



Canadian International
Trade Tribunal

Tribunal canadien du
commerce extérieur

CANADIAN
INTERNATIONAL
TRADE TRIBUNAL

Dumping and Subsidizing

ORDER AND REASONS

Expiry Review RR-2020-005

Steel Grating

*Order and reasons issued
Wednesday, February 2, 2022*

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IN THE MATTER OF an expiry review, pursuant to subsection 76.03(3) of the *Special Import Measures Act*, of the order made by the Canadian International Trade Tribunal on April 18, 2016, in expiry review RR-2015-001, concerning:

**STEEL GRATING 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 its order made on April 18, 2016, in expiry review RR-2015-001, continuing, without amendment, its finding made on April 19, 2011, in inquiry NQ-2010-002, concerning the dumping and subsidizing of carbon steel bar grating and alloy steel bar grating consisting of load-bearing pieces and cross pieces, produced as standard grating or heavy-duty grating, in panel form, whether galvanized, painted, coated, clad or plated, originating in or exported from the People's Republic of China.

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

Cheryl Beckett

Cheryl Beckett

Presiding Member

Georges Bujold

Georges Bujold

Member

Randolph W. Heggart

Randolph W. Heggart

Member

Place of Hearing:	Ottawa, Ontario
Date of Hearing:	November 26, 2021
 Tribunal Panel:	 Cheryl Beckett, Presiding Member Georges Bujold, Member Randolph W. Heggart, Member
 Tribunal Secretariat Staff:	 Helen Byon, Lead Counsel Zackery Shaver, Counsel Gayatri Shankarraman, Lead Analyst Mylène Lanthier, Analyst Erin Stach, Analyst Marie-Josée Monette, Data Services Advisor Kim Gagnon-Lalonde, Registry Officer

PARTICIPANT:**Domestic Producer**

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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 its order made on April 18, 2016, in expiry review RR-2015-001, continuing its finding made on April 19, 2011, in inquiry NQ-2010-002, concerning the dumping and subsidizing of carbon steel bar grating and alloy steel bar grating consisting of load-bearing pieces and cross pieces, produced as standard grating or heavy-duty grating, in panel form, whether galvanized, painted, coated, clad or plated, originating in or exported from the People's Republic of China (the subject goods).

[2] Under SIMA, findings of injury or threat of injury and the associated protection in the form of anti-dumping or countervailing duties expire five years from the date of the finding or, if one or more orders continuing the finding have been made, the date of the last order made under paragraph 76.03(12)(b), unless the Tribunal initiates an expiry review before that date. The order in expiry review RR-2015-001 was scheduled to expire on April 17, 2021.

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

PROCEDURAL BACKGROUND

[4] The Tribunal issued its notice of expiry review on March 29, 2021. This notice triggered the initiation of an investigation by the Canada Border Services Agency (CBSA) on March 30, 2021, to determine whether the expiry of the Tribunal's order was likely to result in the continuation or resumption of dumping and/or subsidizing of the subject goods.

[5] On August 26, 2021, the CBSA determined, pursuant to paragraph 76.03(7)(a) of SIMA, that the expiry of the order was likely to result in the continuation or resumption of dumping and subsidizing of the subject goods.

[6] On August 27, 2021, following the CBSA's determination, pursuant to subsection 76.03(10) of SIMA, the Tribunal began its expiry review to determine whether the expiry of the order was likely to result in injury to the domestic industry.

[7] The period of review (POR) for the Tribunal's expiry review covered three full 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] The Tribunal asked known domestic producers and importers of steel grating meeting the product definition, as well as known foreign producers of the subject goods, to complete questionnaires posted on the Tribunal's website. The Tribunal received two completed domestic producer questionnaires from companies stating that they produced steel grating meeting the product definition. The Tribunal did not receive any replies to the foreign producer questionnaires. The

¹ R.S.C., 1985, c. S-15 [SIMA].

Tribunal received two responses to the importer questionnaires from companies stating that they imported goods meeting the product definition. However, the response from one of the two, Accurate Screen Limited (Accurate), was incomplete. Accurate confirmed that it had imported steel grating meeting the product definition in 2018 and 2019 but was unable to provide any data for these imports.²

[9] Using the questionnaire responses and other information on the record, staff of the Secretariat to the Tribunal prepared public and protected versions of the investigation report and placed them on the record on October 18, 2021.

[10] On October 21, 2021, the Tribunal advised Vulcraft Canada Inc. (Vulcraft), the only party that filed a notice of participation in this proceeding, that the deadline to file submissions in support of a continuation of the order would be postponed, as a revised investigation report would be issued to correct errors in the data.

[11] The Tribunal received revised enforcement data from the CBSA on October 25, 2021.

[12] Revised investigations reports were placed on the record on October 29, 2021.

[13] On October 28, 2021, the Tribunal advised Vulcraft that its submissions were due to be filed on November 5. As the proceeding was unopposed, the Tribunal also invited Vulcraft to file submissions on whether it would be appropriate to conduct a file hearing in this expiry review.

[14] On November 5, 2021, Vulcraft filed submissions with the Tribunal indicating its support for proceeding by way of a file hearing. Vulcraft also filed submissions in support of a continuation of the order and a witness statement.

[15] As the Tribunal was satisfied that it could dispose of the matter on the basis of the written documentation before it, it decided to hold a hearing by way of written submissions pursuant to Rule 25.1 of the *Canadian International Trade Tribunal Rules*. Vulcraft was notified of this decision on November 8, 2021.

[16] The file hearing took place on November 26, 2021.

PRODUCT

Product definition

[17] The subject goods are defined as follows:³

Carbon steel bar grating and alloy steel bar grating, consisting of load-bearing pieces and cross pieces, produced as standard grating or heavy-duty grating, in panel form, whether

² See responses from Accurate in Exhibit RR-2020-005-16.27D; Exhibit RR-2020-005-16.27E. See Exhibit RR-2020-005-16.27.04 and Exhibit RR-2020-005-16.27.05 for relevant queries from Tribunal staff with respect to Accurate's imports.

³ Exhibit RR-2020-005-03A at para. 17.

galvanized, painted, coated, clad or plated, originating in or exported from the People's Republic of China.

Product information

[18] The CBSA provided the following additional product information:⁴

[18] The subject goods can be referred to as “metal bar grating”, “steel grating” or simply “bar grating”. The goods are sold in “panel” or “mat” form, produced as either standard bar grating or heavy-duty bar grating. Standard bar grating is manufactured in Canada according to American National Standards Institute (ANSI) and National Association of Architectural Metal Manufacturers (NAAMM) MBG 531 specifications with maximum bearing bar thickness of 3/16 inches (4.76 millimeters (mm)). Heavy duty bar grating is made according to ANSI/NAAMM MGB 532 specifications with maximum bearing bar thickness of 3/8 inches (9.53 mm).

