframe of 24 months for its likelihood of injury analysis is appropriate in the circumstances of this case. First, this timeframe is consistent with the period considered by the Tribunal in recent cases involving steel products tied to oil and gas drilling activities.[18] Second, in their submissions, the domestic producers generally refer to events that are likely to occur within the next 12 to 24 months or beyond. In addition, the Tribunal considers that it would be difficult to make any meaningful projection beyond the next 24 months.

[36] Subsection 37.2(2) of the *Special Import Measures Regulations*[19] 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 or subsidizing. The factors that the Tribunal considers relevant in this expiry review are discussed in detail below.

Changes in market conditions

[37] In order to assess the likely volumes and prices of the subject goods and their impact on the domestic industry if the finding is allowed to expire, the Tribunal will first consider changes in

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

14 *Copper Pipe Fittings* (17 February 2012), RR-2011-001 (CITT) at para. 56. In *Thermoelectric Containers* (9 December 2013), RR-2012-004 (CITT) [*Thermoelectric Containers*] 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* at para. 21.

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

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

17 See, for example, *Seamless Carbon or Alloy Steel Oil and Gas Well Casing* (28 November 2018), RR-2017-006 (CITT) [*Seamless Casing*] at para. 47; *Hot-rolled Carbon Steel Plate and High-strength Low-alloy Steel Plate* (31 October 2019), RR-2018-007 (CITT) at para. 42.

18 *Oil Country Tubular Goods* (10 December 2020), RR-2019-005 (CITT) [*OCTG I*] at para. 36; *Oil Country Tubular Goods* (30 December 2020), RR-2019-006 (CITT) [*OCTG II*] at para. 64.

19 SOR/84-927 [Regulations].

international and domestic market conditions.[20] These changes provide general context for the Tribunal's analysis.

[38] The Canadian line pipe market typically moves in lockstep with oil and gas exploration and production and is tied to the number of operating rigs or wells at any given time. As oil and gas drilling increases, so does demand for steel products to bring extracted oil and gas to markets. Demand for line pipe follows this trend but may lag by several months because oil and gas wells are first drilled and completed and then "tied" into larger pipelines using line pipe once wells are ready for production.[21] Rig or well count and drilling activity are influenced by the price of oil and gas—i.e. the higher the price, the more drilling activity occurs.[22]

[39] The Tribunal recently discussed, in *OCTG I*, the general international and domestic oil and gas market conditions prior to 2021.[23] As the Tribunal indicated in that case, while 2017 and 2018 saw improvement in oil prices compared to the lows reached in late 2015 and early 2016, prices declined again in 2019 and further in the first half of 2020.

[40] In this regard, Canadian and global markets experienced a significant downturn during the POR due to the onset of the COVID-19 pandemic. The containment measures imposed by governments worldwide in reaction to the pandemic have pushed the global economy into a recession, disrupting economic activity and affecting oil demand.[24]

[41] This downturn, along with the oil price war between Russia and the Organization of the Petroleum Exporting Countries, resulted in low global oil prices. Indeed, in March 2020, oil prices fell to their lowest levels in nearly two decades, with the price of West Texas Intermediate (WTI) oil falling to around US$20 per barrel and the price of Western Canada Select (WCS) oil falling below US$10 per barrel.[25] Canadian oil pricing was additionally challenged due to Canadian oil and gas being landlocked, particularly as transportation bottlenecks affected delivery, resulting in even lower Canadian prices.[26] By the end of 2020, oil prices reached US$39 per barrel for WTI and CAD$35 per barrel for WCS.[27]

[42] In 2021, oil prices have recovered to above pre-pandemic levels, namely US$ 61 per barrel for both WTI and WCS, and are expected to stabilize in 2022.[28] While the oil and gas market and therefore the market for line pipe appear to be on the path to recovery, the evidence on the record indicates that the situation remains fragile, and there are factors that will continue to hamper growth in the Canadian oil and gas sector in the near to medium term. For example, Canadian oil producers will continue to face logistical constraints to get Canadian oil to market. According to Mr. Ricardo Prosperi of Tenaris Canada, until new Canadian pipeline capacity is made available to

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20 See paragraph 37.2(2)(j) of the Regulations.
21 Exhibit RR-2020-004-C-01 at para. 21; *Line Pipe* at paras. 173–175.
22 The relationship between demand for steel products tied to oil and gas exploration and production, and oil prices has been discussed in previous cases. See, for example, *OCTG I* at para. 40; *OCTG II* at para. 81.
23 See *OCTG I* at paras. 43–48.
24 Exhibit RR-2020-004-A-05 at 118; Exhibit RR-2020-004-C-07 at 319, 326, 346.
25 Exhibit RR-2020-004-C-07 at 912–915; *OCTG I* at para. 44. WCS represents the price received by most Canadian producers.
26 *OCTG I* at para. 45.
27 Exhibit RR-2020-004-C-07 at 329.
28 Exhibit RR-2020-004-13.01 at 30.

the market, investments in oil and gas exploration are expected to remain below 2014 and 2018 levels beyond 2022.[29]

[43] Nevertheless, as of July 2021, the Petroleum Services Association of Canada forecasts an increase in the number of wells rig released for 2021 compared to 2020. Similarly, capital expenditures by end users are expected to increase in full year 2021 as compared to 2020.[30] Furthermore, Canada's gross domestic product (GDP) is projected to grow by 6.3 percent in 2021 and 4.5 percent in 2022, following a 5.3 percent decrease in 2020.[31]

