



Canadian International
Trade Tribunal

Tribunal canadien du
commerce extérieur

CANADIAN
INTERNATIONAL
TRADE TRIBUNAL

Dumping and Subsidizing

ORDER
AND REASONS

Expiry review RR-2021-005

Pup Joints

*Order and reasons issued
Thursday, December 29, 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 7, 2017, in expiry review RR-2016-001, continuing, without amendment, its finding made on April 10, 2012, in inquiry NQ-2011-001, concerning:

**PUP JOINTS 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 7, 2017, in expiry review RR-2016-001, continuing, without amendment, its finding made on April 10, 2012, in inquiry NQ-2011-001, concerning the dumping and subsidizing of oil country tubular goods pup joints, made of carbon or alloy steel, welded or seamless, heat-treated or not heat-treated, regardless of end finish, having an outside diameter from 2 3/8 inches to 4 1/2 inches (60.3 mm to 114.3 mm), in all grades, in lengths from 2 feet to 12 feet (61 cm to 366 cm), excluding casing pup joints, 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.

Serge Fréchette

Serge Fréchette
Presiding Member

Susan Beaubien

Susan Beaubien
Member

Eric Wildhaber

Eric Wildhaber
Member

Place of Hearing: Ottawa, Ontario (file hearing)
Date of Hearing: November 1, 2022
Tribunal Panel: Serge Fréchette, Presiding Member
Susan Beaubien, Member
Eric Wildhaber, Member
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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 (SIMA), has conducted an expiry review of its order made on April 7, 2017, in expiry review RR-2016-001, which continued, without amendment, the finding made by the Tribunal on April 10, 2012, in inquiry NQ-2011-001, concerning the dumping and subsidizing of certain pup joints 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 order in expiry review RR-2016-001 was scheduled to expire on April 6, 2022.

[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 February 24, 2022.² Consequently, on February 25, 2022, the President of the Canada Border Services Agency (CBSA) initiated an investigation to determine whether the expiry of the order was likely to result in the continuation or resumption of dumping or subsidizing of the subject goods.

[5] On July 22, 2022, the CBSA determined, pursuant to paragraph 76.03(7)(a) of SIMA, that the rescission of the order was likely to result in the continuation or resumption of dumping and subsidizing of the subject goods.³

[6] Following the CBSA's determinations, the Tribunal began its portion of the expiry review on July 25, 2022, pursuant to subsection 76.03(10) of SIMA, 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 calendar years, from January 1, 2019, to December 31, 2021, as well as the interim period of January 1 to March 31, 2022 (interim 2022). For comparative purposes, information was also collected for the period of January 1 to March 31, 2021 (interim 2021).

[8] The Tribunal asked known domestic producers and importers of pup joints meeting the product definition, and known foreign producers of the subject goods, to complete questionnaires.

¹ R.S.C., 1985, c. S-15. Certain SIMA provisions were amended by the *Budget Implementation Act, 2022, No. 1*, S.C. 2022, c. 10 (BIA 2022), which came into force on June 23, 2022. Pursuant to the transitional provision in section 211 of the BIA 2022, this expiry review is conducted under SIMA as it read before June 23, 2022.

² Exhibit RR-2021-005-02. The Tribunal issued a revised notice of expiry review on July 5, 2022. Exhibit RR-2021-005-02.A.

³ Exhibit RR-2021-005-03 at 1.

[9] The Tribunal received two replies to the domestic producers' questionnaire, three replies to the importers' questionnaire from companies that imported pup joints meeting the product definition from subject and non-subject countries, and two replies to the foreign producers' questionnaire.⁴ 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, which were placed on the record and distributed to parties on September 15, 2022.

[10] Apergy Canada ULC d.b.a. Alberta Oil Tool (AOT), a domestic producer of pup joints, WestCan Oilfield Supply Ltd. (WestCan), an importer of subject goods, and Hengshui Weijia Petroleum Equipment Manufacturing Co., Ltd. (HW), a foreign manufacturer and related supplier of subject goods to WestCan, filed written submissions in support of the continuation of the order.

[11] The Tribunal did not receive any submissions opposing the continuation of the order.

[12] On October 13, 2022, the Tribunal informed the parties that it would explore the possibility of considering this matter by way of written submissions (file hearing). Accompanying that letter were questions from the Tribunal to AOT and WestCan, directing them to provide clarification or elaboration on certain aspects of their written submissions. All parties were given the opportunity to provide comments on those replies, as well as their views on proceeding by way of file hearing.

[13] On October 14, 2022, AOT and WestCan provided written replies to the Tribunal's questions. On October 18, 2022, AOT provided comments on WestCan's reply. The same day, WestCan requested to add certain information to the record in response to AOT's comments.

[14] On October 19, 2022, the Tribunal granted WestCan's request to make additional submissions, which it did the same day. Also on October 19, 2022, counsel for AOT, WestCan and HW made written submissions in support of proceeding by way of file hearing.

[15] In view of the materials that had been filed, and in the absence of parties contesting the continuation of the order, the Tribunal decided to proceed by way of file hearing. The Tribunal informed the parties on October 20, 2022, that a file hearing would be held and provided the parties with written notice of the file hearing procedures. Those procedures provided the parties with the option of filing further closing arguments in writing, with the caveat that the Tribunal retained the discretion to request additional evidence or submissions.

[16] On October 31, 2022, AOT filed public and confidential written closing arguments. WestCan and HW did not file written closing arguments.

[17] The Tribunal held a file hearing on November 1, 2022.

PRODUCT

Product definition

[18] The subject goods are defined as follows:

Oil country tubular goods pup joints, made of carbon or alloy steel, welded or seamless, heat-treated or not heat-treated, regardless of end finish, having an outside diameter from 2 3/8 inches to 4 1/2 inches (60.3 mm to 114.3 mm), in all grades, in lengths from 2 feet to 12 feet (61 cm to 366 cm), excluding casing pup joints, originating in or exported from China.

⁴ Exhibit RR-2021-005-05 at 7–10.

Product information

[19] The CBSA provided the following additional information with respect to the product and its use:⁵

[19] Pup joints are tubular steel products that fall within the larger product category of oil country tubular goods (OCTG). Pup joints, along with other OCTG products such as casing, tubing and drill pipe, are used in the process of drilling for oil and natural gas and in bringing the oil and gas to the surface.

[20] Pup joints, which are in essence short pieces of casing or tubing, are used for the purpose of adjusting the length of a string of casing or tubing in a well to its exact requirements. They may also be used to adjust the depth of down hole tools, particularly where exact depth readings in a well are required for any given purpose, such as setting valves, packers, nipples or circulating sleeves. Lastly, pup joints are used with down hole pumps. The number and lengths of pup joints needed will vary from well to well, depending on the equipment needed and the performance requirements established by the engineers.

[21] Pup joints are supplied to meet American Petroleum Institute (API) specification 5CT⁶ or equivalent standards. Although these goods may be produced in either a welded or seamless form, seamless pup joints are the product of choice in the industry. Pup joint manufacturers offer the product in lengths anywhere from 2 feet to 20 feet but pup joints are typically manufactured and sold in standard lengths of 2, 3, 4, 6, 8, 10 and 12 feet.

[22] Only tubing pup joints are subject goods; casing pup joints were excluded from the CITT's finding and are specifically referred to in the product definition as being excluded.

[23] It should be noted that perforated pup joints are subject goods. These are pup joints with rows of holes or slots drilled longitudinally along the tube. Although the input tubing begins as an API 5CT product, once it is perforated it no longer conforms to the API 5CT specification because it no longer meets the yield strength requirements. Perforated pup joints are employed to allow fluids to enter the production tubing or, alternatively, to create a mud anchor.

[Footnote in original]

⁵ Exhibit RR-2021-005-03.A at paras. 19–23.

⁶ Perforated pup joints are an exception as they do not meet API 5CT.