[19] The “mats” or “panels” are typically made in standardized sizes and the most common panel size is 3 feet (.91 meters) wide by 24 feet (7.32 meters) long. In accordance with the ANSI/NAAMM specifications referred to, the size of the bearing bars usually ranges from 1/8”(3.18 mm) thickness and 3/4”(19.05 mm) in depth (width) to 3/8”(9.53 mm) thickness and 5”(127 mm) in depth (width), depending on the load requirements.

[20] In addition to ANSI/NAAMM specifications, the subject goods may be produced to other recognized standards, such as Chinese, U.K. and Australian specifications.

[21] The subject goods may be imported and sold even if not made or certified to the ANSI/NAAMM or other recognized standards. Non-certified product includes secondary material or other kinds of “non-spec” grating. These goods lack the requisite mill tests or other proof of compliance with international standards.

[22] The subject goods do not include: (1) expanded metal grating comprised of a single piece or coil of sheet or thin plate steel that has been slit and expanded and not consisting of welding or joining of multiple pieces of steel; and (2) plank-type safety grating comprised of a single piece or coil of sheet or thin plate steel, typically in thickness of 10 to 18 gauge, pierced and cold formed and without welding or joining of multiple pieces of steel.

[23] Subject goods produced by different manufacturing processes (welding, hydraulic pressing or riveting) are fully interchangeable. Hydraulically-produced or riveting-produced gratings are substitutable in every respect for grating produced by welding processes and vice-versa. They have the same or comparable physical and mechanical properties in accordance with the international standards and specifications described earlier.

[24] Subject goods have a multitude of load-bearing end uses, including industrial flooring, walkways, mezzanines, stairways, trenches, highway signs platforms and fire escapes. Primary markets are large-scale oil production structures and systems, electric power generating plants, steel mills, cement plants, saw mills, pulp and paper mills, mining,

⁴ Exhibit RR-2020-005-03A at paras. 18–24. See additional product information in *Steel Grating* (18 April 2016), RR-2015-001 (CITT) [*Steel Grating RR*] at paras. 9–25.

automotive plants and other industrial facilities. Although primarily used in large industrial projects, commercial and residential applications for these goods are also commonplace.

LEGAL FRAMEWORK

[19] The Tribunal is required, pursuant to subsection 76.03(10) of SIMA, to determine whether the expiry of the order in respect of the subject goods is likely to result in injury or retardation for the domestic industry.⁵ Pursuant to subsection 76.03(12), if the Tribunal determines that the expiry of the order is unlikely to result in injury, it is required to rescind it. However, if it determines that the expiry of the order is likely to result in injury, the Tribunal is required to continue the order, with or without amendment.

[20] Before proceeding with its analysis of the likelihood of injury, the Tribunal must first determine what constitutes “like goods” in relation to the subject goods and whether there is more than one class of goods. Once that determination has been made, the Tribunal must determine what constitutes the “domestic industry”.

[21] 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 effect.

LIKE GOODS AND CLASSES OF GOODS

[22] 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.⁶

[23] 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.

[24] 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

⁵ Subsection 2(1) of SIMA defines “injury” as “material injury to the domestic industry” and “retardation” as “material retardation of the *establishment* of a domestic industry” [emphasis added]. Given that there is currently an established domestic industry, the issue of whether the expiry of the order is likely to result in retardation does not arise in this expiry review.

⁶ 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 F.C. 283 (FC).

substitutability, pricing, distribution channels, end uses and whether the goods fulfill the same customer needs.⁷

[25] In *Steel Grating RR*, the Tribunal maintained its finding that domestically produced carbon and alloy steel grating were like goods in relation to the subject goods⁸ and determined that there was a single class of goods.⁹

[26] No evidence or arguments were presented in this expiry review that warrant a departure from the Tribunal's previous conclusions. Therefore, the Tribunal finds that domestically produced steel grating of the same description of the subject goods constitutes like goods and that there is a single class of goods.

DOMESTIC INDUSTRY

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

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

[28] 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.¹⁰

[29] Vulcraft submitted that there are two domestic producers of like goods—Vulcraft as well as Borden Metal Products (Canada) Ltd. (Borden)—and that they represent the vast majority of total domestic production of like goods. Moreover, to Vulcraft's knowledge, there have been no new entrants or material changes to the composition of the domestic steel grating industry since the last expiry review.

[30] The Tribunal finds that this is consistent with the evidence on the record as well as its previous findings in *Steel Grating NQ* and *Steel Grating RR* with respect to the domestic industry.¹¹

⁷ See, for example, *Copper Pipe Fittings* (19 February 2007), NQ-2006-002 (CITT) at para. 48.

⁸ *Steel Grating RR* at paras. 45–46. The Tribunal also found that fabricated grating was part of the definition of the subject goods; *Steel Grating RR* at para. 43.

⁹ *Ibid.* at para. 49.

¹⁰ 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 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, 412, 419; Panel Report, *Argentina – Poultry (Brazil)*, WT/DS241/R, at para. 7.341.

¹¹ Exhibit RR-2020-005-06A (protected) at Table 3; *Steel Grating* (19 April 2011), NQ-2010-002 (CITT) [*Steel Grating NQ*] at para. 140; *Steel Grating RR* at para. 56. In *Steel Grating RR*, at paras. 54–56, the Tribunal determined that companies that only fabricate plain grating in Canada, such as Accurate, are not engaged in domestic production.

Accordingly, the Tribunal finds that Vulcraft and Borden constitute the domestic industry and will conduct its likelihood of injury analysis on this basis.

CROSS-CUMULATION

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

[32] 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 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

[33] 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

[34] 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 applicable World Trade Organization agreements.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

[35] 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

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 [*FISC*]; *Silicon Metal* (2 November 2017), NQ-2017-001 (CITT) at para. 59; *Pup Joints* (7 April 2017), RR-2016-001 (CITT) [*Pup Joints*] at paras. 30–31; *Welded Large Diameter Carbon and Alloy Steel Line Pipe* (20 October 2016), NQ-2016-001 (CITT) at para. 84; *Carbon and Alloy Steel Line Pipe* (29 March 2016), NQ-2015-002 (CITT) [*Line Pipe I*] at paras. 84–85; *Aluminum Extrusions* (17 March 2014), RR-2013-003 (CITT) [*Aluminum Extrusions*] at paras. 56–57.

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.

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

[36] Vulcraft submitted that the expiry of the order is likely to result in injury to the domestic industry within 12 to 24 months. In view of the evidence on the record, the Tribunal finds that it is appropriate to focus its analysis on the next 24 months.

