



OTTAWA, April 3, 2020

SR2 2019 IN

STATEMENT OF REASONS

Concerning the acceptance of undertakings, suspension of the dumping investigation and suspension of provisional duties with respect to the dumping of

**CERTAIN SUCKER RODS ORIGINATING IN OR EXPORTED
FROM ARGENTINA, BRAZIL, AND MEXICO**

DECISION

Pursuant to subsection 49(1) and section 50 of the *Special Import Measures Act*, the Canada Border Services Agency has accepted price undertakings, suspended the investigation and suspended the collection of provisional duties, respecting the alleged injurious dumping into Canada of certain sucker rods originating in or exported from Argentina, Brazil, and Mexico.

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

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SUMMARY OF EVENTS

[1] On August 9, 2019, the Canada Border Services Agency (CBSA) received a written complaint from Apergy Canada ULC–Alberta Oil Tool Division (hereinafter, “the complainant” or “AOT”), located in Edmonton, Alberta, alleging that imports of certain sucker rods originating in or exported from Argentina, Brazil, and Mexico (hereafter “the named countries”) are being injuriously dumped. The complainant alleged that the dumping has caused injury and is threatening to cause injury to the Canadian industry producing like goods.

[2] On August 30, 2019, pursuant to paragraph 32(1)(a) of the *Special Import Measures Act* (SIMA), the CBSA informed the complainant that the complaint was properly documented. The CBSA also notified the embassies of Argentina, Brazil, and Mexico that a properly documented complaint had been received.

[3] The complainant provided evidence to support the allegation that certain sucker rods from the named countries have been dumped. The evidence also disclosed a reasonable indication that the dumping has caused injury and is threatening to cause injury to the Canadian industry producing like goods.

[4] On September 30, 2019, pursuant to subsection 31(1) of SIMA, the CBSA initiated an investigation respecting the dumping of certain sucker rods from Argentina, Brazil, and Mexico.

[5] Upon receiving notice of the initiation of the investigation, the Canadian International Trade Tribunal (CITT) commenced a preliminary injury inquiry, pursuant to subsection 34(2) of SIMA, into whether the evidence discloses a reasonable indication that the alleged dumping of the above-mentioned goods has caused injury or is threatening to cause injury to the Canadian industry producing the like goods.

[6] On November 29, 2019, pursuant to subsection 37.1(1) of SIMA, the CITT made a preliminary determination that there is evidence that discloses a reasonable indication that the dumping of certain sucker rods from Argentina, Brazil, and Mexico has caused or is threatening to cause injury to the domestic industry.

[7] On December 30, 2019, as a result of the CBSA’s preliminary investigation and pursuant to subsection 38(1) of SIMA, the CBSA made a preliminary determination of dumping of certain sucker rods originating in or exported from Argentina, Brazil, and Mexico. On the same date, pursuant to subsection 8(1) of SIMA, provisional duty was imposed on imports of dumped goods that are of the same description as any goods to which the preliminary determination applies, and that are released during the period commencing on the day the preliminary determination was made.

[8] On January 15, 2020, the CBSA received separate proposals for an undertaking from the three exporting parties from the named countries. In accordance with subsection 49(5) of SIMA, the undertaking proposals submitted by the exporters to the CBSA were made available to interested parties for a period of nine days for the purposes of any representations they wish to make.

[9] On February 28, 2020, the CBSA received undertakings from the three exporting parties from the named countries which were intended to supersede and thereby revoke all previous price undertaking offers by the exporting parties. A nine day period was once again opened to all interested parties to make representations.

[10] On March 20, 2020, the CBSA accepted the undertakings from the exporting parties from the named countries pursuant to subsection 49(1) of SIMA, and suspended the investigation in accordance with paragraph 50(a) of SIMA. The acceptance of the undertakings also suspends the collection of provisional duties pursuant to subparagraph 50(a)(ii).

[11] The undertakings accepted by the CBSA cover all of the dumped goods, the observance of the undertakings will eliminate the injury that is being caused to the Canadian industry by the dumping of subject goods into Canada.

