



OTTAWA, November 9, 2012

4366-49 (AD)

4366-50 (CV)

STATEMENT OF REASONS

Concerning a determination under paragraph 76.03(7)(a) of the
Special Import Measures Act regarding

CERTAIN SEAMLESS CASING ORIGINATING IN OR EXPORTED FROM THE PEOPLE'S REPUBLIC OF CHINA

DECISION

On October 25, 2012, pursuant to paragraph 76.03(7)(a) of the *Special Import Measures Act*, the President of the Canada Border Services Agency determined that the expiry of the finding made by the Canadian International Trade Tribunal on March 10, 2008, in Inquiry No. NQ-2007-001, concerning the dumping and subsidizing of certain seamless casing originating in or exported from the People's Republic of China was likely to result in the continuation or resumption of dumping and subsidizing of these goods into Canada.

Cet énoncé des motifs est également disponible en français.
This Statement of Reasons is also available in French.

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SUMMARY

[1] On June 27, 2012, the Canadian International Trade Tribunal (Tribunal), pursuant to subsection 76.03(3) of the *Special Import Measures Act* (SIMA), initiated an expiry review of its finding made on March 10, 2008, in Inquiry No. NQ-2007-001, concerning the dumping and subsidizing of certain seamless casing originating in or exported from the People's Republic of China (China).

[2] As a result of the Tribunal's notice, on June 28, 2012, the Canada Border Services Agency (CBSA) commenced an investigation to determine whether the expiry of the finding is likely to result in the continuation or resumption of dumping and/or subsidizing.

[3] Tenaris Canada provided a response to the Expiry Review Questionnaire (ERQ) on behalf of the Canadian producer of seamless casing, namely TenarisAlgomaTubes Inc. and its affiliate, TenarisPrudential Steel Inc. (Prudential), an electric resistance welded (ERW) producer. The other Canadian producers of ERW oil and gas well casing, namely, Energex Tube (formerly Lakeside Steel Corporation), Evraz Inc. NA Canada (Evraz),¹ and Welded Tube of Canada (Welded Tube) also provided ERQ responses.²

[4] Welded Tube, Energex Tube, Evraz and Tenaris Canada are collectively referred to in this Statement of Reasons as 'the Canadian producers.' The Canadian producers also submitted case briefs.³ In addition to its case brief, Tenaris Canada also provided a reply submission.⁴

[5] The Canadian producers also provided information in support of their position that continued or resumed dumping and subsidizing of seamless casing from China is likely if the Tribunal's finding is rescinded.

[6] The CBSA also received responses to the ERQ from three Chinese exporters and ten Canadian importers. One importer also provided a case brief and reply submission. Each of the responding exporters is located in China.

[7] The CBSA did not receive a response to the ERQ from the Government of China (GOC) nor did the GOC provide a case brief or reply submission.

¹ Evraz Inc. NA Canada (Evraz) is inclusive of the facility 'Evraz Camrose' (Canadian National Steel Corporation) acquired by the Evraz group from Oregon Steel Mills (OSM).

² Exhibit 1 (NC) – Tribunal Statement of Reasons for *Seamless Carbon or Alloy Steel Oil and Gas Well Casing*, NQ-2007-001, paragraph 24; March 25, 2008; Exhibits 24, 26, 28 and 35 (PRO) – Canadian Producer ERQ responses.

³ Exhibits 57, 58 and 60 (NC) – Canadian Producer case briefs.

⁴ Exhibit 61 (NC) – Tenaris Canada reply submission.

[8] Analysis of information on the record shows that exporters in China: have sustained interest in the Canadian market as evidenced by the high and increasing volumes of subject goods exported during the POR; have significant excess capacity for seamless casing; produce high volumes of seamless casing; are significantly dependent on exports to maintain capacity utilization rates due to the inadequate domestic demand in China; have a history of dumping steel pipe products including seamless casing; are subject to numerous current anti-dumping measures concerning Chinese steel pipe products in Canada and in other jurisdictions; and are likely to divert seamless casing exports to Canada if the dumping finding is rescinded.

[9] Analysis of information on the record also indicates that exporters in China: have continued availability of subsidy programs; exported high volumes of subsidized goods during the POR; benefit from the GOC provision of subsidies to its manufacturers in the steel sector; and are subject to countervailing measures against Chinese steel pipe products, including OCTG in both Canada and the United States.

[10] For the foregoing reasons, the President of the CBSA (the President), having considered the relevant information on the record, determined on October 25, 2012, under paragraph 76.03(7)(a) of SIMA that the expiry of the finding made by the Tribunal in respect of seamless casing originating in or exported from China is likely to result in:

- i. the continuation or resumption of dumping of the goods into Canada, and
- ii. the continuation or resumption of subsidizing of the goods into Canada.

BACKGROUND

[11] On August 13, 2007, following a complaint filed by Canadian industry, the President initiated investigations pursuant to subsection 31(1) of SIMA into the alleged dumping and subsidizing of certain seamless casing originating in or exported from China.

[12] The complaint was made by TenarisAlgoMaTubes Inc. (TAT) of Calgary, Alberta. TAT was the only known producer of seamless casing in Canada.

[13] On February 7, 2008, the President made final determinations of dumping and subsidizing in accordance with paragraph 41(1)(a) of SIMA in respect of seamless casing, originating in or exported from China.

[14] On March 10, 2008, the Tribunal found that the dumping and subsidizing of the goods originating in or exported from China, were threatening to cause injury to the Canadian industry for seamless casing.⁵

⁵ Exhibit 1 (NC) – Tribunal Statement of Reasons for *Seamless Carbon or Alloy Steel Oil and Gas Well Casing*, NQ-2007-001, paragraph 161; March 25, 2008.

[15] On May 8, 2012, pursuant to subsection 76.03(2) of SIMA, the Tribunal issued a notice concerning the upcoming expiry of its finding. The finding was scheduled to expire on March 9, 2013. Based on the available information and the information submitted by the interested parties, on June 27, 2012, the Tribunal was of the opinion that an expiry review of the finding was warranted.

PRODUCT DESCRIPTION

Definition

[16] The goods subject to the finding are defined as:

“seamless carbon or alloy steel oil and gas well casing, whether plain end, beveled, threaded or threaded and coupled, heat-treated or non-heat-treated, meeting American Petroleum Institute (API) specification 5CT, with an outside diameter not exceeding 11.75 inches (298.5 mm), in all grades, including proprietary grades, originating in or exported from the People’s Republic of China.”

Product Information

[17] Seamless casing falls within a category of products commonly referred to as oil country tubular goods (“OCTG”), which include drill pipe, casing and tubing. These OCTG are used in the drilling of oil and gas wells and to convey these products to the surface. Casing is used to prevent the walls of the bored hole from collapsing, both during drilling and after the well has been completed.

[18] Casing must be able to withstand outside pressure and internal yield pressures within the well. Also, it must have sufficient joint strength to hold its own weight and must be equipped with threads sufficiently tight to contain the well pressure where lengths are joined. The manufacturer or a local threading operation may perform threading. Various factors limit the total amount of open hole that can be drilled at any one time, and it may be necessary to set more than one string of casing concentrically for certain portions of the well depth.

CLASSIFICATION OF IMPORTS

[19] Imports into Canada of the subject goods described above are normally, but not exclusively, classified under the following Harmonized System classification numbers: ⁶

7304.29.00.11
7304.29.00.19
7304.29.00.21
7304.29.00.29

⁶ In rare instances where seamless steel casing is produced below an outside diameter of 114.3 mm (4.5 inches), the applicable HS codes may be: 7304.29.00.41, 7304.29.00.49, 7304.29.00.51, 7304.29.00.59, 7304.29.00.61, 7304.29.00.69, 7304.29.00.71, and 7304.29.00.79.

PERIOD OF REVIEW

[20] The period of review (POR) for the CBSA's expiry review investigation is from January 1, 2009 to March 31, 2012.

CANADIAN INDUSTRY

[21] During the original investigations, the CBSA considered the Canadian industry for seamless casing to be comprised of only TenarisAlgomaTubes Inc. The Tribunal did find, however, that electric resistance welded (ERW) oil and gas well casing constituted like goods to seamless casing and producers of ERW casing were part of the domestic industry.⁷ As a result, Canadian producers of ERW casing were considered part of the Canadian industry for like goods in this expiry review investigation.

[22] Consequently, the Canadian Industry is comprised of the following:

- TenarisAlgomaTubes Inc.
- TenarisPrudential Steel Inc.
- Energex Tube
- Evraz Inc. NA Canada
- Welded Tube of Canada

TenarisAlgomaTubes Inc.

[23] Algoma Tubes Inc., located in Sault Ste. Marie, Ontario was incorporated in September of 2000 for the purpose of operating the seamless tube plant owned by Algoma Steel Inc. (ASI). An agreement was signed in September 2000 for TenarisAlgomaTubes (TAT) to operate the plant which had been mothballed by ASI. The first production by TAT was in November 2000. TAT acquired the plant from ASI in 2002.

[24] TAT produces or is able to produce seamless casing, tubing and coupling stock as well as line pipe and mechanical pipe for the automotive industry. The goods produced by TAT are sold in Canada by Tenaris Global Services (Canada) Inc. (TGS), a related company. TAT and TGS are both owned by companies that are ultimately owned by Tenaris SA of Luxembourg.

[25] TAT imports some green tubes from sister companies that are used to produce OCTG in Canada. They are used mainly to balance the processes inside the plant and to act as a buffer in case of any unplanned maintenance disruption in the rolling mill.⁸

⁷ Exhibit 1 (NC) – Tribunal Finding and Reasons for *Seamless Carbon or Alloy Steel Oil and Gas Well Casing*, Inquiry No. NQ-2007-001; March 25, 2008.

⁸ Exhibit 36 (NC) – Tenaris Canada ERQ Response, Question A5.

TenarisPrudential Steel Inc.

[26] Prudential Steel ULC (PS), located in Calgary, Alberta, was founded in 1966 and produced ERW steel pipe mainly for Canada's energy industry. The PS facilities have been producing OCTG for over 20 years and produce a range of sizes that cover both tubing and casing.

[27] In September 2000, PS was acquired by Maverick Tube. In 2006, Tenaris acquired Maverick Tube Limited Partnership which owned tube making facilities in Canada, Columbia and the United States.

[28] The Canadian facility was the aforementioned Prudential Steel (now TenarisPrudential Steel Inc.) which became part of the operations of Tenaris in Canada.

[29] The goods produced by TenarisPrudential Steel Inc. are sold in Canada by Tenaris Global Services (Canada) Inc. (TGS). TenarisPrudential Steel Inc. and TGS are both owned by companies that are ultimately owned by Tenaris SA of Luxembourg.⁹

Energex Tube

[30] Energex Tube began in 1909 under the name of Page-Hersey Iron Tube & Lead Company (Page-Hersey) in Welland, Ontario. Over the years, the company expanded, adding new mills and replacing older ones as technology evolved. In 1965 Page-Hersey was acquired by Stelco Inc., at the time Canada's largest integrated steel company.

[31] In 1985, the Welland, Ontario facility became Stelpipe Ltd., and underwent significant modernization, increasing its participation in various pipe and tube markets including oil and gas, mining, commercial & industrial pipe, and automotive.

[32] Stelco entered Companies' Creditors Arrangement Act (CCAA) protection in 2005 and on November 1, 2005, Lakeside Steel Corporation purchased the Welland, Ontario facilities from Stelco. Lakeside was subsequently purchased by JMC Steel Group and rebranded as Energex Tube, a division of JMC Steel, in March of 2012.

