OCTG3 2021 IN

OTTAWA, July 15, 2021

STATEMENT OF REASONS

Concerning the initiation of an investigation into the dumping of

CERTAIN OIL COUNTRY TUBULAR GOODS
ORIGINATING IN OR EXPORTED FROM MEXICO

DECISION

Pursuant to subsection 31(1) of the *Special Import Measures Act*, the Canada Border Services Agency initiated an investigation on June 30, 2021, respecting the alleged injurious dumping of certain oil country tubular goods originating in or exported from Mexico.

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 May 10, 2021, the Canada Border Services Agency (CBSA) received a written complaint from Evraz Inc. NA Canada (Regina, Saskatchewan) and Welded Tube of Canada Corp. (Concord, Ontario) (hereinafter, the Complainants) alleging that imports of certain oil country tubular goods (OCTG) originating in or exported from Mexico are being dumped. The Complainants alleged that the dumping has caused injury and is threatening to cause injury to the Canadian industry producing like goods.

[2] On May 31, 2021, pursuant to paragraph 32(1)(a) of the *Special Import Measures Act* (SIMA), the CBSA informed the Complainants that the complaint was properly documented. The CBSA also notified the Government of Mexico that a properly documented complaint had been received.

[3] The Complainants provided evidence to support the allegations that OCTG from Mexico has been dumped. The evidence also discloses a reasonable indication that the dumping has caused injury and is threatening to cause injury to the Canadian industry producing like goods.

[4] On June 30, 2021, pursuant to subsection 31(1) of SIMA, the CBSA initiated an investigation respecting the dumping of OCTG from Mexico.

INTERESTED PARTIES

Complainants

[5] The name and address of the Complainants are as follows:

EVRAZ Inc. NA Canada
P.O. Box 1670
100 Armour Road
Regina, Saskatchewan S0G 5K0

Welded Tube of Canada Corporation
111 Rayette Road
Concord, Ontario L4K 2E9

EVRAZ Inc. NA Canada

[6] EVRAZ Inc. NA Canada (Evraz) is a vertically integrated steel pipe producer with four production facilities that manufacture oil country tubular goods (OCTG) located in Regina, Saskatchewan, as well as in Calgary, Camrose, and Red Deer, Alberta.[1] Evraz has operated in Canada since 2008 when it acquired the facilities formerly owned by IPSCO.[2]

[1] OCTG 3 Complaint narrative – paragraph 1 (NC).
[2] https://www.evraz.com/en/company/history/

Welded Tube of Canada Corporation

[7] Welded Tube of Canada Corporation (Welded Tube or WTC) was founded in 1970 as a family-owned business with three facilities in Canada producing and finishing OCTG: a primary production facility located in Concord, Ontario, and two finishing facilities located in Welland and Port Colborne, Ontario. [3]

Other Canadian Producers

[8] The following Canadian producer also manufactures OCTG:

Algoma Tubes Inc.
Prudential Steel ULC (closed in July 2020)[4]
Tenaris Global Services (Canada) Inc.
Hydril Canadian Company LP
(The above companies are collectively referred to as "Tenaris Canada")
530 - 8th Avenue SW, Suite 400
Calgary, Alberta T2P 3S8

[9] Tenaris Canada along with the Complainants account for all known domestic production.

Trade Unions

[10] The following trade unions were identified for the various facilities producing like goods in Canada.

[11] For Evraz:

United Steel Workers 5890
26 –395 Park Street
Regina, Saskatchewan S4N 3V9

United Steel Workers 6673
2888 Glenmore Trail SE,
Calgary, Alberta, T2C 4V7

UNIFOR 551
6215 – 48th Avenue
Camrose, Alberta T4V 0K4

[3] OCTG 3 Complaint narrative – paragraph 1 (NC).
[4] OCTG 3 Complaint narrative – paragraph 66 (NC).

Iron Workers 805
106, 25 Chisholm Avenue
St. Albert, Alberta T8N 5A5

[12] For Welded Tube:

United Steel Workers 8328
25 Cecil Street
Toronto, Ontario M5T 1N1

UNIFOR 199
124 Bunting Road
St. Catharines. Ontario, L2P 3G5

Exporters

[13] The CBSA identified two potential exporters of the subject goods from CBSA import documentation and from information submitted in the complaint. The potential exporters were asked to respond to the CBSA's Dumping Request for Information (RFI).

Importers

[14] The CBSA identified two potential importers of the subject goods from CBSA import documentation and from information submitted in the complaint. The potential importers were asked to respond to the CBSA's Importer RFI.

PRODUCT INFORMATION

Definition

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

Oil country tubular goods, which are casing, tubing and green tubes made of carbon or alloy steel, welded or seamless, heat treated or not heat treated, regardless of end finish, having an outside diameter from 2 ⅜ inches to 13 ⅜ inches (60.3 mm to 339.7 mm), meeting or supplied to meet American Petroleum Institute specification 5CT or equivalent and/or enhanced proprietary standards, in all grades, excluding drill pipe, pup joints, couplings, coupling stock and stainless steel casing, tubing or green tubes containing 10.5 percent or more by weight of chromium, originating in or exported from the United Mexican States.

Additional Product Information

[16] For greater certainty, the term "green tube" refers to unfinished casing, tubing, or other tubular products (including upgradable OCTG that may or may not already be tested, inspected, and/or certified) originating in or exported from Mexico and imported for use in the production or finishing of OCTG meeting final specifications, including grade and connections, required for use downhole. Green tubes, as they are commonly referred to in the OCTG industry, are intermediate or in process tubing and casing which require additional processing, such as threading, heat treatment and testing, before they can be used as fully finished oil and gas well casing or tubing in end-use applications.

[17] For greater clarity, the product definition does not include green tubes originating in or exported from Mexico which are upgraded in the manner described above in an intermediate country prior to being exported to Canada for purposes of this dumping investigation. The CBSA considers these high-strength tubing and casing to originate in the intermediate country for purposes of the investigation.

[18] Pup joints are essentially short lengths of OCTG used for spacing in a drill string, and these are excluded where their length is 12 feet or below (with a three-inch tolerance), as defined in the API 5CT specification.

[19] Furthermore, accessory products used in conjunction with downhole OCTG tubing and casing strings such as cross-over joints, marker joints, elbows etc. are not covered by the product definition, nor are further manufactured products which use OCTG as inputs to their production such as vacuum insulated tubing (VIT). Coiled tubing is also not part of the product definition.