[37] Subsection 37.2(2) of the *Special Import Measures Regulations*¹⁸ 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.

Preliminary matter: Comments concerning the investigation report

[38] As indicated in the investigation report, standard methodology used in expiry reviews to estimate imports and sales of imports was not used in this case due to issues with the relevant Harmonized System (HS) codes. More specifically, due to the extent of the product mix within the relevant HS codes for steel grating,¹⁹ the CBSA's enforcement data and Facility for Information Retrieval Management (FIRM) system data could not be used to estimate imports by non-surveyed/non-respondent importers from subject and non-subject countries.²⁰ Consequently, the investigation report was prepared on the basis of questionnaire responses only. As the Tribunal did not receive any questionnaire responses reporting imports of the subject goods, no data relating to imports of the subject goods appeared in the investigation report's import and market tables.

[39] Furthermore, as noted above, while one importer, Accurate, confirmed that it imported steel grating from non-subject countries in 2018 and 2019, it was not able to provide the Tribunal with import data for those years. As a result, Vulcraft submitted that the probative value of the tables in the investigation report was limited, preventing the Tribunal from conducting trend analyses with respect to year-over-year changes in the pricing of imports, and volumes and trends in the overall market.

[40] With respect to the CBSA's enforcement data for steel grating over the POR, the data available are reproduced, as is, in a separate table of the investigation report.²¹ Nevertheless, the Tribunal must be mindful of a few additional considerations in respect of this data. As noted above, the Tribunal received revised enforcement data from the CBSA on October 25, 2021. Certain inconsistencies in the data were noted by the Tribunal. As a result, the Tribunal sought clarification from the CBSA regarding these discrepancies on October 27, 2021.²² In its letter to the Tribunal dated October 28, 2021, the CBSA addressed the revised enforcement data stating that, while it was not able to conduct a full analysis, "it appears that the nature of the subject goods and the fact that these goods share a common (HS) classification with goods subject to the CITT's finding concerning

¹⁷ *Carbon Steel Screws* (2 September 2020), RR-2019-002 (CITT) at para. 133.

¹⁸ SOR/84-927 [Regulations].

¹⁹ The subject goods share a common code under the HS classification system with products that are subject to the Tribunal's finding in *Certain Fabricated Industrial Steel Components* (26 June 2020), NQ-2016-004R (CITT). Exhibit RR-2020-005-23A at 1.

²⁰ Exhibit RR-2020-005-05A at 8.

²¹ *Ibid.* at Table 4.

²² Exhibit RR-2020-005-23.

Certain Fabricated Industrial Steel Components as well as with large quantities of goods subject to neither finding led to the provision of different data on October 14, 2021.”²³ While the CBSA confirmed that the revised data provided to the Tribunal were compiled in a manner consistent with the methodology used for the purposes of the CBSA’s expiry review, the Tribunal is of the view that its probative value remains limited.²⁴ In this regard, the Tribunal also notes that the CBSA’s statement of reasons for its expiry review determination referred to issues concerning the import data and the reporting of quantities. The relevant part of the CBSA’s reasons reads as follows:²⁵

The import data collected by the CBSA does not reflect standard reporting for quantities. . . . import quantities shown on the CBSA import documents were often expressed in different units of measure, such as metric tonnes, number of pieces, etc. Accordingly, the CBSA data could not be used to calculate total volume or perform any meaningful calculations of unit value.

[41] In the absence of reliable data for the subject goods and complete data from the questionnaire responses regarding imports from non-subject countries, the Tribunal cannot infer year-over-year trends over the POR. However, as discussed further below, the Tribunal considered year-over-year trends concerning sales of domestically produced like goods as well as import and market data (derived from questionnaire responses) for 2020 and interim 2021. Moreover, the Tribunal considered in its analysis the uncontroverted evidence submitted by Vulcraft, including the witness statement of Mr. John Supple of Vulcraft.

Changes in market conditions

[42] In order to assess the likely volumes and prices of the subject goods and their impact on the domestic industry if the order is rescinded, the Tribunal will first consider changes in international and domestic market conditions.²⁶ These developments provide general context for the Tribunal’s analysis.

International market conditions

[43] Due to the COVID-19 pandemic and other global events, the global economy has been impacted by a recession. In 2020, real gross domestic product (GDP) contracted by 5 percent in the G7 countries. While the global economy rebounded from this recession in 2021, over the next 24 months, economic growth rates are expected to slow. TD Economics forecasted global growth to be 5.9 percent in 2021, 4.7 percent in 2022, and 3.7 percent in 2023.²⁷ These forecast rates were the

²³ Exhibit RR-2020-005-23A at 1.

²⁴ Elements that reduce the weight that may be ascribed to the enforcement data provided by the CBSA include the fact that the import volume of subject goods appears abnormally high despite SIMA duties in place against such imports. The Tribunal further notes that the total volume of all imports from China under the HS codes under investigation provided by the CBSA in the FIRM data (which also includes goods not covered by the product definition) is lower than the import volume of subject goods reported in the enforcement data. The volume of imports reflected in the CBSA’s enforcement data should typically be lower than or equal to the volume of imports reflected in the FIRM data for each year of the POR, not higher.

²⁵ See Exhibit RR-2020-005-03A at para. 32.

²⁶ See paragraph 37.2(2)(j) of the Regulations.

²⁷ Exhibit RR-2020-005-A-05 at 53.

result of downward revisions, which were primarily due to the ongoing impact of COVID-19 on the global economic outlook.²⁸

[44] There is also evidence on the record with respect to the global supply chain crisis of 2021, which, as discussed below, has impacted import prices of steel grating in Canada. Supply chain disruptions during the COVID-19 pandemic have also contributed to rising shipping rates.²⁹ In his witness statement, Mr. Supple noted that prices of steel raw material inputs in Asia have risen as a result of production disruptions.³⁰

[45] With respect to the recent global supply chain crisis and higher ocean freight costs, Mr. Supple has described these circumstances as “short-term” and noted that Vulcraft does not expect the container shortage to persist indefinitely.³¹ This statement is consistent with other evidence on the record suggesting that the current supply chain constraints are a temporary phenomenon. For instance, some easing may be seen in early 2022, according to a shipping consultant quoted in the media.³²

[46] Looking at the construction sector,³³ the scale of recovery remains uncertain. According to the Global Construction 2030 report, global construction volumes are expected to increase by an average of 3.2 percent per year in 2021 and 2022, with the average increase expected to be 2.3 percent per year starting in 2023. However, global construction is likely to underperform in future years due to constraints on public finances.³⁴

[47] Slower economic growth is also forecasted for China. In September 2021, Bloomberg reported on the Bank of America’s forecasting of 8.0 percent growth in 2021, down from a previous forecast of 8.3 percent. The forecast for 2022 was 5.3 percent, down from 6.2 percent, and for 2023, it was 5.8 percent, down from 6.0 percent.³⁵ Reasons cited for the slowdown in China’s economy included outbreaks of COVID-19, tight credit control on property and infrastructure investment, and decarbonization policies cutting commodity production.³⁶ In July 2021, infrastructure investment in

²⁸ *Ibid.* at 48.