LEGAL FRAMEWORK

[20] 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 to, or retardation of, the domestic industry.⁷ 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 or retardation, the Tribunal is required to continue the order with or without amendment.

[21] Before proceeding with its analysis of the likelihood of injury, the Tribunal must first determine what domestically produced goods are “like goods” in relation to the subject goods and whether there is more than one class of goods. Once those determinations have been made, the Tribunal must determine what constitutes the “domestic industry”.

[22] 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

[23] 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

[24] Subsection 2(1) of SIMA defines “like goods”, in relation to any other goods, as follows:

- (a) goods that are identical in all respects to the other goods, or
- (b) in the absence of any goods described in paragraph (a), goods the uses and other characteristics of which closely resemble those of the other goods.

[25] 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. These include 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 These same factors are also considered in deciding whether there is more than one class of goods.¹⁰

⁷ 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.

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 F.C. 283 (FC).

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

¹⁰ In order to decide whether there is more than one class of goods, the Tribunal must determine whether goods potentially included in separate classes of goods constitute like goods in relation to each other. If they do, they will be regarded as comprising a single class of goods.

[26] In both inquiry NQ-2011-001¹¹ and its subsequent expiry review RR-2016-001,¹² the Tribunal found that domestically produced *tubing* pup joints were like goods in relation to the subject goods and that they constituted a single class of goods.¹³ The evidence in this expiry review reveals no changes in the physical and market characteristics of the goods over the past five years.¹⁴ As a result, the Tribunal finds that domestically produced pup joints meeting the product definition are like goods in relation to the subject 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 to those domestic producers whose production represents a major proportion of the total production of like goods.¹⁵

[29] In the previous expiry review, the Tribunal was satisfied that AOT’s production of like goods represented a major proportion of the total domestic production of like goods.¹⁶ The evidence before the Tribunal clearly indicates that AOT continues to represent a significant proportion of total domestic production of like goods.¹⁷ That said, the Tribunal also received a questionnaire reply from Argus Machine Co. Ltd. (Argus), which information is included in the investigation report. Based on the evidence, the Tribunal is satisfied that AOT and Argus’ collective production of like goods constituted a major proportion of the total domestic production of like goods during the POR and that these two producers therefore constitute the domestic industry for the purpose of this expiry review.

¹¹ *Pup Joints* (10 April 2012), NQ-2011-001 (CITT) [*Pup Joints* NQ].

¹² *Pup Joints* (7 April 2017), RR-2016-001 (CITT) [*Pup Joints* 2016].

¹³ *Pup Joints* NQ at para. 92; *Pup Joints* 2016 at para. 24. The Tribunal notes that, in *Pup Joints* NQ, it found that tubing pup joints and casing pup joints constituted separate classes of goods. However, since the domestic industry for casing pup joints had not fully participated in the inquiry, nor had it made any claims of injury, the Tribunal ultimately found that the dumping and subsidizing of these goods had not caused injury or retardation and were not threatening to cause injury.

¹⁴ Exhibit RR-2021-005-A-03 at para. 18; Exhibit RR-2021-005-16.13B at 4; Exhibit RR-2021-005-16.20A at 3.

¹⁵ 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.

¹⁶ *Pup Joints* 2016 at para. 27. In *Pup Joints* NQ, the Tribunal identified AOT and Tenaris as comprising the domestic industry but concluded that AOT’s production alone constituted a major proportion of the total domestic production of like goods; *Pup Joints* NQ at para. 95.

¹⁷ Exhibit RR-2021-005-06 (protected) at Table 5. This finding is reinforced by evidence regarding domestic production of like goods, or lack thereof, by domestic producers identified in *Pup Joints* NQ and *Pup Joints* 2016; Exhibit RR-2021-005-14.05 (protected) at 1; Exhibit RR-2021-005-13.04B at 2.

CROSS-CUMULATION

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

[31] 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.¹⁸

[32] Given that this expiry review is in respect of dumped and subsidized goods from China only, the likely effects of the continuation or 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.¹⁹ 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.²⁰

[34] There is no presumption of injury in an expiry review. Findings of injury must be based on positive evidence.²¹ In the context of an expiry review, positive evidence can include evidence based on past facts that tend to support forward-looking conclusions.²²

[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 medium term, which 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. In this case, the Tribunal was not presented with any argument that it should consider limiting its examination to a shorter period. It will therefore focus its analysis on the next 24 months.

¹⁸ See e.g. *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) [*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.

¹⁹ *Certain Dishwashers and Dryers* (25 April 2005), RR-2004-005 (CITT) at para. 16.

²⁰ *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.

²¹ *Flat Hot-rolled Carbon and Alloy Steel Sheet and Strip* (16 August 2006), RR-2005-002 (CITT) at para. 59.

²² *Thermoelectric Containers* at para. 14; *Aluminum Extrusions* at para. 21.

[36] Subsection 37.2(2) of the *Special Import Measures Regulations*²³ (Regulations) lists factors that the Tribunal may consider in assessing the likelihood of injury in cases where the CBSA has determined that the expiry of an order or finding was likely to result in continued or resumed dumping or subsidizing. The Tribunal undertook this analysis taking into account the fact that this review was not opposed and that no evidence was presented in response to the arguments and evidence submitted in support of the continuation of the order. The factors that the Tribunal considers relevant in this expiry review are discussed in detail below.

Changes in market conditions generally and for the pup joints market in particular

[37] 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 that occurred during the POR and that are likely to occur over the next 24 months.²⁴ These changes provide some general context for the Tribunal's analysis and are likely to occur whether the order is continued or rescinded.

International market conditions

[38] Market conditions for pup joints are largely driven by conditions in the oil and gas sector, which are affected by the level of drilling and exploration activities. These activities are in turn driven by the demand and prices for oil and gas.²⁵ The annual average West Texas Intermediate (WTI) oil price at the beginning of the POR was US\$57 per barrel before dropping to an annual average of US\$39 per barrel in 2020. In 2021, the market recovered with WTI oil prices rising to US\$68 per barrel.²⁶ The overall total pup joint market decreased in 2020 and increased in 2021, though not to levels seen in 2019.²⁷ As such, these were periods of depressed demand and price for oil. During such periods, oil exploration and production are similarly negatively affected, and consequently pup joint demand is too.

[39] Turning to gross domestic product (GDP), AOT referred to International Monetary Fund (IMF) estimates from July 2022 predict global GDP growth of 3.2 percent in 2022 and 2.9 percent in 2023, down from 6.1 percent in 2021. The IMF underscored generalized uncertainty due to globally widespread inflationary pressures, rising interest rates, and the termination of many pandemic-related economic support measures. Importantly, the IMF essentially agree that continued supply chain issues and geopolitical instability arising from the Ukraine-Russia conflict increase the risk of a worldwide recession in 2023.²⁸

[40] China's economy has experienced a significant downturn as a result of the COVID-19 pandemic, and this, of course, creates ripple effects. The same IMF estimates predict that China's economy will grow by 3.3 percent in 2022 (the lowest growth in four decades), and 4.6 percent in 2023, down from 8.1 percent in 2021.²⁹ This is a China where its steel producers continue to deal with excess production capacity, as found by the Tribunal in *Pup Joints* 2016 as well as in more

²³ SOR/84-927.

²⁴ See paragraph 37.2(2)(j) of the Regulations.

²⁵ Exhibit RR-2021-005-13.01 at 4; Exhibit RR-2021-005-A-03 at para. 10.

²⁶ Exhibit RR-2021-005-A-03 at paras. 25, 30, 32, at 217–235.

²⁷ Exhibit RR-2021-005-06 (protected) at tables 20–21.

²⁸ Exhibit RR-2021-005-A-07 at 4–8.