Product Characteristics and Uses [5]

[20] Casing is used to prevent the walls of the bored hole from collapsing, both during drilling and after the well has been completed. Tubing is used to convey oil and gas to the surface.

[21] As noted above, subject OCTG may be manufactured by the seamless or welded process. Typical casing and tubing end finishes include plain end, beveled, external upset ends, threaded, or threaded and coupled (including proprietary premium or semi-premium connections).

[5] OCTG 3 Complaint narrative – paragraphs 7 – 12 (NC).

[22] OCTG must be able to withstand outside pressure and internal yield pressures within the well. In addition, OCTG must have sufficient joint strength to hold the weight of the pipe string and must be equipped with threads sufficiently tight to contain the well pressure where lengths are joined. Threading may be performed by the manufacturer or a third-party threading operation. 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 OCTG concentrically for certain portions of the well depth.

[23] Subject OCTG are supplied to meet at a minimum API specification 5CT. OCTG from Mexico is supplied in all grades including and not limited to, H40, J55, K55, N80, L80, L80 HC, L80 LT, L80 SS, C90, C95, C110, P110, P110 HC, P110 LT, T95, T95 HC, and Q125, or proprietary grades manufactured as substitutes for, or enhancements to, these specifications. The grade numbers define the minimum yield strength required of the grade in thousands of pounds per square inch (ksi).

[24] Heat-treated grades are more sophisticated higher strength grades of pipes used in horizontal applications, deeper wells, and more severe environments such as low temperature services, sour service, heavy oil recovery, etc. These grades are made beginning with the use of a specific chemistry in the steel (either in billet for the seamless process or the steel coil in the ERW process) and are further-processed with heat treatment to attain certain combinations of mechanical properties and/or resistance to corrosion and environmental cracking.

[25] For example, maximum strength (N80, P110, Q125), high-strength with lower ductility (normally proprietary enhancements of API grades), or high-strength combined with resistance to corrosion and environmental cracking (L80, C90, C95, C110, T95 and proprietary enhancements).

[26] Semi-premium and premium connections similarly enhance the function of an OCTG string by providing additional performance and/or sealing characteristics which may be required in more demanding applications.

Production Process [6]

[27] OCTG casing and tubing are made on the same production equipment. Production may be by either the seamless or the welded process.

[28] The seamless process for producing OCTG begins with the formation of a central cavity in a sound solid steel billet to create a shell. The shell is then rolled on a retained mandrel and reduced in a stretch reduction mill to produce the finished size before cooling on a walking beam cooling bed.

[6] OCTG 3 Complaint narrative – paragraphs 13 – 20 (NC).

[29] The welded process begins by slitting flat hot-rolled steel in coil form of a pre-determined thickness (skelp) to the proper width required to produce the desired diameter of pipe. The skelp is then sent through a series of forming rolls that bend it into a tubular shape. As the edges of the skelp come together under pressure in the final forming rolls, an electric current is passed between them. The resistance to the current heats the edges of the skelp to the welding temperature, and the weld is formed as the two edges are fused together. OCTG produced using the welded process is also known as electric-resistance welded (ERW) OCTG.

[30] Pipe that is formed by either the seamless or the ERW methods is then cut to length. Depending on the API or proprietary specifications needed, OCTG may also be heat-treated at this point. The product is then sent to the finishing line where it is beveled and threaded on both ends. Tubing may undergo a separate process of upsetting and normalizing prior to threading. Finally, a coupling and coupling protector are applied to one end of the pipe and a thread protector is applied to the other end before it is ready for shipment. Finishing operations also include cooling, straightening, facing, testing, coating, marking, and/or bundling.

[31] Evraz and Welded Tube both employ the ERW production process. Specifically, Evraz produces specific OCTG products at the following four locations.

[32] In Regina, Saskatchewan, Evraz produces ERW plain-end tubing in sizes ranging from 2.375 inches to 3.5 inches in outside diameter (OD).

[33] In Calgary, Alberta, Evraz produces ERW casing, threaded and coupled with API connections, in sizes ranging from 4.5 inches to 13.375 inches in OD, as well as ERW tubing, threaded and coupled with API connections, in sizes ranging from 2.375 inches to 3.5 inches in OD.

[34] In Camrose, Alberta, Evraz produces ERW plain-end casing in sizes ranging from 6.625 inches to 16 inches in OD.

[35] Finally, in Red Deer, Alberta, Evraz produces ERW casing, threaded and coupled with both API and proprietary (premium and semi-premium) connections, in sizes ranging from 4.5 inches to 12.75 inches in OD.

[36] Plain-end products are finished at either the Red Deer or the Calgary facilities. Finishing activities at these locations include heat treatment, as well as testing, inspection, measurement, and certification. In addition, threading and coupling for API, premium, or semi-premium connections takes place at the Red Deer facility and threading and coupling for API connections takes place at the Calgary facility.

[37] As a result of production at each of these facilities, Evraz is capable of producing ERW OCTG in grades including API 5CT H40, J55, L80, L80 HC, L80 HCI, L80 RY, N80, P110, P110 HC, P110 HCI, P110 RY and other proprietary grades.

[38] Welded Tube produces and finishes OCTG casing for the Canadian market at three production facilities in Canada. Welded Tube's primary pipe production facility is in Concord, Ontario, where it produces, among other products, hollow structure sections and welded OCTG green tube for further processing into finished casing.

[39] The OCTG green tube produced at the Concord facility is transferred to the facility in Welland, Ontario for quenching, tempering, threading and coupling, and other finishing steps such as further testing and inspection. The output of the Welland facility therefore is finished API 5CT casing in sizes ranging from 4.5 inches to 9.625 inches OD, and up to 0.475 inches in wall thickness, in grades including H40, J55, N80, L80, L80 HC, P110, P110 HC, and proprietary grade WTC80, threaded and coupled with API and semi-premium connections.

[40] At its third facility, located in Port Colborne, Ontario, Welded Tube performs threading and coupling operations and other finishing steps such as further testing and inspection. The output of the Port Colborne facility therefore is finished API 5CT casing in sizes ranging from 4.500 inches to 9.625 inches OD, and up to 0.475 inches in wall thickness, in grades including H40, J55, N80, L80, L80 HC, EP L80, CY P110, P110, P110 HC, HP P110, and proprietary grade WTC80, threaded and coupled with API and semi-premium connections.