²⁹ It has been reported that, based on London-based Drewry Shipping Consultants Ltd.’s global pricing index, average worldwide shipping rates have quadrupled since 2020. Containers from China to major ports in Europe and the West Coast in the United States cost approximately \$12,000 per container, with some companies being charged \$20,000 under last-minute agreements. See Exhibit RR-2020-05-A-03 at 25, 26.

³⁰ Exhibit RR-2020-005-A-03 at paras. 14, 39. Production disruptions in China due to power shortages have been reported. Exhibit RR-2020-005-A-03 at 35.

³¹ Exhibit RR-2020-005-A-03 at paras. 14, 17.

³² Exhibit RR-2020-005-A-05 at 28.

³³ In *Steel Grating RR*, the Tribunal noted that demand for steel grating was largely affected by the health of the oil and gas, construction and manufacturing sectors. See *Steel Grating RR* at para. 73.

³⁴ The growth rate of 2.3 percent per year was forecasted for the 2023 to 2030 period. Exhibit RR-2020-005-A-05 at 44, 45.

³⁵ Exhibit RR-2020-005-A-05 at 9.

³⁶ *Ibid.* at 9, 24.

China fell by 10 percent from the previous year.³⁷ Also, China's growth outlook has been lowered in light of the Evergrande Group's default.³⁸

[48] While demand for steel grating may be softening in China, production capacity remains significant. The evidence on the record indicates that the total annual production capacity of *only five* producers of steel grating in China is 245,000 tonnes.³⁹ As noted by Vulcraft, this production capacity alone dwarfs the Canadian domestic market.⁴⁰ The issue of excess steel capacity in China has been well documented by the Tribunal. For instance, in *OCTG I*, the Tribunal stated the following:⁴¹

[P]erennial excess global steel capacity, largely attributable to massive production in China, remains an important issue overhanging the Canadian and global steel markets . . . Excess capacity creates significant incentive for Chinese producers to pursue export sales, at low prices, in order to maintain high capacity utilization.

[Footnote omitted]

[49] In sum, the above indicates that excess capacity in China remains a serious concern, especially in view of the softening demand for steel grating in China in the near to medium term.

Domestic market conditions

[50] According to Vulcraft, the recent increase in shipping rates and rise in cost of steel raw material inputs in Asia in 2021 have played a role in creating a short-term buffer from import competition, allowing domestically produced steel grating to be more competitive in recent months.⁴² With respect to import prices, the Tribunal notes that both unit values of imports and selling prices of imports from non-subject countries excluding the United States (other countries) have increased in interim 2021 as compared to interim 2020.⁴³

[51] Despite these likely transitory market conditions for the domestic industry, the evidence indicates that economic uncertainty will persist in Canada for the next 24 months.

[52] Economic growth in Canada is forecasted to slow down over the medium term. TD Economics forecasted GDP growth for 2021 to be 4.9 percent. In 2022, the GDP growth rate is forecasted to be 4.4 percent and, in 2023, 2.8 percent.⁴⁴

[53] The evidence on the record shows that the outlook for industrial sectors that are key to the growth of the steel grating market, namely oil and gas, mining and construction industries, remains uncertain, notably due to the continued impact of COVID-19 as well as government policies aimed at

³⁷ *Ibid.* at 39.

³⁸ According to Bloomberg, China's Evergrande Group, which until recently was the world's largest property developer, is under more than \$300 billion in debt. Exhibit RR-2020-005-A-05 at 11.

³⁹ Exhibit RR-2020-005-03A at para. 50.

⁴⁰ Exhibit RR-2020-005-06A (protected) at Table 9.

⁴¹ *Oil Country Tubular Goods* (10 December 2020), RR-2019-005 (CITT) [*OCTG I*] at para. 41.

⁴² Exhibit RR-2020-005-A-03 at paras. 14, 39; Exhibit RR-2020-005-A-04 (protected) at para. 14.

⁴³ Exhibit RR-2020-005-06A (protected) at Tables 21, 22, 23, 24.

⁴⁴ Exhibit RR-2020-005-A-05 at 51.

reducing carbon emissions.⁴⁵ This has led to significant decreases in infrastructure investment in these sectors, particularly in oil and gas extraction, leading to less certainty regarding demand for steel grating.

[54] According to Statistics Canada data, capital expenditures in the construction and manufacturing industries in 2020 were below the levels seen in 2019 and 2018. Statistics Canada data also indicate that GDP for non-residential building construction decreased between 2018 and 2020, and interim 2021 levels are lower than those for interim 2020. However, after a decline in 2020, the value of non-residential building permits is higher in interim 2021 than in interim 2020.⁴⁶

[55] According to a report published by Statistics Canada, investments in the oil and gas extraction industry dropped by 36 percent in 2020, triggered by the oil price shock in March and April of that year.⁴⁷ Statistics Canada data show that capital spending in mining, quarrying and gas extraction declined to \$31 billion in 2020 from \$48 billion in 2018. The oil and gas sector more specifically had the largest decrease in investment, with expenditures falling from \$37 billion in 2018 to \$22 billion in 2020.⁴⁸

[56] Predictions for the oil and gas extraction industry are mixed: Statistics Canada is expecting an increase in capital expenditures of 2 percent in 2021, while the Canadian Association of Petroleum Producers predicts a 14 percent increase in oil and gas investment in 2021.⁴⁹ Furthermore, climate change imperatives could also impact investments for oil and gas adversely in the medium term. Since committing to phasing out “inefficient fossil fuel subsidies” in 2009, the federal government announced more recently a strengthened climate plan to support its target of net-zero emissions by 2050. This would see an increase of carbon tax from \$50 per tonne in 2022 to \$170 per tonne by 2030.⁵⁰ The International Energy Agency predicts that, with policies to meet more stringent emission targets by 2030, global demand for natural gas will peak by 2025.⁵¹

[57] Moreover, Vulcraft noted that certain provincial-territorial infrastructure funding programs are set to end by 2024.⁵² While the federal government announced a \$100-billion budget over three years for infrastructure upgrade spending, for the most part, the timeline for these investments has not been determined.⁵³

[58] From the evidence described above, the Tribunal finds that, in a slow-growing economy, market conditions in Canada will likely weaken domestic demand for steel grating. The domestic industry will therefore likely remain vulnerable in the medium term.