²⁹ *Ibid.* at 10.

recent reviews.³⁰ AOT and WestCan argued that the state of the Chinese economy as a whole and of its steel industry in particular, relative to its existing and planned excess capacity, coupled with reduced demand, will exacerbate an already difficult situation for the Chinese and worldwide OCTG and pup joint markets.³¹

[41] The Tribunal accepts that, while there is evidence suggesting that oil prices may stabilize above pre-pandemic levels,³² upstream investments in the oil and gas sector are expected to remain below where they were in the pre-COVID-19 period.³³ Although investments could temporarily grow as a result of the recent increase in oil and gas prices, supply disruptions and lower production, the evidence suggests that much of the additional investments will be absorbed by cost inflation³⁴ and that longer-term demand remains vulnerable to macroeconomic conditions that are expected to weaken.³⁵

[42] Finally, the Tribunal accepts the evidence showing that North America, and especially the United States (U.S.), is likely to lead an otherwise “measured”³⁶ return to pre-pandemic drilling activities due to an increase in prices in the oil and gas sector.³⁷ Drilling activities will not, however, rebound to the level that was seen prior to the 2015 downturn, which level itself was still well below the historic high attained prior to the 2008 financial crisis downturn.³⁸

Domestic market conditions

[43] Macroeconomic conditions in Canada deteriorated considerably due to the COVID-19 pandemic in 2020. To be sure, as of 2019, the oil and gas industry had already been battered by a slowdown in drilling activity caused by oil production curtailment measures introduced by the Government of Alberta that year.³⁹ The pandemic uprooted earlier growth estimates: growth numbers show that Canada’s economy grew at an annualized rate of 3.3 percent in the second quarter of 2022, below the earlier 4 percent forecast by the Bank of Canada⁴⁰ and the 3.4 percent predicted by the IMF.⁴¹ In the Tribunal’s view, this raises doubts that Canada will achieve even the more modest 1.8 percent growth in 2023 predicted in the same IMF report.⁴²

³⁰ *Pup Joints 2016* at para. 42; *Welded Large Diameter Carbon and Alloy Steel Line Pipe* (3 August 2022), RR-2021-002 (CITT) at paras. 86–89.

³¹ Exhibit RR-2021-005-A-07 at 37–41, 54–56; Exhibit RR-2021-005-B-03 at 2–5. The evidence and implications of excess Chinese production capacity regarding pup joints specifically are described in more detail in the section below on likely volumes.

³² Exhibit RR-2021-005-A-03 at 264.

³³ Exhibit RR-2021-005-A-07 at 139.

³⁴ Exhibit RR-2021-005-A-03 at 50–51, 53; Exhibit RR-2021-005-A-07 at 139, 142–143.

³⁵ Exhibit RR-2021-005-A-03 at 246–260.

³⁶ Exhibit RR-2021-005-A-07 at 299.

³⁷ *Ibid.* at 298–304; Exhibit RR-2021-005-A-03 at para. 32.

³⁸ Exhibit RR-2021-005-A-03 at paras. 32, 41, at 240.

³⁹ *Ibid.* at para. 29, at 238.

⁴⁰ Exhibit RR-2021-005-A-07 at 306–308.

⁴¹ *Ibid.* at 10.

⁴² Since July, the economic situation has deteriorated further. The Tribunal notes that, in early November 2022, the Canadian government presented its 2022 Fall Economic Statement (FES), in which it reached very similar conclusions to those of the IMF both in terms of the global economic outlook as well as Canada’s particular situation, and it is consistent with the evidence on the record. With the advantage of more recent economic information and after considering the opinions and predictions of economists from 13 Canadian private financial

[44] The evidence on the record demonstrates that, in 2020, Canadian oil and gas prices experienced a significant downturn,⁴³ which led to a major decrease in drilling activities.⁴⁴ The sector, and demand for pup joints, have rebounded since that time as oil and gas prices became more favourable, first in 2021 as a result of pent-up demand following the easing of COVID-19 restrictions, and then in 2022 due largely to a supply shortage of energy products caused by the Ukraine-Russia conflict.⁴⁵ The Tribunal therefore accepts that the domestic market conditions for pup joints were unpromising in 2019 and 2020, and that the present conditions are more favourable than at the beginning of the POR.

[45] However, the Tribunal also finds that Canada's oil and gas sector remains vulnerable to deteriorating economic conditions. Higher interest rates and increases in costs have resulted from inflationary pressures and will have a negative effect on the performance of the industry.⁴⁶ These conditions will also likely negatively affect the projected numbers of wells drilled.⁴⁷ Labour shortages and supply chain disruptions will also likely continue to affect the industry and have negative implications over the next 24 months.⁴⁸

Conclusion on market condition changes

[46] AOT submitted that, at the beginning of the POR, the number of wells drilled in Canada was less than that of the 2015–2016 period, which was the lowest period in the decade preceding the POR.⁴⁹ The evidence indicates that the Saudi-Russia Organization of the Petroleum Exporting Countries dispute in early 2020 as well as the COVID-19 pandemic led to a further decline in drilling activities, followed by a market recovery in 2021 and interim 2022, due to increased global demand for Canadian oil and gas following the easing of pandemic restrictions and the onset of the Ukraine-Russia conflict.⁵⁰ That being said, the Tribunal accepts that the Canadian pup joints market remains vulnerable to global economic circumstances, which remain uncertain.

[47] The Tribunal is of the view that existing international and Canadian macroeconomic market conditions are unlikely to improve in the near to medium term. If anything, over the next 24 months, they are likely to deteriorate further, given the above-noted forecasts that the world economy will experience declining economic growth in 2022 and 2023, and possibly a recession in 2023.⁵¹

and investment institutions, the Government of Canada predicted that the Canadian economy will likely experience a mild recession in 2023. Indeed, the Government of Canada envisaged two scenarios: 1) the Canadian economy could see subdued economic growth as a result of higher inflation and interest rates, as well as slower global growth, or 2) a recession is increasingly possible due to persistent inflationary pressures and the required further tightening in monetary policy. While the Tribunal based its analysis on the information on the record which points to slowing growth, it notes that its conclusions would remain unchanged even if the economic outlook further deteriorated compared to what was suggested in that data, as outlined in the FES's downside scenario. See the report online: <<https://www.budget.canada.ca/fes-eea/2022/report-rapport/FES-EEA-2022-en.pdf>>.

⁴³ Exhibit RR-2021-005-A-03 at 217–226.

⁴⁴ *Ibid.* at para. 41, at 262.

⁴⁵ Exhibit RR-2021-005-13.01 at 4; Exhibit RR-2021-005-A-03 at para. 34, at 227–234, 267.

⁴⁶ Exhibit RR-2021-005-A-06 (protected) at para. 15, at 19–30.

⁴⁷ Exhibit RR-2021-005-A-03 at paras. 20, 41, at 262.

⁴⁸ Exhibit RR-2021-005-A-07 at 333–334, 336–337, 354; Exhibit RR-2021-005-A-03 at para. 20, at 50.

⁴⁹ Exhibit RR-2021-005-A-03 at para. 27; Exhibit RR-2021-005-A-04 (protected) at 247.

⁵⁰ Exhibit RR-2021-005-24.01 at 1–3; Exhibit RR-2021-005-13.01 at 4.

⁵¹ The Tribunal notes again the more recent forecasts, such as those in the FES, which, if anything, indicate even lower levels of growth than were predicted at the time of the IMF forecast in July 2022.

[48] Based on the above, the Tribunal concludes that, in light of the forecast deterioration of international and Canadian economic conditions in 2023, and the impact that this will probably have on the oil and gas sector as well as the drilling and exploration activities within that sector, the demand for pup joints will likely, at best, stay flat or decrease over the next 24 months. Moreover, the Tribunal is of the view that the domestic industry will be even more harshly impacted if the sales value of pup joints decreases to a greater degree than the likely increases in producers' costs of labour and inputs of pup joints—a probable scenario over the upcoming 24-month period, having regard to the likelihood of rising interest rates, labour shortages and supply disruptions.