[44] However, forecasted oil and gas demand, and thus line pipe demand, is not expected to return to 2019 levels before 2023.[32] As noted above, since demand for line pipe may lag fluctuations in oil and gas prices and drilling activities by several months, even accepting that oil and gas prices and the consequent drilling activities are likely to increase to an extent in the near term, it is not clear that this situation will translate into significant growth in demand for line pipe in Canada in the next 24 months. As it currently stands, the total domestic market for line pipe has continuously declined over the POR, going from 239,866 MT in 2018 to 110,546 MT in 2020 and from 77,849 MT in interim 2020 to 50,628 MT in interim 2021.[33]

[45] Regarding global market conditions, there is evidence that demand for line pipe is not expected to increase significantly in major markets such as the United States, the European Union, the Middle Eastern countries, and Russia in the next 24 months.[34] The Tribunal notes in particular that demand in the United States, the world's largest market for line pipe, has been sluggish, with further declines in pipeline construction expected in 2021 before a modest recovery in 2022.[35]

[46] With respect to Chinese market conditions, the growth rate of the overall Chinese economy is expected to slow over the next several years. In its July 2021 revision to the *World Economic Outlook*, the International Monetary Fund noted a 2020 real GDP growth rate of 2.3 percent and adjusted its April 2021 growth rate forecasts for China down 0.3 percentage point to 8.1 percent for 2021 and up 0.1 percentage point to 5.7 percent for 2022.[36]

[47] China is the largest steel pipe- and tube-producing country worldwide, comprising approximately 28 percent of global production. It is also one of the world's largest electric resistance welded and seamless line pipe exporters, particularly in respect of exports to North America.[37] However, with general slowdowns in the Chinese oil and gas industry, demand for line pipe in the Chinese market should logically follow suit. Fastmarkets MB Research reports that apparent consumption for seamless line pipe in China decreased between 2018 and October 2020.[38]

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29 Exhibit RR-2020-004-A-03 at para. 34.
30 Exhibit RR-2020-004-C-08 (protected) at 1724, 1812–1820, 1862.
31 Exhibit RR-2020-004-A-05 at 118.
32 Exhibit RR-2020-004-C-07 at 9, 178, 302, 319, 344–352.
33 Exhibit RR-2020-004-05 at Table 10.
34 Exhibit RR-2020-004-C-07 at 9–12, 55–56, 70, 72, 77, 83, 162–164, 178, 211–219, 354–355, 569, 575–581, 695, 724–738, 802, 851, 901–902, 904–905; Exhibit RR-2020-004-C-08 (protected) at 4, 12, 659–660, 1392–1394.
35 Exhibit RR-2020-004-C-08 (protected) at 1392–1394.
36 Exhibit RR-2020-004-A-05 at 118.
37 Exhibit RR-2020-004-C-07 at 439–441, 461, 489–490.
38 Exhibit RR-2020-004-A-06 (protected) at 89; Exhibit RR-2020-004-C-07 at 554–555, 565–566.

[48] China's excess steel capacity is not a new phenomenon and has been recognized by the Tribunal in previous cases.[39] It is a significant issue that creates an incentive for Chinese producers to pursue export sales at low prices in order to maintain high capacity utilization. There is evidence that this overcapacity problem has worsened due to the adverse economic effects of the COVID-19 pandemic, during which time global consumption of steel products decreased significantly as China disengaged from the Global Forum on Steel Excess Capacity.[40] While China has announced cuts to steel production across the country, Chinese crude steel output from January to July 2021 was 8 percent higher than the same period in 2020, which itself was a high.[41] Meanwhile, further capacity appears to continue to be added to Chinese production as new facilities continue to be built.[42] Cuts to production, however, are anticipated to accelerate in the second half of 2021.[43]

[49] The Tribunal notes that there are trade remedy measures in place with respect to Chinese line pipe in many jurisdictions. The United States, Mexico, the European Union, Argentina, Brazil, India, Thailand, Turkey and Ukraine have instituted anti-dumping and/or countervailing measures against Chinese line pipe. In addition, Chinese exports of line pipe have been limited by the Section 232 and Section 301 tariff measures in the United States and safeguard measures in the European Union.[44] As further discussed below, the application of these measures increases the risk that Chinese line pipe will be diverted to other markets where such measures are not in place.

[50] In sum, while there are indications of potential limited improvement in market conditions in 2022 and 2023 as compared to 2019 and 2020, the domestic and international markets are not likely to experience significant growth in the next 24 months. On balance, the current and foreseeable domestic and international market conditions are likely to be such that the domestic industry will remain vulnerable to the resumed or continued dumping and subsidizing of the subject goods.

Likely import volume of subject goods

[51] Paragraph 37.2(2)(a) of the Regulations directs the Tribunal to consider the likely volume of the dumped or subsidized goods if the finding 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.

[52] 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.[45]

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39 See *OCTG I* at para. 41.
40 Exhibit RR-2020-004-C-07 at 924–927.
41 Exhibit RR-2020-004-A-05 at 108–111.
42 Exhibit RR-2020-004-A-06 (protected) at 28, 51, 64, 77, 91. Mr. Prosperi states that China is one of the top four markets for energy tubular products along with the United States, Russia and Canada; see Exhibit RR-2020-004-A-03 at para. 10.
43 Exhibit RR-2020-004-A-05 at 108–111.
44 Exhibit RR-2020-004-A-01 at para. 90; Exhibit RR-2020-004-A-05 at 382–385; Exhibit RR-2020-004-C-01 at Table 5.
45 Paragraphs 37.2(2)(a), (d), (f), (h) and (i) of the Regulations.

[53] The domestic producers submitted, and the uncontroverted evidence filed in support of their arguments indicates, that the volume of subject goods in the Canadian market will likely increase significantly if the finding is rescinded.