[12] Notice of acceptance of the undertakings was communicated to the CITT on the date of acceptance, in accordance with subparagraph 50(a)(iv) of SIMA. Consequently, on March 20, 2020 the CITT also suspended its investigation in accordance with paragraph 50(b) of SIMA.

PERIOD OF INVESTIGATION

[13] The period of Investigation (POI) for the dumping investigation was July 1, 2018 to June 30, 2019.

INTERESTED PARTIES

Complainant

[14] The complainant, Alberta Oil Tool (AOT) is a manufacturer and supplier of steel products for the oil and gas sector. AOT is the only producer of solid steel sucker rods in Canada. The company's production facility is located in Edmonton, Alberta. AOT's product range includes conventional sucker rods, specialty Drive Rods® for progressing cavity pump applications, polished rods, sinker bars, pony rods and sucker rod/polished rod couplings. The company also manufactures other oil tubular products, including pup joints at another facility in Edmonton, Alberta.¹

[15] The complainant accounts for all production of like goods in Canada.

[16] The name and address of the complainant is as follows:

Apergy Canada ULC–Alberta Oil Tool Division
6939 – 68th Avenue
Edmonton, Alberta, T6B 3E3

¹ <http://www.albertaoiltool.com/about.htm>.

Exporters

[17] At the initiation of the investigation, the CBSA identified 3 potential exporters/producers of the subject goods located in Argentina, Brazil, and Mexico from CBSA import documentation and from information submitted in the complaint. The potential exporters located in Argentina, Brazil, and Mexico were asked to respond to the CBSA's Dumping RFI.

[18] The three identified exporters/producers provided a response to the Dumping RFI: Metalmeccanica S.A.² (Argentina), Tenaris Confab Hastes de Bombeio S.A. (Brazil),³ and Tubos de Acero de Mexico S.A. (Mexico).⁴ Tenaris Global Services S.A. Uruguay,⁵ a logistics facilitator and intermediary on sales between the exporters and importer in Canada also provided a response to the Dumping RFI. All parties are part of the "Tenaris Group" of companies and thus associated persons for the purposes of SIMA.

Importers

[19] At the initiation of the investigation, the CBSA identified one potential importer of the subject goods based on both information provided by the complainant and CBSA import documentation. The CBSA received a response to the Importer RFI from Tenaris Global Services (Canada) Inc. (TGS Canada).⁶ TGS Canada is a related party to each of the exporters/producers of subject goods from the named countries.

PRODUCT INFORMATION

Definition

[20] For the purpose of this investigation, subject goods are defined as:

Sucker rods, including pony rods, with or without couplings attached and with or without guides attached, manufactured to American Petroleum Institute (API) 11B specifications, equivalent standards or proprietary standards, including in a finished or semi-finished state, made of solid steel, including carbon, alloy and special grades of steel, of 2.5 inches (63.5 mm) or less in diameter of rod body, with stated measurements subject to permissible tolerances originating in or exported from the Argentine Republic, the Federative Republic of Brazil and the United Mexican States.

Additional Product Information

[21] Sucker rods are lengths of steel, usually with externally threaded ends, connected by couplings to form a rod string. In an oil or gas well, the rod string connects the above-ground drive to the down well pump(s). Sucker rods are usually produced to 25 feet in length but can be longer.

² Exhibit 41 (PRO) & 42 (NC) – Response to Exporter RFI – MM (Argentina).

³ Exhibit 45 (PRO) & 46 (NC) – Response to Exporter RFI – TCHB (Brazil).

⁴ Exhibit 45 (PRO) & 46 (NC) – Response to Exporter RFI – TAMSA (Mexico).

⁵ Exhibit 45 (PRO) & 46 (NC) – Response to Exporter RFI – TGSU (Uruguay).

⁶ Exhibit 29 (PRO) & 30 (NC) – Response to Importer RFI – TGS Canada.

[22] Pony rods are shorter lengths of sucker rods used to obtain the proper length of a rod string when a full sucker rod would make the string too long. Pony rods are connected to each other, or to sucker rods, with couplings. They are usually produced in lengths of 1, 2, 4, 6, 8, 10 or 12 feet. Pony rods are usually made in the same diameters as sucker rods in the rod string.