[33] Energex Tube (Energex) is a North American manufacturer of API OCTG and line pipe, which it has provided to the oil and gas industry for at least the last 20 years.¹⁰

Evraz Inc. NA Canada

[34] IPSCO Inc. (IPSCO) was incorporated in 1956 under the name of Prairie Pipe Manufacturing Co. Ltd. It commenced operations in 1957 with the completion of construction of an ERW pipe mill in Regina, Saskatchewan.

⁹ Exhibit 36 (NC) – Tenaris Canada ERQ Response, Question A2.

¹⁰ Exhibit 27 (NC) – Energex ERQ Response, Question A2.

[35] In 1959, the company acquired the assets of Interprovincial Steel Corp. Ltd. and in 1960 it commenced production of its own flat-rolled steel. Since that time, the company has expanded its manufacturing capabilities through acquisition and plant construction. This included the construction and acquisition of facilities elsewhere in Canada and in the United States.

[36] On July 17, 2007, SSAB, a wholly owned subsidiary of SSAB Svenkst Stahl of Sweden, acquired all of the outstanding shares of IPSCO Inc. and all of its subsidiaries. SSAB and IPSCO Inc. were later re-organized so that IPSCO Inc. owned only the Canadian operations, excluding the coil processing facility in Scarborough, Ontario.

[37] As of June 12, 2008, Evraz Group S.A., a vertically-integrated steel, mining and vanadium business based in Luxembourg, acquired from SSAB all of the shares of IPSCO Inc. and all of its subsidiaries. IPSCO's Canadian steel mill and tubular operations in Alberta and Saskatchewan, the processing facility in Surrey, B.C. and the scrap company, were sold to Evraz, while SSAB retained possession of a number of the United States' facilities and the processing facility in Scarborough, Ontario.

[38] On October 15, 2008, the name of IPSCO Inc. was changed to Evraz Inc. NA Canada, and the name of its wholly owned subsidiary IPSCO Canada Inc. (which owned its Alberta and British Columbia facilities) was changed to Evraz Inc. NA Canada West. On January 1, 2009, Evraz Inc. NA Canada West was amalgamated into Evraz Inc. NA Canada.¹¹

[39] The Evraz Group also owns Evraz Camrose (Canadian National Steel Corporation) that operates an ERW OCTG manufacturing facility in Camrose, Alberta. This facility was previously owned by Oregon Steel Mills (OSM), which had purchased the facility from Stelco.

Welded Tube of Canada

[40] Welded Tube of Canada (Welded Tube) has been in business since 1970. The company has evolved over the years from a producer of mechanical tubing by adding hollow structural steel (HSS), structural rounds and limited service oil well casing to its product mix.

[41] In 2005, Welded Tube obtained an API license and began production of API H40 and J55 as well as proprietary grades of oil well casing. This production was and is made on one pipe producing mill in Concord, Ontario.

[42] In 2007, the company acquired Tubular Services Inc., an oil well casing facility in Port Colborne, Ontario with a threading capacity equal to about 70% of the mill production capability.

¹¹ Exhibit 29 (NC) – Evraz ERQ Response, Question A2.

[43] In 2009, Welded Tube invested in the Tubular Services Inc. facility to enhance the threading capacity to approximately equal the pipe producing capacity of the pipe mill in Concord. In addition, at about the same time, the company enhanced finishing capability at the Concord plant by installing a new hydro-testing machine and a new weigh, measure, stencil and pipe coating unit.

[44] In 2011, Welded Tube built on a quasi-green field site in Welland, Ontario, a thermal treating facility to make API alloy grades, mainly N80, L80 and P110 standard and high collapse. This plant has capacity to heat-treat approximately 100,000 metric tonnes per year.¹²

Class of Goods

[45] On the issue of single class of goods, the Tribunal stated the following:

“On December 18, 2007, the Tribunal informed the parties that it had determined that high-strength and low-strength oil and gas well casing constituted a single class of goods.”¹³

[46] The Tribunal further explained its determination as follows:

“The Tribunal agrees with the argument that different grades of casing fall along a continuum of like goods. It is therefore of the view that, rather than being categorized as either high-strength oil and gas well casing or low-strength oil and gas well casing on the basis of a distinct dividing line, oil and gas well casing of different strengths falls at various points along a continuum within a single class of goods. The Tribunal also notes that oil and gas well casing of all strengths generally has similar input materials, general end uses, distribution channels and appearance. In addition, higher-strength grades are always substitutable for lower-strength grades. For the foregoing reasons, the Tribunal concluded that there was a single class of goods.”¹⁴

CANADIAN MARKET

[47] Detailed information regarding the overall Canadian apparent market cannot be divulged for confidentiality reasons. The Canadian market for seamless casing grew substantially during the POR, with 2011 representing more than double the 2009 market on a volume basis.¹⁵

¹² Exhibit 25 (NC) – Welded Tube ERQ Response, Question A2.

¹³ Exhibit 1 (NC) – Tribunal Finding and Reasons for *Seamless Carbon or Alloy Steel Oil and Gas Well Casing*, Inquiry No. NQ-2007-001, paragraph 8; March 25, 2008.

¹⁴ Exhibit 1 (NC) – Tribunal Finding and Reasons for *Seamless Carbon or Alloy Steel Oil and Gas Well Casing*, Inquiry No. NQ-2007-001, paragraph 50; March 25, 2008.

¹⁵ Exhibit 53 (PRO) – Apparent Canadian Market for Seamless casing.

[48] The Canadian producer of seamless casing, TAT, saw its percentage share of the apparent Canadian market for seamless casing increase year-to-year in both value and volume from 2009 through 2011 and for the first quarter of 2012. For China, its share changed little during the POR, consistently representing between 23-27% of the Canadian market value and around 20-21% of the Canadian market on a volume basis. During the first quarter of 2012, China's volume share of the Canadian market dipped to 16% while the share on a value basis fell to less than 13%.¹⁶

ENFORCEMENT

[49] The amount of anti-dumping and countervailing duty collected on subject imports during the POR was just over CAN\$14.4 million.¹⁷ In comparison, the value for duty on all subject imports over this period was over CAN\$348 million.

[50] Subject goods continued to be exported to Canada into the first quarter of 2012.¹⁸

PARTIES TO THE PROCEEDINGS

[51] On June 27, 2012, the Tribunal's notice of the expiry review and the Expiry Review Questionnaires (ERQs) were sent to the known Canadian producers, exporters, importers, the GOC and other interested parties.

[52] The ERQ requested information relevant to the consideration of the expiry review factors by the President, as listed in subsection 37.2(1) of the *Special Import Measures Regulations* (SIMR). Any persons or governments having an interest in this investigation were also invited to provide a submission regarding the likelihood of continued or resumed dumping and subsidizing of these goods should the finding be rescinded.

[53] As mentioned above, there is presently one producer of seamless casing in Canada, TenarisAlgomaTubes (TAT). In addition to participating in the expiry review investigation by answering the ERQ, counsel for TAT provided a case brief and reply submission stating that the dumping and subsidizing of the subject goods would continue should the Tribunal's finding be rescinded. Three other producers of like goods in Canada, namely: Evraz, Energex Tube and Welded Tube, also provided ERQ responses and case briefs.¹⁹

¹⁶ Exhibit 53 (PRO) – Apparent Canadian Market for Seamless casing.

¹⁷ Exhibit 7 (PRO) – Import and Enforcement Statistics for Period of Review.

¹⁸ Exhibit 7 (PRO) – Import and Enforcement statistics for Period of Review.

¹⁹ Counsel for Energex Tube and Welded Tube provided one case brief on behalf of both producers. TenarisPrudential's participation was captured under all responses by Tenaris Canada, who responded on behalf of TenarisPrudential and TenarisAlgomaTubes (TAT) in each of their submissions.

[54] Three exporters, of the 23 total to whom ERQs were sent, participated in the expiry review investigation and provided responses. The participating exporters were: Jiangsu Changbao,²⁰ Dalipal Pipe Company²¹ and Tianjin Seamless Steel Pipe Plant.²² No exporter provided case briefs or reply submissions.

[55] Ten importers, of the 30 total to whom ERQs were sent, participated in the expiry review investigation and provided partial responses. The responding importers were: Imex Canada Inc.,²³ Vallourec Tubes Canada Inc.,²⁴ EnCana Corporation,²⁵ Nexen Inc.,²⁶ Cantak Corporation,²⁷ Hallmark Tubular,²⁸ National Oilwell Varco (NOV) Wilson (formerly CE Franklin),²⁹ IMCO International Inc.,³⁰ CMUS Steel Inc.³¹ and Alberta Tubular Products Ltd.³²

[56] One importer, Mertex Canada Inc. (Mertex), did not provide an ERQ response but did provide a case brief.³³ Mertex also provided a reply submission.³⁴

INFORMATION CONSIDERED BY THE PRESIDENT

Administrative Record

[57] The information considered by the President for purposes of this expiry review investigation is contained in the administrative record. The administrative record includes the information on the CBSA's Exhibit Listing, which is comprised of the Tribunal's administrative record at initiation of the expiry review, CBSA exhibits and information submitted by interested persons, including information which they feel is relevant to the decision as to whether dumping and subsidizing are likely to continue or resume absent the finding. This information may consist of expert analysts' reports, excerpts from trade magazines and newspapers, orders and findings issued by authorities of Canada or of a country other than Canada, documents from international trade organizations such as the World Trade Organization and responses to the ERQs submitted by Canadian producers, exporters and importers.

²⁰ Exhibits 21 (PRO) and 22 (NC) – Jiangsu Changbao ERQ response.

Note: Jiangsu Changbao provided one submission covering both the producing facility, Precision Steel Tube Co., Ltd, and the company which handles the sales, Steel Tube Co., Ltd.

²¹ Exhibits 30 (PRO) and 31 (NC) – Dalipal Pipe Company ERQ response.

²² Exhibits 44 (PRO) and 45 (NC) – Tianjin Seamless Steel Pipe Plant ERQ response.

²³ Exhibits 16 (PRO) and 17 (NC) – Imex Canada Inc. ERQ response.

²⁴ Exhibit 23 (NC) – Vallourec Tubes Canada Inc. ERQ response.

²⁵ Exhibits 33 (PRO) and 34 (NC) – EnCana Corporation ERQ response.

²⁶ Exhibits 37 (PRO) and 38 (NC) – Nexen Inc. ERQ response.

²⁷ Exhibits 39 (PRO) and 40 (NC) – Cantak Corporation (revised) ERQ response.

²⁸ Exhibits 41 (PRO) and 42 (NC) – Hallmark Tubular ERQ response.

²⁹ Exhibit 43 (PRO) – NOV Wilson ERQ response.

³⁰ Exhibits 46 (PRO) and 47 (NC) – IMCO International Inc. ERQ response.

³¹ Exhibits 50 (PRO) and 51 (NC) – CMUS Steel Inc. ERQ response.

³² Exhibit 52 (PRO) – Alberta Tubular Products Ltd. ERQ response.

³³ Exhibit 59 (NC) – Mertex case brief, paragraph 1.

³⁴ Exhibit 62 (NC) – Mertex reply submission.

[58] For purposes of an expiry review investigation, the CBSA sets a date after which no new information submitted by interested parties will be placed on the administrative record or considered as part of the CBSA's investigation. This is referred to as the "closing of the record date." This allows participants time to prepare their case briefs and reply submissions based on the information that is on the administrative record. For this investigation, the administrative record closed on August 16, 2012.