Likely import volume of dumped and subsidized goods

[49] Paragraph 37.2(2)(a) of the Regulations pertains to the likely volume of the dumped or subsidized goods that will enter Canada if the order is rescinded. In particular, the Tribunal views the likelihood of 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, to be a relevant factor.

[50] The Tribunal's assessment of the likely volumes of the subject goods 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 in respect of goods of the same description or similar goods, and whether measures adopted by other jurisdictions are likely to cause a diversion of the subject goods to Canada.⁵²

[51] The parties submitted that, if the order is rescinded, import volumes of subject goods are likely to increase dramatically, given significant excess capacity among Chinese steel producers, their consequent general imperative to export, and the relative attractiveness of the Canadian market.

[52] AOT asserted that exporters of subject goods cannot compete in the Canadian market without resorting to dumping or subsidization. It also underscored that the Chinese pup joint industry has massive production capacity, leaving significant excess capacity that is freely disposable to be offloaded into the Canadian market if the order is rescinded. In addition, AOT submitted that the Chinese OCTG industry's production capacity is indicative of the true and full extent of likely pup joints imports into Canada in absence of the order.⁵³ Finally, AOT noted that Chinese OCTG exports, including pup joints, are subject to an increasing number of trade restrictions and argued that Canada is a naturally attractive market for products related to oil and gas production, as demonstrated by Chinese exporters' continued interest in Canada during the POR.

[53] WestCan and HW contended that the rescission of the order would likely result in import volumes at levels similar to or greater than those observed prior to the original finding, given the current state of the Chinese producers in terms of overcapacity and the state of their home market.

[54] The investigation report indicates that the subject goods represented a significant proportion of total imports over the POR, with the exception of the interim 2022 period, although their share of total imports trended downward from 2019 to 2021.⁵⁴ The absolute volume of subject imports peaked

⁵² Paragraphs 37.2(2)(a), (d), (f), (h) and (i) of the Regulations.

⁵³ Exhibit RR-2021-005-A-07 at 355–577; summarized in Exhibit RR-2021-005-A-01 at 30.

⁵⁴ Exhibit RR-2021-005-06 (protected) at Table 9.

in 2021, representing an increase of 159 percent from the 2020 volume. The volume of imports, however, declined by 96 percent in the 2022 interim period compared to the 2021 interim period.⁵⁵ The share of imports of pup joints from non-subject countries increased steadily between 2019 and 2021, then experienced a large increase in interim 2022 compared to interim 2021.⁵⁶ Total imports of goods from non-subject countries decreased in 2020 but increased by 373 percent in 2021 and by 197 percent between the 2021 and 2022 interim periods, the latter increase being driven by imports from WestCan. In both periods, the increase in non-subject imports was driven by imports from the U.S.⁵⁷ In interim 2022, the vast majority of total imports were from the U.S.⁵⁸

[55] In its questionnaire reply, WestCan indicated that it temporarily shifted its sources of supply of pup joints from China to the U.S., because significant increases in the cost of ocean freight from China over the year prior to August 2022 made it difficult for WestCan to remain competitive on price. Further, port congestion caused major delays in shipping, which resulted in unpredictable delivery times and supply shortages.⁵⁹ In this regard, AOT submitted evidence on ocean freight costs from China showing that these have started to decline.⁶⁰

[56] WestCan indicated that it will revert to sourcing from its related company in China as soon as it becomes economically viable to do so.⁶¹ On October 13, 2022, the Tribunal requested that WestCan elaborate on what factors or circumstances gave it confidence that it would do so within the next 24 months, in light of factors such as port congestion, shipping delays and resulting extended delivery timelines.⁶² On October 14, 2022, WestCan responded that freight costs were the main driver of its decision to shift its source of pup joints from China to the U.S. and that both shipping delays and freight costs from China had already started to decline over the previous months.

[57] WestCan submitted that for the time being it remained uneconomical to resume importing pup joints from its related manufacturer in China, HW. If the order is continued, resumption of imports from that source could only be envisaged if and when ocean freight costs revert to levels seen prior to their tripling over the 2019 to 2021 period.⁶³ However, if the order is rescinded, WestCan states that it would inevitably have to resume importing Chinese pup joints from its related Chinese manufacturer at lower prices to compete with similarly low prices, which it predicted would be offered in Canada by its Chinese competitors.⁶⁴

[58] In the absence of an order, the parties assert that import volumes of subject goods are likely to increase dramatically, given significant excess capacity among Chinese steel producers, their general orientation toward exports, and the relative attractiveness of the Canadian market.

⁵⁵ *Ibid.* (protected) at tables 7–8; Exhibit RR-2021-005-05 at Table 8.

⁵⁶ Exhibit RR-2021-005-06 (protected) at Table 9.

⁵⁷ Exhibit RR-2021-005-05 at Table 8.

⁵⁸ Exhibit RR-2021-005-06 (protected) at Table 9.

⁵⁹ Exhibit RR-2021-005-16.13B at 2.

⁶⁰ Exhibit RR-2021-005-A-04 (protected) at para. 40.

⁶¹ Exhibit RR-2021-005-16.13B at 2.

⁶² Exhibit RR-2021-005-RFI-01 at 6.

⁶³ The reasons why it remains uneconomical for WestCan to import subject goods from China unless freight costs fall further are discussed in greater detail in the section below on pricing.

⁶⁴ Exhibit RR-2021-005-RI-02 at 1–2.

[59] AOT submitted that China has significant excess production capacity, sufficient to flood the Canadian market with subject imports. This is consistent with the information provided by foreign producers in their response to the Tribunal's foreign producers' questionnaire.⁶⁵

[60] HW reported an annual capacity suggesting further increases to its production capacity seen in the previous review.⁶⁶ In its questionnaire response, HW stated that it is "prepared to meet the challenges of the future and to ramp up [its] production if the demand is there." HW also noted, "[i]f the finding is allowed to expire, we anticipate that there will be an immediate flood of exports of pup joints to Canada from China, as exporters will have unconstrained access to the Canadian market. We firmly believe that the Chinese producers of pup joints will seize the opportunity to gain market share by dumping their pup joints into Canada."⁶⁷ Volumes of subject imports are likely to dramatically increase under this scenario.

[61] Victor Felix of AOT noted that, as pup joints are essentially short lengths of OCTG, excess capacity to produce OCTG is indicative of the excess capacity to produce pup joints,⁶⁸ and the Tribunal has previously accepted that capacity and demand for OCTG are relevant indicators of likely demand and capacity for pup joints.⁶⁹ To that effect, AOT provided a list of 14 Chinese producers of tubing, OCTG and accessories having a combined estimated production capacity of 8,655,000 tonnes.⁷⁰ WestCan referred to reports of excess capacity in steel production both in China and globally, and AOT underscored estimates by the Organisation for Economic Co-operation and Development that China's steelmaking capacity will increase by an additional 29.9 million tonnes in the next three years.⁷¹

[62] While possibly useful to indicate the overall scale of Chinese production capacity, the Tribunal notes that estimates of excess steel production capacity generally do not provide direct evidence of capacity to produce either OCTG or products specifically meeting the product definition, either in absolute terms or in terms of excess capacity. In the Tribunal's view, the evidence regarding capacity to produce tubing, OCTG and accessories provided by Victor Felix provides a more useful indication of Chinese excess production capacity, while the direct evidence on the record, regarding production capacity reported in foreign producers' questionnaire responses,⁷² is the most useful indicator of likely volumes if the order is rescinded. That said, the foreign producer data on record appears to indicate that even a small segment of the Chinese industry has considerable excess capacity. The Tribunal considers it reasonable to infer that significantly more capacity exists among Chinese producers in general, especially in light of the evidence regarding OCTG production capacity of other Chinese producers submitted by AOT.

