



Tribunal canadien du
commerce extérieur

Canadian International
Trade Tribunal

TRIBUNAL CANADIEN
DU COMMERCE
EXTÉRIEUR

Dumping et subventionnement

ORDONNANCE

Enquête n° NQ-2006-001

Tuyaux en polyéthylène réticulé

*Ordonnance rendue
le vendredi 7 juillet 2006*

EU ÉGARD À une enquête aux termes de l'article 42 de la *Loi sur les mesures spéciales d'importation* concernant le dumping de tuyaux en polyéthylène réticulé à couche simple ou multiple d'une taille nominale allant jusqu'à 1 pouce inclusivement ou son équivalent métrique, à l'exception des tuyaux en polyéthylène réticulé qui comportent une couche barrière contre l'oxygène, originaires ou exportés des États-Unis d'Amérique.

ORDONNANCE

ATTENDU QUE le Tribunal canadien du commerce extérieur (le Tribunal) doit, aux termes de l'article 42 de la *Loi sur les mesures spéciales d'importation*, ouvrir une enquête en vue de déterminer si le dumping des marchandises qui font l'objet de l'enquête du Tribunal a causé un dommage ou un retard ou menace de causer un dommage à la branche de production nationale;

ET ATTENDU QUE, selon les renseignements accessibles au public, il semble qu'UPONOR LTD. est un important producteur national de marchandises qui sont des marchandises similaires aux marchandises qui font l'objet de l'enquête du Tribunal;

ET ATTENDU QU'UPONOR LTD. n'a pas fourni certains renseignements exigés par le Tribunal dans son questionnaire;

ET ATTENDU QUE le Tribunal est d'avis que de tels renseignements sont pertinents en l'espèce et importants pour la conduite de son enquête;

ET ATTENDU QUE, aux termes du paragraphe 17(2) de la *Loi sur le Tribunal canadien du commerce extérieur*, le Tribunal a, pour la production et l'examen des pièces, l'exécution de ses ordonnances, ainsi que pour toutes autres questions liées à l'exercice de sa compétence, les attributions d'une cour supérieure d'archives;

À l'initiative du Tribunal;

ET ÉTANT CONVAINCU QU'UPONOR LTD. possède ou est susceptible de posséder ou de contrôler des renseignements qui sont pertinents à la conduite de l'enquête du Tribunal;

LE TRIBUNAL ORDONNE CE QUI SUIT :

1. Un représentant dûment autorisé d'UPONOR LTD. fera et remettra au Tribunal une déclaration de renseignements, écrite sous la foi du serment ou de l'affirmation solennelle, afin de satisfaire à la demande de renseignements énoncée dans l'annexe ci-jointe.
2. À moins qu'UPONOR LTD. se présente devant le Tribunal **avant le 14 juillet 2006** et convainc le Tribunal que la présente ordonnance n'aurait pas dû être rendue ou que les renseignements exigés ne peuvent pas être fournis de façon raisonnable, les renseignements exigés dans l'annexe ci-jointe doivent parvenir au bureau du secrétaire du Tribunal **au plus tard le 21 juillet 2006**, à l'adresse suivante :

Le secrétaire
Tribunal canadien du commerce extérieur
Standard Life Centre
333, avenue Laurier Ouest
15^e étage
Ottawa (Ontario)
K1A 0G7

3. Les renseignements fournis par UPONOR LTD. afin de satisfaire à la demande de renseignements énoncée dans l'annexe ci-jointe peuvent être désignés confidentiels par UPONOR LTD. conformément aux articles 43 à 49 de la *Loi sur le Tribunal canadien du commerce extérieur*.

Ellen Fry

Ellen Fry

Membre président

James A. Ogilvy

James A. Ogilvy

Membre

Serge Fréchette

Serge Fréchette

Membre

Hélène Nadeau

Hélène Nadeau

Secrétaire

ANNEXE

Définitions et instructions

Les définitions et les instructions suivantes s'appliquent en vue de fournir les renseignements demandés :