[23] Sucker rods are “semi-finished” at any point following the forming of the ends of the material input (i.e. solid bar) into the essential sucker rod shape (e.g. forging) which typically creates the pin shoulder, wrench square and transition/upset of the sucker rod.

[24] The diameter of the sucker rod always refers to the outer diameter of the rod body, rather than any part of the forged end.⁷

[25] Special grades of steel referred to in the product definition include steel grades which may not meet standard industry specifications including proprietary grades.

For greater clarify, the product definition does not cover:

- Polished rods, which are above ground connections to the rod strings;⁸
- Sinker bars, which are used to add weight to the rod string;⁹
- Fiberglass sucker rods (Fiber reinforced plastic);¹⁰
- Hollow sucker rods;¹¹ and
- Continuous sucker rods.¹²

[26] A “polished rod” connects the rest of the rod string to the above-ground drive. A polished rod is a special rod required to endure exposure to the surface conditions, unlike sucker rods which remain below ground the entire time they are being used. The polished rod’s placement requires particular sizing and characteristics which make it quite different from a sucker rod.

[27] A “sinker bar” is at the opposite end from the polished rod, as it connects the sucker rod string to the pump. The bar provides weight so that the tool will lower properly into the well.

[28] A fiberglass sucker rod or pony rod is typically manufactured in three pieces and assembled by a process that provides connection of two metal end-fittings connected to a non-metallic fiber reinforced plastic rod body.

⁷ Sucker Rods 2 Complaint (NC), paragraphs 5-7.

⁸ Exhibit 1 (PRO) & 2 (NC) – Sucker Rods 2 Complaint, paragraph 12.

⁹ Exhibit 1 (PRO) & 2 (NC) – Sucker Rods 2 Complaint, paragraph 13.

¹⁰ Exhibit 1 (PRO) & 2 (NC) – Sucker Rods 2 Complaint, paragraph 7.

¹¹ Exhibit 1 (PRO) & 2 (NC) – Sucker Rods 2 Complaint, paragraph 4.

¹² Exhibit 1 (PRO) & 2 (NC) – Sucker Rods 2 Complaint, paragraph 4.

[29] A hollow sucker rod is made of seamless steel pipe, and the screw thread joint is connected with the rod body through friction welding and heat treatment. Hollow sucker rod is used for the exploitation of heavy oil, high freezing point and waxy crude oil. The hollow rod presents the ability to inject diluents through the hollow rod in progressive cavity pumping (PCP) operations. There is no indication that these goods are manufactured in Canada.

[30] Continuous (coiled) sucker rods have an entire rod string in one piece with only two connections; one at the top and one at the bottom. These rods are available in either round or elliptical configurations. Continuous rod eliminates all the couplings along the entire wellbore except for the top connection to the polished rod and the bottom connection to the pump itself.

Production Process ¹³

[31] The subject goods are produced world-wide using materially similar production processes.

[32] Steel bars are the raw material for sucker rods. In North America, suitable steel bars are typically referred to as special bar quality (SBQ), however this is not a rigidly standardized term. In some cases, including in other countries, the input material could be referred to as engineered bar or merchant bar. Ultimately, any steel bar that meets the relevant requirements (chemical, mechanical, dimensional and so forth) can be used as input material.

[33] AOT's sucker rods are manufactured from micro-alloyed, modified SBQ hot rolled carbon or alloy steel bar. The raw material for sucker rods is generally of a significantly higher quality than most concrete reinforcing bar, for example, and with much lower chances of defects or flaws.

[34] SBQ is supplied as long steel bars and arrives at AOT's facility where it is inspected and received into inventory. The SBQ is cut to length for 25 foot sucker rods. The SBQ is transferred to a straightener, where it is straightened by being passed through straightener rollers. Bars then get passed through an eddy current tester to check for any surface quality defects. All acceptable bars are collected to form a bundle and rejected rods are kicked out in reject pockets.

[35] Usable bars are then transferred to forge machines. Each bar end (between 8 – 14 inches of material) is induction heated to 2300°F ±50°F and upset forged to dimensions specified by the drawing for one end. The bar end is measured and documented on AOT's quality plan. After one end is completed, the bar is rotated 180 degrees and the same processes are performed on the other end. During the forging process, the sucker rods are stamped with: AOT's name as the manufacturer, the size, pin type, grade, heat code and date of manufacturing.