[63] AOT and WestCan assert that Chinese producers of subject goods are export-oriented, and all three supporting parties agree that Chinese producers of subject goods maintain an ongoing interest in the Canadian market. AOT referred to the CBSA's decision, which found that four companies

⁶⁵ Exhibit RR-2021-005-06 (protected) at tables 20, 90.

⁶⁶ *Ibid.* (protected) at Schedule 18; Exhibit RR-2021-005-09 (protected) at 65.

⁶⁷ Exhibit RR-2021-005-19.02 at 3.

⁶⁸ Exhibit RR-2021-005-A-03 at para. 4; Exhibit RR-2021-005-16.13B at 5.

⁶⁹ *Pup Joints* 2016 at para. 43.

⁷⁰ Exhibit RR-2021-005-A-01 at 30; Exhibit RR-2021-005-A-07 at 355-577.

⁷¹ Exhibit RR-2021-005-B-03 at 2-5; Exhibit RR-2021-005-A-07 at 56.

⁷² Exhibit RR-2021-005-06 (protected) at Table 20, at schedules 18-19.

continued to have normal values under the order, although HW is the only exporter to have availed itself of them since 2015.⁷³

[64] WestCan provided evidence that it had received an unsolicited quotation from a Chinese company which advertises itself as having a capacity to produce hundreds of thousands of tonnes of seamless pipe and as having exported millions of tonnes to dozens of countries.⁷⁴ Although these figures pertain to production and export of OCTG and not pup joints specifically, they nonetheless demonstrate continued interest in the Canadian market on the part of Chinese producers having significant practical and excess production capacity. AOT notes that another Chinese company, Permanent Steel Manufacturing Co., Ltd., advertises products including pup joints with certificates of origin from either Singapore or China, allowing purchasers to “avoid your anti-dumping, if any.”⁷⁵ This evidence clearly demonstrates a continued and ongoing interest in the Canadian market by exporters of subject goods.

[65] AOT submitted that Canada is an attractive market for imports of pup joints. It pointed to Natural Resources Canada publications that list Canada as ranking, worldwide, third and fourth, respectively, in terms of largest proven oil reserves and oil production, and fifth and fourth, respectively, in terms of natural gas production and exports.⁷⁶ Other evidence indicates that Canada represented just under 10 percent of the worldwide rig count in 2021 and 2022 and has historically had an even greater share of worldwide rigs except during the period from 2018 to 2020.⁷⁷

[66] There is evidence to suggest that Canada may be particularly attractive to Chinese pup joint exporters, as China’s domestic market appears increasingly likely to be affected by a slowing of economic activity,⁷⁸ and because its access to many other major pup joint markets is restricted due to various trade measures.

[67] Due to China’s COVID-19 policy and weakening real estate sector, the International Energy Agency projects Chinese oil demand to decline by 420,000 barrels per day in 2022, which would be the first annual drop since 1990.⁷⁹ AOT submitted that there are also now more trade restrictive measures against dumped and/or subsidized Chinese OCTG, including pup joints, than there were during the previous expiry review.⁸⁰

⁷³ Exhibit RR-2021-005-03.A at paras. 164–165.

⁷⁴ Exhibit RR-2021-005-16.13B at 5; Exhibit RR-2021-005-17.13 (protected) at 66; Exhibit RR-2021-005-A-08 (protected) at 588–590.

⁷⁵ Exhibit RR-2021-005-A-07 at 626.

⁷⁶ Exhibit RR-2021-005-A-03 at para. 11, at 19–20, 22, 32.

⁷⁷ *Ibid.* at 34–47.

⁷⁸ Exhibit RR-2021-005-A-07 at 30–31.

⁷⁹ Exhibit RR-2021-005-A-03 at para. 35, at 246. This projection by the International Energy Agency is from September 2022. Although recent developments suggest China may be, or may soon begin, easing its pandemic restriction policies as of December 2022, the Tribunal considers it unlikely that this will significantly alter the impact of those policies on oil demand for the year 2022. There is nothing on the record before the Tribunal to suggest an impending rebound in Chinese oil demand such as would offset the added incentive for Chinese producers to export OCTG and pup joints due to the precipitous drop in domestic demand seen in 2022.

⁸⁰ Exhibit LE-2021-005-02.01.A at 1334–1336. The Tribunal notes that, since the anti-dumping measures against seamless steel OCTG from China that were notified to the World Trade Organization by the Russian Federation, and which entered into force in September 2015, were imposed by the Eurasian Economic Union, they are also in force in Armenia, Belarus, Kazakhstan and Kyrgyzstan; see Exhibit LE-2021-005-02.01.A at 2414.

[68] Victor Felix also stated that measures imposed by the U.S. are particularly relevant because of its status as the world's largest energy producer.⁸¹ Due to geographical proximity and market integration with Canada, pup joints destined to enter the U.S. can easily be diverted to the Canadian market. Other evidence indicates that the Ukraine-Russia conflict has increased global demand for, and the overall importance of, North American oil and gas.⁸²

[69] According to HW, without the protection provided by the order, Chinese exporters of pup joints would have unrestricted access to the Canadian market. Volumes of subject imports would necessarily increase, causing chaos in the Canadian market. HW says that it would most likely join this proliferation of dumped and subsidized exports of pup joints from China to enable WestCan to compete with other Chinese products and as AOT presumably loses sales and market share.

[70] Even at current production levels, HW will be operating with excess capacity that could easily be directed to exports. These assertions are consistent with HW's response to the Tribunal's foreign producers' questionnaire.⁸³

[71] Having considered the evidence before it, and the arguments from parties, the Tribunal finds that, if the order were rescinded, there would likely be a very significant increase in the volume of imports of subject goods. In that scenario, WestCan would revert to importation of the subject goods and additional exporters of subject goods would enter the Canadian market. Whether import volumes increase in absolute terms or relative to the production or consumption of like goods would depend on the circumstances. WestCan's cessation of importing non-subject goods from the U.S. would likely lead to an absolute increase in the import volume of subject goods if other factors, such as economic performance and overall demand, remain stable. Conversely, deteriorating economic circumstances, such as those contemplated in the discussion of changes in market conditions above, would likely reduce demand and make a relative increase more likely.

[72] In sum, if the order were rescinded, the Tribunal finds that the import volume of subject goods would likely increase significantly over the next 24 months, in either absolute or relative terms. Chinese producers of subject goods would be unrestricted from exporting to Canada. They have shown, and continue to show, an interest in the Canadian market and will have a significant amount of product available to pursue the relatively favourable conditions that characterize the Canadian market.

Likely price effect of dumped and subsidized goods

[73] The Tribunal now turns to consider whether, if the order is rescinded, the dumping and subsidizing of the subject goods is likely to significantly undercut the prices of like goods, depress those prices, or suppress them by preventing increases in those prices that would likely have otherwise occurred.⁸⁴ In this regard, the Tribunal distinguishes the price effect of the dumped and subsidized goods from any price effects that would likely result from other factors affecting prices.

[74] In *Pup Joints* NQ, the Tribunal found that "price is important, at least in the decision to potentially switch suppliers."⁸⁵ The evidence before the Tribunal sustains this finding in the current

⁸¹ Exhibit RR-2021-005-A-03 at 22.

⁸² *Ibid.* at 386–387.

⁸³ Exhibit RR-2021-005-06 (protected) at Schedule 18; Exhibit RR-2021-005-19.02 at 3.

⁸⁴ Paragraph 37.2(2)(b) of the Regulations.