- Les « tuyaux PER » sont des tuyaux en polyéthylène réticulé à couche simple ou multiple d'une taille nominale allant jusqu'à 1 pouce inclusivement ou son équivalent métrique, à l'exception des tuyaux en polyéthylène réticulé qui comportent une couche barrière contre l'oxygène.
- Les « PER-a » sont des tuyaux PER fabriqués en utilisant le procédé Engel ou la méthode au peroxyde.
- Les « PER-b » sont des tuyaux PER fabriqués en utilisant la méthode au silane.
- Les expressions « valeur d'achat nette rendue » et « valeur de vente nette rendue » sont définies sous la rubrique « Autres définitions » (*Other Definitions*) dans le questionnaire à l'intention des producteurs (*Producers' Questionnaire*) du Tribunal relativement aux tuyaux PER (copie jointe).
- La « marge brute » et le « bénéfice d'exploitation » doivent être calculés de la façon indiquée à l'annexe VI du questionnaire à l'intention des producteurs (*Producers' Questionnaire*) du Tribunal relativement aux tuyaux PER (copie jointe).
- Tous les renseignements concernant le volume doivent être exprimés en pieds linéaires. Tous les renseignements concernant la valeur doivent être exprimés en dollars canadiens.

Renseignements demandés

1. Le volume des tuyaux PER-a et celui des tuyaux PER-b produits au Canada pour les ventes nationales et à l'exportation par UPONOR LTD., ses sociétés affiliées et ses prédécesseurs relativement à chacune des périodes suivantes : 2003, 2004, 2005, T1 2005 et T1 2006.
2. Le volume et la valeur totale d'achat nette rendue des tuyaux PER-a et ceux des tuyaux PER-b importés des États-Unis vers le Canada par UPONOR LTD., ses sociétés affiliées et ses prédécesseurs relativement à chacune des périodes suivantes : 2003, 2004, 2005, T1 2005 et T1 2006.
3. Le volume et la valeur totale de vente nette rendue des tuyaux PER-a et ceux des tuyaux PER-b produits et vendus au Canada par UPONOR LTD., ses sociétés affiliées et ses prédécesseurs relativement à chacune des périodes suivantes : 2003, 2004, 2005, T1 2005 et T1 2006.
4. Le volume et la valeur totale de vente nette rendue des tuyaux PER-a et ceux des tuyaux PER-b produits au Canada et exportés du Canada par UPONOR LTD., ses sociétés affiliées et ses prédécesseurs relativement à chacune des périodes suivantes : 2003, 2004, 2005, T1 2005 et T1 2006.
5. La marge brute et le bénéfice d'exploitation associés aux tuyaux PER-a et ceux associés aux tuyaux PER-b vendus par UPONOR LTD., ses sociétés affiliées et ses prédécesseurs à partir de la production nationale destinée à la consommation au Canada relativement à chacune des périodes suivantes : 2003, 2004, 2005, T1 2005 et T1 2006.

CANADIAN INTERNATIONAL TRADE TRIBUNAL

PRODUCERS' QUESTIONNAIRE

PEX TUBING

INQUIRY NO.: NQ-2006-001

The information requested in this questionnaire is for use by the Canadian International Trade Tribunal in connection with its inquiry respecting **single or multilayer cross-linked polyethylene tubing in nominal tubing sizes up to and including 1 inch or the metric equivalent, excluding cross-linked polyethylene tubing with an oxygen barrier layer, originating in or exported from the United State of America**. The information is needed to supplement data available from other sources and is requested pursuant to subsection 17(2) of the *Canadian International Trade Tribunal Act*.

As a producer of the products in question, you are required to complete this questionnaire and return it to the Secretary, Canadian International Trade Tribunal, Standard Life Centre, 333 Laurier Avenue West, 15th Floor, Ottawa, Ontario K1A 0G7, fax No. (613) 990-2439, E-mail secretary@citt-tcce.gc.ca. Please ensure that the completed questionnaire is returned to the Secretary **no later than June 23, 2006**.

In conducting this inquiry, the Tribunal is required to gather the best possible evidence. In order to obtain such evidence, the Tribunal can, where necessary, subpoena witnesses and require the production of documents. It is in your interest to ensure that your response to this questionnaire is accurate, complete and returned to the Tribunal on time.

Information that is confidential in nature will be treated in accordance with sections 43 to 49 of the *Canadian International Trade Tribunal Act*, which require that it shall not be made public in such a manner as to be available for the use of any business competitor or rival of the reporting person, firm or corporation.

GENERAL INSTRUCTIONS

1. This questionnaire is divided into two parts.

PART I — deals with information that is public in nature. Any request to treat this information as confidential must be fully justified in writing.