[54] Tenaris Canada and Evraz provided data showing that China's line pipe production capacity in 2021 is significantly larger than the size of the Canadian market for line pipe. The estimates provided appear to be conservative due to the limited number of Chinese line pipe producers within the datasets.[46] In fact, IHS Markit data show that China has consistently exported quantities of line pipe well above the size of the Canadian market over the POR.[47]

[55] The evidence before the Tribunal also shows that the Chinese domestic market for energy tubular products is "weak", with Chinese domestic demand remaining well below rising production levels.[48] Tenaris Canada argued that this situation has led China to aggressively seek export markets for its excess capacity.[49] Furthermore, the evidence shows that several Chinese producers have explicit global marketing strategies.[50]

[56] The Tribunal accepts the domestic industry's argument that these rising production levels, coupled with weak demand, will likely increase Chinese producers' export orientation and that it will likely be necessary for them to seek export markets, including the Canadian market, should the finding be rescinded.

[57] In addition to current excess capacity for line pipe, the evidence suggests that Chinese producers can divert production of other energy tubular products, such as oil country tubular goods (OCTG), to line pipe. API 5L line pipe, which is part of the present expiry review, is a simpler and less profitable product than API 5CT OCTG, but producers of the latter can produce the former, subject to having the proper certification. As of September 30, 2021, 263 Chinese companies hold 585 active licences to manufacture, process or thread API 5CT OCTG, with 66 of those companies also holding at least 1 licence for API 5L line pipe.[51] Considering the trade remedy measures in place against Chinese OCTG, the Tribunal finds it likely that Chinese producers would be incentivized to move production to API 5L line pipe should the finding be rescinded.[52] In *OCTG I*, the Tribunal found that Chinese OCTG capacity stood at 7.0 to 11.7 million MT.[53] Accounting for a capacity utilization of approximately 50 percent, this leaves a significant volume of potential additional capacity, which could be used to make line pipe.[54]

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46 Exhibit RR-2020-004-A-02 (protected) at paras. 28, 30; Exhibit RR-2020-004-A-05 at 26; Exhibit RR-2020-004-A-06 (protected) at 6; Exhibit RR-2020-004-C-02 (protected) at paras. 65–66. See, for example, Exhibit RR-2020-004-C-07 at 1018–1083.

47 Exhibit RR-2020-004-C-02 (protected) at para. 76; Exhibit RR-2020-004-C-08 (protected) at 2269–2271.

48 Exhibit RR-2020-004-A-05 at 26; Exhibit RR-2020-004-A-06 (protected) at 6; Exhibit RR-2020-004-C-02 (protected) at paras. 65–66; Exhibit RR-2020-004-C-07 at 354, 439–440.

49 Exhibit RR-2020-004-A-01 at paras. 65, 68, 70, 72; Exhibit RR-2020-004-A-02 (protected) at para. 65.

50 Exhibit RR-2020-004-C-01 at para. 73; Exhibit RR-2020-004-C-07 at 1211–1236.

51 Exhibit RR-2020-004-03.A at paras. 76, 132–133; Exhibit RR-2020-004-A-01 at paras. 82–84; Exhibit RR-2020-004-C-07 at 1311–1353.

52 Exhibit RR-2020-004-A-01 at paras. 81–84.

53 *OCTG I* at para. 58.

54 Exhibit RR-2020-004-C-01 at para. 77.

[58] Considering the above, the Tribunal finds that there is significant available capacity to produce large amounts of line pipe, with Chinese producers facing challenging home market conditions. Canada is the fourth-largest global market for energy tubular goods, making it attractive for producers in oversaturated markets such as China's.[55] In this regard, the evidence indicates that Chinese producers have maintained an active interest in the Canadian market since the finding. Tenaris Canada's evidence shows that it continues to receive offers for welded and seamless line pipe from Chinese producers.[56] Furthermore, Chinese producers continued to export small quantities of line pipe into Canada during the POR.[57] In addition, the evidence indicates that Chinese producers continue to have well-established distribution channels in Canada, including sales offices, which are likely to facilitate the entry of subject goods in increased volumes should the finding be rescinded.[58]

[59] As noted above, there are a number of trade measures in place against Chinese line pipe in other jurisdictions. In fact, the number of markets to which China has unrestricted access has shrunk considerably since the Tribunal's original finding.[59] This is likely to impede the subject goods' access to such other markets and enhance the likelihood that they will seek any available opportunities elsewhere.

[60] Considering Chinese producers' excess capacity and export orientation, along with the attractiveness of the Canadian market and the continued interest of Chinese producers, these trade measures increase the likelihood of diversion of Chinese line pipe to Canada should the finding be rescinded.

[61] Finally, Evraz raised the possibility that the rescission of the finding would result in sales of Chinese API 5L line pipe for use as piling pipe, given the Tribunal's order in *Steel Piling Pipe*.[60] Indeed, Evraz noted that some of the Chinese line pipe volumes recognized by the Tribunal in *Line Pipe* were imports of API 5L-certified material for use in piling pipe applications.[61] While this development appears possible,[62] it is not necessary for the Tribunal to make a specific finding that this situation would materialize and would also likely result in an increase of Chinese line pipe imports in the Canadian market. As previously noted, there is other, and more persuasive, evidence on the record that points toward a significant increase of such imports in any event.

Conclusion on likely volumes

[62] In sum, the Tribunal finds that producers of subject goods have considerable available production capacity and remain export-oriented; further, they have demonstrated a continued interest in the Canadian market while facing soft demand and import measures in their major export destinations. As a result, Canada remains an attractive market for Chinese producers of the subject goods.