⁸⁵ *Pup Joints* NQ at para. 122.

review. If anything, the evidence indicates that the pup joints market in the short term will be even more price sensitive than during the POR, given the current economic conditions in Canada and, in particular, rising interest rates and input costs.⁸⁶

[75] AOT submitted that product mix must be considered in price comparisons, as different models (varying in diameters, lengths and grades) command different prices, and that therefore “aggregate unit value data mask the true pricing levels in the Canadian market”.⁸⁷

[76] The Tribunal recognizes that comparing the average price of subject goods to like goods requires consideration of the inherent product mix based on the product definition that includes diameters ranging from 2 3/8 inches to 4 1/2 inches and lengths from 2 feet to 12 feet, as well as both API 5CT and equivalent tubing pup joints and non-API/premium tubing pup joints. Nonetheless, the Tribunal considers that such a comparison can provide a useful reference, especially as price lists may not reflect actual selling prices in the Canadian market.⁸⁸

Price undercutting

[77] The Tribunal is of the view that, if the order is rescinded, the prices of the subject goods will undercut the prices of like goods.

[78] The parties assert that the subject goods would re-enter the Canadian market at much lower than current prices if the order were rescinded. HW candidly stated that, in the absence of anti-dumping and countervailing duties, it will have no choice but to export the subject goods at lower prices to compete with other Chinese exporters, and that it would seek subsidy programs to reduce costs, expand production and further lower its prices.⁸⁹ WestCan stated that it would import the subject goods from HW at these low prices in an effort to maintain its market share.⁹⁰ Shengli Oilfield, for its part, conceded that its lack of sales in Canada during the POR was a direct consequence of the Tribunal’s order.⁹¹

[79] As outlined above, WestCan submitted that there is still Chinese interest in the Canadian pup joint market, as evidenced by the unsolicited pricing quotation received from a Chinese pup joint producer.⁹² WestCan argued that the prices in this unsolicited pricing quotation showed a potential margin of dumping as high as 280 percent using normal values issued in March 2022, undercutting HW’s current export prices by a large margin.⁹³ AOT likewise submitted that when it compared prices from its price list for select models of pup joints with those of the unsolicited pricing quotation received by HW as well as publicly available online Chinese pup joint prices, its prices were undercut by a substantial margin.⁹⁴

[80] In its examination of the evidence, the Tribunal found that, to allow for an “apples-to-apples” comparison of model-specific prices, certain adjustments to the ex-factory prices from both the

⁸⁶ Exhibit RR-2021-005-A-03 at paras. 18–20, 34, at 50–51, 243–244.

⁸⁷ Exhibit RR-2021-005-A-01 at para. 72.

⁸⁸ Exhibit RR-2021-005-A-04 (protected) at para. 21; Exhibit RR-2021-005-17.13 (protected) at 3.

⁸⁹ Exhibit RR-2021-005-20.02 (protected) at 2.

⁹⁰ Exhibit RR-2021-005-16.13.B at 5.

⁹¹ Exhibit RR-2021-005-19.01 at 3.

⁹² Exhibit RR-2021-005-16.13B at 5; Exhibit RR-2021-005-17.13 (protected) at 66.

⁹³ Exhibit RR-2021-005-B-01 at para. 61; Exhibit RR-2021-005-B-04 (protected) at 1.

⁹⁴ Exhibit RR-2021-005-B-04 (protected) at 1; Exhibit RR-2021-005-A-08 (protected) at 597; Exhibit RR-2021-005-A-07 at 612–637; Exhibit RR-2021-005-14.01 (protected) at 1001.

unsolicited pricing quotation and the online Chinese prices were necessary.⁹⁵ A comparison of AOT's pup joint prices to the adjusted prices of the Chinese pricing quotation and the adjusted online Chinese prices supported AOT's argument that its pup joint prices were undercut, albeit to a lesser degree than it had submitted. As noted above, prices from price lists may not reflect actual selling prices in the Canadian market.⁹⁶ A comparison of HW's pup joint prices to the adjusted prices of the Chinese pricing quotation similarly showed that its prices were also undercut but to a lesser degree than contended by HW.

[81] The investigation report shows that, during the POR, prices of both subject and non-subject imports were almost always higher than those of domestically produced pup joints, at the total market level as well as at the distributors and original equipment manufacturers (OEMs)/end users trade levels for both API 5CT goods and non-API/premium connection goods. However, prices of domestically produced API 5CT pup joints were undercut by a small margin by subject goods in interim 2022 at the distributors trade level when the average price of the subject goods decreased and the price of like goods increased.⁹⁷

[82] In addition, prices of domestically produced API 5CT pup joints were undercut by a small margin by non-subject imports in 2020 and interim 2022 at the distributors trade level, and in 2021 and interim 2021 at the OEMs/end users trade level.⁹⁸ After reviewing the evidence, the Tribunal accepts that three of the four instances where prices of non-subject imports undercut prices of domestically produced like goods were the result of extraordinary circumstances resulting from temporary market conditions which have since resolved, and which are unlikely to recur.⁹⁹

[83] Generally, when considering likely prices of subject goods if the order is rescinded, the Tribunal will examine prices of non-subject goods and consider whether prices of subject goods will fall to compete with those prices in the absence of the discipline imposed by the order.

[84] Both domestic producers as well as two importers imported pup joints from the U.S. during the POR, while one importer imported a small number of pup joints from Argentina, Mexico and Romania.¹⁰⁰

[85] The investigation report showed that prices of non-subject imports by importers were higher than those of the subject goods throughout the POR. Prices of non-subject imports by domestic producers were less than those of the subject goods in every period but one; however, as noted above, the Tribunal accepts that this resulted from circumstances unlikely to recur in the next 24 months. Accordingly, sales of non-subject imports maintained a consistent but much smaller share of the market than the subject goods throughout the POR despite an increase in 2021.¹⁰¹

[86] The Tribunal therefore concludes that the price of the subject goods would not be likely to fall in order to compete with non-subject goods if the order is rescinded, as non-subject goods were

⁹⁵ Prices from the Chinese quotation and the online Chinese prices were converted to CAN\$ and an estimated amount for delivery to Canada and markup were added, based on data collected from the questionnaire replies.

⁹⁶ Exhibit RR-2021-005-A-04 (protected) at para. 21; Exhibit RR-2021-005-17.13 (protected) at 3.

⁹⁷ Exhibit RR-2021-005-06 (protected) at tables 61, 63, 65, 67, 69, 71, 75, 77, 79; Exhibit RR-2021-005-A-05 at para. 12.

⁹⁸ Exhibit RR-2021-005-06 (protected) at tables 71, 77.

⁹⁹ Exhibit RR-2021-005-A-06 (protected) at para. 10; Exhibit RR-2021-005-RI-01.A (protected) at 1-2.

¹⁰⁰ Exhibit RR-2021-005-05 at tables 1, 2.

¹⁰¹ Exhibit RR-2021-005-06 (protected) at Table 22.

generally priced higher than subject goods even when the latter were subject to the price discipline imposed by the order. This conclusion holds despite the evidence that, at the time of this review, WestCan found it more economical to import non-subject goods from the U.S. than to import subject goods from China. Rather, the evidence indicates that, if the order is rescinded, the price of subject goods will fall from slightly below to considerably below that of non-subject imports such as to undercut the price of like goods.

[87] As noted above, WestCan switched its source of supply of imported pup joints in 2021 from China to the U.S. due to high ocean freight costs and port congestion, which caused shipping delays and supply shortages.¹⁰² WestCan submitted that it intended to revert sourcing its pup joints from China as soon as ocean freight rates fell to pre-2019 levels; however, it was still importing pup joints from the U.S. as of October 14, 2022, despite its submissions on that date stating that the port congestion had resolved and ocean freight rates were improving.¹⁰³

[88] In its subsequent written submissions, which were permitted under the file hearing procedures, WestCan asserted that the methodology used by the CBSA for determining normal values for the subject goods does not currently allow for a competitive price of Chinese pup joints in the Canadian market. Accordingly, at present, it is still more economical for WestCan to import the less expensive pup joints, sourced from the U.S.¹⁰⁴

[89] In AOT's view, WestCan's decision to switch from its related Chinese supplier to a U.S. supplier is evidence that the current order is preventing the subject goods from re-entering the Canadian market in a massive volume at lower prices.¹⁰⁵

[90] In the Tribunal's view, the evidence indicates that ocean freight costs made it uneconomical for WestCan to import subject goods from China, as compared to the U.S., given the price discipline imposed by the order. However, the rescission of the order would allow the price of subject imports to fall sufficiently to easily offset still-elevated freight costs, providing ample opportunity for Chinese producers to undercut the price of like goods despite ocean freight costs from China exceeding those seen prior to 2019.