[36] After forging, the rod is transferred to the normalizing furnace. Forged bars are put on conveyor chains which take them through the furnace at a pre-set speed and furnace temperatures above the critical transformational temperature (1550F – 1675F, depending on the desired finished grade) where it undergoes beneficial microstructure changes. Essentially, this heat-treatment or normalizing allows for the re-crystallization of steel to offset any defects arising from the working of the metal (particularly the prior forging).

¹³ Exhibit 1 (PRO) & 2 (NC) – Sucker Rods 2 Complaint, paragraphs 28-40.

[37] Upon exiting the normalizing furnace, the rods will be brittle and have poor ductility, so the rods are then tempered. When the rods come out of the normalizing furnace, they are then slowly moved (to allow air cooling for a certain time) to the tempering furnace at pre-set speed and temperature. Again the speed and temperatures are governed by the finished grades, but are approximately 500°F lower than normalizing temperatures. Tempering improves the ductility and toughness of the steel.

[38] The rods are then transferred to another conveyor which takes them through the shot peener. In this process, the rods are blasted with tiny metal balls which produce compressive residual stresses on the rod surface, which improves the fatigue life of the rod making them a superior quality product over non peened rods.¹⁴

[39] Rods are then settled in output table pockets to allow for cooling to room temperatures. Once cooled, rod bundles are moved to computer numerical control (“CNC”) machines where they are machined and threaded on the ends. AOT uses cold-formed rolled threads on its sucker rods. The cold-formed process displaces, rather than removes metal, to maintain consistent steel grain follow. This strengthens the shear, yield, and fatigue resistance of the threads. As necessary, couplings are attached on one end and pin protector plastic caps are added to the others.

[40] Machined rods are then sent to paint tables where they are inspected for straightness. Rods that are out of straightness are straightened. The rods are then dipped into a paint vat. Painted rods are then arranged in a stack for bundling and strapping. Rods are covered in an oil-soluble coating to reduce atmospheric corrosion in storage. Rods are bundled to prevent handling damages during transportation. Bundled rods are then moved to the storage area from where they get loaded onto trucks for shipping out to distributors.

Product Use ¹⁵

[41] Sucker rods are used in oil and gas extraction by forming a rod string that connects the above-ground drive to the down well pump(s). In extracting oil and gas from a well, some form of drive is required to provide the motive force and power to extract the oil and gas. Although drives may be located above ground or down well, sucker rods are only used with drives that are located above ground.

[42] An above ground drive is physically connected to the down well pump(s) by a rod string. The rod string is primarily composed of a series of interconnected sucker rods. The number and length of sucker rods may vary widely from well to well, depending on the various requirements established by engineers of the purchasing end-users. A string of sucker rods could consist of dozens or even hundreds of sucker rods and have a total length of thousands of feet. Rod strings in Canada are typically in the range of 2,500 to 7,500 feet, which is roughly 100 to 300 sucker rods of 25 feet in length.

¹⁴ Sucker rods may fail (bend or break) when the metal becomes “fatigued” from the repeated stresses the sucker rod experiences. Improving the fatigue life means that the product will last longer before being prone to a fatigue related failure.

¹⁵ Exhibit 1 (PRO) & 2 (NC) – Sucker Rods 2 Complaint, paragraphs 5-14.

[43] A down well pump will either be a reciprocating pump or a progressive cavity pump, and suckers rods are used in both types of pumps. Reciprocating pumps which are the more traditional type of pump require the rod string to move up and down to extract oil and gas out. For these kinds of pumps, the drive will connect to a “walking beam” and “horse head,” which will then reciprocate by pulling the rod string up and then pushing it down.

Classification of Imports¹⁶

[44] The allegedly dumped goods are normally classified under the following tariff classification number:

8413.91.00.10

[45] The tariff classification number is for convenience of reference only. Refer to the product definition for authoritative details regarding the subject goods.