⁴⁵ Exhibit RR-2020-005-A-01 at paras. 74, 75; Exhibit RR-2020-005-A-05 at 61–62; Exhibit RR-2020-005-13.01D at 5.

⁴⁶ Exhibit RR-2020-005-05A at Table 53.

⁴⁷ Exhibit RR-2020-005-A-05 at 61.

⁴⁸ Exhibit RR-2020-005-05A at Table 53.

⁴⁹ Exhibit RR-2020-005-A-05 at 62.

⁵⁰ *Ibid.* at 63.

⁵¹ *Ibid.* at 68.

⁵² *Ibid.* at 77, 78; Exhibit RR-2020-005-A-03 at para. 43.

⁵³ Exhibit RR-2020-005-A-03 at para. 43.

Likely import volume of the subject goods

[59] Paragraph 37.2(2)(a) of the Regulations directs the Tribunal to consider the likely volume of the dumped or subsidized goods if the order is allowed to expire and, in particular, whether there is likely to be a significant increase in the volume of imports of the dumped or subsidized goods, either in absolute terms or relative to the production or consumption of like goods. This assessment 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.⁵⁴

[60] Vulcraft submitted that Chinese producers and exporters of steel grating and/or similar steel products remain interested in the Canadian market. In this regard, Vulcraft submitted that, notwithstanding apparent deficiencies with respect to the aggregate CBSA enforcement data, the data could be examined for the purpose of observing overall trends.

[61] While import volumes in the enforcement data may not be limited to the subject goods, the Tribunal accepts it as evidence that Chinese producers and exporters of steel products continue to have an interest in the Canadian market.⁵⁵ Additionally, the import volumes confirm that Chinese producers and exporters have access to the Canadian market and a distribution network.

[62] Furthermore, as discussed above, Chinese producers of steel grating have significant production capacity, and there are indications of softening demand in China. Accordingly, Chinese producers will likely continue to be export oriented. Moreover, evidence submitted by Vulcraft indicates that subject goods are indeed being marketed for Canadian purchasers. Chinese steel grating is described on certain websites as being made to a “Canadian Standard” or as a “Canada Market Metal Building Material”.⁵⁶ One Chinese producer, Sinosteel Yantai Steel Grating Co., Ltd., identifies Canada as a focus for its exports.⁵⁷

[63] Trade measures in other jurisdictions will also likely limit China’s access to other export markets and make it more likely for export-oriented Chinese producers to seek available opportunities elsewhere, including in Canada. Currently, there are trade measures in the United States against Chinese exports of steel grating. On June 1, 2021, the U.S. renewed its trade measures against Chinese steel grating that have been imposed since 2010.⁵⁸ Additionally, the United States has maintained since late 2018 a 25-percent duty on Chinese products, including steel grating, under section 301 of the *Trade Act of 1974*. Vulcraft submitted that Chinese steel grating imports into the United States have decreased considerably since the imposition of these duties as evidenced by data reported by the United States International Trade Commission.⁵⁹

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

⁵⁵ Exhibit RR-2020-005-21.C at 1.

⁵⁶ Exhibit RR-2020-005-A-05 at 5.

⁵⁷ *Ibid.* at 82.

⁵⁸ *Steel Grating From the People’s Republic of China: Continuation of Antidumping and Countervailing Duty Orders* (01 June 2021) 86 FR 29247 (US DOC). Cited in Exhibit RR-2020-005-A-01 at footnote 121.

⁵⁹ Exhibit RR-2020-005-A-01 at 29 (Table I-3).

[64] Furthermore, the evidence on the record with respect to import volumes of steel grating from other countries over the POR,⁶⁰ which were the lowest priced in the market in 2020 and interim 2021, indicates that there remains a demand for lower-priced steel grating in Canada.⁶¹ As discussed in the next section, the evidence indicates that Chinese steel grating would likely be available at low prices. Moreover, there is evidence suggesting that importers of steel grating are expanding. In this regard, Vulcraft submitted that Accurate, the largest vendor of steel grating in Canada, has increased its fabrication capacity, expanded to five facilities in Canada, and increased its annual distribution capacity (since 2010). In his witness statement, Mr. Supple also noted that there are new importers of steel grating in Canada.⁶²

[65] With respect to whether Accurate is likely to import steel grating from China in the next 24 months, the Tribunal notes that, during this expiry review, Accurate indicated in its correspondence with staff of the Secretariat to the Tribunal that it had no intention of purchasing steel grating from China “going forward”.⁶³ This statement, however, does not dissuade the Tribunal from its view that low-priced Chinese steel grating would likely be imported in significant volumes, as such goods would become the price leaders in Canada should the order be rescinded. As discussed above, steel grating is a commodity product and there remains a demand for low-priced steel grating, particularly with heightened price sensitivity among customers. In these circumstances, the Tribunal finds that Accurate, along with other importers, will be motivated to import steel grating from China to maintain or increase its market share.

[66] For the reasons above, the Tribunal is of the view that the rescission of the order 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 effects of the subject goods

[67] The Tribunal must consider whether, if the order or finding is allowed to expire, the dumping and subsidizing of the subject goods are likely to significantly undercut the prices of like goods, depress those prices, or suppress them by preventing increases that would likely have otherwise occurred.⁶⁴ In this regard, the Tribunal distinguishes the price effect of the subject goods from any price effects that would likely result from other factors affecting prices.

[68] In *Steel Grating RR*, the Tribunal noted that steel grating is a commodity product and price is a major factor in influencing purchasing decisions. The market for steel grating is transparent, and pricing intelligence spreads quickly.⁶⁵ The majority of sales are made on a “spot price” basis (each sale is negotiated individually with the client). The price consists of a base price with additional

⁶⁰ Exhibit RR-2020-005-06A (protected) at Table 5. Steel grating from the U.S. was imported by the domestic industry throughout the POR. See Exhibit RR-2020-005-05A at Table 1. The circumstances surrounding Vulcraft’s imports from the U.S. were described on the confidential record. See Exhibit RR-2020-005-A-04 (protected) at para. 11; Exhibit RR-2020-005-16.25A at 7.

⁶¹ Exhibit RR-2020-005-06A (protected) at Tables 5, 6, 7, 23; As noted above, while Accurate was unable to report import volumes for 2018 and 2019, it confirmed that it did import steel grating from non-subject countries in those years.

⁶² Exhibit RR-2020-005-A-03 at para. 8; Exhibit RR-2020-005-A-04 (protected) at para. 8.