Classification of Imports [7]

[41] The allegedly dumped goods are normally classified under the following tariff classification numbers:

7304.29.00.11	7304.29.00.51	7306.29.00.19
7304.29.00.19	7304.29.00.59	7306.29.00.21
7304.29.00.21	7304.29.00.61	7306.29.00.31
7304.29.00.29	7304.29.00.69	7306.29.00.29
7304.29.00.31	7304.29.00.71	7306.29.00.39
7304.29.00.39	7304.29.00.79	7306.29.00.61
7304.29.00.41	7306.29.00.11	7306.29.00.69
7304.29.00.49		

[42] The listing of tariff classification numbers is for convenience of reference only. The tariff classification numbers may include non subject goods. Also, subject goods may fall under tariff classification numbers that are not listed. Refer to the product definition for authoritative details regarding the subject goods.

LIKE GOODS AND CLASS OF GOODS

[43] Subsection 2(1) of SIMA defines "like goods" in relation to any other goods as goods that are identical in all respects to the other goods, or in the absence of any identical goods, goods the uses and other characteristics of which closely resemble those of the other goods.

[7] OCTG 3 Complaint – paragraph 21 (NC).

[44] In considering the issue of like goods, the Canadian International Trade Tribunal (CITT) typically looks at a number of factors, including the physical characteristics of the goods, their market characteristics, and whether the domestic goods fulfill the same customer needs as the subject goods.

[45] As noted in the complaint, the CITT has consistently determined that welded and seamless OCTG are like goods, and that OCTG of different grades are not separate classes of goods.[8] Welded and seamless OCTG have similar characteristics and generally compete with one another in the domestic market.

[46] OCTG casing and tubing are made to the same minimum API 5CT specifications and/or to proprietary equivalent/enhanced specifications, and are both used in down hole well applications. Casing and tubing are produced on the same equipment and have the same channels of distribution.

[47] Although the goods produced by the Canadian industry may or may not be considered identical in all respects to the subject goods imported from Mexico, the CBSA has concluded that the Canadian goods closely resemble the subject goods. Further, after reviewing the physical characteristics of the goods, the end-uses and all other relevant factors, the CBSA is of the opinion that the subject goods constitute only one class of goods.

THE CANADIAN INDUSTRY

[48] The domestic industry is comprised of 3 producers: the Complainants and Tenaris Canada, which is divided into Algoma Tubes (Sault Ste. Marie, Ontario) and Tenaris Hydril (Nisku, Alberta). Prudential Steel was also part of the Tenaris Canada group of companies until it was closed in July 2020.[9]

Standing

[49] Pursuant to subsection 31(2) of SIMA, the following conditions must be met in order for an investigation to be initiated:

(a) the complaint is supported by domestic producers whose production represents more than 50% of the total production of like goods by those domestic producers who express either support for or opposition to the complaint; and,

(b) the production of the domestic producers who support the complaint represents 25% or more of the total production of like goods by the domestic industry.

[8] CITT Dumping and Subsidizing *Findings and Reasons* on Oil Country Tubular Goods, April 17, 2015, paragraph 42.
[9] OCTG 3 Complaint narrative – paragraph 66 (NC).

[50] SIMA provides that where a domestic producer is an importer of, or is related to an exporter or importer of, allegedly dumped or subsidized goods, any such producer may be excluded from the definition of "domestic producers", for purposes of determining the standing under subsection 31(2). Similarly, subsection 31(3) stipulates that such producers may also be excluded from the definition of "domestic industry," for purposes of standing.

[51] In the present case, the two supporting domestic producers collectively account for more than 25% of the production of like goods in Canada, with the only other remaining domestic producer (Tenaris Canada)[10] being related to the importer (TGS Canada) of the allegedly dumped goods, as well as being related to the sole exporter (Tenaris Tubos de Acero de Mexico SA) of the goods in question.

[52] As such, for purposes of standing, Tenaris Canada was excluded from the definition of "domestic producer" as per the aforementioned SIMA provisions. This means that the Complainants satisfy the requirements for standing under both paragraphs 31(2)(a) and 31(2)(b) of SIMA.

[53] Based on the above, the requirements for standing as set out in subsection 31(2) of SIMA are satisfied.

CANADIAN MARKET

[54] The Complainants estimated the domestic market by supplementing their own internal sales information and their estimates of Tenaris Canada's domestic sales from domestic production. Using Statistics Canada data and Global Affairs Canada import permit data, the Complainants estimated the total volume of imports of OCTG from Mexico, the United States and all other countries for the full years of 2017 to 2020 as well as January to April 2020 and 2021 respectively. Tenaris Canada's sales of Mexican imports were calculated based on the estimated imports and adjusted to account for estimated changes in inventory levels based on market intelligence and information available from prior proceedings before the CITT. [11]

[55] The CBSA conducted its own independent review of the import data from the CBSA's customs database for goods imported from January 2018 to March 31, 2021. The CBSA made adjustments to customs import data obtained through FIRM [12] to correct data entry errors and to remove non-subject imports from the database based on its review. In addition, the CBSA also reviewed goods description reports generated from the Accelerated Commercial Release Operations Support System (ACROSS) database for goods imported from January 2020 to March 31, 2021.

[10] This is inclusive of Algoma Tubes, Tenaris Hydril and Tenaris Prudential facilities, which are collectively referred to as Tenaris Canada.
[11] OCTG 3 Complaint Narrative (NC) – paragraph 160; Exhibit 5-01 (PRO).
[12] Facility for Information Retrieval Management (FIRM)

[56] The table below summarizes the CBSA's estimate of imports:

TABLE 1
CBSA'S ESTIMATES OF IMPORTS
(EXPRESSED AS A PERCENTAGE OF VOLUME)

Source*	2018	2019	2020	Q1-2020	Q1-2021
OCTG 1	5.1%	2.6%	1.5%	1.0%	0.0%
OCTG 2	7.0%	13.9%	2.2%	4.1%	0.0%
Seamless Casing	6.6%	1.0%	1.5%	2.8%	0.0%
Mexico	**22.0%**	**14.1%**	**20.9%**	**20.5%**	**32.8%**
United States	36.8%	39.8%	41.0%	46.8%	37.3%
Other	22.5%	28.6%	32.9%	24.8%	30.0%
Total Import Volume**	**100.0%**	**100.0%**	**100.0%**	**100.0%**	**100.0%**

* References to *OCTG 1, OCTG 2 and Seamless Casing* are references to the CBSA's current measures in force on OCTG from other countries (https://www.cbsa-asfc.gc.ca/sima-lmsi/mif-mev/menu-eng.html).
** Some totals may not add to 100% due to rounding.