THE CANADIAN INDUSTRY

[46] As previously stated, the complainant accounts for all of the known domestic production of like goods.

IMPORTS INTO CANADA

[47] During the preliminary phase of the investigation, the CBSA refined the estimated volume and value of imports based on information from CBSA import entry documentation and information received from exporters and importers.

[48] Detailed information regarding the volume and value of imports of sucker rods and domestic production cannot be divulged for confidentiality reasons.

[49] The following table presents the CBSA’s analysis of imports of certain sucker rods:

**Imports of Sucker Rods
Period of Investigation
(July 1, 2018 to June 30, 2019)**

Country	% of Total Import Volume
Argentina	10.1%
Brazil	5.1%
Mexico	31.8%
All Other Countries	53.0%
Total Imports	100%

¹⁶ Exhibit 1 (PRO) & 2 (NC) – Sucker Rods 2 Complaint, paragraph 40.

DUMPING INVESTIGATION

[50] Information was requested from all known and potential exporters, producers, vendors and importers, concerning shipments of certain sucker rods released into Canada during the POI.

[51] The exporters/producers were also notified that failure to submit all required information and documentation, including non-confidential versions, failure to comply with all instructions contained in the RFI, failure to permit verification of any information or failure to provide documentation requested during the verification visits may result in the margin of dumping and the assessment of dumping duties on subject goods being based on facts available to the CBSA. Further, they were notified that a determination on the basis of facts available could be less favorable to them than if complete, verifiable information was made available.

[52] The three identified exporters/producers provided a response to the Dumping RFI: Metalmeccanica S.A. (MM)¹⁷, Tenaris Confab Hastes de Bombeio S.A. (TCHB)¹⁸, and Tubos de Acero de Mexico S.A. (TAMSA).¹⁹ Tenaris Global Services S.A. Uruguay (TGSU),²⁰ a logistics facilitator and intermediary on sales between the exporters and importer in Canada also provided a response to the Dumping RFI.

[53] All responses to the Dumping RFI were deficient. Letters detailing the deficiencies were sent to all exporting parties on November 19, 2019.

[54] After reviewing the importer RFI response, two supplemental RFIs (SRFI) were sent to TGS Canada to clarify information provided in their responses and request additional information.²¹ The company subsequently provided a response to two SRFIs and the CBSA conducted an onsite verification at the company's premises in Calgary, Alberta.²²

[55] On December 23, 2019, the CBSA sent a second deficiency letter to the exporting parties identifying continued deficiencies with the submission of November 29, 2019.²³

[56] On December 30, 2019, a preliminary determination of the dumping investigation was made with respect to the subject goods. Since the information provided by the exporters was deficient, the normal values and export prices were based on facts available. The estimated margins of dumping for Argentina, Brazil, and Mexico were 30.5%, 27.3%, and 48.9%, respectively, expressed as a percentage of the export price.

¹⁷ Exhibit 41 (PRO) & 42 (NC) – Response to Exporter RFI – MM (Argentina).

¹⁸ Exhibit 45 (PRO) & 46 (NC) – Response to Exporter RFI – TCHB (Brazil).

¹⁹ Exhibit 45 (PRO) & 46 (NC) – Response to Exporter RFI – TAMSA (Mexico).

²⁰ Exhibit 45 (PRO) & 46 (NC) – Response to Exporter RFI – TGSU (Uruguay).

²¹ Exhibit 49 (PRO) & 50 (NC) – Response to SRFI#1 – TGS Canada; Exhibit 59 (PRO) & 60 (NC) – Response to SRFI#2.

²² Exhibit 49 (PRO) & 50 (NC) – Response to Supplemental RFI #1 – TGS Canada; Exhibit 59 (PRO) & 60 (NC) – Response to Supplemental RFI #2 – TGS Canada.

²³ Exhibit 72 (PRO) – Deficiency Letter #2 sent to Tenaris Global Services S.A.

[57] On January 10, 2020,²⁴ the CBSA received price undertaking proposals from MM (Argentina), TCHB (Brazil), and TAMSA (Mexico), which account for all subject goods exported to Canada. Through consultations, the CBSA communicated to the exporters that the undertaking proposals would be insufficient to eliminate the injury caused by the dumping in Canada.