55 Exhibit RR-2020-004-A-01 at para. 35. See *OCTG I* at paras. 56–61.
56 Exhibit RR-2020-004-A-01 at paras. 73–74; Exhibit RR-2020-004-A-02 (protected) at paras. 73–74; Exhibit RR-2020-004-A-06 (protected) at 93–99.
57 Exhibit RR-2020-004-06 (protected) at Table 6; Exhibit RR-2020-004-A-01 at para. 35.
58 Exhibit RR-2020-004-C-01 at para. 88; Exhibit RR-2020-004-C-07 at 1641, 1643, 1646.
59 Exhibit RR-2020-004-C-01 at para. 84; Exhibit RR-2020-004-C-07 at 1426–1429.
60 (4 July 2018), RR-2017-003 (CITT).
61 *Line Pipe* at para. 92.
62 Exhibit RR-2020-004-C-01 at para. 90.

[63] In light of the foregoing, the Tribunal finds that the rescission of the finding would likely result in a significant increase in the volume of imports of the subject goods, in absolute and relative terms, in the next 24 months.

Likely price effect of subject goods

[64] The Tribunal must consider whether, if the finding is allowed to expire, the dumping and subsidizing of 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.[63] In this regard, the Tribunal distinguishes the price effects of the dumped and subsidized goods from any price effects that would likely result from other factors affecting prices.

[65] In the original inquiry, the Tribunal found that line pipe is a commodity product for which price is an important factor in purchasing decisions. Moreover, once certain pre-conditions are met and qualitative factors are comparable, price becomes the primary consideration affecting purchasing decisions. The evidence on the record of the present expiry review indicates that this conclusion remains valid.

[66] For example, Mr. Dave Coffin of Evraz stated that "line pipe is purchased by distributors and end users on the basis of price, and the lowest price offered for these products will usually win a sale as among multiple qualified bidders".[64] Moreover, importers' questionnaire responses corroborate the view that subject goods and domestic like goods are interchangeable and that price and delivery times are the key factors driving purchasing decisions.[65]

[67] The evidence before the Tribunal further indicates that purchasers have become even more price-sensitive during the POR, given recent market conditions, and that there is considerable price transparency in the market. Indeed, as Canadian oil producers have had to deal with both the global collapse in oil prices and ongoing logistical constraints to get Canadian oil to market, purchasers of line pipe have been more sensitive to price.[66] In addition, while end users normally rely on approved manufacturer lists to limit exposure to poor-quality pipe products, some have been willing to buy lower-grade products in order to compete in the face of lower demand.[67]

[68] Furthermore, Mr. Coffin stated that "[d]ue to the competitiveness in the line pipe distribution business and today's market reality of far lower line pipe demand than we have seen historically and increased price sensitivity on the part of purchasing end users, there is considerable price transparency in the market."[68] Given the price sensitivity and transparency within the market noted above, it is reasonable to conclude that even small volumes of unfairly priced goods in the market

63 Paragraph 37.2(2)(b) of the Regulations.
64 Exhibit RR-2020-004-C-03 at para. 15.
65 Exhibit RR-2020-004-16.02.A at 3; Exhibit RR-2020-004-16.03.A at 4; Exhibit RR-2020-004-16.07.A at 4; Exhibit RR-2020-004-16.15.A at 3; Exhibit RR-2020-004-16.18 at 4; Exhibit RR-2020-004-16.20.A at 3.
66 Exhibit RR-2020-004-A-01 at paras. 51–55; Exhibit RR-2020-004-A-05 at 99–105; Exhibit RR-2020-004-C-01 at para. 39; Exhibit RR-2020-004-16.13.A at 3. The Tribunal has previously found that Canadian oil and gas pricing was particularly "challenged" throughout 2020 in Canada due to the logistical challenges of oil and gas being "landlocked" and "the delivery . . . being constrained by transportation bottlenecks"; see *OCTG I* at para. 45. Adding to this challenge is the United States's decision to cancel the Keystone XL pipeline permit.
67 Exhibit RR-2020-004-16.07.A at 3.
68 Exhibit RR-2020-004-C-03 at para. 15.

can establish a new low-pricing point with which distributors that purchase line pipe need to compete in order to maintain or gain sales.

[69] Considering the above, the Tribunal finds that purchases of line pipe are made largely on the basis of price. Consequently, customers would, by and large, likely switch suppliers solely on this basis, particularly in the current and foreseeable market conditions. This results in a situation where, as argued by the domestic producers, even small volumes of low-priced imports, which can establish new low-price benchmarks, are likely to have a disproportionate impact with significant adverse price effects in the market.

[70] The Tribunal stated in the original inquiry that it would "conduct its analysis of price undercutting, price depression and price suppression on the basis of weighted average prices at both the aggregate level and at the different trade levels for sales to distributors and end users." As for its analysis of the price effects at the sales to distributor trade level, "the Tribunal compared the selling prices of domestically produced like goods to both the selling price and purchase price of the subject goods." Accordingly, the Tribunal considered both these points of comparison, since the domestic producers appeared to compete in some instances with the delivered prices of foreign exporters when selling to certain distributors.[69] Given the current duties in place, in the present expiry review, imports of the subject goods were minimal over the POR. Therefore, the Tribunal was unable to apply the above comparison to the same extent as it did in the previous inquiry.

<u>Price undercutting</u>

[71] Imports of the subject goods were minimal during the POR, which suggests that Chinese exporters have been unable to secure sales at undumped and unsubsidized prices.[70] This also limits the weight that may be given to price comparisons between subject goods and like goods during the POR.

[72] No undercutting of the domestic like goods' aggregate prices by subject good prices were observed during the POR. Moreover, there was no undercutting of the domestic like goods' prices by imports from the United States or from "Other Countries" as an aggregate at the market level during the POR.[71] The average market selling prices over the POR, as reported in the Investigation Report, increased in 2019 from 2018 but then fell in 2020. These prices have since recovered slightly in interim 2021 from interim 2020. The like goods, subject goods, and other countries' import pricing each follow this market trend to a similar magnitude between 2018 and 2020.