PART II — deals with information that is confidential in nature and that will not be made public in such a manner as to be available for the use of any business competitor or rival of the reporting person, firm or corporation.

LIST OF TOPICS IN PART II

Production	Capacity
Imports	Prices
Sales	Injury Allegations
Inventories	Negative Effects
Financial	Forecasts
Transfers	Schedules
Employment	

2. If the answer to any question is “none,” “not applicable” or “not available,” please indicate which of these situations applies rather than leave the space blank.
3. Please return a hard copy OR an electronic version (NOT BOTH) on diskette or CD of the completed questionnaire to the Tribunal.

4. All information is requested on a calendar year basis. Where adjustments are required to comply with our request, please identify the adjustments and give a full explanation of how they were made.
5. **Reconciliation** - Please ensure that quantities for production, imports, sales and inventories reconcile as follows:
 - inventory at the beginning of the period,
 - plus production,
 - plus imports (and domestic purchases),
 - less domestic and export sales,
 - should equal inventory at the end of the period.
6. If the information requested is not readily available from your records in exactly the form requested, please furnish prepared estimates, with a full explanation of the methodology used to prepare these estimates.
7. Necessary comments or explanations with respect to any question should be made in the space provided or on separate sheets, and attached to the questionnaire.
8. Any questions relating to this questionnaire should be directed to Josée St-Amand at (613) 990-2422, Rhonda Heintzman at (613) 998-7173 or Geneviève Chaloux at (613) 998-3868.

PRODUCT DEFINITION

The goods subject to this inquiry are defined as:

single or multilayer cross-linked polyethylene tubing in nominal tubing sizes up to and including 1 inch or the metric equivalent, excluding cross-linked polyethylene tubing with an oxygen barrier layer (hereinafter referred to as “PEX tubing”), originating in or exported from the United State of America.

NOTE: You should report your imports of these products from all countries named in this inquiry **and** any other countries from which you imported these products during the period of inquiry.

PRODUCT CATEGORY DEFINITIONS

1/2 inches diameter	single or multilayer cross-linked polyethylene tubing in nominal tubing sizes of 1/2 inch or the metric equivalent, excluding cross-linked polyethylene tubing with an oxygen barrier layer.
3/4 inches diameter	single or multilayer cross-linked polyethylene tubing in nominal tubing sizes of 3/4 inch or the metric equivalent, excluding cross-linked polyethylene tubing with an oxygen barrier layer.
Other	single or multilayer cross-linked polyethylene tubing in nominal tubing sizes other than 1/2 or 3/4 inch or the metric equivalent, excluding cross-linked polyethylene tubing with an oxygen barrier layer (for example 1/4 inch or 3/8 inch)

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OTHER DEFINITIONS

- Associated Firms:** Firms that are related to each other in **any manner**. For example: firms are associated or related if an officer or director of one firm is an officer or director of the other, or if a firm directly or indirectly owns, holds or controls shares of the other firm, or if a firm is the exclusive distributor for another. A customer/supplier relationship, by itself, does not mean firms are “associated”.
- Delivery Costs:** The average delivery costs (freight, handling and insurance), from the point of direct shipment in Canada to your customers, whether included in the selling value or incurred separately by your customers, expressed as a percentage of the net delivered selling value.
- Direct Employment:** Employees whose tasks can be readily traced (by observation) to the production of PEX tubing are properly considered direct labour costs in the company’s income statement for PEX tubing in response to question 23 in the “Financial” section of this questionnaire.
- Indirect Employment:** Includes plant personnel such as supervisors, superintendents and quality control employees, but does not include sales and administrative personnel.
- Period of Inquiry:** This inquiry covers the period from January 1, 2003 to March 31, 2006 (i.e. full years 2003 to 2005 and the first quarter of 2006). In some questions, information is requested on an “Interim” basis. Interim refers to January 1 to March 31 of the years specified. Please note that financial questions in this questionnaire request information for **calendar years** 2003 to 2005 as well as for the first quarters of 2005 and 2006.
- Practical Plant Capacity:** This is the greatest level of output from the machinery and equipment used in the production of PEX tubing that your plant can achieve on a continuous basis within the framework of a realistic work pattern. Consideration should be given to the typical product mix, number of shifts per day, annual operating days, etc., experienced during the past five years.
- Net Delivered Purchase Value:** For **domestic purchases**, the net delivered purchase value is the laid-in cost net of cash, quantity or deferred discounts, allowances, taxes, rebates and incentives, but **including** delivery costs (freight, handling and insurance) to your warehouse.
- Net Delivered Selling Value:**
- a) For **sales from domestic production**, the net delivered selling value is net of cash, quantity or deferred discounts, allowances and taxes whether or not shown on every invoice. These discounts, allowances and taxes include, but are not limited to, discounts and cash discounts, rebates and incentives. However, it **includes** delivery costs (freight, handling and insurance) from the point of direct shipment in Canada paid by your firm and included in the selling price or an estimate of the delivery costs incurred by your customer.