[58] On January 15, 2020, the CBSA received revised price undertaking proposals from the three exporters. These price undertakings superseded those submitted on January 10, 2020.²⁵ In accordance with subsection 49(5) of SIMA, the undertaking proposals submitted by the exporters to the CBSA were made available to interested parties for a period of nine days for the purposes of any representations they wish to make.

[59] On January 24, 2020, counsel for the complainant provided comments to the CBSA on the undertaking proposals made January 15, 2020.²⁶

[60] On February 28, 2020,²⁷ the CBSA received price undertaking proposals on behalf of the three exporters superseding those submitted on January 15, 2020. Minor revisions were made on March 6, 2020.²⁸ A nine day period was once again opened to all interested parties to make representations.

[61] On March 9, 2020,²⁹ counsel for the complainant provided comments supporting the undertaking proposals made February 28, 2020.

UNDERTAKINGS

[62] After a preliminary determination of dumping by the CBSA, an exporter may submit a written undertaking to revise selling prices to Canada so that the margin of dumping or the injury caused by the dumping is eliminated. An acceptable undertaking must account for all or substantially all of the exports to Canada of the dumped goods.

[63] Price undertakings are defined in SIMA as written commitments by exporters to adhere to specific conditions in exporting goods to Canada at prices that eliminate either the dumping or the injury caused by the dumping in Canada. Undertakings must also account for all or substantially all the exports to Canada of the dumped goods, not cause the price to increase by more than the estimated margin of dumping and be practicable for the CBSA to administer.

²⁴ Exhibit 98 (PRO) and 99 (NC) – Price undertaking proposals on behalf of MM (Argentina), TCHB (Brazil) and TAMSA (Mexico).

²⁵ Exhibit 106 (PRO) through 111 (NC) – Price undertaking proposals from MM (Argentina), TCHB (Brazil) and TAMSA (Mexico).

²⁶ Exhibit 124 (PRO) and 125 (NC) – Response to Undertaking Proposal of Exporting Parties (Metalmecanica S.A. from Argentina, Confab Industrial S.A. from Brazil, and Tubos de Acero de Mexico S.A. from Mexico) filed on behalf of Alberta Oil Tool Division (“AOT”).

²⁷ Exhibit 134 (PRO) & 135 (NC) – Offer of Undertaking filed on behalf of Metalmecanica S.A. (Argentina), Confab Industrial S.A. (Brazil) and Tubos des Acero des Mexico S.A. (Mexico).

²⁸ Exhibit 140 (PRO) & 141 (NC) – Second Revised Offer of Undertaking Filed on Behalf of Metalmecanica S.A. (Argentina), Tubos de Acero de Mexico S.A. (Mexico) and Tenaris Confab Hastes de Bombeio S.A. (Brazil).

²⁹ Exhibit 144 (PRO) & 145 (NC) – Response to Revised Undertaking Proposal of Exporting Parties filed on behalf of Apergy Canada ULC – Alberta Oil Tool Division (“AOT”).

[64] When an undertaking is accepted, the investigation is suspended unless a specific request to continue the investigation pursuant to subsection 49(3) has been made. Once an undertaking is accepted no further anti-dumping duties are levied. The CBSA would then monitor imports of subject goods to ensure that exporters adhere to the pricing commitments. These arrangements are favourable for Canadian producers as they afford the protection provided by the law without the time, expense and risk associated with appearing at the CITT.

[65] In cases where the CBSA accepts an undertaking, subsection 51(1) of SIMA provides that the importer or exporter of the goods, or the complainant in the investigation respecting the goods may, within 30 days of its acceptance, but before an order is made by the Tribunal under subsection 43(1), request that the undertaking be terminated. If such a request is received, the CBSA shall forthwith terminate the undertaking in respect of the request.

[66] Similarly, pursuant to subsection 52(1) of SIMA, beyond the 30-day interval noted above, where certain conditions are met such that the undertakings are terminated, the investigation would resume and a final determination would be required within the same number of days between the date the investigation was suspended and the original final determination date.