[91] In light of the above, the Tribunal is of the view that, if the order is rescinded, the prices of subject goods will likely significantly undercut the prices of domestically produced like goods.

Price depression

[92] AOT submitted that, if the order is rescinded, the likely significant price undercutting by the subject goods will lead to price depression.

¹⁰² Exhibit RR-2021-005-16.13.B at 2.

¹⁰³ Exhibit RR-2021-005-RI-02 at 1–2.

¹⁰⁴ *Ibid.* at 2; Exhibit RR-2021-005-RI-02.A at 1–3. The Tribunal notes that, in its review of WestCan's calculation of the average difference between the landed cost of the U.S.-sourced pup joints and the subject goods, the Tribunal calculated the amount to be even greater than what had been submitted by WestCan; Exhibit RR-2021-005-RI-02.B (protected) at 5.

¹⁰⁵ Exhibit RR-2021-005-27.01 (protected) at 5, 9; Exhibit RR-2021-005-RI-01.B at 2, 5, 20–76; Exhibit RR-2021-005-RI-02.A at 1.

[93] It is clear to the Tribunal that, given the likelihood of price undercutting and the price sensitive nature of pup joints, the domestic industry would indeed need to lower its prices considerably to compete with the subject goods and retain its market share.

[94] AOT provided evidence, based on price lists, that the expiry of the order would lead to the return of subject imports from China in significant volumes and at low prices with which domestic producers would not be able to compete.¹⁰⁶ Witnesses for the domestic industry provided witness statements to this effect, which were unchallenged. Victor Felix stated that, with low-priced Chinese pup joints in the market, AOT would “immediately be pressed to lower [its] prices.”¹⁰⁷ As well, Pal Sandhu asserted that AOT would likely need to lower its prices by at least 15 percent to compete with lower-priced subject imports and this would significantly impact its pup joint operations.¹⁰⁸

[95] Accordingly, the Tribunal finds the evidence to be persuasive: the likelihood of significant price undercutting by the subject goods if the order is rescinded will lead to significant price depression of the like goods.

Price suppression

[96] The Tribunal is of the view that, if the order is rescinded, the dumping of the subject goods is also likely to significantly suppress the prices of like goods by preventing increases in those prices that would likely have otherwise occurred.

[97] The main input in the production of pup joints is OCTG, specifically, seamless tubing.¹⁰⁹ Pal Sandhu stated that AOT’s pup joints production costs have increased in tandem with the increase in market indices for seamless OCTG casing.¹¹⁰ The cost of both seamless J55 casing and seamless P110 casing increased substantially between August 2020 and March 2022 and has continued to increase since then.¹¹¹

[98] The evidence on record indicates that the domestic industry’s prices declined in 2020 but increased in 2021 and 2022. Its cost of goods manufactured per piece and its cost of goods sold per piece decreased in 2021 but increased in interim 2022. The data suggest that the domestic industry was able to increase prices to absorb increased input costs during the POR, which resulted in increases in gross margins in 2021 and interim 2022.¹¹²

[99] The Tribunal’s examination of the evidence found that AOT’s average production costs did increase proportionately to increases in the market indices of seamless casing prices during the POR.¹¹³ The Tribunal accepts that the domestic industry will need to increase its pup joint prices

¹⁰⁶ Exhibit RR-2021-005-B-04 (protected); Exhibit RR-2021-005-A-08 (protected) at 597. As outlined in the discussion above of likely prices, the Tribunal’s own analysis suggests that the price of subject goods would likely considerably undercut the price of like goods in the absence of an order, albeit to a lesser extent than what was submitted by AOT and WestCan after adjusting the ex-factory prices referred to in their submissions.

¹⁰⁷ Exhibit RR-2021-005-A-03 at para. 16.

¹⁰⁸ Exhibit RR-2021-005-A-05 at paras. 22, 24–25.

¹⁰⁹ Exhibit RR-2021-005-A-03 at paras. 5, 6, 21.

¹¹⁰ Exhibit RR-2021-005-A-06 (protected) at para. 15.

¹¹¹ *Ibid.* at 19–30.

¹¹² Exhibit RR-2021-005-06 (protected) at Table 82.

¹¹³ Exhibit RR-2021-005-A-06 (protected) at 6, 19–27, 29–30, 32.

further to absorb the more recent increases in material costs¹¹⁴ and that, if the order is rescinded, this will be difficult if not unattainable in a market replete with a large volume of low-priced imports. The likely result in such circumstances, and in the case of any further increases in material costs, would therefore be price suppression.

Conclusion on likely price effects

[100] Accordingly, the evidence indicates that the resumed or continued dumping of the subject goods is likely to cause significant adverse price effects over the next 24 months if the order is rescinded.

Likely impact of the dumped and subsidized goods on the domestic industry

[101] The Tribunal will now assess the likely impact of the above volumes and price effects of the subject goods on the domestic industry if the order is rescinded, taking into consideration the recent performance of the domestic industry.¹¹⁵ 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.¹¹⁶

Recent performance of the domestic industry

[102] AOT asserts that its performance was significantly affected during the POR due to exceptional market conditions that existed in 2019 and 2020.¹¹⁷ The Tribunal finds evidential support for this position. In 2020, total domestic sales from domestic production decreased by 49 percent before increasing in 2021, though not attaining 2019 levels,¹¹⁸ as reflected by the confidential evidence regarding AOT's market share as well as its production levels over the POR.¹¹⁹

[103] AOT's financial performance consistently deteriorated with the market, which experienced an "unprecedented" COVID-19-induced downturn and resulted in "decade-low oil and gas sector activities".¹²⁰ The subsequent increased demand for oil and gas led to a market recovery in 2021, which similarly improved AOT's financial performance.¹²¹ The evidence before the Tribunal supports the conclusion that the domestic industry's performance over the POR generally corresponded to these trends in the oil and gas sector.¹²²

[104] Employment in the domestic industry declined by 20 percent in 2020, with a further decrease in direct employment in 2021. However, this was offset by a corresponding increase in indirect employment. In 2020, the number of hours worked declined by 45 percent, wages declined by

¹¹⁴ *Ibid.* at paras. 12, 15–16, at 19–32; Exhibit RR-2021-005-A-07 (protected) at para. 24.

¹¹⁵ Subsection 37.2(2) of the Regulations.

¹¹⁶ Paragraph 37.2(2)(k) of the Regulations.

¹¹⁷ Exhibit RR-2021-005-A-01 at para. 84.

¹¹⁸ Exhibit RR-2021-005-05 at Table 21.

¹¹⁹ Exhibit RR-2021-005-06 (protected) at tables 5, 22.

¹²⁰ Exhibit RR-2021-005-A-05 at para. 6.

¹²¹ *Ibid.* at para. 7; Exhibit RR-2021-005-A-03 at para. 37.

¹²² Exhibit RR-2021-005-06 (protected) at tables 81–82.

41 percent, and productivity (in terms of pieces produced per hour worked) declined by 15 percent. In 2021, however, these figures rebounded by 24 percent, 21 percent, and 18 percent, respectively.¹²³

[105] The evidence indicates that, as demand has rebounded, input costs have become the main source of pressure on the domestic industry's performance. According to Pal Sandhu, the cost of raw materials, particularly seamless OCTG, has risen drastically since 2021 and cost inflation remains a major challenge.¹²⁴ The Tribunal finds that the confidential information on the record is consistent with AOT's submissions regarding the recent trend in input costs and its effect on the domestic industry.¹²⁵

Likely impact on the domestic industry if the order is rescinded

[106] The Tribunal must ultimately assess whether the likely volume and price effects of the subject 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.