[57] Detailed information regarding the volume and value of imports of OCTG and domestic production cannot be divulged for confidentiality reasons. The CBSA, however, has prepared the following table to show the estimated import share of subject goods in Canada as well as the Canadian market as a whole.[13]

[13] OCTG3 Complaint Analysis, Table 9.

TABLE 2
CBSA'S ESTIMATE OF APPARENT CANADIAN MARKET
(EXPRESSED AS A PERCENTAGE OF VOLUME)

Source*	2018	2019	2020	Q1-2020	Q1-2021
Complainants	27.0%	29.8%	24.0%	27.5%	19.5%
Tenaris Canada	26.6%	27.4%	31.8%	34.4%	36.0%
Total Sales - Canadian Production [1]	**53.5%**	**57.2%**	**55.8%**	**61.9%**	**55.5%**
OCTG 1	3.2%	1.5%	0.8%	0.6%	-
OCTG 2	4.4%	8.1%	1.2%	2.1%	-
Seamless Casing	4.1%	0.6%	0.9%	1.5%	-
Mexico	**13.7%**	**8.2%**	**11.8%**	**10.8%**	**18.8%**
United States [2]	7.0%	7.7%	10.9%	10.2%	8.5%
All Other Countries	14.0%	16.7%	18.6%	13.0%	17.2%
Total Apparent Canadian Market**	**100%**	**100%**	**100%**	**100%**	**100%**

* References to *OCTG 1*, *OCTG 2 and Seamless Casing* are references to the CBSA's current measures in force on OCTG from other countries (https://www.cbsa-asfc.gc.ca/sima-lmsi/mif-mev/menu-eng.html).
** Some percent totals may not add to 100% due to rounding

Note 1: From Exhibit 5-1(PRO) of Complaint. Includes Evraz, WTC and Tenaris Canada (Est.)
Note 2: Unlike the CBSA import table above, the Estimated Canadian Market Table has been adjusted to reflect re-exported goods by WTC as reported by the Complainants.

[58] The CBSA will continue to gather and analyze information on the volume of imports during the period of investigation of May 1, 2020 to April 30, 2021, as part of the preliminary phase of the dumping investigation and will refine these estimates.

EVIDENCE OF DUMPING

[59] The Complainants alleged that the subject goods from Mexico have been injuriously dumped into Canada. Dumping occurs when the normal value of the goods exceeds the export price to importers in Canada.

[60] Normal values are generally based on the domestic selling price of like goods in the source of export where competitive market conditions exist or as the aggregate of the cost of production of the goods, a reasonable amount for general, administrative, selling (GS&A), and other costs, and a reasonable amount for profits.

[61] The export price of goods sold to importers in Canada is generally the lesser of the exporter's selling price and the importer's purchase price, less all costs, charges and expenses resulting from the exportation of the goods.

[62] Estimates of normal values and export prices by both the Complainants and the CBSA are discussed below.

Normal Values

<u>Complainants' Estimates</u>

[63] The Complainants have indicated that they were unable to find any publicly available home market pricing for OCTG sales in Mexico, and as such, the Complainants provided estimated normal values using a constructed cost approach based on the methodology prescribed under paragraph 19(b) of SIMA,[14] calculated based on the aggregate of estimates of the cost of production of the subject goods, a reasonable amount for GS&A, and other costs, and a reasonable amount for profits. The Complainants' estimated normal value, based on the methodology in paragraph 19(b) of SIMA, was constructed as detailed in the following paragraphs.

[64] A group of benchmark products were selected for normal value estimations. These products are representative of the Complainants' sales of like goods in Canada.[15]

[65] Quarterly costs of production were estimated based on Evraz's own quarterly cost information adjusted to reflect estimated differences in labour and scrap steel input costs in Mexico.[16] Evraz's costing information used in normal value estimations taken from their accounting systems was substantiated via reconciliations of sample costs to Evraz's accounting data.[17] Where there was no production of a particular model in a particular quarter, the Complainants used the costs from the most recent prior quarter.[18]

[66] Raw material costs, with the exception of scrap costs, were based on the Complainants' own costs. With respect to scrap costs, as Tenaris Tubos de Acero de Mexico SA (TAMSA) also manufactures billets from scrap and sponge iron, the Complainants have used scrap pricing published in the trade publication Fastmarkets American Metal Market (AMM) converted to Canadian dollar per tonne.[19] To assist the CBSA in normal value estimations, the Complainants also provided estimations of the cost differences between various kinds of end finishes (i.e. standard API, semi-premium, and premium).[20]

[14] OCTG 3 Complaint narrative – paragraphs 88-89 (NC).
[15] OCTG 3 Complaint narrative – paragraph 90 (NC).
[16] OCTG 3 Complaint narrative – paragraph 91 (NC); Exhibit 6-06 (PRO).
[17] OCTG 3 Complaint narrative – paragraph 91 (NC); Exhibits 6-07a through 6-07f (PRO).
[18] OCTG 3 Complaint narrative – paragraph 91 (NC); Exhibit 6-06 (PRO).
[19] OCTG 3 Complaint narrative – paragraph 92 (NC); Exhibit 6-03 (PRO), 6-15 (PRO).
[20] OCTG 3 Complaint narrative – paragraphs 92-93 (NC); Exhibit 6-05 (PRO).

[67] Labour costs were estimated based on Evraz's direct labour costs, adjusted to reflect wage differences between Canada and Mexico. This downward adjustment was calculated based upon publicly available information reported by the Instituto Nacional de Estadistica y Geografia in Mexico and by Statistics Canada. The resulting labour adjustment factor was 13.6% of Evraz's costs.[21]

[68] Overhead costs were based on Evraz's overhead costs with the labour component of overhead adjusted using the same methodology as for labour costs.[22] The Complainants made reasonable adjustments to Evraz's overhead costs.[23]

[69] Public financial statements for Tenaris, S.A.[24] covering the period from Q2-2020 to Q1-2021 were used in estimating GS&A and financial expenses. The resulting GS&A rate is 27.7% and the resulting rate for financial and other expenses is 0.1%.[25]

[70] For the amount for profits, the Complainants submitted that while Q1-2021 was the most recent quarter in which Tenaris S.A. posted a profit, it was too short a time period to assess profitability for the dumping period of review. As such, Tenaris S.A.'s 2019 annual profit of 13.2% was used in estimating normal values.[26]

[71] The Complainants contended that due to the differences in production processes (i.e. the Complainants produce welded OCTG while the subject goods are seamless OCTG), an upward adjustment was applied to account for the difference in the costs of production between producing seamless and welded OCTG.[27]

CBSA's Estimates

[72] The CBSA noted that home market pricing for OCTG sales in Mexico is not publicly available. Based on the information available to the Complainants, the CBSA found the normal value estimates based on the methodology of paragraph 19(b) of SIMA to be reasonable and representative.