⁶³ Exhibit RR-2020-005-16.27 at 6.

⁶⁴ Paragraph 37.2(2)(b) of the Regulations.

⁶⁵ *Steel Grating RR* at para. 104.

charges for features that may be specified by a customer to meet the technical requirements of the application for which the steel grating is intended. Important features in determining the price of steel grating are thickness, grade, width, product type, coating, surface finish and amount of further processing.⁶⁶

[69] The Tribunal finds that the evidence on the record indicates that the factors affecting the pricing of steel grating have not changed since the last expiry review. Steel grating remains a price-sensitive commodity product. However, steel grating customers looking to cut costs have become even more price sensitive due to poor economic conditions exacerbated by the economic impact of COVID-19.⁶⁷

[70] That said, in this price-sensitive market, Vulcraft submitted that it has been able to charge a price premium from “time to time” of approximately 5 to 10 percent on its sales of domestically produced like goods.⁶⁸ Vulcraft explained that this is because of its customer service and faster delivery times.⁶⁹ The Tribunal will therefore assess the significance of any price undercutting on the basis of a domestic price premium of up to 10 percent.

[71] Vulcraft submitted that the domestic industry will face downward price pressures should the order expire, as prices of the subject goods will undercut prices of domestically produced like goods. The Tribunal agrees. The evidence indicates that if the order is rescinded, 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. The Tribunal finds that the subject goods will likely be priced at or below the selling prices of non-subject goods which, as discussed below, have undercut domestically produced like goods.

[72] With respect to the pricing data in the investigation report, as discussed above, the data for imports in 2018 and 2019 were incomplete. Looking at 2020, average unit selling prices of non-subject imports from other countries were significantly lower than the average unit selling prices of domestically produced like goods, and the amount of undercutting was greater than the domestic premium.⁷⁰ While unit selling prices of non-subject imports from other countries increased in interim 2021 as compared to those in interim 2020, the prices of imports from other countries continued to undercut the selling prices of domestically produced like goods.

[73] Looking at sales by trade levels, in 2020 the majority of the domestic producers’ sales were to end users. Meanwhile, the majority of volumes imported from other countries was sold to distributors.⁷¹ However, with respect to sales to both trade levels, average unit selling prices of imports from other countries significantly undercut average unit selling prices of domestically produced like goods.⁷² At both trade levels, the amount of undercutting by imports exceeded the domestic premium.

⁶⁶ *Ibid.* at paras. 33, 34.

⁶⁷ Exhibit RR-2020-005-13.01D at 4, 5; Exhibit RR-2020-005-A-03 at para. 16.

⁶⁸ Exhibit RR-2020-005-13.01D at 5; Exhibit RR-2020-005-A-03 at para. 16.

⁶⁹ However, Mr. Supple noted that, ultimately, if Vulcraft cannot closely match offers from import sources, it cannot make sales. Exhibit RR-2020-005-A-03 at para. 16.

⁷⁰ Exhibit RR-2020-005-06A (protected) at Table 23.

⁷¹ *Ibid.* at Tables 13, 17.

⁷² *Ibid.* at Tables 25, 27.

[74] In order to conduct an “apples-to-apples” comparison of prices, the Tribunal also collected data for various benchmark products.⁷³ The benchmark data show 12 instances of competition between imports from all non-subject countries and domestically produced like goods. In every instance, the average unit selling price for domestically produced like goods is undercut by the average unit selling price of imports from all non-subject countries.⁷⁴ Ten of the 12 instances of undercutting exceeded the domestic premium of 10 percent.⁷⁵

[75] These data are consistent with the evidence provided by Vulcraft. Mr. Supple indicated in his witness statement that Vulcraft has struggled to compete against low-priced imports from non-subject countries in the last five years.⁷⁶ In this regard, Mr. Supple stated that the selling prices of imported steel grating by Accurate, a known distributor of Taiwanese grating, have been extremely low. This has made it difficult for Vulcraft to sell steel grating at prices that would allow it to recover its costs.⁷⁷ In its submissions, Vulcraft compared import prices for non-subject goods and domestic producers’ cost of goods manufactured in 2020 and noted that imports at this price level have made it “increasingly difficult and often impossible for domestic producers to compete with imports” of subject goods.⁷⁸

[76] Mr. Supple also provided an account-specific example of price undercutting by prices of non-subject imported steel grating from June 2021.⁷⁹

[77] As noted above, selling prices of non-subject goods imported from other countries increased between 2020 and interim 2021.⁸⁰ In this regard, import prices have been impacted by the global supply chain crisis and by higher ocean freight costs. However, based on the evidence discussed above, the Tribunal finds that that these supply constraints are unlikely to persist over the next 24 months. As these constraints will likely ease according to the evidence, it is foreseeable that, in such circumstances, imports will again be the price leaders in the domestic market.

[78] Based on the foregoing, the Tribunal is of the view that, if the order were to expire, the domestic industry would face significant import volumes of subject goods which would be sold at prices that would undercut and depress prices of domestically produced like goods. In response to the increased presence of subject goods in the domestic market, domestic producers would consequently need to lower their prices of like goods to compete or risk losing sales and market shares to the subject goods. In effect, the price competition from the subject goods would trigger a “race to the bottom” effect on prices of domestically produced like goods.

⁷³ As noted in the investigation report, the benchmark product information was collected using square feet as the unit of measure. The Tribunal was of the view that this would be consistent with its previous finding that the steel grating industry largely operates using square feet as the unit of measure. See *Steel Grating RR* at paras. 60, 108.

⁷⁴ Exhibit RR-2020-005-05A at Table 44.

⁷⁵ Exhibit RR-2020-005-06A (protected) at Table 43.

⁷⁶ Exhibit RR-2020-005-A-03 at para. 4; Exhibit RR-2020-005-A-04 (protected) at para. 4.

⁷⁷ Exhibit RR-2020-005-A-03 at para. 19; Exhibit RR-2020-005-A-04 (protected) at para. 19; Exhibit RR-2020-005-A-01 at para. 37; Exhibit RR-2020-005-A-02 (protected) at para. 37.

⁷⁸ Exhibit RR-2020-005-A-01 at para. 37; Exhibit RR-2020-005-A-02 (protected) at para. 37; Exhibit RR-2020-005-A-03 at para. 19.

⁷⁹ Exhibit RR-2020-005-A-04 (protected) at para. 21.

⁸⁰ Exhibit RR-2020-005-06A (protected) at Tables 23, 24.