Procedural Issues

[59] The President will normally not consider any new information submitted by participants subsequent to the closing of the record date. However, in certain exceptional circumstances, it may be necessary to permit new information to be submitted. The President will consider the following factors in deciding whether to accept new information submitted after the closing of the record date:

- (a) the availability of the information prior to the closing of the record date;
- (b) the emergence of new or unforeseen issues;
- (c) the relevance and materiality of the information;
- (d) the opportunity for other participants to respond to the new information; and
- (e) whether the new information can reasonably be taken into consideration by the President in making the determination.

[60] Participants wishing to file new information after the closing of the record date, either separately or in case briefs or reply submissions, must identify this information so that the President can decide whether it will be included in the record for purposes of the determination.

[61] With respect to this expiry review investigation, no new information was submitted by the participants after the August 16, 2012 closing of the record date.

[62] A procedural issue was raised by counsel for Tenaris Canada in their reply submission as a result of Mertex's case brief. Mertex provided a case brief stating that there was nothing in the record which would support a finding of propensity to dump or subsidize. Counsel for Mertex also added that "should the Canadian industry file any evidence to the contrary, Mertex will respond in detail."³⁵

[63] Counsel for Tenaris Canada objected to the intimation by counsel for Mertex that the latter may use its forthcoming reply submission to effectively make arguments regarding the information on the record, which as a matter of procedure should be part of case briefs, thus allowing other parties to comment. Counsel for Tenaris Canada stated that the allowance of such a submission "would be to effectively deny Tenaris Canada its right of reply in these proceedings."³⁶

³⁵ Exhibit 59 (NC) – Mertex case brief, paragraph 2.

³⁶ Exhibit 61 (NC) – Tenaris Canada reply submission, paragraph 4.

[64] Counsel for the other Canadian producers subsequently provided objections to the filings by counsel for Mertex. Counsel for Energex Tube/Welded Tube alleged that Mertex:

“(d)id not file a proper case brief but held back and said he would wait in the woods to decide whether to reply to submissions filed by the domestic industry. He then filed a detailed reply setting out arguments on behalf of his client... This kind of approach [*sic*] and shouldn't be countenanced by the Agency. It is unfair for parties on one side to arrogate a right of reply without filing anything of substance in the first round. I submit that the Mertex Canada reply should be totally discounted for that reason.”³⁷

[65] Also in objection to the reply submission filed on behalf of Mertex, counsel for Evraz stated that the CBSA must strike from the record one particular allegation. Counsel for Evraz stated:

“Paragraph 2 of the Mertex Reply states or suggests Evraz is not a proper party to the proceeding as it says submissions ‘by a company which does not even produce subject goods’ are not relevant. Evraz, of course, does not produce subject goods. ‘Subject goods’ are those from China. Evraz does, however, produce ‘like goods’ as defined in SIMA and as found by the Tribunal in its Reasons in the Order under Review.”³⁸

[66] The President does not view the Mertex case brief or subsequent reply submission on behalf of Mertex as improper.

[67] Counsel for Mertex expressed the opinion in their case brief that there was nothing on the record to support a finding of propensity to dump or subsidize.

[68] The CBSA also does not believe the concern raised by counsel for Tenaris regarding the possibility that counsel for Mertex would use its reply submission to make arguments that should have been submitted in case briefs ever materialized. Counsel for Mertex provided a reply submission which only addressed items raised in the Canadian producers' case briefs. Counsel for Mertex did not introduce new information in its reply submission, nor did counsel comment on information on the record that was not raised by the Canadian producers in their case briefs.

[69] The content of Mertex's case brief is not relevant to their procedural right to respond to arguments made in case briefs via their reply submission. In essence, counsel for Mertex could have opted to file only a reply submission had he so chosen.

[70] Regarding the issue raised by counsel for Evraz, the CBSA acknowledges that Evraz is a producer of like goods as defined by the Tribunal in this proceeding.

³⁷ Exhibit 63 (NC) – Correspondence from counsel on behalf of Energex Tube and Welded Tube of Canada.

³⁸ Exhibit 65 (NC) – Correspondence from counsel on behalf of Evraz.

POSITION OF THE PARTIES - DUMPING

Parties Contending that Continued or Resumed Dumping is Likely

Canadian Producers

[71] The Canadian producers made representations through their ERQ responses as well as in their case briefs in support of their position that the continued or resumed dumping and subsidizing from China is likely should the present finding be rescinded. Accordingly, the Canadian producers contend that the measures should remain in place.

[72] Given the consensus amongst the Canadian producers in favour of continuing the Tribunal's finding, reference to issues raised by individual producers in their respective case briefs will typically be attributed to 'the Canadian producers' as an entity throughout this analysis.

[73] The Canadian producers focussed largely on the present, planned and added capacity for seamless casing in China and the inability for the Chinese domestic market to absorb current production levels, necessitating exports to available markets. The Canadian producers believe that these factors together will inevitably lead to dumping when left unrestrained by regulatory measures such as those found in SIMA.

[74] The Canadian producers' position that in the event that the Tribunal's finding is rescinded, dumping of the goods is likely to continue or resume from China, is based predominantly on a number of specific factors identified below.

Position of the Canadian producers regarding China

[75] The Canadian producers collectively identified certain conditions related largely to the Chinese production of and capacity for steelmaking and specifically for seamless casing, as significant in arguing that the absence of the Tribunal's finding will lead to continued or resumed dumping of seamless casing from China. The main factors identified by the Canadian producers can be summarized as follows:

- the sustained interest in the Canadian market by Chinese exporters, as evidenced by the increasing volume of subject goods exported during the POR;³⁹
- the evidence of dumping during the POR;
- excess capacity for seamless casing is large and projected to grow worldwide and particularly in China;
- the potential for Chinese pipe producers to produce seamless casing in facilities that are currently used to produce other goods;⁴⁰

³⁹ Exhibit 58 (NC) – Welded Tube of Canada/Energex Tube Inc. case brief, paragraph 6; Exhibit 54 (NC).

⁴⁰ Exhibit 57 (NC) – Tenaris Canada case brief, paragraph 37; Exhibit 9 (PRO) – Volume 2, Appendix 4: SBB Analytics China Article: "Baotou commissions new heat treatment plant," August 9, 2011.

- the current production volume of Chinese seamless casing;
- the inadequate demand in China to absorb Chinese production, prompting export dependence;
- the commodity nature of the subject goods making goods price sensitive where importers are quick to source switch;
- the history of dumping Oil Country Tubular Goods (OCTG) products arising from an inability to compete at non-dumped prices;
- the numerous anti-dumping measures against steel pipe products from China in both Canada and in other jurisdictions, demonstrating the propensity to dump these goods; and
- the diversion effect that anti-dumping measures on OCTG in the United States will continue to have and the consequences, if the finding in Canada were rescinded.

[76] The Canadian producers, with reference to the CBSA record, noted the volume of subject goods exported to Canada during the POR and the growth of those volumes from year-to-year. It was noted that from 2009 - 2011, imports of Chinese subject goods more than doubled.⁴¹

[77] In relative terms, the volume of subject goods accounted for over 35% of all seamless casing imports in 2011, the highest of any single year share China held during the POR. By comparison, import volumes of seamless casing from the United States accounted for only 20% in 2011.⁴²

[78] The Canadian producers stated that the “fact that these Chinese volumes are so substantial in both absolute and relative terms demonstrates the continuing interest of Chinese exporters in the Canadian market.”⁴³

[79] The Canadian producers, with reference to the CBSA record, noted the amount of SIMA duty collected during the POR as evidence that there has been dumping of subject goods while the finding has been in effect.⁴⁴ The Canadian producers further noted that the amount of SIMA duties collected increased from year-to-year during the POR.

[80] The Canadian producers cited market analysis from Metal Bulletin Research (MBR) which reported the projected and current price differential between Chinese and other world market prices for OCTG:⁴⁵ “MBR expects the differential between American and Chinese price levels to increase, with J/K55 pricing differentials moving to the 60% range, while N-80 price level differential rise to over 50%.”⁴⁶

⁴¹ Exhibit 58 (NC) – Welded Tube of Canada/Energex Tube Inc. case brief, paragraph 6; Exhibit 54 (NC).

⁴² Exhibit 58 (NC) – Welded Tube of Canada/Energex Tube Inc. case brief, paragraph 7.

⁴³ Exhibit 58 (NC) – Welded Tube of Canada/Energex Tube Inc. case brief, paragraph 8.

⁴⁴ Exhibit 57 (NC) – Tenaris Canada case brief, paragraph 10; Exhibit 8 (NC).

⁴⁵ Exhibit 9 (PRO) – Protected Version of Tribunal’s Administrative Record: Volume 2 – Submissions of Tenaris Canada, Appendix 7: Metal Bulletin Research “Strategic Forecast Study – The Five Year Outlook for the Global OCTG Industry,” pages 201-208.

⁴⁶ Exhibit 9 (PRO) – Protected Version of Tribunal’s Administrative Record: Volume 2 – Submissions of Tenaris Canada, paragraph 42.

[81] Similarly the Canadian producers cited evidence on the record which suggested that “Chinese pipe producers are offering the Subject Goods at prices ranging from \$850 - \$1,050 per tonne FOB compared to the prevailing industry price of \$1,300 - \$1,350 per ton, FOB US mill, in North America.”⁴⁷

[82] The Canadian producers characterize these pricing differences as indicative that Chinese exporters of OCTG have demonstrated a pattern of dumping behavior which, industry experts predict will continue.

[83] The Canadian producers provided evidence that there is a global issue of excess steelmaking capacity in general, driven largely by China. The producers stated that:

“Ernst & Young LLP reported in 2011 that global steelmaking capacity increased by 80 Mt (million metric tonnes) to an estimated 1,890 Mt, while consumption was at 1,398 Mt. This resulted in a global excess steelmaking capacity of 493 [sic] Mt. Chinese steel capacity is expected to be 840 Mt in 2012, which is 22% in excess of the 688 Mt of expected consumption in China in 2012.”⁴⁸

[84] The Canadian producers provided evidence of significant excess capacity for seamless pipe in China during the POR. The Canadian producers cited evidence taken from the administrative record to demonstrate that exporters in China also likely had significant excess capacity for seamless casing during the POR.

[85] The Canadian producers cited numerous steel trade publication articles documenting the existing and planned capacity expansion of pipe producers, including seamless casing producers, in China.⁴⁹

[86] The Canadian producers stated that:

“Almost 4 million tonnes of new seamless pipe capacity in the last year is reported by producers or facilities with a licence to produce OCTG (API 5CT). To put this new capacity in perspective, the addition to potential OCTG capacity exceeds total Chinese steel consumption of OCTG of 3.6 million tonnes estimated for 2011.”⁵⁰

⁴⁷ Exhibit 60 (NC) – Evraz case brief, paragraph 27; Exhibit 28 (PRO) – Evraz ERQ response, Attachment G: American Metal Market Report, “China seamless pipe export prices up as raw material costs,” April 11, 2012.

Note: The actual range in Attachment G was \$880 - \$1,050 per tonne, not \$850 - \$1,050.

⁴⁸ Exhibit 60 (NC) – Evraz case brief, paragraph 16; Exhibit 28 (PRO) – Evraz ERQ response, Attachment L: “Global Steel 2011 Trends and 2012 Outlook: Competing for Growth in the Steel Sector.”

⁴⁹ Exhibit 57 (NC) – Tenaris Canada case brief, paragraph 27; Exhibit 55 (PRO) – Tenaris Canada Additional Materials, Annex A: “Chinese Casing Capacity.” 67 pages.

⁵⁰ Exhibit 57 (NC) – Tenaris Canada case brief, paragraph 28; Exhibit 55 (PRO) – Tenaris Canada Additional Materials, Annex A: “Chinese Casing Capacity,” page 30.

Note: The source in fact estimates this 3.6 million metric tonnes of OCTG to be the seamless part. ERW OCTG is an additional 382,000 metric tonnes.