[73] The methodology used by the Complainants to estimate normal values under their cost-plus approach described above was accepted by the CBSA. As discussed, the Complainants provided quarterly normal value estimates based on a group of benchmark products that are representative of the like goods produced by the Complainants.

[21] OCTG 3 Complaint narrative – paragraph 94 (NC); Exhibits 6-06 (PRO), 6-08 through 6-10 (NC), 6-15 (PRO).
[22] OCTG 3 Complaint narrative – paragraph 95 (NC); Exhibits 6-06 (PRO), 6-10 (NC), 6-15 (PRO).
[23] OCTG 3 Complaint narrative – paragraph 96 (NC); Exhibit 6-06 (PRO), 6-15 (PRO).
[24] Tenaris S.A. is the parent company of Tenaris Canada and TAMSA
[25] OCTG 3 Complaint narrative – paragraph 97 (NC); Exhibits 6-11 (NC), 6-12 (NC), 6-15 (PRO).
[26] OCTG 3 Complaint narrative – paragraph 98 (NC); Exhibits 6-11 (NC), 6-12 (NC), 6-15 (PRO).
[27] OCTG 3 Complaint narrative – paragraph 99 (NC); Exhibits 6-13 (PRO), 6-14 (PRO), 6-15 (PRO).

[74] The CBSA used a selection of these benchmark products to estimate normal values for products it found to be exported during the period of review from Mexico, based on its review of customs import data.[28] In order to estimate a normal value for an imported good, the CBSA matched the imported product to one of the benchmark products for which the Complainants had estimated a normal value based on its grade, outside diameter, and end finish. Where there were no exact matches for an imported good sampled, the CBSA matched the good to a benchmark product that it determined to best resemble the characteristics of the imported good. Where needed, the CBSA adjusted normal values for purposes of accounting for the cost differences in producing different kinds of end finishes in accordance with the cost differences estimated by the Complainants.

[75] The CBSA determined that the Complainants' constructed cost methodology was reasonable and as such, the CBSA's estimates of normal values are equal to the Complainants' estimates adjusted for cost differences between producing different kinds of end finishes where necessary.

Export Price

[76] The export price of goods sold to an importer in Canada is generally determined in accordance with section 24 of SIMA as being an amount equal to the lesser of the exporter's sale price for the goods and the price at which the importer has purchased or agreed to purchase the goods adjusted by deducting all costs, charges, expenses, and duties and taxes resulting from the exportation of the goods.

[77] The Complainants estimated export prices in accordance with section 24 of SIMA based on import data available from Statistics Canada for the period from June 1, 2020 to March 31, 2021.[29] The total value for duty and quantity information was used in estimating export prices.

[78] Since multiple benchmark products (discussed above) produced by Evraz could fall within a single Tariff Classification Code, the Complainants weighted the volume of imports under the applicable Tariff Classification Code to each benchmark product within that Tariff Classification Code on an equal basis.[30]

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[28]Databases are the Accelerated Commercial Release Operations Support System (ACROSS) and Facility for Information Retrieval Management (FIRM).

[29] OCTG 3 Complaint narrative – paragraphs 86-87 (NC); Exhibit 6-01 (PRO). The Complainants believed that imports under Tariff Code 7304.29.00.39 were misclassified and reclassified to Tariff Code 7304.29.00.29 for purposes of their export price estimations. Tariff Code 7304.29.00.39 relates to OCTG with a diameter greater than 298.5 mm (11.75"). Over the period from June 1, 2020 to March 31, 2021, Statistics Canada reported imports of over 7,700 tonnes, which is much higher than Evraz's estimated demand for carbon and alloy OCTG with a diameter greater than 298.5 mm.

[30] OCTG 3 Complaint narrative – paragraph 101 (NC); Exhibits 6-16 (PRO).

[79] Given the large number of export prices calculated by the Complainants and the confidential nature of the associated product matching, the table of export prices has not been reproduced in this report, but was submitted in the complaint as a confidential exhibit.[31]

[80] In estimating export prices for the purposes of initiation, the CBSA used the value for duty (VFD) and quantity reported in the customs database [32]for each individual shipment imported during the period of review. The CBSA made adjustments to the data to correct errors and to remove non-subject imports based on its review.

Estimated Margin of Dumping

[81] The CBSA estimated the margin of dumping for Mexico by comparing the total estimated normal values based on the methodology of paragraph 19(b) of SIMA with the total weighted average estimated export prices in accordance with section 24 of SIMA for the period reviewed (April 1, 2020 to March 31, 2021).

[82] The estimated margin of dumping for the period of review was 22.1%, expressed as a percentage of the estimated export price.

<u>EVIDENCE OF INJURY</u>

[83] The Complainants alleged that the goods from Mexico have been dumped, and that the dumping has caused and is threatening to cause material injury to the domestic industry in Canada.

[84] SIMA refers to material injury caused to the domestic producers of like goods in Canada. The CBSA has concluded that OCTG produced by the domestic industry are like goods to the subject goods from Mexico.

[85] The Complainants have relied significantly on confidential declarations from three major arm's length distributors of OCTG in Canada, each of which has identified TAMSA as the source of dumping of OCTG into Canada which is causing injury to the Canadian market. [33]

[86] Each of these declarations provided extensive information and allegations concerning the effects of injurious dumping of OCTG from Mexico, all of which is alleged to be produced by TAMSA.

[31] OCTG 3 Complaint – Exhibit 6-16 (PRO).
[32] Facility for Information Retrieval Management (FIRM)
[33] OCTG 3 Complaint – Exhibit 7-05 (PRO): Declaration of Bill Thomas and Steve Sutton – Alberta Tubular Products (ATP); 19 pages; Exhibit 7-06 (PRO): Declaration of Henry Ewert and Greg Northcott – Hallmark Tubulars Ltd. (Hallmark); 22 pages; Exhibit 7-07 (PRO): Declaration of Gordon Kozak – Triumph Tubular & Supply Ltd. (Triumph); 26 pages.

[87] These declarations provide substantial corroborative support to the allegations the Complainants have made with respect to the alleged injury caused to the Canadian industry. This includes evidence the Complainants have provided in respect of: a substantial increase in subject imports; loss of market share; price undercutting and lost sales; price depression; price suppression; and negative impacts on: financial performance, employment, return on investments, production and capacity utilization.