ANALYSIS OF UNDERTAKINGS

[67] Given that the parties submitting price undertaking proposals, namely, MM, TCHB and TAMSA (hereafter “the Tenaris exporters”) are all related to the importer, TGS Canada, it was agreed between all parties that the focus of the price undertakings should be on the re-sale price in Canada from TGS Canada to their arm’s length purchasers, rather than the import price, which is essentially the result of an intercompany transfer price agreement.

[68] It is worth noting that price increases discussed in the undertaking proposals and comments received on behalf of the complainants focused on the elimination of injury rather than the margin of dumping by each exporter. Quantifying a price increase to eliminate injury is a largely subjective exercise, requiring a series of assumptions, projections, and estimates.

[69] Pursuant to subsection 49(2) of SIMA, in order to be considered for acceptance, the President must be of the opinion that the observance of the undertakings with respect to a dumping investigation:

- will not cause the price at which the goods are sold to importers in Canada by the exporter to increase by more than the estimated margin of dumping of the goods; and
- be practicable to administer.

The Tenaris Exporters’ Undertaking Proposals

[70] In an effort to support their undertaking proposals, the Tenaris exporters submitted a narrative explanation of their rationale, and a price grid for each exporter, representing their minimum price commitment on sales to purchasers in Canada.³⁰

³⁰ Exhibit 140 (PRO) & 141 (NC) – Supporting Rationale for Tenaris Undertaking Proposal.

[71] The Tenaris exporters' proposals were identical, focusing on an appropriate target profit for the Canadian industry,³¹ recent trends in input costs,³² market conditions in Canada and competing imports from non-subject sources.³³

[72] Each of the three Tenaris exporters is offering to increase its minimum selling prices to a level equal to its average selling prices to Canada in May/June 2019 plus 16.5%.

[73] Certain detailed information submitted by the Tenaris exporters cannot be disclosed in this document given the confidential nature of the material. A public summary of their submission follows in the section below.

Target Profitability

[74] The Tenaris exporters built their proposals around a target profit they believe the complainant would need to earn in order to alleviate the injury caused by the dumping of the subject goods. The Tenaris exporters provided a detailed calculation of the price increase required to achieve this profit.³⁴

[75] Counsel for the Tenaris exporters argued that AOT is able to command a price premium for sucker rods within the domestic market. They attribute the price premium to factors such as: customer relationships, perceived differences in characteristics and customer preferences for a domestic producer.

[76] Counsel for the Tenaris exporters concluded that a price increase which eliminates the injury suffered by AOT will ultimately result in AOT obtaining or exceeding their required level of target profitability.³⁵

Effect of low priced imports from the United States

[77] Counsel for the Tenaris exporters argued that they are not solely responsible for the injury suffered by the complainant. They stated that imports from the United States became aggressively priced following the measures imposed on China in *Sucker Rods I*.

Comments and Support from the Complainant

[78] AOT is the complainant and sole producer of sucker rods in Canada.

³¹ Exhibit 140 (PRO) – Supporting Rationale for Tenaris Undertaking Proposal ([Attachment 1](#): AOT Rest of Firm Profitability).

³² Exhibit 140 (PRO) – Supporting Rationale for Tenaris Undertaking Proposal ([Attachment 4](#): AMM SBQ Pricing).

³³ Exhibit 140 (PRO) – Supporting Rationale for Tenaris Undertaking Proposal ([Attachment 2](#): Crescent Point Tender Pricing).

³⁴ Exhibit 140 (PRO) – Supporting Rationale for Tenaris Undertaking Proposal ([Attachment 3](#): Calculation of Required Price Increase to Achieve Target Profitability).

³⁵ Exhibit 141 (NC) – Supporting Rationale for Tenaris Undertaking Proposal narrative, paragraph 29; Exhibit 140 (PRO) – [Attachment 5](#): Effect of Tenaris Offered Price Increase on AOT Profitability.

[79] On March 9, 2020, the complainant provided its support and requested that the CBSA accept the three undertaking proposals submitted by the Tenaris exporters.³⁶

[80] While counsel for AOT disagreed with some of the rationale provided in the undertaking and supporting documentation, they believe that the proposed price increase in the undertakings will eliminate the injury sustained by AOT in respect of the dumped goods.