[87] In terms of overall seamless pipe capacity, the Canadian producers cited a report from March 2012 “that 6 million tonnes of seamless pipe capacity had been added in China since the beginning of 2011.”⁵¹

[88] The Canadian producers also emphasized the sheer size of Chinese production capacity in comparison to the Canadian market. The Canadian producers provided a report that estimated China’s overall seamless pipe capacity to now be over 32 million metric tonnes (mmt), half the global total. Capacity utilization for OCTG is estimated to have fallen to around 50% in China.⁵²

[89] Planned capacity additions in China were also raised by the Canadian producers as reports earlier this year indicated that 2.75 mmt per year of “new seamless pipe capacity is planned to come on stream this year, on top of the 3.8 million tonnes per year added in 2011, likely putting more pressure on the domestic and export markets.”⁵³

[90] With regards to China’s new seamless pipe capacity, the Canadian producers cited another industry source as stating: “in terms of current capacity in China’s seamless pipe industry, these new mills will see really tough business conditions and fierce price competition.”⁵⁴

[91] Other articles referenced by the Canadian producers stated that the “serious over-capacity and rapid expansion has led to intense market competition, which could remain a major issue during China’s twelfth five-year plan (2011-2015).”⁵⁵

[92] The Canadian producers also stated that “two major Chinese mills offered cash incentives to their traders in order to encourage exportation of its excess capacity,” referencing an article from late 2011.⁵⁶

⁵¹ Exhibit 57 (NC) – Tenaris Canada case brief, paragraph 25; Exhibit 9 (PRO) – Protected Version of Tribunal’s Administrative Record: Volume 2 – Submissions of Tenaris Canada, Appendix 5: Steel Business Briefing Article: “Low demand hits China’s Jan-Feb seamless pipe output,” March 22, 2012.

⁵² Exhibit 10 (NC) – Public Version of Tribunal’s Administrative Record: Volume 2 – Submissions of Tenaris Canada, paragraph 19; Appendix 3: Steel Business Briefing Analytics Article: “OCTG overcapacity persists in 2011,” page 4, February 21, 2012.

⁵³ Exhibit 10 (NC) – Public Version of Tribunal’s Administrative Record: Volume 2 – Submissions of Tenaris Canada, paragraph 25; Appendix 5: Steel Business Briefing Article: “Seamless pipe overcapacity still weighs on China’s market,” April 10, 2012.

⁵⁴ Exhibit 57 (NC) – Tenaris Canada case brief, paragraph 23; Exhibit 9 (PRO) – Protected Version of Tribunal’s Administrative Record: Volume 2 – Submissions of Tenaris Canada, Appendix 5: Steel Business Briefing Article: “Seamless pipe overcapacity still weighs on China’s market,” April 10, 2012.

⁵⁵ Exhibit 10 (NC) – Public Version of Tribunal’s Administrative Record: Volume 2 – Submissions of Tenaris Canada, paragraph 16.

⁵⁶ Exhibit 60 (NC) – Evraz case brief, paragraph 20; Exhibit 28 (PRO) – Evraz ERQ response, Attachment M: Steel Business Briefing: “SBB Special Report: Chinese mills chase clients for 2012,” December 23, 2011.

[93] The Canadian producers alleged that the excess capacity for seamless pipe could facilitate additional production of seamless casing as mills could adapt their facilities to produce subject goods. In this regard, the Canadian producers stated:

“A recent example of conversion through the addition of heat treatment can be seen at Baotou Iron and Steel Group which commissioned a new heat treatment plant allowing it to process an additional 100,000 tonnes per year of ‘high specification’ seamless pipe.”⁵⁷

[94] In terms of overall steel production, the Canadian producers stated that China increased its steel production to 695.5 mmt per year in 2011, an increase of 8.9% from 2010 levels. China also increased overall steel production in February 2012 by 3.3% over February 2011 levels.⁵⁸

[95] The Canadian producers cited evidence which estimated China’s production of seamless pipe accounts for three quarters of the world’s production.⁵⁹

[96] Given the currently available production capacity in China for the subject goods, the Canadian producers fear that without the restraint of the measures currently in place in Canada, exporters will easily have the means to increase their production volumes destined for Canada at dumped prices.

[97] In conjunction with the excess capacity and existing production volumes, the softening of demand in China was also raised by the Canadian producers as a likely impetus for future export dependence. The Canadian producers cited an analysis on the record which stated that: “domestic demand for tubes and pipes has been lacklustre in recent months as end-users trim purchases amid a tight credit environment. Thus producers have increasingly looked to sell material into the export market this year.”⁶⁰

[98] The Canadian producers submitted numerous other trade reports regarding the soft demand for seamless pipes in China.

⁵⁷ Exhibit 57 (NC) – Tenaris Canada case brief, paragraph 37; Exhibit 9 (PRO) – Protected Version of Tribunal’s Administrative Record: Volume 2, Appendix 4: SBB Analytics China Article: “Baotou commissions new heat treatment plant,” August 9, 2011.

⁵⁸ Exhibit 29 (NC) – Evraz ERQ response, Attachment N: WorldSteel.Org Article: “World Crude Steel Output Increases by 6.8% in 2011,” January 23, 2012; Attachment O: WorldSteel.Org Article: “February 2012 Crude Steel Production,” March 20, 2012.

⁵⁹ Exhibit 10 (NC) – Public Version of Tribunal’s Administrative Record: Volume 2 – Submissions of Tenaris Canada, paragraph 19; Appendix 3: Steel Business Briefing Analytics Article: “OCTG overcapacity persists in 2011,” page 4, February 21, 2012.

⁶⁰ Exhibit 10 (NC) – Public Version of Tribunal’s Administrative Record: Volume 2 – Submissions of Tenaris Canada, paragraph 18; Appendix 2: Steel Business Briefing Analytics Article, page 6, January 4, 2012.

[99] The Canadian producers cited the interchangeability of domestically produced like goods with imported seamless casing as a factor which facilitates easy source switching amongst purchasers. Counsel for Evraz stated that seamless casing “like many steel products, is a commodity that is traded around the world.”⁶¹ Counsel compared the subject goods to other steel products previously considered by the Tribunal, characterizing them as goods that are “traded in the global marketplace” where “purchasers are apt to switch from one supplier to another, depending on the price and offshore offers for like goods to the subject goods.”⁶²

[100] The Canadian producers also identified the pattern of behavior of Chinese OCTG exporters as evidence that when left unrestrained, there is a propensity to dump OCTG into Canada. “The evidence of the subsequent CBSA investigations into other OCTG products has demonstrated a growing propensity of Chinese OCTG to be dumped and subsidized.”⁶³

[101] The other OCTG products identified by the Canadian producers refer specifically to the findings made by the Tribunal subsequent to the *Seamless Casing* finding in both the *Oil Country Tubular Goods* finding made on March 23, 2010 (Inquiry No. NQ-2009-004) and the *Pup Joints* finding made on April 10, 2012 (Inquiry No. NQ-2011-001).

[102] Further to the pattern of behavior with respect to the dumping of Chinese origin OCTG into Canada, the producers also cited information from 2011 WTO Semi-Annual reports, whereby the number of steel products currently subject to anti-dumping measures worldwide is disclosed.⁶⁴ That information disclosed 35 definitive anti-dumping duty measures against Chinese origin steel products involving six investigating jurisdictions.

[103] Overall, the Canadian producers identified 21 anti-dumping measures against Chinese pipe products, excluding measures currently in force in Canada.⁶⁵

[104] The Canadian producers stated that “of these anti-dumping and/or subsidy findings against Chinese tubes and pipes, at least 4 expressly address or include OCTG.”⁶⁶

[105] The most recent finding identified on seamless pipe was from Colombia in February of this year.⁶⁷

⁶¹ Exhibit 60 (NC) – Evraz case brief, paragraph 6.

⁶² Exhibit 60 (NC) – Evraz case brief, paragraph 9.

⁶³ Exhibit 57 (NC) – Tenaris Canada case brief, paragraph 16.

⁶⁴ Exhibit 60 (NC) – Evraz case brief, paragraph 6; Exhibit 10 (NC) – Public Version of Tribunal’s Administrative Record: Volume 1 – Public Submissions on Behalf of Evraz, paragraph 25.

⁶⁵ Exhibit 57 (NC) – Tenaris Canada case brief, paragraph 39.

⁶⁶ Exhibit 57 (NC) – Tenaris Canada case brief, paragraph 39.

⁶⁷ Exhibit 9 (PRO) – Protected Version of Tribunal’s Administrative Record: Volume 2 – Submissions of Tenaris Canada, Attachment 3, Steel Business Briefing Analytics Article, issue 240, page 5, February 21, 2012.

[106] The Canadian producers alleged that “the numerous anti-dumping findings in place regarding Chinese steel products used in industrial applications illustrate the continued propensity of Chinese steel producers to dump steel products into foreign markets.”⁶⁸ The Canadian producers further contended that the presence of these anti-dumping measures against OCTG products in other jurisdictions, particularly in the United States, will lead to “Chinese casing being diverted to Canada if the current order lapses.”⁶⁹

Parties contending that continued or resumed dumping is unlikely

Importers

[107] Only one importer, Mertex, made representations through its case brief that specifically addressed its position that it has found nothing on the record that would support a finding of propensity to dump.⁷⁰

[108] Mertex also provided a reply submission to the case briefs filed by the Canadian producers.⁷¹ In its reply submission, Mertex took issue with information contained in case briefs filed by the Canadian producers that it characterized as being of “considerable irrelevance to the subject goods.”⁷²

[109] Mertex emphasized a general dissatisfaction with the reference by the Canadian producers to global steelmaking issues and any similar information that was not related specifically to the subject goods.⁷³

[110] Mertex also noted that while SIMA duties were collected during the POR, the percentage of duties relative to export prices are very low and those assessments are comprised of both anti-dumping and countervailing duties, the latter of which are not indicative of dumping.⁷⁴

[111] Contrary to the Canadian producers’ interpretation of the import and enforcement statistics on the record, Mertex stated that the volume of subject goods exported during the POR demonstrates that Chinese exporters were able to compete with normal values in place.⁷⁵

⁶⁸ Exhibit 60 (NC) – Evraz case brief, paragraph 6.

⁶⁹ Exhibit 58 (NC) – Welded Tube of Canada/Energex Tube Inc. case brief, paragraph 13.

⁷⁰ Exhibit 59 (NC) – Mertex case brief, paragraph 1.

⁷¹ Exhibit 62 (NC) – Mertex reply submission.

⁷² Exhibit 62 (NC) – Mertex reply submission, paragraph 4.

⁷³ Exhibit 62 (NC) – Mertex reply submission, paragraphs 4, 5 and 11.

⁷⁴ Exhibit 62 (NC) – Mertex reply submission, paragraph 20.

⁷⁵ Exhibit 62 (NC) – Mertex reply submission, paragraph 27.

CONSIDERATION AND ANALYSIS - DUMPING

[112] In making a determination under paragraph 76.03(7)(a) of SIMA whether the expiry of the finding is likely to result in the continuation or resumption of dumping of the goods, the President may consider factors identified in subsection 37.2(1) of the SIMR, as well as any other factors relevant in the circumstances.

[113] Before presenting the analysis of China specifically concerning the likelihood of continued or resumed dumping in absence of the Tribunal's finding, there are certain issues that relate to the goods on a broader scale which are as follows:

Substitutability of OCTG

[114] The significant number of anti-dumping measures involving steel products, both in Canada and several other jurisdictions, can be related, in large part, to the very nature of the product and the industry.