[107] According to AOT, Canada's oil and gas sector, and by extension its pup joint market, is expected to be healthier in the next 12 to 24 months than it was in 2019 and 2020 but below the elevated levels of early 2022, with considerable uncertainty remaining. It submitted that it has finally begun to recover from years of depressed market conditions but remains vulnerable.¹²⁶ Moreover, given that the cost of raw materials, namely seamless OCTG, has abruptly risen since 2021, AOT's pup joints production costs have increased as well.¹²⁷

[108] The Tribunal's analysis of this dynamic, as discussed above, supports AOT's position that it would be financially detrimental to the domestic industry if the order is rescinded and subject goods are allowed into the Canadian market at low prices. This conclusion is reinforced by the persuasive evidence submitted by AOT that recent increases in raw materials costs increase the likelihood of price suppression.¹²⁸

[109] The Tribunal also notes the evidence provided by Victor Felix as to how these financial impacts would likely affect AOT's profitability, employment and capital investment.¹²⁹ AOT submitted evidence, based on price lists, that the expiry of the order would lead to the return of subject imports from China in significant volumes and at low prices with which domestic producers would not be able to compete.¹³⁰

¹²³ Exhibit RR-2021-005-05 at Table 87; Exhibit RR-2021-005-06 (protected) at Table 86. Changes to hours worked and wages reflect total employment.

¹²⁴ Exhibit RR-2021-005-A-05 at para. 15.

¹²⁵ Exhibit RR-2021-005-06 (protected) at Table 81. See also Exhibit RR-2021-005-A-06 (protected) at para. 15.

¹²⁶ Exhibit RR-2021-005-A-06 (protected) at paras. 4, 16.

¹²⁷ Exhibit RR-2021-005-A-05 at para. 15; Exhibit RR-2021-005-A-06 (protected) at 32.

¹²⁸ Exhibit RR-2021-005-A-06 (protected) at paras. 12, 15–16, at 19–32; Exhibit RR-2021-005-A-07 (protected) at para. 24.

¹²⁹ Exhibit RR-2021-005-A-04 (protected) at paras. 14, 47–48; Exhibit RR-2021-005-06 (protected) at Table 86.

¹³⁰ Exhibit RR-2021-005-B-04 (protected); Exhibit RR-2021-005-A-08 (protected) at 597. As outlined in the discussion above of likely prices, the Tribunal's own analysis suggests that the price of subject goods would likely considerably undercut the price of like goods in the absence of an order, albeit to a lesser extent than what was submitted by AOT and WestCan after adjusting the ex-factory prices referred to in their submissions.

[110] AOT provided a simulated analysis of the potential consequences on its financial performance in 2023 in two scenarios: one where the order is continued, and the other where the order is rescinded.¹³¹ In both scenarios, the analysis uses financial data from interim 2022 as a proxy for cost of goods sold in 2023. The Tribunal agrees that this is a reasonably conservative approach by assuming no cost inflation in the next 12 months and using actual selling, general, administrative and financial expenses for 2021 to forecast those expenses in 2023. For the scenario where the order continues, AOT projected sales and revenues in 2024 based on the price and sales volume achieved in interim 2022 (annualized, in the case of sales volume).¹³²

[111] For the scenario where the order expires, AOT's analysis assumed a level of additional imports of subject goods based on the difference between imports of subject goods in the year ending June 30, 2011, and imports of subject goods in 2021 (both using CBSA data), and adjusted this figure to reflect the share of the Canadian market (excluding subject goods) held by AOT in 2021 to project its own lost sales.¹³³ It assumed the price of subject goods would undercut Canadian prices by 15 percent, which the Tribunal again agrees is a conservative estimate based on its analysis of information on the record¹³⁴ and that AOT's prices would have to decrease by at least 15 percent in order to compete.¹³⁵

[112] The Tribunal reviewed AOT's analysis and finds that it reasonably supports the conclusion that the likely increase in the volume of subject imports, at prices that would undercut and depress prices of domestic pup joints to the extent suggested by the evidence, would result in the negative performance scenario proposed by AOT.

[113] In light of this, the Tribunal finds that the domestic industry would likely lose considerable sales volume and revenue as it would be caught competing with unfairly traded subject imports, which would also prevent the price increases it would need to remain profitable.

[114] In summary, the Tribunal is satisfied that, if the order is rescinded, the domestic industry will likely experience injury in terms of reduced sales volume and revenues, which will result in lower production, capacity utilization, profits, wages, employment, productivity and return on investment. Such injury will be material.

Factors other than the dumping and subsidizing

[115] Pursuant to paragraph 37.2(2)(k) of the Regulations, the Tribunal may consider any other factors that are relevant in the circumstances. While AOT, WestCan and HW did not explicitly identify such factors, and given the lack of any submissions opposing the continuation of the order, the Tribunal, on its own initiative, considered whether there were some factors unrelated to the dumping and subsidizing of the subject goods that could adversely affect the domestic industry in the next 24 months. The Tribunal ensured not to attribute the effects of such factors to an eventual rescission of the order.

¹³¹ Exhibit RR-2021-005-A-06 (protected) at para. 23.

¹³² Exhibit RR-2021-005-A-05 at para. 17.

¹³³ *Ibid.* at paras. 18–20.

¹³⁴ Exhibit RR-2021-005-B-04 (protected) at 1; Exhibit RR-2021-005-A-08 (protected) at 597. Exhibit RR-2021-005-A-07 at 612–637; Exhibit RR-2021-005-14.01 (protected) at 1001.

¹³⁵ Exhibit RR-2021-005-A-05 at para. 22.

[116] To conduct this analysis, the Tribunal considered the significance of the importation of non-subject goods from the U.S. by both domestic producers and importers during the POR.¹³⁶ The Tribunal is convinced that such imports by domestic producers were the result of extraordinary circumstances resulting from temporary market conditions which have since resolved and which are unlikely to recur.¹³⁷

[117] Regarding the ongoing importation of non-subject goods U.S. goods by WestCan, the Tribunal sees no reason to doubt that WestCan, by its own admission, would resume importing subject goods from its affiliate HW in the absence of an order, as this would almost certainly make doing so more economical than continuing to import non-subject goods from the U.S. This is especially the case in light of HW's submissions that, if the finding were rescinded, HW would begin exporting dumped and subsidized subject goods from China so that WestCan would be able to compete with other Chinese producers that would then have unrestricted access to the Canadian market.

[118] In summary, the Tribunal finds that the importation of non-subject U.S. pup joints does not affect its conclusion that the domestic industry is likely to suffer material injury if the order is rescinded, because domestic producers are not likely to continue or resume such imports in any case, and because WestCan will almost certainly resume importing subject goods from China if the order is rescinded.

Conclusion

[119] Having accounted for the potential impact of the importation of non-subject pup joints from the U.S. and ensured not to attribute its effects (which the Tribunal considers negligible) to an eventual rescission of the order, the Tribunal finds that the resumption of dumping and subsidizing of the subject pup joints from China will likely result, in and of itself, in material injury to the domestic industry over the next 24 months.

CONCLUSION

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

Serge Fréchette

Serge Fréchette
Presiding Member

Susan Beaubien

Susan Beaubien
Member

Eric Wildhaber

Eric Wildhaber
Member

¹³⁶ Exhibit RR-2021-005-05 at tables 1, 2; Exhibit RR-2021-005-06 (protected) at Table 7.

¹³⁷ Exhibit RR-2021-005-A-06 (protected) at para. 10; Exhibit RR-2021-005-RI-01.A (protected).