[73] Benchmark product pricing data indicate that, while the domestic producers remained the price leaders throughout the POR, there were some instances of price undercutting by sales of imports from non-subject countries at the benchmark pricing level. Over 70 instances of competition between producers' sales of domestic production and sales of non-subject imports, there were 12 instances of undercutting.[72] However, while such undercutting was present in each period of the

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69 *Line Pipe* at para. 124.
70 Exhibit RR-2020-004-C-02 (protected) at para. 105; Exhibit RR-2020-004-06 at Tables 29–36.
71 Exhibit RR-2020-004-06 (protected) at Table 22.
72 Exhibit RR-2020-004-05 at Table 41.

POR, it is notable that the undercutting was to varying magnitudes over the POR and that the volumes involved represented a small proportion of the market.[73]

[74] Having regard to the commodity nature of line pipe as well as the high price sensitivity of the current and likely market, it is reasonable to find, as in past cases,[74] that, in order to increase sales to Canada, the subject goods would have to compete at or below prevailing market prices. Particularly in view of the previously discussed current and foreseeable market conditions, it stands to reason that, if the finding is rescinded, the subject goods will compete on price to gain market shares at the expense of the like goods and of the non-subject goods in the Canadian market.

[75] Indeed, the evidence indicates that Chinese exporters advertise subject goods in Canada at prices that are substantially lower than Canadian prices.[75] Moreover, certain importers reported pricing pressure from low-priced imports in their questionnaire replies. One importer further noted in its questionnaire response that imports from India have risen markedly over the POR, at prices 20 percent below the market average.[76] This supports the view that the subject goods would likely re-enter the Canadian market at low price points to make inroads and compete with non-subject low-priced line pipe from other countries and with the like goods.

[76] To support their argument with respect to likely Chinese pricing, the domestic producers further provided Chinese export pricing data that, they submit, demonstrate a significant potential for Chinese prices to decrease in the absence of the finding.

[77] Evraz calculated an average Chinese landed export price for line pipe by using an average Chinese free on board (FOB) export price for the first half of 2021 obtained through IHS Markit reports and then applied ocean freight to this price. This final Chinese landed export price shows significant undercutting between the Chinese price and the domestic industry's aggregate prices. Evraz noted that the price undercutting would be even greater if ocean freights were at their normal level and not at their current heightened cost due to the COVID-19 pandemic.[77] Evraz asserted that current Chinese FOB export prices demonstrate the ability of Chinese producers to drop their prices and therefore for the price of Chinese imports to decline should the finding be rescinded, which could undercut domestic prices of like goods.

[78] Tenaris Canada submitted an exercise that compares recent Chinese export FOB data from Fastmarkets MB Research with the estimated Chinese average unit value reported in CBSA enforcement data to determine the potential decrease if the finding were rescinded. The exercise demonstrated that Chinese exporters could significantly lower their export prices to Canada and cause even greater price undercutting.[78] Tenaris Canada argued that Chinese export pricing would undercut the domestic industry's pricing and that the domestic industry would need to reduce its pricing to these levels in order to compete.

[79] The Tribunal notes that Tenaris Canada's estimate may amplify the magnitude of the price undercutting that is likely to be observed should the finding be rescinded. In Tenaris Canada's

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73 Exhibit RR-2020-004-06 (protected) at Table 10, Schedules 1–8.
74 See, for example, *Seamless Casing* at para. 80.
75 Exhibit RR-2020-004-06 (protected) at Table 20; Exhibit RR-2020-004-A-03 at para. 14.
76 Exhibit RR-2020-004-16.07.A at 3.
77 Exhibit RR-2020-004-C-02 (protected) at para. 107; Exhibit RR-2020-004-C-04 (protected) at 154.
78 Exhibit RR-2020-004-A-02 (protected) at para. 42; Exhibit RR-2020-004-A-05 at 91; Exhibit RR-2020-004-A-06 (protected) at 17.

exercise, Chinese FOB export prices were compared to the subject goods' value-for-duty price plus duty prices. However, as Chinese FOB export prices do not include duty prices, this does not represent an equal comparison. The Tribunal therefore prepared its own price comparison using FOB prices submitted by Tenaris Canada and using Evraz's methodology, as further discussed below in the Tribunal's assessment of the likely impact of the subject goods on the domestic industry.

[80] Nevertheless, the domestic producers' estimations, which are based on credible available sources of information, support the view that the prices of the subject goods are likely to decrease significantly in the absence of the finding. On balance, the preponderant evidence indicates that Chinese goods will have to compete on price and, in doing so, are likely to significantly undercut the prices of the domestic industry if the finding is rescinded.

[81] In conclusion, there is cogent evidence that, given the price sensitivity in the market, should the finding be rescinded, significant volumes of subject goods would enter the Canadian market at considerably lower prices and would do so in order to gain market share. These prices are likely to significantly undercut the prices of the like goods.

Price depression

[82] The domestic industry argued that, given the likelihood of price undercutting should the finding be rescinded and the increasingly price-sensitive domestic line pipe market, it would have to significantly reduce its prices to secure the small volumes of anticipated sales in the next 12 to 18 months. Based on the evidence on the record, the domestic industry claims that, in the event of a rescission of the finding, there would be a "race to the bottom" in the pricing of line pipe.[79]

[83] In view of the evidence before it, the Tribunal finds it reasonable to project that the domestic producers' prices would be forced downward by a material amount, to a point below the prices that would otherwise prevail, because the domestic producers would have to compete against low-priced subject goods for any available sales in a market that will likely experience limited growth in the next 24 months.