Likely impact on the domestic industry

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

Recent performance of the domestic industry

[80] In the Tribunal's view, the steel grating market in Canada has generally been weak over the POR.⁸³ In reaching this finding, the Tribunal relies on Mr. Supple's witness statement in which he described that the overall domestic market demand for steel grating has declined over the last five years.⁸⁴ The Tribunal was unable to rely on the market data contained in the investigation report for its analysis of market volume trends. As discussed above, the data for import volumes contained in the market tables in the investigation report were not complete.

[81] In terms of evaluating market shares, the Tribunal considers the data pertaining to 2020 and interim 2021 to be an indication of the domestic industry's performance while noting that the market volumes omit any imports of subject goods. Although sales of domestically produced like goods increased in interim 2021 as compared to interim 2020, the market share of like goods decreased by 2 percentage points.⁸⁵ The market share for imports from other countries saw a slight increase in interim 2021 over interim 2020.⁸⁶

[82] According to Mr. Supple's witness statement, Vulcraft's market intelligence estimated that its market share declined significantly over the POR. While Vulcraft's market share saw improvements in 2021, Mr. Supple noted that, without more comprehensive data with respect to import volumes of steel grating over the POR, Vulcraft suspects that domestic production may be losing market share to imports overall. Mr. Supple also stated that Vulcraft has maintained its market share at the cost of reduced profitability.⁸⁷

[83] Domestic sales from domestic production declined year over year during the POR. However, there was a slight increase in sales of like goods in interim 2021 as compared to interim 2020.⁸⁸ These data are consistent with Mr. Supple's witness statement, in which he described Vulcraft's domestic sales performance over the POR.⁸⁹ The domestic industry's export sales also declined over the POR.⁹⁰

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-2020-005-06A (protected) at Table 9. While the Tribunal notes that there was an increase in market volume in interim 2021 as compared to interim 2020, it is unable to conclude from this limited data set that there has been overall growth in market demand.

⁸⁴ Exhibit RR-2020-005-A-03 at para. 9; Exhibit RR-2020-005-A-04 (protected) at para. 9.

⁸⁵ Exhibit RR-2020-005-05A at Table 12; Exhibit RR-2020-005-06A (protected) at Tables 11, 12.

⁸⁶ *Ibid.*

⁸⁷ Exhibit RR-2020-005-A-04 (protected) at para. 37; Exhibit RR-2020-005-A-03 at paras. 37, 38.

⁸⁸ Exhibit RR-2020-005-05A at Table 10.

⁸⁹ Exhibit RR-2020-005-A-03 at paras. 28, 29; Exhibit RR-2020-005-A-04 (protected) at paras. 28, 29.

⁹⁰ Exhibit RR-2020-005-06A (protected) at Table 46.

[84] Market unit values of domestically produced like goods saw a year-over-year increase over the POR. Prices in interim 2021 were, however, slightly lower than in interim 2020 (by 3 percent).⁹¹

[85] Similarly, the domestic industry's net sales value per unit increased in each year of the POR, with net sales value per unit in interim 2021 slightly lower than in interim 2020. Meanwhile, the cost of goods sold (COGS) per unit increased between 2018 and 2019 and decreased between 2019 and 2020. The COGS per unit in interim 2021 was significantly lower than in interim 2020.⁹²

[86] In terms of financial performance, the domestic industry experienced worsening net income levels from 2018 to 2019. However, an improvement in the domestic industry's net income position was seen in 2020. The domestic industry's financial performance continued to improve in 2021 with its net income and gross margin levels in interim 2021 being higher than in interim 2020.⁹³

[87] A key factor impacting the domestic industry's performance in 2020 was the closure of Vulcraft's plant in Burlington, Ontario, which had three double bar welding machines. The Burlington plant ceased operations in June 2020 and then closed in November 2020.⁹⁴ Vulcraft now operates only out of its plant in Wetaskiwin, Alberta, which has one double bar welding machine.⁹⁵ The impact of Vulcraft's reorganization was described in Mr. Supple's confidential witness statement.⁹⁶ Mr. Supple noted that Vulcraft anticipates that the reorganization "will help to streamline costs and achieve synergies".⁹⁷

[88] Domestic production for domestic sales saw a slight increase in 2019, which was followed by a decrease in 2020. Production with regard to domestic sales in interim 2021 was lower than in interim 2020. Domestic production for export sales also decreased over the POR.⁹⁸

[89] There was a general decline of the domestic industry's practical plant capacity over the POR.⁹⁹ In his witness statement, Mr. Supple explained that the Burlington plant closure reduced Vulcraft's practical production capacity by a significant amount.¹⁰⁰ Vulcraft submitted that a significant portion of the steel grating market that had been serviced by its Burlington plant was replaced by imports of steel grating in 2020.¹⁰¹

[90] The domestic industry's total capacity utilization rate saw a general decline from 2018 to 2020. This was followed by an increase in interim 2021 as compared to interim 2020.¹⁰²

⁹¹ Exhibit RR-2020-005-06A (protected) at Table 23; Exhibit RR-2020-005-05A at Table 24.

⁹² Exhibit RR-2020-005-06A (protected) at Table 45.

⁹³ *Ibid.*

⁹⁴ Exhibit RR-2020-005-A-03 at para. 10.

⁹⁵ *Ibid.* at para. 3. Out of its Wetaskiwin plant, Vulcraft continues to produce both fabricated and unfabricated grating panels.

⁹⁶ Exhibit RR-2020-005-A-04 (protected) at para. 13.

⁹⁷ Exhibit RR-2020-005-A-03 at para. 13.

⁹⁸ Exhibit RR-2020-005-06A (protected) at Table 48.

⁹⁹ *Ibid.*

¹⁰⁰ Exhibit RR-2020-005-A-03 at para. 11; Exhibit RR-2020-005-A-04 (protected) at para. 11.

¹⁰¹ Exhibit RR-2020-005-A-01 at para. 46; Exhibit RR-2020-005-A-04 (protected) at paras. 31, 34.

¹⁰² Exhibit RR-2020-005-06A (protected) at Table 48.

[91] A significant decline in both direct and indirect employment was seen over the period from 2018 and 2020, with levels in interim 2021 significantly lower than in interim 2020. Hours worked and wages followed a similar downward trend.¹⁰³ More recent employment trends can be explained by the Burlington plant closure.¹⁰⁴

[92] The domestic industry has made substantial investments in 2018 and 2020 in new capital to improve production efficiency.¹⁰⁵

[93] Finally, the domestic industry's inventory has generally decreased over the POR both in volume and value. However, an increase in inventory unit values is noted for interim 2021 as compared to interim 2020.¹⁰⁶

[94] Overall, the Tribunal finds that the domestic industry experienced some recovery in 2020 and interim 2021. This can be attributed to Vulcraft's decision to close its plant in Burlington as well as more recent global supply constraints, which have had the effect of improving the competitiveness of domestically produced like goods in the domestic market.¹⁰⁷ However, the data on the domestic industry's recent performance, particularly in the earlier periods of the POR, underlines the vulnerability of domestic producers to any adverse effects that would result from the rescission of the order. This is particularly the case in the current context of a slow-growing economy and foreseeable market conditions in Canada that will likely weaken domestic demand for steel grating. Put another way, the evidence supports Vulcraft's claim that the domestic industry is likely to struggle to perform in a manner that is profitable and sustains operations if it is forced to compete with lower-priced subject goods in market conditions anticipated for the medium term.