[115] The factors that relate to the nature of the product include the substitutability of oil country tubular goods (OCTG) made to API 5CT specifications, as well as the capital-intensive nature of steel production. The combined effects of these characteristics can have a significant impact on pricing.

[116] Generally speaking, seamless casing produced to the API 5CT specification (or equivalent proprietary standard) by a producer in a given country is physically interchangeable with seamless casing produced to the same specification in any other country. As such, the goods compete amongst themselves regardless of origin and share the same channels of distribution and the same potential customers. This characteristic means that competition for sales of seamless casing is based significantly on price. Furthermore, because of this high degree of price sensitivity, prices in a given market may tend to converge over time towards the lowest available price offerings.

[117] This makes it difficult for a given market, which does not benefit from trade restrictions, to maintain price increases relative to other world markets. As prices rise in one market, imports will flood that market causing a supply glut and a corresponding downward adjustment to the prevailing prices in that market.

Capital-intensive nature of steel production

[118] A second characteristic of seamless casing, as is the case across steel production, is the capital-intensive nature of its production. As such, steel mills have high fixed costs and in order to recover fixed expenses, mills will aim to maintain high capacity utilization rates. When the demand in the home market is insufficient to absorb production, the producers will look to export markets to help maintain these capacity utilization rates.

[119] This is often referred to as the “economics of steel production.” This characteristic is particularly important when there are conditions of overcapacity, as a producer may find it more feasible to sell excess production in foreign markets at depressed prices rather than reduce production, as long as the producer’s variable costs are covered.

Steel market developments and trends

[120] In 2009, the global steel industry was operating under difficult conditions as a result of a global downturn caused by the worldwide financial crisis. As a result, global steel demand in 2009 was weak and many steelmakers worldwide had already begun to respond to declining demand by commencing production cuts towards the end of 2008. When the financial crisis hit, the market responded quickly with a sudden decrease in steel demand at a time when steelmakers were operating at a high capacity. This resulted in an unexpected over-supply of steel in the market which created a structural overcapacity in certain product segments that continues in today’s market.⁷⁶

[121] The global steel industry underwent steady growth during 2010 and 2011. This growth has been attributed to demand increases from the infrastructure, construction and automotive industries. This recovery can be linked, in part, to stimulus packages used by governments of major economies to spur investment in infrastructure and other steel-intensive projects. However, the economic stimulus failed to result in a recovery to 2008 pre-crisis levels of steel consumption and production for developed countries such as those in Europe and the United States.⁷⁷

[122] While recovery continued following the global financial crisis of 2009, the recent Eurozone debt crisis caused significant market uncertainty in 2011. The crisis led to countries adopting a number of austerity measures as a result of large government budget deficits. This in turn has resulted in some countries suspending investment in infrastructure and other industries altogether, which has had a detrimental impact on steel demand. With reduced demand, previous expectations of stronger steel market growth in 2011 were not realized and the problem of excess capacity was only exacerbated.⁷⁸

[123] Excess capacity has put significant pressure on steel producers’ profit margins around the world. Also putting pressure on profit margins has been the rapid rise in prices for raw materials. Over the period of 2009-2011, the price of iron ore increased 115% from US\$85 per tonne to US\$183 per tonne and the price for coking coal increased 69% from about US\$171 per tonne to US\$288 per tonne.⁷⁹

⁷⁶ Exhibit 29 (NC) – Evraz ERQ response, Attachment L: “Global Steel 2011 Trends and 2012 Outlook: Competing for Growth in the Steel Sector,” page 1.

⁷⁷ Exhibit 29 (NC) – Evraz ERQ response, Attachment L: “Global Steel 2011 Trends and 2012 Outlook: Competing for Growth in the Steel Sector,” page 39.

⁷⁸ Exhibit 29 (NC) – Evraz ERQ response, Attachment L: “Global Steel 2011 Trends and 2012 Outlook: Competing for Growth in the Steel Sector,” page 3.

⁷⁹ Exhibit 29 (NC) – Evraz ERQ response, Attachment L: “Global Steel 2011 Trends and 2012 Outlook: Competing for Growth in the Steel Sector,” page 7.

[124] In addition to sharp increases in the cost of raw materials over the POR, as of Q1-2011, quarterly contracts for iron ore and coking coal took effect and replaced the annual contracts that had been used by the steel industry up until that point. This has resulted in a much greater volatility in raw material prices whereas prices had remained flat in prior years. These shorter term contracts have made pricing steel products more difficult for steel producers. Not only must they cope with fluctuating steel demand, they must now also attempt to adjust prices quickly in response to a volatile raw materials market in order to remain profitable.

[125] However, this can be difficult for steel producers to achieve given that iron ore producers see any strength in steel prices as an opportunity to increase raw materials prices in the next contract, regardless of whether steel producers are able to pass on any price increases to their customers.⁸⁰

Latest developments and trends

[126] According to the World Steel Association, global steel consumption is projected to increase about 5% to reach 1.4 billion tonnes in 2012. The consumption increase was about 6% in 2011.⁸¹ Global steel production is projected to grow 7% in 2012, the same growth achieved in 2011.⁸²

[127] According to Ernst & Young, financial uncertainty and volatility in world markets will continue to impact steel demand in 2012 and while the world steel industry will experience growth, it will occur mostly in emerging economies as opposed to in developed countries. More specifically, growth in the European market is expected to be 2.5% while the North American Free Trade Agreement (NAFTA) region is predicted to grow by around 5%. China and India are expected to outperform the rest of the world while growth is expected in markets such as Russia, Brazil and the Republic of Korea (South Korea) although market uncertainties could impact these markets.⁸³

[128] In an effort to mitigate the effects of the Eurozone debt crisis and resulting weaker steel demand, a number of European steel producers have already adjusted production in an attempt to match market demand by reducing their capacity utilization or mothballing their less efficient operations.⁸⁴

⁸⁰ Exhibit 29 (NC) – Evraz ERQ response, Attachment L: “Global Steel 2011 Trends and 2012 Outlook: Competing for Growth in the Steel Sector,” pages 1 and 6.

⁸¹ Exhibit 29 (NC) – Evraz ERQ response, Attachment L: “Global Steel 2011 Trends and 2012 Outlook: Competing for Growth in the Steel Sector,” page 29.

⁸² Exhibit 29 (NC) – Evraz ERQ response, Attachment L: “Global Steel 2011 Trends and 2012 Outlook: Competing for Growth in the Steel Sector,” page 31.

⁸³ Exhibit 29 (NC) – Evraz ERQ response, Attachment L: “Global Steel 2011 Trends and 2012 Outlook: Competing for Growth in the Steel Sector,” page 2.

⁸⁴ Exhibit 29 (NC) – Evraz ERQ response, Attachment L: “Global Steel 2011 Trends and 2012 Outlook: Competing for Growth in the Steel Sector,” page 20.

OCTG Developments

[129] Prior to the collapse of the global economy in 2009, the world wide OCTG business was booming, stimulated largely by rising oil and gas prices which led to more wells being drilled. During this time utilization rates were high and prices too were at unprecedented levels.⁸⁵

[130] US benchmark OCTG prices were in fact over US\$3,000 per tonne towards the end of 2009, which is roughly double where they leveled off some two years later.⁸⁶

[131] As with many industries, the collapse of the global economy had repercussions for the OCTG industry. Drilling rates dropped significantly in 2009, particularly in North America but production remained high as dictated by lead time requirements. This led to high inventories and prices subsequently fell through the first half of 2009 before levelling off.⁸⁷

[132] Metal Bulletin Research (MBR) reported that Middle Eastern prices around this time were “driven to its lowest levels by Chinese material.”⁸⁸

[133] By the midway point of 2010, prices began to rise as inventories were sold off and global economic conditions began to improve, and by 2011, strong oil and gas prices as well as rising raw material prices discussed earlier, pushed prices higher in most world markets.⁸⁹

[134] With projected downward pressure on steel raw material costs over the next few years, similar pressure on OCTG prices will not be far behind. MBR has forecasted that there is strong possibility that the upturn in 2011 pricing and rising supplies in 2012 in several world markets could result in excess inventory accumulation that would need to be worked off in 2013.

⁸⁵ Exhibit 9 (PRO) – Protected Version of Tribunal’s Administrative Record: Volume 2 – Submissions of Tenaris Canada, Appendix 7: Metal Bulletin Research “Strategic Forecast Study – The Five Year Outlook for the Global OCTG Industry,” page 201.

⁸⁶ Exhibit 9 (PRO) – Protected Version of Tribunal’s Administrative Record: Volume 2 – Submissions of Tenaris Canada, Appendix 7: Metal Bulletin Research “Strategic Forecast Study – The Five Year Outlook for the Global OCTG Industry,” page 204.

⁸⁷ Exhibit 9 (PRO) – Protected Version of Tribunal’s Administrative Record: Volume 2 – Submissions of Tenaris Canada, Appendix 7: Metal Bulletin Research “Strategic Forecast Study – The Five Year Outlook for the Global OCTG Industry,” page 201.

⁸⁸ Exhibit 9 (PRO) – Protected Version of Tribunal’s Administrative Record: Volume 2 – Submissions of Tenaris Canada, Appendix 7: Metal Bulletin Research “Strategic Forecast Study – The Five Year Outlook for the Global OCTG Industry,” page 207.

⁸⁹ Exhibit 9 (PRO) – Protected Version of Tribunal’s Administrative Record: Volume 2 – Submissions of Tenaris Canada, Appendix 7: Metal Bulletin Research “Strategic Forecast Study – The Five Year Outlook for the Global OCTG Industry,” page 201.

[135] MBR further forecasts OCTG prices through 2016 at absolute levels that are lower than the last year or so and ongoing efforts to “protect markets against low-priced imports – primarily Chinese – by new market entrants (Brazil, India, Saudi).”⁹⁰

[136] Nonetheless, while MBR’s projections for the world OCTG market do not foresee dramatic drop-offs in pricing, they do call for prices in most major world markets to drop in the range of 15 – 20% by 2013 from levels seen in 2011 for benchmark products. Prices are then projected to largely level off across world markets for benchmark OCTG products through 2016.⁹¹

[137] In making these projections, MBR acknowledged the difficulty unprotected world markets have in maintaining price increases for products such as commodity grade J55 OCTG because price rises in those markets will lead to an over-supply in a relatively short period of time as second-tier producers in China are able to avail themselves of their excess capacity and essentially “set the global price” for commodity grade J55 seamless OCTG.⁹²

LIKELIHOOD OF CONTINUED OR RESUMED DUMPING

China

[138] Guided by the factors in the aforementioned subsection 37.2(1) of the SIMR and having considered the information on the administrative record, the ensuing list represents a summary of the CBSA’s analysis conducted in this expiry review investigation with respect to dumping:

- the sustained interest in the Canadian market by Chinese exporters as evidenced by the high and increasing volumes of subject goods exported during the POR;
- the excess capacity for seamless casing in China;
- the volume of production of seamless casing in China;
- the dependence on exports to maintain capacity utilization rates due to the inadequate domestic demand in China;
- the history of China dumping steel products, including OCTG and specifically, seamless casing;
- the numerous current anti-dumping measures concerning Chinese steel pipe products in Canada and in other jurisdictions; and
- the likely diversion effect the measures in the United States would have if the dumping finding were allowed to be rescinded.

⁹⁰ Exhibit 9 (PRO) – Protected Version of Tribunal’s Administrative Record: Volume 2 – Submissions of Tenaris Canada, Appendix 7: Metal Bulletin Research “Strategic Forecast Study – The Five Year Outlook for the Global OCTG Industry,” page 201.