[84] The market dynamics are similar to those in the recent OCTG cases concerning related steel products tied to the oil and gas industry. Like line pipe, OCTG is a commodity product that competes predominantly on price. Given customers' heightened price sensitivity, the domestic industry would have no other choice but to reduce its prices in order to maintain sales volumes and preserve market share in the face of increasing volumes of subject imports undercutting its prices.

[85] In short, without duties in place, the Canadian market is likely to see a significant decline in the prices of the subject goods and, as a result, a decline in prevailing market prices, including the price of the like goods. Accordingly, the Tribunal finds that, should the finding be rescinded, the subject goods will likely significantly depress the prices of like goods.

Price suppression

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79 Exhibit RR-2020-004-05 at Table 41; Exhibit RR-2020-004-A-01 at para. 41; Exhibit RR-2020-004-C-01 at para. 91.

[86] There is insufficient evidence regarding projections in cost trends for the Tribunal to draw a definitive conclusion concerning price suppression. However, the Tribunal notes that there have been recent increases in raw material costs.[80] To the extent that these increases continue or accelerate in the near to medium term, it stands to reason that the pricing pressure from the subject goods, if the finding is rescinded, may undermine the domestic producers' ability to pass on these increased costs to their customers in a market where end-user sensitivity is heightened.

Conclusion on likely price effects

[87] The evidence indicates that the resumed or continued dumping and subsidizing of the subject goods is likely to cause significant adverse price effects, namely price undercutting and price depression, over the next 24 months if the finding is rescinded.

Likely impact on the domestic industry if the finding were rescinded

[88] The Tribunal will assess the likely impact of the above likely volumes and prices of the subject goods on the domestic industry,[81] taking into consideration the recent performance of the domestic industry. In this analysis, the Tribunal distinguishes the likely impact of the dumped and subsidized goods from the likely impact of any other factors affecting or likely to affect the domestic industry.[82]

Recent performance of the domestic industry

[89] The evidence suggests that, although most performance indicators declined between 2018 and 2020, the domestic industry performed relatively well from a financial standpoint between 2018 and 2019 for its domestic sales. Indeed, the domestic industry's financial performance in 2018 and 2019 appears to have benefitted, at least in part, from the recovery in oil prices in 2017 and into 2018, along with the improvement in drilling conditions.[83] The price for domestic sales from domestic production increased in 2019 over 2018, as the domestic industry also saw improvement in its net income. However, there is evidence that the domestic industry's improved financial results during this period would not have been possible without the finding in place.[84]

[90] The fall in oil prices in 2019 and the first half of 2020 led to a decline in oil and gas production and well drilling, which is reflected in the domestic industry's declining performance

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80 Exhibit RR-2020-004-C-01 at para. 120; Exhibit RR-2020-004-C-02 (protected) at para. 120; Exhibit RR-2020-004-C-04 (protected) at para. 6, at 115–116; Exhibit RR-2020-004-06 (protected) at Table 42; Exhibit RR-2020-004-17.10 (protected) at 27.

81 Paragraphs 37.2(2)(c)(e) and (g) of the Regulations.

82 See paragraph 37.2(2)(k) of the Regulations.

83 Exhibit RR-2020-004-06 (protected) at Tables 42, 47–48; Exhibit RR-2020-004-A-03 at paras. 18–19; Exhibit RR-2020-004-A-04 (protected) at para. 19; Exhibit RR-2020-004-A-06 (protected) at 20–23. Gateway Tubulars noted that enforcement action was taken against Korean line pipe in 2019, which also contributed to the market's improvement; see Exhibit RR-2020-004-16.18 at 3.

84 Exhibit RR-2020-004-06 (protected) at Table 22; Exhibit RR-2020-004-A-02 (protected) at paras. 46–47; Exhibit RR-2020-004-A-03 at para. 20; Exhibit RR-2020-004-C-02 (protected) at paras. 123–125; Exhibit RR-2020-004-C-06 (protected) at para. 12.

in 2020, with the domestic industry’s gross margin and net income incurring a substantial decrease.[85] The domestic industry saw improvement in its financial results between interim 2020 and interim 2021,[86] although it should be noted that the domestic industry’s performance in 2020 was in part sustained by its participation in the Canada Emergency Wage Subsidy.[87]

[91] However, the overall deterioration of most performance indicators between 2018 and 2020, even with the finding in place, is notable. Among others, total production and capacity utilization declined between 2018 and 2020 but saw some gains between interim 2020 and interim 2021. The volume of domestic sales from the domestic production decreased by 2 percent between 2018 and 2019 and then by 66 percent in 2020, and it remained relatively stable at these lower volumes in interim 2021 over interim 2020. While the domestic industry’s market share for sales from domestic production increased by 7 percentage points between 2018 and 2019, it lost 25 percentage points of its share in 2020, falling well below 2018 levels. This share increased between interim 2020 and interim 2021, reaching 2019 levels. However, it should be noted that the size of the Canadian market has considerably shrunk since 2019. Export sales from domestic production declined by 76 percent between 2018 and 2019, and then by 29 percent in 2020. However, export sales increased by 36 percent between interim 2020 and interim 2021.[88]

[92] Despite improvements to the domestic industry’s performance in interim 2021, the evidence shows that the domestic industry’s production and financial results for domestic sales are not at pre-recession levels.[89] While the information on the record suggests that the recovery from the recent major economic downturn due to the COVID-19 pandemic may be underway, the data on the domestic industry’s most recent performance underline its vulnerability to any adverse effects that would result from the rescission of the finding, particularly as the timing and extent of the recovery remain uncertain. In other words, the evidence supports the domestic producers’ claim that they are likely to struggle to perform in a sustainable range if they have to compete with unfairly traded Chinese line pipe in the current market conditions.