- b) For **sales from imports**, the net delivered selling value is net of cash, quantity or deferred discounts, allowances and taxes whether or not shown on every invoice. These discounts, allowances and taxes include, but are not limited to, discounts and cash discounts, rebates and incentives. However, it *includes* delivery costs (freight, handling and insurance) from the point of direct shipment in Canada paid by your firm and included in the selling value or an estimate of the delivery costs incurred by your customer in Canadian dollars.

Trade Level:

Where this information is requested, it refers to the level at which the customer or the account conducts its business. Examples of different trade levels that might be indicated in your replies would include wholesalers, distributors, retailers, end users, contractors, service centres, institutions, independent owners, franchises.

Units of Volume:

All responses to volume questions in this questionnaire should be expressed in linear feet.

SCHEDULE VI

INCOME STATEMENT FOR PEX TUBING AND ALL PRODUCTS

(\$000)

This information is requested on a calendar-year basis

	2003			2004			2005		
	DC	E	T	DC	E	T	DC	E	T
Volume of Sales (linear feet)	_____	_____	_____	_____	_____	_____	_____	_____	_____
Gross Sales	_____	_____	_____	_____	_____	_____	_____	_____	_____
Discounts, Rebates and Incentives	_____	_____	_____	_____	_____	_____	_____	_____	_____
Net Sales	_____	_____	_____	_____	_____	_____	_____	_____	_____
Cost of Goods Sold:									
Beginning Inventory	_____	_____	_____	_____	_____	_____	_____	_____	_____
Plus: Cost of Goods Manufactured	_____	_____	_____	_____	_____	_____	_____	_____	_____
Less: Ending Inventory	_____	_____	_____	_____	_____	_____	_____	_____	_____
Cost of Goods Sold	_____	_____	_____	_____	_____	_____	_____	_____	_____
Gross Margin	_____	_____	_____	_____	_____	_____	_____	_____	_____
General, Selling and Administrative Expenses	_____	_____	_____	_____	_____	_____	_____	_____	_____
Financial Expenses	_____	_____	_____	_____	_____	_____	_____	_____	_____
Operating income	_____	_____	_____	_____	_____	_____	_____	_____	_____

DC - certain PEX tubing **sold from domestic production for domestic consumption.**

E - certain PEX tubing **sold from domestic production for export.**

T - Total results for all products **sold** by your company, including, but not limited to certain PEX tubing.

Note:

- The above figures (including sales volumes) should be based on calendar years. The results for total operations (T) should correspond to those reported in the company's audited financial statements. Please attach working papers and supporting source documents (or summary reports) used in the preparation of the results for domestic and export sales for 2005. If the methods differed significantly for earlier years, also provide working papers and source documents for those years. Please indicate on the completed schedule that the income statement is prepared using a full absorption costing method and also indicate whether the company regularly uses full absorption costing in reporting its financial results.

SCHEDULE VI (continued)

INCOME STATEMENT FOR PEX TUBING AND ALL PRODUCTS

(\$000)

This information is requested on a calendar-year basis

	Jan. 1 to March 31 2005			Jan. 1 to March 31 2006		
	DC	E	T	DC	E	T
Volume of Sales (linear feet)						
Gross Sales						
Discounts, Rebates and Incentives						
Net Sales						
Cost of Goods Sold:						
Beginning Inventory						
Plus: Cost of Goods Manufactured						
Less: Ending Inventory						
Cost of Goods Sold						
Gross Margin						
General, Selling and Administrative Expenses						
Financial Expenses						
Operating income						

DC - certain PEX tubing **sold from domestic production for domestic consumption.**

E - certain PEX tubing **sold from domestic production for export.**

T - Total results for all products **sold** by your company, including, but not limited to certain PEX tubing.