⁹¹ Exhibit 9 (PRO) – Protected Version of Tribunal’s Administrative Record: Volume 2 – Submissions of Tenaris Canada, Appendix 7: Metal Bulletin Research “Strategic Forecast Study – The Five Year Outlook for the Global OCTG Industry,” Table 10.2, page 208.

⁹² Exhibit 9 (PRO) – Protected Version of Tribunal’s Administrative Record: Volume 2 – Submissions of Tenaris Canada, Appendix 7: Metal Bulletin Research “Strategic Forecast Study – The Five Year Outlook for the Global OCTG Industry,” page 207.

[139] As noted earlier, three Chinese seamless casing exporters provided a response to the ERQ. No Chinese exporters filed case briefs or reply submissions.

[140] With regard to the volume of subject good exports to Canada, it is clear that the Chinese exporters continue to have an interest in the Canadian market. This is further evidenced by the number of exporters that participated in the CBSA's reinvestigation in 2011, where 15 exporters responded to the CBSA's request for information.⁹³

[141] During the original investigation, import volumes of subject goods more than doubled between 2004 and 2006, from 34,659 tonnes to 73,623 tonnes. This figure dropped dramatically in 2007 with the initiation of the investigation as exports fell to only 13,720 tonnes in the first nine months of that year.⁹⁴

[142] In spite of the measures currently in place, the administrative record reveals that subject good exports in 2011 represented just over 25% of the Canadian market by volume and 36% of total imports.⁹⁵ In the original investigation, Chinese goods accounted for just under 34% of total imports for the period of investigation of July 1, 2006 through June 30, 2007.

[143] For the final determination of the original seamless casing investigation, it was determined that the Canadian producer of seamless casing, TenarisAlgomaTubes, accounted for 36% of the Canadian market based on the most recent full year segment of data available at that time, 2006.⁹⁶ According to the information on the record, TenarisAlgomaTubes accounted for only 28% of the Canadian market by volume in 2011.⁹⁷

[144] During the POR, China's percentage share of the Canadian market has remained relatively steady as the Canadian market doubled in absolute terms from 2009 through 2011. The Chinese exporters have demonstrated a clear ability to increase sales to Canada in response to increases in demand.

[145] Chinese exports of subject goods totaled nearly CAN\$350 million over the POR.⁹⁸ SIMA duties collected over the POR, which include both anti-dumping and countervailing duties, totaled about CAN\$14.4 million.⁹⁹

[146] For the overall POR, Chinese exporters accounted for about 32% of the volume of total imports of seamless casing from all countries.

⁹³ Exhibit S4 (NC) – Notice of Conclusion of OCTG/Seamless Casing Reinvestigation, November 7, 2011: <http://www.cbsa-asfc.gc.ca/sima-lmsi/ri-re/cv122-125/cv122-ri11-nc-eng.html>.

⁹⁴ Exhibit 1 (NC) – Tribunal Statement of Reasons for *Carbon or Alloy Steel Oil and Gas Well Casing*, NQ-2007-001, paragraph 82; March 25, 2008.

⁹⁵ Exhibit 53 (PRO) – Apparent Canadian Market for Seamless casing.

⁹⁶ CBSA Final Determination Statement of Reasons for *Carbon or Alloy Steel Oil and Gas Well Casing*, paragraph 28; February 22, 2008.

⁹⁷ Exhibit 53 (PRO) – Apparent Canadian Market for Seamless casing.

⁹⁸ Exhibit 54 (NC) – Apparent Canadian Market for Seamless casing.

⁹⁹ Exhibit 8 (NC) – Import and Enforcement Statistics for the Period of Review.

[147] Concerning available capacity, information on the record stated that: “Boosted by capacity expansions, China's total steel pipe output reached 16.67m tonne [million tonnes] in Q1, up 17% year-on-year, according to China’s National Bureau of Statistics.”¹⁰⁰

[148] Another analysis on the record compiled by MBR calculated the total seamless OCTG capacity in China at 6.97 mmt.¹⁰¹ This is many times larger than the Canadian market for seamless casing in the last full year of the POR, 2011.¹⁰²

[149] With the same report indicating that seamless OCTG consumption in China was estimated at 3.64 mmt and total exports at 1.65 mmt in 2011,¹⁰³ the residual excess capacity (negating any imports) for seamless OCTG in China would be 1.68 mmt, which is many times the size of the entire market for seamless casing in Canada.

[150] Steel Business Briefing Analytics, an authoritative trade publication monitoring the steel industry, actually estimates China’s consumption of seamless OCTG even higher, at about 4 mmt in 2011.¹⁰⁴

[151] According to information on the record, Chinese producer Tianjin Pipe Group Company (TPCO) alone has a named capacity of 1.5 mmt to produce OCTG.¹⁰⁵

[152] Looking specifically at seamless casing, Chinese producers who provided ERQ responses, namely: Jiangsu Changbao Precision Steel Co., Ltd. (Jiangsu Changbao), Tianjin Seamless Steel Pipe Plant (TSPP) and Dalipal Pipe Company (Dalipal) reported capacity for seamless casing that, when taken together, amount to almost one and a half times the size of the total Canadian market for seamless casing in 2011.¹⁰⁶

[153] The reported capacity utilization for these three parties alone over the last full year of the POR indicates an excess capacity equal to almost 29 per cent of the size of the Canadian market.¹⁰⁷

¹⁰⁰ Exhibit 9 (PRO) – Protected Version of Tribunal’s Administrative Record: Volume 2 – Submissions of Tenaris Canada, Appendix 5: Steel Business Briefing Article “Oversupply raises pressure on Chinese pipe prices: CSPA,” May 10, 2012.

¹⁰¹ Exhibit 55 (PRO) – Tenaris Canada Additional Materials, Annex A: “Chinese Casing Capacity,” page 29.

¹⁰² Exhibit 54 (NC) – Apparent Canadian Market for Seamless casing.

¹⁰³ Exhibit 55 (PRO) – Tenaris Canada Additional Materials, Annex A: “Chinese Casing Capacity,” page 30.

¹⁰⁴ Exhibit 9 (PRO) – Tenaris Canada Attachment 3, Steel Business Briefing Analytics Article, issue 240, page 5, February 21, 2012.

¹⁰⁵ Exhibit 9 (PRO) – Tenaris Canada Attachment 3, Steel Business Briefing Analytics Article, issue 240, page 5, February 21, 2012.

¹⁰⁶ Exhibit 21 (PRO) – Jiangsu Changbao Precision Steel Tube Co., Ltd. ERQ Response, Appendix 1; Exhibit 44 (PRO) – Tianjin Seamless Steel Pipe Plant ERQ Response, Appendix 1; Exhibit 30 (PRO) – Dalipal Pipe Company ERQ Response, Appendix 1.

¹⁰⁷ 2011 figures from ERQ responses and Appendices.

[154] According to information on the record, of the exporters that provided an ERQ response in this proceeding, only one ranks in the top ten of Chinese OCTG producers by capacity. Four of the other top ten producers participated in the original seamless casing investigation. The combined OCTG capacity for those parties alone is 3.25 mmt.¹⁰⁸

[155] The information on the record also indicates that the amount of excess capacity in China for OCTG has not deterred further expansions to capacity.

[156] In March 2012, it was reported that: “Shandong Molong Petroleum Machinery Co... commissioned its 150,000 tonnes/year OCTG processing plant on 28 March... This should boost Molong's total OCTG capacity to 800,000 t/y [tonnes/year].”¹⁰⁹

[157] Similarly it was reported that: “China's Shaanxi Yanchang Petroleum Group (Yanchang) the fourth largest oil company in China, started the construction of a 500,000 tonnes/year seamless pipe plant for producing oil country tubular goods in Ansai county in central China's Shaanxi province on 17 April.”¹¹⁰

[158] There were numerous other examples submitted on the CBSA record in regards to capacity expansions of pipe producers in China.¹¹¹

[159] Chinese producers may still be able to increase seamless casing capacity by converting existing seamless pipe capacity through modifications to facilities. This would only exacerbate the existing overcapacity situation in China.

[160] These planned expansions only apply additional pressure to export as there is no evidence on the record to suggest that the Chinese domestic market is projected to undergo any significant growth in the near future.

[161] In terms of actual production from their substantial capacity, there are reportedly about 100 mills in China capable of producing OCTG overall, with roughly 85% of that production concentrated among 14 producers.¹¹²

¹⁰⁸ Exhibit 9 (PRO) – Tenaris Canada Attachment 3, Steel Business Briefing Analytics Article, issue 240, page 5, February 21, 2012. The four other producers are: TPCO, Shandong Molong, Hengyang and Wuxi Seamless Pipe.

¹⁰⁹ Exhibit 9 (PRO) – Tenaris Canada Attachment 4, www.Steelbb.com article: “Chinese pipemaker commissions OCTG process plant,” March 29, 2012.

¹¹⁰ Exhibit 9 (PRO) – Tenaris Canada Attachment 4, www.Steelbb.com article: “China’s Yanchang Oil builds 500,000 t/y seamless pipe plant,” April 24, 2012.

¹¹¹ Exhibit 55 (PRO) – Tenaris Canada Additional Materials, Annex A: “Chinese Casing Capacity.”

¹¹² Exhibit 9 (PRO) – Tenaris Canada Attachment 3, Steel Business Briefing Analytics Article, issue 240, page 5, February 21, 2012.

[162] Information on the record sourced from Steel Business Briefing estimated production of seamless OCTG in China to be 5.7 mmt in 2011.¹¹³

[163] In their ERQ responses, both Jiangsu Changbao¹¹⁴ and Dalipal¹¹⁵ estimated the domestic sales market in China to be many times the size of the Canadian market.

[164] Using information on the record including data published by Steel Business Briefing, annual seamless casing production in China can be estimated at around 3.6 mmt. This production estimate of seamless casing in China is many times the size of the Canadian market in 2011.

[165] The estimate of Chinese seamless casing available for export (domestic consumption less production) is still several times the size of the Canadian market in 2011, in spite of the recent substantial growth in the Canadian market.

[166] In terms of export proportion represented by the Chinese ERQ respondents, Jiangsu Changbao,¹¹⁶ TSPP¹¹⁷ and Dalipal,¹¹⁸ all reported exports of seamless casing which demonstrate substantial dependence on export markets.

[167] These three parties alone exported the rough equivalent of one third of the Canadian market volume for seamless casing for 2011, the last full year of the POR.

[168] The information provided by the cooperative Chinese exporters demonstrates that seamless casing producers in China rely on exports to maintain their current level of capacity utilization, while still operating at well below full capacity.

[169] The influence of China's export volumes cannot be understated. A Metal Bulletin Research report on the Global OCTG Industry characterized China's impact on OCTG pricing as follows:

“Commodity pricing of J55 seamless is set globally by Chinese exports. There is plentiful spare capacity and second-tier producers will move into this market if it is profitable to do so and therefore any pricing move significantly above the cost of production will result in over-supply in a relatively short period.”¹¹⁹

¹¹³ Exhibit 9 (PRO) – Tenaris Canada Attachment 3, Steel Business Briefing Analytics Article, issue 240, page 4, February 21, 2012. Note: This 5.7 mmt figure is derived from figures provided in the last paragraph. The article said seamless OCTG production dropped in 2009 by 23% from 2008 to 5 mmt. That means production in 2008 was 6.49 mmt (5/0.77). The article then said production in 2011 remained 12% below 2008 levels which is calculated as follows: $0.88 \times 6.49 = 5.7$ mmt.

¹¹⁴ Exhibit 21 (PRO) – Jiangsu Changbao Precision Steel Tube Co., Ltd. ERQ Response, Question B11.

¹¹⁵ Exhibit 30 (PRO) – Dalipal Pipe Company ERQ Response, Question B11.