Likely impact on the domestic industry if the finding is rescinded

[93] The domestic industry argued that, as the fourth-largest energy tubular market in the world, Canada remains highly vulnerable to unfairly traded imports. As there are indicators that the Canadian oil and gas industry is on the road to recovery, the domestic industry argued that, absent the subject goods, its performance stands to improve. The domestic industry submitted that it would be overwhelmed should the subject goods re-enter the Canadian market in relative volumes seen before the duties were in place in 2015. Indeed, between 2012 and 2014, apparent imports of subject goods

85 Exhibit RR-2020-004-06 (protected) at Table 42; Exhibit RR-2020-004-16.07.A at 3; Exhibit RR-2020-004-16.18 at 3; Exhibit RR-2020-004-16.20.A at 3; Exhibit RR-2020-004-A-03 at para. 18; Exhibit RR-2020-004-A-06 (protected) at 20–23.
86 Exhibit RR-2020-004-05 at Table 4; Exhibit RR-2020-004-06 (protected) at Tables 4, 42–46.
87 See, for example, Exhibit RR-2020-004-13.01 at 1339.
88 Exhibit RR-2020-004-05 at Tables 10–11, 48; Exhibit RR-2020-004-05A at Table 13; Exhibit RR-2020-004-06 (protected) at Tables 10–13, 47–48; Exhibit RR-2020-004-06A (protected) at Table 13.
89 Exhibit RR-2020-004-06 (protected) at Tables 42, 47; Exhibit RR-2020-004-C-01 at 15, at para. 129.

by importers averaged 199,848 MT per year, which represents an amount greater than the estimated Canadian market for 2021.[90]

[94] Tenaris Canada argued that, if unfairly traded subject goods were to take even a smaller fraction of the Canadian market, it would suffer significant injury to its profitability. According to Mr. Prosperi of Tenaris Canada, sales, production, price levels, profitability, investment levels and employment levels would all be harmed by the resumed dumping and subsidizing of Chinese line pipe should the finding be rescinded.[91]

[95] Evraz submitted that allowing unfairly traded subject goods back into the market now would put its line pipe operations in jeopardy just as it begins to recover from the depths of 2020.[92] Mr. Coffin of Evraz indicated in his witness statement that every single sale of line pipe counts, given the fewer sales available to secure in the market relative to the pre-2015 period of oil and gas well drilling activity.

[96] United Steelworkers submitted that, if the finding is allowed to expire, the subject goods would be imported into Canada in quantities and at prices that would destabilize Canadian production of like goods and would threaten the thousands of jobs related to this production. United Steelworkers argued that the evidence indicates that a return of the subject goods would permanently disrupt employment in the industry.[93]

[97] The Tribunal finds that the evidence credibly supports the arguments of the parties regarding the likely significant adverse impact of the rescission of the finding on the domestic industry's performance in the next 24 months. The Tribunal accepts the domestic producers' argument that the expiry of the finding would likely prevent them from benefitting from any economic recovery in the oil and gas sector.

[98] The Tribunal has already found that, if the finding is rescinded, the subject goods will likely significantly undercut domestic producers' selling prices and that, as a result, domestic pricing will likely be depressed significantly. The Tribunal finds that this price depression would in turn likely lead to significant negative impacts on the domestic industry's revenues and profits.

[99] Tenaris Canada and Evraz provided data models showing the impact that certain levels of price depression caused by the subject goods would have had on past performance or could have on expected performance in the near term, should the finding be rescinded.[94]

[100] While these models rest on some assumptions that may overstate the level of likely price depression,[95] they have not been rebutted in the absence of opposition. They reflect what the Tribunal deems to constitute possible scenarios, in view of the evidence and arguments presented, in terms of the likely adverse impact for the domestic industry should the finding be rescinded. This outcome

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90 Exhibit RR-2020-004-A-01 at para. 77; Exhibit RR-2020-004-A-02 (protected) at para. 77; Exhibit RR-2020-004-08.B at 52; Exhibit RR-2020-004-09.B (protected) at 52.

91 Exhibit RR-2020-004-A-03 at para. 4. See also Exhibit RR-2020-004-17.10 (protected) at 40.

92 Exhibit RR-2020-004-C-05 at para. 33.

93 See Exhibit RR-2020-004-E-01 at 1–3.

94 Exhibit RR-2020-004-A-02 (protected) at para. 79; Exhibit RR-2020-004-C-06 (protected) at paras. 24–25.

95 In the pricing scenarios that were provided by the domestic industry, certain aspects of the scenarios were adjusted while others were not.

would, without a doubt, constitute an adverse impact that would rise to the level of likely material injury.

[101] At any rate, as noted above, the Tribunal conducted its own analysis of the evidence on the record in order to attempt to quantify the likely impact of the expiry of the finding on the financial performance of the domestic industry. With this exercise, the Tribunal used the methodology proposed by Evraz but applied aspects of Tenaris Canada's analysis, so that information that was not accounted for in one or the other model would be taken into consideration by the Tribunal in its analysis of the price depression that would likely result from a rescission of the finding.

[102] On balance, the Tribunal is persuaded that, even under its more conservative estimate, the rescission of the finding would result in a material worsening of the financial performance of the domestic industry. In short, by reducing their prices to match the likely Chinese landed average unit values, the domestic producers' net income and gross margin would experience a material decline.

[103] As such, the Tribunal finds that the domestic industry would find itself in a difficult financial position without the finding in place, even before any potential losses in sales volumes are considered. Of course, to the extent that the domestic industry resists price declines, it is likely to lose sales volumes to the subject goods. Based on the evidence on the record, the domestic industry is also likely to suffer injury in the form of lost sales and consequent reduced production volumes.

