



Canadian International
Trade Tribunal

Tribunal canadien du
commerce extérieur

CANADIAN
INTERNATIONAL
TRADE TRIBUNAL

Appeals

ORDER AND REASONS

Appeal No. EA-2019-004

Prairie Tubulars (2015) Inc.

v.

President of the Canada Border
Services Agency

*Order and reasons issued
Thursday, August 6, 2020*

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IN THE MATTER OF an appeal filed by Prairie Tubulars (2015) Inc. on October 17, 2019;

AND IN THE MATTER OF a request for decision or order filed by Prairie Tubulars (2015) Inc. on May 7, 2020.

BETWEEN

PRAIRIE TUBULARS (2015) INC.

Appellant

AND

**THE PRESIDENT OF THE CANADA BORDER SERVICES
AGENCY**

Respondent

ORDER

The appellant's requests for a stay of proceedings, an exemption from providing evidence, a reversal of the onus of proof, and a ruling on the admissibility of evidence are each denied. The appellant must file a brief conforming to rule 34 of the *Canadian International Trade Tribunal Rules* within 60 days of this Order.

Serge Fréchette

Serge Fréchette
Presiding Member

STATEMENT OF REASONS

SUMMARY

[1] This appeal concerns decisions by the President of the Canada Border Services Agency (CBSA) made pursuant to paragraph 59(1)(b) of the *Special Import Measures Act*,¹ a provision which allows the CBSA to re-determine, at any time, the normal values and amounts of subsidy on imported goods, and hence the anti-dumping and countervailing duties owing, if the importer or exporter has made any misrepresentation or committed a fraud in accounting for the goods under the *Customs Act*² or in obtaining their release.

[2] This appeal has proceeded concurrently to a related appeal, filed by 2045662 Alberta Inc. (Alberta Inc.)³. Prairie Tubulars (2015) Inc. (Prairie Tubulars) and Alberta Inc. (collectively the “appellants”) have brought a joint request for interlocutory relief in both appeals. .

[3] The appellants have requested a stay of proceedings, an exemption from providing evidence, a reversal of the onus of proof, and a ruling on the admissibility of evidence. For the reasons below, at this stage in the proceedings, the Canadian International Trade Tribunal rejects each of these four requests.

BACKGROUND

[4] Prairie Tubulars imported goods that were subject to the Tribunal’s findings in Inquiry Nos. NQ-2007-001 and NQ-2009-004.⁴ The CBSA re-determined the normal values and amounts of subsidy applicable to these goods on September 17, 18 and 23, 2019, pursuant to paragraph 59(1)(b) of *SIMA*.

[5] On October 17, 2019, Prairie Tubulars filed the present appeal with the Tribunal pursuant to subsection 61(1) of *SIMA*.

[6] On December 9, 2019, Algoma Tubes Inc. and Prudential Steel ULC (collectively “Tenaris Canada”) requested intervenor status in both this appeal and the related appeal filed by Alberta Inc.⁵ The Tribunal considered submissions from both appellants, who opposed the intervenor request, and from the CBSA, who did not object to the intervenor request. The Tribunal granted intervenor status to Tenaris Canada on December 24, 2019.

[7] On November 22, 2019, the appellants made a joint request pursuant to subrule 23.1(1) of the *Canadian International Trade Tribunal Rules*⁶ for an order directing the CBSA to disclose all information in its possession that relates to its re-determinations in both appeals. The Tribunal

¹ R.S.C., 1985, c. S-15 [*SIMA*].

² R.S.C., 1985, c. 1 (2nd Supp.)

³ See Tribunal File No. EA-2019-003.

⁴ The imported goods were subject to the Tribunal’s findings concerning the dumping and subsidizing of certain seamless carbon or alloy steel oil and gas well casing, and of certain oil country tubular goods, originating in or exported from the People’s Republic of China. See *Seamless Carbon or Alloy Steel Oil and Gas Well Casing* (10 March 2008), NQ-2007-001 (CITT); *Oil Country Tubular Goods* (23 March 2010), NQ-2009-004 (CITT).

⁵ See Tribunal File No. EA-2019-003.

⁶ SOR/91-499 [*Rules*].

considered the requests jointly, and on December 27, 2019, the Tribunal rejected the requests of both appellants.⁷

[8] The appellants filed an application for judicial review in the Federal Court of Appeal, challenging the Tribunal's decision to deny their disclosure request. The Court struck the appellants' application on March 26, 2020, ruling that the application related to an interlocutory decision and was therefore premature.⁸

[9] On May 7, 2020, the appellants jointly filed another request under subrule 23.1(1) of the *Rules*, which is the request at issue in the present reasons. The CBSA and Tenaris Canada filed submissions opposing the appellants' request on May 25, 2020, and the appellants replied on June 2, 2020. As the Tribunal considered the requests jointly, the positions of parties and analysis at paragraphs 10 to 18 of the statement of reasons in Appeal No. EA-2019-003 are incorporated by reference into this statement of reasons.⁹

DECISION

[10] The appellant's requests for a stay of proceedings, an exemption from providing evidence, a reversal of the onus of proof, and a ruling on the admissibility of evidence are each denied. The appellant must file a brief conforming to rule 34 of the *Canadian International Trade Tribunal Rules* within 60 days of this Order.

Serge Fréchette
Serge Fréchette
Presiding Member

⁷ 2045662 *Alberta Inc. v. President of the Canada Border Services Agency* (27 December 2019), EA-2019-003 (CITT); *Prairie Tubulars (2015) Inc. v. President of the Canada Border Services Agency* (27 December 2019), EA-2019-004 (CITT).

⁸ 2045662 *Alberta Inc. and Prairie Tubulars 2015 Inc. v. President of the Canada Border Services Agency* (26 March 2020), FCA A-487-19.

⁹ 2045662 *Alberta Inc. v. President of the Canada Border Services Agency* (6 August 2020), EA-2019-003 (CITT).