¹¹⁶ Exhibit 21 (PRO) – Jiangsu Changbao Steel Tube Co., Ltd. ERQ Response, Appendix 2.

¹¹⁷ Exhibit 44 (PRO) – Tianjin Seamless Steel Pipe Plant ERQ Response, Appendix 2.

¹¹⁸ Exhibit 30 (PRO) – Dalipal Pipe Company ERQ Response, Appendix 2.

¹¹⁹ Exhibit 9 (PRO) – Tenaris Canada Attachment 7, Metal Bulletin Research Strategic Forecast Study: “The Five Year Outlook for the Global OCTG Industry 2011,” Chapter 10.4, page 207.

[170] Considering the projections for the Chinese domestic market for OCTG, this trend of export dependence and response to opportunities is unlikely to wane. A China Steel Pipe Association (CSPA) report was recently cited as stating that:

“China's steel pipe industry is unlikely to see improvement in the second half of this year (H2). CSPA mainly attributed the pessimistic outlook to intensifying oversupply, slowing growth in domestic demand and an increasingly uncertain export environment... For domestic demand, mills have seen orders shrinking in H1 as growth in downstream industries continued to slow.”¹²⁰

[171] Another report concerning the seamless pipe demand in China stated that: “the sluggish domestic market is forecast to push more mills to turn to the export side of the seamless pipe business.”¹²¹

[172] Additional trade report articles citing similar forecasts of softening and “relative low demand” in the steel pipe sector in China were submitted to the administrative record for this proceeding.¹²²

[173] With regards to the substitutability of imported versus domestically produced goods, generally speaking, seamless casing produced either by a Canadian manufacturer or by foreign manufacturers are physically interchangeable. While proprietary differences may exist with respect to characteristics such as the end finishing of the pipes (i.e. premium threading connections), a wide range of seamless casing grades compete with one another regardless of where they are produced and thus distributor and end-user supply sources are largely substitutable.

[174] Consequently, seamless casing is extremely price-sensitive and the lowest price may be the determining factor amongst prospective suppliers.

[175] Under SIMA, China is a ‘prescribed’ country and normal values may be determined under section 20 of SIMA, in situations where in the opinion of the President, domestic prices are substantially determined by the government of that country and there is sufficient reason to believe that they are not substantially the same as they would be if they were determined in a competitive market.

[176] During the original investigation which concluded in February 2008, the President formed the opinion under section 20 that the domestic prices of seamless casing from China are substantially determined by the Government of China (GOC) and that there is sufficient reason to believe that they are not substantially the same as they would be if they were determined in a competitive market.

¹²⁰ Exhibit 55 (PRO) – Tenaris Canada Additional Materials, Annex A: Steel Business Briefing Article: “China’s Pipe Industry will see tougher H2,” August 8, 2012.

¹²¹ Exhibit 9 (PRO) – Tenaris Canada Attachment 5, Steel Business Briefing Article: “Seamless pipe overcapacity still weighs on China’s market,” April 10, 2012.

¹²² Exhibit 9 (PRO) – Tenaris Canada Attachment 5, Steel Business Briefing Article: “Oversupply raises pressure on Chinese pipe prices: CSPA,” May 10, 2012.

[177] This opinion was made in respect of the steel OCTG sector. Similar opinions were affirmed in the subsequent investigations concerning *OCTG* and *Pup Joints*.

[178] Since the opinion of the President is that section 20 conditions exist in the steel OCTG sector in China,¹²³ which includes seamless casing, Chinese domestic selling prices are not considered by the CBSA when analyzing indications of dumping in other export markets.

[179] According to their ERQ response, Jiangsu Changbao's average selling price of seamless casing in other export markets during the last full year of the POR (2011) was approximately half of what it was in comparison to its sales to Canada over the same period, where the anti-dumping measures pushed export prices to a 'normal value' level.¹²⁴

[180] Colombia's anti-dumping determination on seamless pipes in February 2012 put a minimum price on imported products at US\$1,913 per tonne.¹²⁵ Given that minimum pricing, Jiangsu Changbao's average seamless casing selling price to Colombia in 2011 indicates that Jiangsu Changbao was dumping into Colombia in 2011.¹²⁶

[181] In its ERQ response, Dalipal reported an average selling price of seamless casing to Canada which is comparable to its other export markets over this period.¹²⁷

[182] However, when comparing this average price to the trade publication prices used as the basis for calculating normal values over the same period which are listed on the CBSA record,¹²⁸ it is apparent that the *lowest* normal value over that period for any month would still be higher than Dalipal's reported average export price to Canada.¹²⁹ This would indicate that the exporter was dumping its subject goods to Canada over this period, even with the measures in place.

¹²³ CBSA Final Determination Statement of Reasons concerning certain *Seamless Carbon or Alloy Steel Oil and Gas Well Casing*, paragraphs 46 and 48; February 22, 2008.

¹²⁴ Exhibit 21 (PRO) – Jiangsu Changbao Steel Tube Co., Ltd. ERQ Response, Appendix 3.

¹²⁵ Exhibit 9 (PRO) – Protected Version of Tribunal's Administrative Record: Volume 2 – Submissions of Tenaris Canada, Attachment 3, Steel Business Briefing Analytics Article, issue 240, page 5, February 21, 2012.

¹²⁶ Exhibit 21 (PRO) – Jiangsu Changbao Steel Tube Co., Ltd. ERQ Response, Appendix 3.

¹²⁷ Exhibit 30 (PRO) – Dalipal Pipe Company ERQ Response, Appendix 3.

¹²⁸ Exhibit 14 (PRO) – Pipe Logix OCTG Spot Market Price Index 2011.

¹²⁹ A review of the Pipe Logix reports for the 12 months of 2011 indicates that the lowest price over that period was \$1,283/ton. The conversion to normal values per metric tonne results in US\$1,216/MT, which is still considerably higher than the figure for the Chinese exporter.

[183] Industry forecasts also see Chinese pricing in export markets as continuing to set the low-end threshold in comparison to other world markets. Metal Bulletin Research projected that:

“Chinese export J55 fob price will move down in 2012 to an estimated \$920/tonne. Further weakness in 2012 (particularly as the global market is over-supplied) will see the average fall to \$800/tonne”... “2012 - lower raw material prices will lead to lower Chinese export prices.”¹³⁰

[184] Looking specifically at historical and projected seamless OCTG prices for commodity grade products reveals the disparity between Chinese export prices and prices in other home markets such as North America and Western and Eastern Europe. China’s export prices are consistently below each of those world market prices by several hundred dollars per tonne.¹³¹

[185] The information on the record indicates that China’s export prices of OCTG and seamless pipes, including seamless casing, are consistently below other world market prices and below the normal value levels established for exports to Canada during the POR.

¹³⁰ Exhibit 9 (PRO) – Tenaris Canada Attachment 7, Metal Bulletin Research Strategic Forecast Study: “The Five Year Outlook for the Global OCTG Industry 2011,” Chapter 10.4, page 207

¹³¹ Exhibit 9 (PRO) – Tenaris Canada Attachment 7, Metal Bulletin Research Strategic Forecast Study: “The Five Year Outlook for the Global OCTG Industry 2011,” Table 10.2, page 208.

Note: 10.1 on page 203 confirms that the Chinese prices in Table 10.2 are Chinese export. The nature of the prices reported by MBR are all characterized in this section.

[186] The information on the record documents numerous anti-dumping measures in other jurisdictions against pipe products from China, including OCTG. These measures were documented as follows:¹³²

Country Imposing Action	Description of Goods	Year of Action
Argentina	Austenitic stainless steel pipes	2007
Brazil	Steel Tubing	2011
Colombia *	Seamless tubing and casing	2012
European Communities	Welded tubes and pipes, or iron or non-alloy steel	2008
European Communities *	Seamless pipes and tubes of iron or steel	2009
India	Ductile iron pipes	2007
Mexico	Seamless steel tubing	2011
United States	Circular welded carbon quality steel line pipe	2009
United States	Carbon and alloy steel standard, line and pressure pipe	2010
United States	Drill pipe	2011
United States	Light-walled rectangular pipe and tube	2008
United States *	Oil Country Tubular Goods	2010
United States	Welded stainless steel pipe	1992
United States	Circular welded non-alloy steel pipes	1992

[187] These are clear indications of a propensity to dump the subject goods. The application of Colombian measures from earlier this year provides recent evidence that this trend of dumping in export markets continues to exist.

[188] Of the measures identified on the record, the impact of measures in the United States is most significant, as Steel Business Briefing noted that prior to 2009, half of China's OCTG exports went to the United States. Since then, the share to the United States has fallen to just 8%. As Steel Business Briefing stated, "the anti-dumping cases against Chinese seamless pipe have had a deleterious effect on China's OCTG exports."¹³³

[189] It is important to emphasize that these anti-dumping measures in the United States were imposed after the current measures subject to this expiry review respecting seamless casing went into effect. Consequently, the United States is not absorbing nearly as much seamless casing from China as it was at the time of the Tribunal's finding.

[190] Given the projected soft Chinese market and the amount of available supply which was previously absorbed by the United States, there is a likelihood that Chinese exporters would look to Canada in even larger quantities than currently sold, should the measures currently in place be rescinded.

¹³² Exhibit 57 (NC) – Tenaris Canada case brief, paragraph 39.

Note: Items marked with an asterisk were identified in the case brief as expressly addressing or including OCTG.

¹³³ Exhibit 9 (PRO) – Tenaris Canada Attachment 3, Steel Business Briefing Analytics Article, issue 240, page 6, February 21, 2012

President's Determination – Dumping

[191] Based on information on the record respecting: the fact that there is a sustained interest in the Canadian market by Chinese exporters as evidenced by the high and increasing volumes of subject goods exported during the POR; the excess capacity for seamless casing in China; the volume of production of seamless casing in China; the dependence on exports to maintain capacity utilization rates due to the inadequate domestic demand in China; the history of China dumping steel products, including OCTG and specifically, seamless casing; the numerous current anti-dumping measures concerning Chinese steel pipe products in Canada and in other jurisdictions; and the likely diversion effect the measures in the United States would have if the dumping finding were rescinded, the President determined that the expiry of the finding is likely to result in the continuation or resumption of dumping into Canada of certain seamless casing originating in or exported from China.

POSITION OF THE PARTIES - SUBSIDIZING

Parties contending that continued or resumed subsidizing is likely

Canadian Producers

[192] The Canadian producers made limited representations specifically concerning subsidizing in China.

[193] The main factors identified by the Canadian producers can be summarized as follows:

- the availability of various subsidy programs in China;
- the CBSA's final determination in *Seamless Casing*: 100% of subject goods were subsidized at a rate of 19% of the export price;¹³⁴ and
- countervailing measures in other jurisdictions.¹³⁵

Parties contending that continued or resumed subsidizing is unlikely

Importers

[194] Counsel for Mertex offered a single statement in regards to the information on the record, stating that it found nothing that would support a finding of propensity to subsidize.¹³⁶

¹³⁴ Exhibit 57 (NC) – Tenaris Canada case brief, paragraph 13.

¹³⁵ Exhibit 57 (NC) – Tenaris Canada case brief, paragraph 39.

¹³⁶ Exhibit S59 (NC) – Mertex case brief, paragraph 1.

CONSIDERATION AND ANALYSIS - SUBSIDIZING

[195] In making a determination under paragraph 76.03(7)(a) of SIMA whether the expiry of the finding in respect of goods from China is likely to result in the continuation or resumption of subsidizing of these goods, the President may consider factors identified in subsection 37.2(1) of the SIMR, as well as any other factors relevant in the circumstances.