[104] In this regard, it appears that Tenaris Canada's estimation may overstate the extent of its lost sales, as it assumes that the subject goods would only gain market share at the expense of the domestic like goods.[96] Realistically, the subject goods would also displace sales of non-subject goods in the absence of the finding. However, the Tribunal's own analysis reveals that a lost sales volume amounting to half of the domestic producers' projections, a scenario that is plausible in light of the evidence, would negatively affect the domestic industry's performance over the POR. Any such lost sales and consequent reduced production volumes would in turn further negatively affect the domestic industry's bottom line and operations.

[105] The Tribunal finds that the likelihood of reduced profitability and output would also jeopardize the domestic industry's significant recent, ongoing and planned investments and the return on such investments.[97] Significant negative effects on employment levels are also likely in the event of the expiry of the finding.[98]

[106] Furthermore, the Tribunal finds that, with reduced domestic production volumes due to lost sales, as is likely without the benefit of the finding, the domestic industry's capacity utilization would also decrease. According to Mr. Wihan Pretorius, "[f]ailure to achieve a high level of capacity utilization can . . . very quickly lower the profitability of those products that are sold as well as the overall profitability of the operations as a whole."[99] There is also evidence that the rescission of the finding would threaten the domestic producers' continued survival. For example, Mr. Pretorius states

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96 Exhibit RR-2020-004-A-02 (protected) at para. 78.

97 Exhibit RR-2020-004-14.01.A (protected) at 10; Exhibit RR-2020-004-14.03 (protected) at 12; Exhibit RR-2020-004-17.10 (protected) at 31, 34, 61; Exhibit RR-2020-004-A-03 at paras. 38–42; Exhibit RR-2020-004-C-06 (protected) at paras. 26–28.

98 Exhibit RR-2020-004-17.10 (protected) at 33, 62; Exhibit RR-2020-004-A-04 (protected) at para. 44; Exhibit RR-2020-004-C-06 (protected) at paras. 29–32.

99 Exhibit RR-2020-004-C-05 at para. 11.

in his public statement that "it is a live question as to whether Evraz will be able to continue operations in the absence of protection from unfairly priced Chinese line pipe. Indeed, without the protection currently in place, Evraz's entire integrated Canadian operations would be very much in jeopardy."[100]

[107] In sum, this evidence indicates that the rescission of the finding will likely result in material injury to the domestic industry over the next 24 months. However, before drawing its overall conclusion on the likely effects of the rescission of the finding, the Tribunal will complete its analysis by further considering whether there are any factors other than the dumping and subsidizing of the subject goods that could adversely affect the domestic industry in the next 24 months in order to avoid attributing effects of such factors to the subject goods.

Factors other than the dumping and subsidizing of the subject goods

[108] Pursuant to paragraph 37.2(2)(k) of the Regulations, the Tribunal may consider any other factors that are relevant in the circumstances.[101]

[109] There is insufficient evidence in respect of any factors unrelated to the dumping and subsidizing of the subject goods that could adversely affect the domestic industry in the next 24 months. Thus, the Tribunal is unable to conclude in the present expiry review that there are other factors that would, to a material extent, likely cause future injury.

[110] Certain importers noted in their questionnaire responses that the domestic industry does not have the capacity to meet demand.[102] However, these statements are inconsistent with the evidence in the Investigation Report, which demonstrates that domestic producers have low capacity utilization rates.[103] On balance, the Tribunal is persuaded that the domestic industry has ample capacity to respond to increasing demand.

[111] An importer also claims that the domestic industry's prices are too high and that it does not want to sell to more distributors.[104] These allegations are uncorroborated, if not inconsistent, with the evidence that was otherwise before the Tribunal. As they arise from a questionnaire response submitted by a company that did not otherwise participate in this review, there was no opportunity for the factual underpinnings of the allegations to be tested, either by the parties or the Tribunal. Accordingly, the Tribunal assigns little probative value to this evidence and gives more weight to the evidence in its Investigation Report as well as that submitted by the domestic producers by way of witness statements, which do not support the allegation that the domestic industry's prices are too high or suggest any reluctance or inability of the domestic industry to adequately supply the domestic market.[105]

[112] At any rate, even assuming that the above factors could have *some* negative impact on the performance of the domestic industry, the Tribunal finds that the resumption or continuation of the

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100 *Ibid.* at para. 33.

101 Paragraph 37.2(2)(k) refers to "any other factor pertaining to the current or likely behaviour or state of the domestic or international economy, market for goods or industry as a whole or in relation to individual producers, exporters, brokers or traders."

102 Exhibit RR-2020-004-16.08 at 4–5; Exhibit RR-2020-004-16.15.A at 3–4; Exhibit RR-2020-004-16.17 at 4.

103 Exhibit RR-2020-004-06 (protected) at Table 47.

104 Exhibit RR-2020-004-16.15.A at 2.

105 Exhibit RR-2020-004-06 (protected) at Tables 12, 16, 19, 22, 29–41; Exhibit RR-2020-004-13.01 at 6.

dumping and subsidizing of the subject goods will likely result, in and of itself, in material injury to the domestic industry over the next 24 months.

[113] Accordingly, for the above reasons, the Tribunal finds that the resumption of dumping and subsidizing of the subject goods will likely result, in and of itself, in material injury to the domestic industry.

CONCLUSION

[114] Pursuant to paragraph 76.03(12)(b) of SIMA, the Tribunal hereby continues its finding in respect of carbon and alloy steel line pipe originating in or exported from China.

Georges Bujold
Georges Bujold
Presiding Member

Cheryl Beckett
Cheryl Beckett
Member

Susan D. Beaubien
Susan D. Beaubien
Member