CBSA Review of AOT Comments

[81] The CBSA notes that while counsel for AOT disagreed with the target profit established by the Tenaris exporters and strongly favoured AOT's own target profit, they still concluded that the resulting proposed increase in prices established by the undertakings was sufficient to eliminate the injury caused by the dumped imports.

[82] The CBSA does not view any single factor or fixed benchmark as conclusive in establishing whether prices in an undertaking are sufficient to eliminate injury sustained by the Canadian industry from dumped goods. The submissions from both parties in fact support the CBSA position that numerous factors are relevant and they are not independent of one another. A broad perspective which considers the history of the market, well-reasoned demand and sales projections with consideration to current market trends and realities is required in order to establish acceptable price levels.

[83] Consequently, while the CBSA may consider a target profit, that target profit need not be static but may change as other factors change as well.

[84] It is also worth noting that the legislative framework through SIMA and the SIMR do not provide specific criteria for establishing whether the observance of an undertaking will eliminate the injury caused by the dumping. SIMA does make the linkage, however, between the price level in the undertaking and the elimination of the injury *caused by the dumping*.

CONCLUSION ON UNDERTAKINGS

[85] The CBSA conducted a comprehensive review of the undertakings and supporting documentation submitted by the Tenaris exporters.

[86] The CBSA notes that arriving at a price increase to eliminate the injury caused by dumping is a largely subjective exercise, requiring a series of assumptions, projections and estimates. As such, the view of the complainant that the suggested price increases are likely to eliminate the injury they have incurred from dumped subject goods carries significant weight in the CBSA's considerations.

³⁶ Exhibit 144 (PRO) & 145 (NC) – Response to Revised Undertaking Proposal of Exporting Parties filed on behalf of Apergy Canada ULC – Alberta Oil Tool Division (“AOT”).

[87] Following the review, the CBSA concluded that the price undertakings submitted, met the requirements of SIMA, such that their observance will eliminate the injury caused by the dumping of the subject goods. The rationale for a proposed price increase of 16.5% was found to be well supported and reasonable, with consideration to the fact that the complainant had communicated their approval for the acceptance of the undertakings as well.

DECISIONS

[88] On March 20, 2020, the CBSA, pursuant to paragraph 49(1) of SIMA, accepted the undertakings offered by exporting parties Metalmecanica S.A. from Argentina, Tenaris Confab Hastes de Bombeio S.A from Brazil, and Tubos de Acero de Mexico S.A. from Mexico.

[89] Also, pursuant to section 50 of SIMA, the CBSA suspended the investigation and the collection of provisional duties with respect to the certain sucker rods originating in or exporter from Argentina, Brazil, and Mexico.

FUTURE ACTION

[90] The CBSA will periodically conduct a review of the undertakings to determine whether they should remain in effect. In accordance with subsection 53(1) of SIMA, the CBSA will, at a minimum, review the undertakings before the expiry of the five years after the date on which they were accepted to determine if they continue to serve their intended purpose. If this is the case, the undertakings may be renewed for a further period of not more than five years.

[91] If an undertaking is not renewed by the CBSA, it expires at the end of the five year period. This expiration normally terminates all proceedings under SIMA, in accordance with subsection 53(3) of SIMA.

[92] Where, at any time after accepting undertakings, the CBSA is satisfied that any of the undertakings has been or is being violated, or new information becomes available and the undertaking would not have been accepted if this information was available at the time that the undertakings were made, or if new circumstances arise and the undertaking would not have been accepted if these circumstances had prevailed at the time the undertakings were made, the CBSA will immediately terminate the undertakings, pursuant to subsection 52(1) of SIMA.

PUBLICATION

[93] A notice of the acceptance of the undertakings will be published in the *Canada Gazette* pursuant to paragraph 50(a)(i) of SIMA.

INFORMATION

[94] This *Statement of Reasons* has been provided to persons directly interested in these proceedings. It will also be also available through the CBSA's website at the address below. For further information, please contact the officers identified as follows:

Mail: SIMA Registry and Disclosure Unit
Trade and Anti-dumping Programs Directorate
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