LIKELIHOOD OF CONTINUED OR RESUMED SUBSIDIZING

China

[196] Guided by the factors in the aforementioned subsection 37.2(1) of the SIMR and having considered the information on the administrative record, the ensuing list represents a summary of the CBSA's analysis conducted in this expiry review investigation with respect to subsidizing:

- the continued availability of subsidy programs for seamless casing exporters in China;
- the volume of subsidized goods imported during the POR;
- the Government of China's (GOC) provision of subsidies to its manufacturers in the steel sector; and
- the countervailing measures against Chinese pipe products, including OCTG in both Canada and the United States.

[197] At the time of the original subsidy investigation in 2008, the President of the CBSA found 10 actionable GOC subsidy programs that were used by cooperative exporters.¹³⁷

[198] The actionable programs that were used by cooperative exporters at the time of the final determination are as follows:

1. *Corporate Income Tax Exemption and/or Reduction in Special Economic Zones (SEZs) And Other Designated Areas*
2. *Local Income Tax Exemption and/or Reduction in SEZs And Other Designated Areas*
3. *The State Key Technology Renovation Projects*
4. *Preferential Tax Policies for Research and Development*
5. *Preferential Tax Policies For Domestic Enterprises Purchasing Domestically Produced Equipment for Technology Upgrading Purpose*

¹³⁷ CBSA Final Determination Statement of Reasons for certain *Seamless Carbon or Alloy Steel Oil and Gas Well Casing*, Appendix 3 Part A, pages 44 - 61; February 22, 2008.

6. *Exemption of Tariff and Import VAT for Imported Technologies and Equipment*
7. *Accelerated Depreciation on Fixed Assets in Binhai New Area of Tianjin*
8. *Supportive Fund (Grant) Provided by the Government of Xuyi County, Jiangsu Province*
9. *Repaying Foreign Currency Loan by Returned VAT*
10. *Debt-to-Equity Swap*

[199] It was found that 100% of the goods exported from China were subsidized. The weighted average amount of subsidy, expressed as a percentage of the export price, was equal to 19%. The amounts of subsidy found for cooperative exporters ranged from 160 to 790 Renminbi (RMB) per metric tonne. The amount of subsidy for all other exporters was equal to 3,381 Renminbi per metric tonne, as determined according to Ministerial specification pursuant to subsection 30.4(2) of SIMA.¹³⁸

[200] Detailed descriptions of the programs and explanations as to why they were regarded as countervailable subsidies are contained in the CBSA's Statement of Reasons issued at the final determination.¹³⁹

[201] The GOC did not provide information on subsidy programs that were not used by cooperative exporters during the original investigation. Consequently, while they were investigated, the CBSA had limited details to report on those programs at the final determination.

[202] On June 9, 2011, the CBSA initiated a reinvestigation to update amounts of subsidy established at the final determination for seamless casing.

[203] The Request for Information (RFI) sent to exporters at that time included programs identified at the original seamless casing investigation, as well as those identified for the *OCTG* and *Pup Joints* investigations and from any other investigation or new source that suggested the program may be applicable to the OCTG sector.

[204] On November 7, 2011, the CBSA concluded the reinvestigation to update the amounts of subsidy calculated at the aforementioned final determination for the original subsidy investigation on seamless casing.

¹³⁸ CBSA Final Determination notice of conclusion for Seamless Casing:
<http://www.cbsa-asfc.gc.ca/sima-lmsi/i-e/ad1371/ad1371-i-nf-eng.html>

¹³⁹ CBSA Final Determination Statement of Reasons for certain *Seamless Carbon or Alloy Steel Oil and Gas Well Casing*, Appendix 3 Part A, pages 44 - 61; February 22, 2008.

[205] Fifteen Chinese exporters received updated amounts of subsidy as a result of their participation in this reinvestigation. Those amounts of subsidy ranged from 4.13 to 252.51 RMB per metric tonne.¹⁴⁰ For exporters that did not provide sufficient information to the CBSA to enable the determination of the amount of subsidy using company specific information, the amount of subsidy was 3,381 RMB per metric tonne, in accordance with the Ministerial Specification pursuant to subsection 30.4(2) of SIMA.

[206] The GOC did not provide sufficient information in the 2011 subsidy reinvestigation. Consequently, the CBSA has limited information concerning the details of the subsidy programs that were found to be countervailable.

[207] The results of the conclusion of the reinvestigation represent the best information available that subsidy programs continue to be available to seamless casing exporters in China.

[208] The GOC provided no response to the CBSA for this expiry review investigation. As a result, the CBSA relied on the information on the record, including publicly available data.

[209] The following programs were found to be countervailable in the 2011 seamless casing reinvestigation:

1. *Acquisition of government assets at less than fair market value*
2. *Assistance for Exhibition Booth Fees*
3. *Assistance for Export Credit Insurance*
4. *Assistance on patents*
5. *Award to Advanced Enterprises*
6. *Changzhou City "Five Major Industries Development Special Funds"*
7. *Clean Production Qualified Enterprise Reward*
8. *Corporate Income Tax Reduction for New High-Technology Enterprises*
9. *Development of Casing with High Tightness Premium Connection*
10. *Ecological Garden Enterprise Reward*
11. *Electric Furnace Energy Saving Project*
12. *Energy Saving Technologies Upgrading Grant*
13. *Energy savings grant - Hengyang MPM*
14. *Enterprise Supportive Grant*
15. *Environmental protection grant*
16. *Exemption of tariff and import VAT for imported equipment*
17. *Export Assistance Grant*
18. *Famous Brands Award*
19. *Foreign Invested Enterprise Purchasing Domestic Equipment Drawback*
20. *Government Export Subsidy and Product Innovation Subsidy*

¹⁴⁰ CBSA Notice of Conclusion of Reinvestigation:
<http://www.cbsa-asfc.gc.ca/sima-lmsi/ri-re/cv122-125/cv122-ri11-nc-eng.html>

21. *Grant - Gaocun Government*
22. *Grant for energy saving activity - Dongying District Government*
23. *Grant for export activities - Dongying District Government*
24. *Grant for export credit insurance assistance*
25. *Grant for Market Promotion and Trade Development*
Grant for reimbursement of legal expenses relating to dumping and/or
26. *subsidy investigations Finance Bureau of Dongying*
27. *Grant for research and development - Dongying District Government*
28. *Guaranteed Growth Fund*
29. *High Quality Petroleum Casing Development Project*
30. *High Quality Special Steel Technology Development*
31. *Industrial Science and Technology Breakthrough Special Fund*
32. *Input Materials provided by Government at less than Fair Market Value*
33. *Jiangsu Province Finance Supporting Fund*
34. *Jinnan Industrial and Economic Commission Technology Center*
35. *Key Equipment and Materials Research for High Sulfur Gas Field*
36. *Large Taxpayer Award*
37. *Loan Forgiveness*
38. *Loan from Local Finance Bureau at a Preferential Interest Rate*
39. *Municipal Construction Award*
40. *National Science and Technology Pillar Program*
41. *Patent Application Assistance*
42. *Patent Assistant Grant*
43. *Power Demand Management Project of Tianjin*
44. *Preferential Tax Policies for the Research and Development of FIBs*
45. *Pre-tax Deduction of Enterprise Research & Development*
Expenses for Enterprises in the High and New Technology Fields
46. *Program of Corporate Income Tax Reduction for New High-Technology*
Enterprises
47. *Reduced tax rate for productive FIEs scheduled to operate*
for a period of not less than 10 years
48. *Refund of Land transfer*
49. *Reimbursement of Anti-dumping and/or Countervailing*
Legal Expenses by the Local Governments
50. *Research & Development (R&D) Assistance Grant*
51. *Research & Development expenses in Developing: new technology, new*
product, or new technique
52. *Rotary Hearth Furnace Energy Saving Project*
53. *Special Supporting Fund for Commercialization of Technological Innovation*
and Research Findings
54. *State Service Industry Development Fund*
55. *Tax deduction for research & development expenses*
56. *Technological Innovation Grant*
57. *Utilities Provided by Government at Less than Fair Market Value*

58. *Water Pollution control Special Fund*

59. *Water Saving Office*

Other Factors Concerning Subsidy in China

[210] Since the conclusion of the original investigation, all subject goods have been assessed countervailing duties.

[211] Chinese producers have continued their presence in the Canadian market since the finding was put in place.

[212] As noted in the analysis of likelihood of the continued or resumed dumping, information on the record indicates that there are many seamless casing manufacturers in China and their capacities for production of seamless casing exceed the Canadian market many times over.¹⁴¹

[213] There is information on the record that indicates that Chinese seamless casing producers continue to rely heavily on export markets.¹⁴²

[214] In Canada, at the end of September 2012, in addition to the finding respecting seamless casing, there were countervailing measures in place respecting other steel products including: hot-rolled steel sheet, carbon steel welded pipe, oil country tubular goods and pup joints.

[215] There are also other countervailing measures against Chinese pipe products outside of Canada, including at least two such measures in the United States that specifically include OCTG from 2010 and 2011 respectively.¹⁴³

[216] The existence of these other countervailing measures is a further indication that the GOC continues to provide subsidies to its domestic producers and likely will continue to do so in the future.

President's Determination – Subsidizing

[217] Based on the information on the record in respect of: the continued availability of subsidy programs for seamless casing exporters in China; the volume of subsidized goods imported during the POR; the GOC provision of subsidies to its manufacturers in the steel sector; and the countervailing measures against Chinese pipe products, including OCTG in both Canada and the United States, the President determined that the expiry of the finding in respect of goods from China is likely to result in the continuation or resumption of subsidizing of seamless casing originating in or exported from China.

¹⁴¹ Exhibit S10 (PRO) – Tribunal's Administrative Record: Volume 2 – Submissions of Tenaris Canada; Appendix 3, Steel Business Briefing Analytics Article, issue 240, page 5, February 21, 2012.

¹⁴² Exhibit S10 (PRO) – Tribunal's Administrative Record: Volume 2 – Submissions of Tenaris Canada, paragraph 18; Appendix 2: Steel Business Briefing Analytics Article, issue 235, page 6, January 4, 2012.

¹⁴³ Exhibit S57(NC) – Tenaris Canada case brief, page 10. United States (2010, 2011).

CONCLUSION

[218] For the purposes of making determinations in this expiry review investigation, the CBSA conducted its analysis within the scope of the factors contained in subsection 37.2(1) of the SIMR. Based on the foregoing consideration of pertinent factors and analysis of the information on the record, the President determined that the expiry of the finding made by the Tribunal on March 10, 2008, in Inquiry No. NQ-2007-001, concerning certain seamless casing originating in or exported from China is likely to result in the continuation or resumption of dumping and subsidizing of these goods into Canada.

FUTURE ACTION

[219] On October 26, 2012, the Tribunal commenced its inquiry to determine whether the expiry of its finding concerning the dumping and subsidizing of certain seamless casing from China is likely to result in injury or retardation to the Canadian industry. The Tribunal has announced that it will issue its decision by March 11, 2013.

[220] If the Tribunal determines that the expiry of the finding with respect to the goods from China is likely to result in injury or retardation, the finding will be continued in respect of those goods, with or without amendment. If this is the case, the CBSA will continue to levy anti-dumping and countervailing duties on dumped and subsidized importations of certain seamless casing originating in or exported from China.

[221] If the Tribunal determines that the expiry of the finding with respect to the goods from China is unlikely to result in injury or retardation, the finding in respect of those goods will be rescinded. Anti-dumping and countervailing duties would no longer be levied on importations of certain seamless casing beginning on the date the finding is rescinded.

INFORMATION

[222] For further information, please contact the officer listed below:

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