[88] The Complainants were also careful to acknowledge that the decline in the Canadian market has contributed to the injury it has sustained since early in 2020. However, the Complainants have argued and provided evidentiary support that "dumped Mexican imports were in and of themselves a cause of materially injurious volume effects over the period of investigation." [34]

Major Proportion

[89] A condition that must be satisfied prior to initiation of an investigation is that there must be a reasonable indication that the dumping or subsidizing is causing injury to the domestic industry. Domestic industry is defined in subsection 2(1) of SIMA. Part of that definition refers to "domestic producers whose collective production of the like goods constitutes a major proportion of the total domestic production of the like goods..."

[90] Although the term "major proportion" is not defined in either SIMA or the WTO Agreements, the CBSA has, for some time, been equating a "major proportion" with at least 25 to 30%. That is, in practice, it was required that the complaint contain evidence of injury to 25 to 30% of Canadian production. Therefore, the 25% rule required for standing, in most cases, will be satisfied in conjunction with the major proportion analysis.[35]

[91] Similar to the approach when dealing with the standing issue, a producer may be disregarded from calculations when assessing the "major proportion" issue, if that producer is related to an importer or exporter of the allegedly dumped imports, or if the producer is itself an importer of the allegedly dumped or subsidized goods.

[92] Given the earlier analysis that Tenaris Canada would not be considered part of the domestic producers for purposes of standing in subsection 31(2) of SIMA, the CBSA extended the same consideration in respect of injury to the major proportion of the domestic industry. Without Tenaris Canada factored into the equation, Evraz and Welded Tube account for 100% of the domestic industry for purposes of this complaint.

Corporate Strategy and The Recent Substantial Increase in Subject Imports

[93] The Complainants cited their Canadian Market estimates as evidence of past and very recent surges in subject imports which they alleged have caused injury to the Canadian industry producing the like goods.

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[34] OCTG 3 Complaint narrative – paragraph 157 (NC).
[35] SIMA Handbook – Section 4.1.4.2. "Major Proportion."

[94] The backdrop to these sudden import surges over the period of review, is largely attributed to Tenaris's business model. Tenaris's mills do not operate with autonomy in determining their production schedules; and as such, the decision as to where goods are produced to satisfy sales are not at the sole discretion of the individual facilities. [36] This has previously been acknowledged by the CITT in past proceedings concerning OCTG:

> "The Tribunal is also aware of the globally integrated business model by which Tenaris operates and the consequent flow of non-subject imports from Tenaris affiliates into the Canadian market. In this regard, the Tribunal notes that, while the volume of sales of domestically produced goods fell by 3 percent in 2012 (from 588,251 tonnes in 2011 to 569,983 tonnes in 2012), the producers' sales volume of non-subject imports increased by 69 percent in that same period." [37]

[95] More recently, during the *Certain Steel Goods* Safeguard inquiry, the CITT noted Tenaris's business strategy which resulted in displacing Canadian production through its imports from TAMSA:

> "Tenaris accounted for all of the domestic industry's imports from the subject countries during the POI, and a significant portion of these imports are from Tenaris' Mexican affiliate, TAMSA. The evidence before the Tribunal suggests that, while certain of these imports involved specialty products not made in Canada, a significant portion of these substitutable products (or similar products) could have been produced in Canada (by Tenaris or other domestic producers)." [38]

[96] The recent closure of Prudential steel and subsequent dramatic increase in imports from Mexico in Q1-2021 of grades previously manufactured at the Prudential facility, are further evidence of this corporate strategy. The global inventory management model allows Tenaris to quickly switch from domestic production to imports to manage its efficiencies in order to hold existing and secure additional market share.

[97] The CITT further noted that this strategy is not purely influenced by domestic facility availability:

> "Tenaris' imports of subject goods from Mexico resulted from a corporate decision by Tenaris to idle its Canadian operations and supply the weak Canadian market with imports from TAMSA. Tenaris argued that it did so in order to maintain its market position and relationship with its clients during the period when its Canadian production facilities were suspended. However, although decreasing somewhat, significant volumes of subject imports from TAMSA continued into interim 2018, i.e., even after Tenaris' Canadian facilities had resumed operating." [39]

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[36] OCTG 3 Complaint narrative – paragraph 217 (NC) – Certain Steel Goods Safeguard Transcript Excerpt.
[37] CITT Finding and Reasons: Oil Country Tubular Goods 2, NQ-2014-002 at para 168; June 18, 2015.
[38] OCTG 3 Complaint narrative – paragraph 117 (NC); Certain Steel Goods, GC-2018-001 (April 3, 2019), p. 84.
[39] OCTG 3 Complaint – paragraph 113 (NC); *Certain Steel Goods*, GC-2018-001 (April 3, 2019), p. 84-85. https://decisions.citt-tcce.gc.ca/citt-tcce/s/en/418294/1/document.do

[98] As noted by the Complainants, the CITT took the acknowledgment of this corporate strategy one step further to affirm that it was, in part, causing injury to the Canadian industry:

> "Tenaris sought to justify its import strategy as a reasonable business and commercial strategy. That may be so, but the Tribunal cannot simply accept Tenaris' explanations as a valid consideration for not treating this strategy as having resulted in self-inflicted injury for the purpose of its analysis…Tenaris' imports from TAMSA and from other subject countries had the effect of displacing Canadian production… The replacement of domestic production by subject imports also means that the domestic industry is less able to benefit from economies of scale, thereby spreading domestic producers' fixed costs over a smaller base than would otherwise be the case. Thus, the evidence before the Tribunal indicates that a portion of any injury experienced by the domestic industry is self-inflicted." [40]

[99] The CITT then summarized its injury analysis in the 2019 Safeguard hearing by stating:

> "In its serious injury analysis, the Tribunal concluded that imports of the subject goods by the domestic industry have displaced domestic sales from domestic production during the POI, including in interim 2018. The evidence does not suggest that the domestic producers are likely to significantly curb their imports of the subject goods. First, as noted above, volumes of subject imports by the domestic industry were on an upward trend in interim 2018, increasing by 8 percent compared to interim 2017, and they accounted for a significant share of the subject imports. A substantial share of Tenaris' imports from Mexico during the POI were products that Tenaris itself could have manufactured in Canada or that other Canadian producers could have produced as substitutes. The Tribunal is of the view that Tenaris' subject country imports, including those from Mexico, are likely to continue at high volumes. There is no evidence that Tenaris is considering changing its current corporate approach of supplying the Canadian market with imports from TAMSA in Mexico in the foreseeable future. In light of the foregoing and in light of projected {weaker} market conditions, the Tribunal concludes that subject imports by the domestic industry are likely to continue at high volumes during the period relevant for its threat of injury assessment."