Likely impact on the domestic industry if the order is rescinded

[95] The Tribunal must ultimately assess whether the likely volume and price effects of the dumped and subsidized goods will likely, *in and of themselves*, result in material injury to the domestic industry, taking into account the impact from other factors unrelated to the dumping and subsidizing.

[96] As discussed above, the evidence on the record indicates that in the next 24 months, there will continue to be adverse market conditions. These market conditions include a slow-growing domestic economy which is susceptible to the pressures brought on by the ongoing COVID-19 pandemic, increasing price sensitivity for purchasers of steel grating that are looking to reduce costs and likely weakening domestic demand. There is also evidence on the record that the domestic industry may face increasing steel input prices, which could put pressure on the domestic industry's ability to be profitable. In his witness statement, Mr. Supple noted that steel prices in North America

¹⁰³ *Ibid.*

¹⁰⁴ In his witness statement, Mr. Supple notes that the closure of the Burlington plant resulted in a loss of over a hundred employees. Exhibit RR-2020-005-A-03 at para. 10.

¹⁰⁵ Exhibit RR-2020-005-A-03 at para. 25; Exhibit RR-2020-005-A-04 (protected) at para. 25; Exhibit RR-2020-005-06A (protected) at Table 48.

¹⁰⁶ Exhibit RR-2020-005-06A (protected) at Tables 48, 49.

¹⁰⁷ Exhibit RR-2020-005-A-01 at para. 56.

have increased approximately 50 percent from January to September 2021.¹⁰⁸ While steel prices are projected to remain stable until the end of 2021, according to Mr. Supple, once short-term supply issues are resolved, Vulcraft expects its steel input prices to increase. Vulcraft would likely have to increase its selling prices to remain profitable in the face of higher raw material costs.¹⁰⁹

[97] In the Tribunal's view, these less-than-optimal market conditions will impact the domestic industry, but they will not by themselves cause injury to the domestic industry. Rather, these factors will amplify the domestic industry's vulnerability to the likely importation of significant volumes of low-priced subject goods from China.

[98] As discussed above, the domestic industry's financial performance has recently improved, due in part to global supply constraints which have increased the competitiveness of domestically produced like goods. That said, the Tribunal is not persuaded that these conditions will persist over the next 24 months. Once international market conditions improve, as Vulcraft submitted, prices of steel grating imports will likely once again decline¹¹⁰ and the gains made by the domestic industry will likely be at risk. Consequently, if the order is rescinded and lower-priced subject goods enter the Canadian market in significant volumes, the domestic industry's financial viability will be threatened.

[99] Based on Mr. Supple's witness statement, the Tribunal notes that Vulcraft intends to "fully implement [its] strategic restructuring plan" and save its steel grating production.¹¹¹ According to Mr. Supple, the continuation of the order is critical to the successful implementation of this restructuring and, more generally, to the future of domestic production in Canada. He also stated that, without the order in place, the domestic industry will not see a return on its recent capital investments, and further investments in new equipment to increase production capacity will be jeopardized.¹¹² The evidence on the record indicates that Vulcraft currently retains substantial underutilized production capacity at its plant in Wetaskiwin.¹¹³

[100] As discussed above, export sales and production for export sales declined over the POR. However, having considered the evidence on the record including the contribution of export sales to the domestic producers' net sales,¹¹⁴ in the Tribunal's view, export sales will not likely contribute significantly to the domestic industry's performance in the medium term.

[101] The Tribunal agrees with Vulcraft that maintaining SIMA duties on the subject goods is essential to the future of domestic production, as the duties are important to maintaining the stability of domestic pricing.

[102] As discussed above, the Tribunal finds that, if the order expires, the subject goods will likely enter the Canadian market in significant volumes at prices that will undercut and depress the domestic prices of like goods. With respect to likely prices, over the POR, non-subject goods have

¹⁰⁸ Vulcraft referred to the U.S. hot rolled coil index pricing reported in *Fastmarkets American Metal Market*. See Exhibit RR-2020-005-A-03 at paras. 45, 46; Exhibit RR-2020-005-14.01 (protected) at 38.

¹⁰⁹ Exhibit RR-2020-005-A-03 at para. 46.

¹¹⁰ *Ibid.* at para. 39.

¹¹¹ *Ibid.* at paras. 6, 15.

¹¹² *Ibid.* at para. 25.

¹¹³ *Ibid.* at paras. 11–12; Exhibit RR-2020-005-A-04 (protected) at paras. 11–12, 32.

¹¹⁴ Exhibit RR-2020-005-06A (protected) at Table 47; Exhibit RR-2020-005-A-04 (protected) at para. 30.

been selling in the domestic market at prices that are significantly below the selling prices of domestically produced like goods. In order for the subject goods to gain market share, they would have to undercut not only domestic prices but also the prices of lower-priced non-subject goods. As Vulcraft noted, in the case of a commodity product, such as steel grating, prices tend to follow the lowest selling price in the market at any given time. The Tribunal previously acknowledged this concern in *Steel Grating RR* and in *Steel Grating NQ* where it found that “even a *small* volume of imports of the subject goods at only slightly lower prices could have a ‘. . . significant impact on the Canadian steel grating market.’”¹¹⁵ In these circumstances, the domestic industry would be materially injured due to the subject goods, as it would be forced to lower prices at the expense of profitability or resist price declines and see important volumes of domestic production displaced by sales of subject goods.

[103] For the above reasons, having accounted for the impact of all relevant factors, the Tribunal finds that, if the order is rescinded, the subject goods will likely, in and of themselves, cause material injury to the domestic industry.

¹¹⁵ *Steel Grating RR* at para. 120, citing *Steel Grating NQ* at para. 198.

CONCLUSION

[104] On the basis of the foregoing analysis, and pursuant to paragraph 76.03(12)(b) of SIMA, the Tribunal continues its order in respect of the subject goods.

Cheryl Beckett

Cheryl Beckett
Presiding Member

Georges Bujold

Georges Bujold
Member

Randolph W. Heggart

Randolph W. Heggart
Member