[100] The Complainants acknowledged the enormous volume of subject imports in 2018 and the subsequent declines in 2019 and 2020, while pointing out that the apparent Canadian market also decreased substantially over that same period. However, it is the more recent Q1-2021 period which they emphasize as the most concerning indicator of injury. The data provided by the Complainants indicated that "the absolute volume of imports from Mexico has since *increased* by 8% from 17,344 MT April YTD 2020 to 18,734 MT as of April YTD 2021." [41]

[101] The CBSA's import data confirms a similar percentage increase in Q1-2021 over the same period in Q1-2020. This comparative increase is accompanied by a 32.8% share of imports based on volume that Mexico is estimated to hold in Q1-2021 as per Table 1. This is the largest import share for Mexico based on volume during the period of analysis.

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[40] OCTG 3 Complaint – paragraph 115 (NC); Certain Steel Goods, GC-2018-001 (April 3, 2019), p. 85. https://decisions.citt-tcce.gc.ca/citt-tcce/s/en/418294/1/document.do
[41] OCTG 3 Complaint – paragraph 125 (NC).

Loss of Market Share

[102] The Complainants emphasized that in terms of the injury from subject imports, it is the relative levels of subject imports which are most telling rather than trends in absolute volumes. That is, the volume of imports of subject OCTG from Mexico relative to the domestic industry's production.[42]

[103] The Complainants noted that "the period of sharpest increase in subject imports of OCTG from Mexico relative to domestic production started in the latter part of 2020 into 2021." [43]

[104] The CBSA's data concerning apparent Canadian market mirrors the trend in Mexican imports growing as a ratio of the complainants' sales from domestic production.

[105] The Complainants also stated that "the share of subject imports from Mexico also grew substantially relative to total imports of OCTG, from 22.4% in 2018 to 29.0% in interim 2021. With the exception of imports from the United States, subject imports from Mexico were by far the most significant source of OCTG imports from any country in 2020 and interim 2021." [44]

[106] The CBSA's data does indicate that while the USA maintains a fairly steady share of OCTG imports, those from Mexico are growing significantly in import share. The share of Mexican imports relative to the overall apparent Canadian market has also grown over the same period with a growth from 8.2% in 2019 to 11.8% in 2020 and up to 18.8% in Q1-2021.[45]

[107] Over the same period, the CBSA estimates that since 2019, the Complainants have been losing market share in Canada; from 29.8% in 2019 down to 24.0% in 2020 to 19.5% in Q1-2021.[46]

[108] The Complainants contended that the CITT's finding in its recent *Certain Steel Goods* Safeguard investigation corroborates that Tenaris is gaining market share through TAMSA:

> "This finding supports the conclusion that Tenaris used its Mexican imports to capture market share and that the imports were brought in to compete broadly with the industry's like goods (as opposed to filling a niche only)." [47]

[42] OCTG 3 Complaint – paragraph 126 (NC).
[43] OCTG 3 Complaint – paragraph 127 (NC).
[44] OCTG 3 Complaint narrative – paragraph 128 (NC).
[45] Table 2.
[46] Table 2.
[47] OCTG 3 Complaint narrative – paragraph 64 (NC).

[109] In addition, the Complainants pointed out that the Tribunal cited the public questionnaire response of Pacific Tubulars, which reported that “imports from Mexico are the biggest component of imports into Canada and those imports will continue regardless of the order being rescinded or not. Mexican imports are the single biggest factor in displacing Canadian production.” [48]

[110] Based on the above and the CBSA’s analysis of the evidence contained in the complaint, the CBSA is of the opinion that the evidence reasonably demonstrates the Complainants’ loss of market share can, in part, be reasonably linked to the imports of the allegedly dumped subject goods.

Price Undercutting and Lost Sales

[111] The Complainants have relied significantly on confidential declarations from three OCTG distributors to corroborate their allegations that Tenaris’s Mexican OCTG is undercutting the price of like goods. ATP, Hallmark, and Triumph – distributors who quote customers and receive price feedback from end-users regarding their price levels on specific items on a regular basis – each individually affirmed that Tenaris’s Mexican OCTG is the price leader in the market and consistently undercuts domestically-produced OCTG on a model-specific basis.[49]

[112] The Complainants further alleged that Tenaris’s dual position in the market as major importer of alleged dumped goods from Mexico and producer of like goods in Canada, exacerbates the injury to the Canadian industry as Tenaris is able to provide a broader range of bundled products that is a combination of domestic and imported OCTG in order to win entire bids.

[113] Consequently, the injury sustained by the Canadian industry is amplified by dumped goods, which the Complainants alleged is making Tenaris’s tenders, which can include both domestic and imported OCTG, more competitive, causing the Canadian industry to suffer a cascading effect of injury through lost sales than had the subject goods been completely separate negotiations from domestically produced goods.

[114] This alleged effect is evident in the CBSA’s Apparent Canadian Market analysis. The combination of estimated sales by Tenaris Canada from domestic production and imports from Mexico rose over the period of analysis as a percentage of the total apparent market. As noted in Table 2 of this report, in 2018, those combined sales accounted for 40.3% of the apparent market and climbed to 43.6% in 2020 and 54.8% in Q1-2021.

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[48] OCTG 3 Complaint narrative – paragraph 65 (NC); Exhibit 5-03 (NC) – Pacific Tubulars ERQ Response for OCTG 2 Expiry Review, page 14 of 18; CITT Orders and Reasons: *Oil Country Tubular Goods 2*, RR-2019-006 at footnote 179.
[49] OCTG 3 Complaint narrative – paragraph 138 (NC).

[115] The Complainants also provided 16 examples of lost sales where they were allegedly undercut by subject goods going back to 2018 and covered a material amount of estimated volume.[50] The sworn declarations from each of the three distributors as well as two other declarations from Evraz provided more detailed analysis of dumped subject goods and included additional evidence in the form of attachments which supported claims made in the declarations.

[116] The Complainants further alleged that while seamless OCTG typically trades for a premium over OCTG produced by the ERW method, subject "imports are actually undercutting domestically produced welded OCTG in absolute or real terms. This is also likely to have (and to continue to have) a significantly depressive effect on the price of like goods as the market corrects to restore the historical seamless premium." [51]

[117] As noted earlier, the Complainants also argued that "dumped Mexican imports were in and of themselves a cause of materially injurious volume effects over the period of investigation." [52]

[118] This allegation is supported by the CBSA's estimate of the Apparent Canadian Market.

[119] Based on the above and the CBSA's analysis of the evidence contained in the complaint, including the three confidential declarations from Canadian distributors of OCTG, the CBSA is of the opinion that the Complainants' evidence reasonably demonstrates the Complainants have faced significant price undercutting and as a result, have lost sales, both of which can reasonably be linked to the imports of the allegedly dumped subject goods.

Price Depression and Suppression

[120] The Complainants stated that they have been forced to lower their prices to compete against the allegedly dumped pricing of the subject goods, which have continued to undercut their selling prices as discussed above. In the sworn declarations provided, the Complainants presented several examples where they lowered their price quotes given that they were competing against subject imports and still lost those sales.

[121] The Complainants provided numerous examples of declines in average unit values (AUVs) over the Period of analysis as support to their argument that dumped subject goods have been depressing their pricing of OCTG in Canada. [53]

[122] Also in support of their arguments, the Complainants made a reference to the recent CITT expiry review decision on OCTG 1, where the commodity nature of OCTG coupled with a depressed market was cited along with the ensuing effect this has with price sensitivity:[54]

[50] OCTG 3 Complaint narrative – paragraph 139 (NC).
[51] OCTG 3 Complaint narrative – paragraphs 143 (NC), 144(NC).
[52] OCTG 3 Complaint narrative – paragraph 157 (PRO).
[53] OCTG 3 Complaint narrative – paragraph 148 (NC).
[54] OCTG 3 Complaint narrative – paragraph 147 (NC).

"In this regard, the Tribunal recalls that it has previously found that a price difference 'as small as 2 to 3% could sway a sale from one supplier to another.' In the present expiry review, the evidence is that purchasers are even more price-sensitive and thus even more inclined to seek out the lowest prices in the market. The evidence on the record indicates potential price undercutting substantially greater than 2-3 percent in the absence of the order.

As low-priced imports increase, domestic producers would be forced to lower their prices to compete and attempt to maintain their market share. In the previous expiry review, the Tribunal found that the likely increase in subject goods should the finding be rescinded would "likely drive down OCTG prices in the Canadian market, lowering the value of existing inventory and eroding the prices of the like goods." Given the likelihood of significant price undercutting found in this review, the Tribunal arrives at the same conclusion: the rescission of the order would likely result in significant price depression." [55]

[123] Given the evidence of price undercutting discussed above, it is reasonable to believe that this undercutting, at prices which appear dumped, has also depressed prices as the Complainants struggle to compete with those prices by lowering their own. However, given the downturn in the OCTG market since early 2020, which saw dramatic declines in the demand for OCTG in the Canadian market, it is difficult to quantify how much of the price declines reported by the Complainants are attributable to the dumped subject goods.

[124] The Complainants have also alleged that the dumped subject goods have suppressed their ability to raise prices to keep in step with rising costs. They alleged two types of evidence in respect of price suppression.

[125] The first is the cost-price squeeze, whereby costs grow as a ratio of selling prices. The Complainants cited their financial reports in support of this allegation. [56]

[126] Both Evraz and Welded Tube have faced increasing raw material input costs since 2020, with Evraz purchasing scrap and Welded Tube purchasing hot-rolled coil (HRC) in their OCTG production. To illustrate the significance of the cost increases, the Complainants stated that HRC prices increased from US$437/ton in August 2020 to US$1,375/ton in April 2021.[57]

[127] The second evidence of price suppression alleged by the Complainants is at the account specific level.[58]

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[55] *Oil Country Tubular Goods*, RR-2019-005 (December 10, 2020) at paragraph 82-83.
[56] OCTG 3 Complaint narrative – paragraph 151 (NC); Exhibit 5-05 (PRO): Consolidated Income Statements.
[57] OCTG 3 Complaint narrative – paragraph 152 (NC).
[58] OCTG 3 Complaint narrative – paragraph 153 (NC).

[128] With respect to price suppression, the CBSA is of the opinion that the evidence provided reasonably supports the Complainants' argument that the dumped subject goods have contributed to their inability to raise prices to offset rising raw material costs and to maintain margins. These raw material cost increases are unrelated to the downturn in the OCTG market and producers should have a reasonable expectation to pass on cost increases, which the evidence provided indicates they have been unable to do.[59]

Negative Impact on Financial Performance

[129] According to the Complainants, the allegedly dumped subject imports have negatively impacted their financial performance, which can be attributed to the Complainants having lowered their prices in order to compete with the allegedly dumped subject imports.

[130] Exacerbating the situation is that the injury sustained by the Complainants comes at a time when Tenaris Prudential, the closest local supplier, ceased its supply and left the market entirely.

[131] Evraz stressed the importance of being "allowed to participate fully in any market recovery at the earliest possible time" as well as the "destructive impact of losses at key accounts." [60]

[132] The Complainants asserted that "these trends in industry profitability need not have resulted, notwithstanding the significant market contraction experience over 2019 and 2020. But for the lost volumes and lost pricing sustained by the Complainants in head-to-head competition with Tenaris sales of dumped Mexican OCTG, the industry very well could have weathered the market downturn significantly better, even with reduced sales and production output on lower overall OCTG demand." [61]

[133] In support of their assertion, the Complainants included a "but for" analysis which further demonstrated that even a minimal increase in their selling prices would have had significant effect on the their gross margins such as to not leave them in the current more perilous situation. [62]

[134] Based on the above and the CBSA's analysis of the evidence contained in the complaint, the CBSA is of the opinion that the Complainants' evidence reasonably demonstrates that the imports of the allegedly dumped subject goods, which have undercut the domestic industry's prices, suppressed and depressed those prices and caused the domestic industry to lose market share, have subsequently had a negative impact on the Complainants' financial results.

[59] OCTG 3 Complaint – Exhibit 5-05 (PRO): Consolidated Income Statements.
[60] OCTG 3 Complaint narrative – paragraph 179 (NC).
[61] OCTG 3 Complaint narrative – paragraph 181 (NC).
[62] OCTG 3 Complaint narrative – paragraphs 199 – 200 (PRO); Exhibit 7-02 (PRO)

Negative Impact on employment

[135] The Complainants stated that the negative impacts on financial performance experienced as a result of the importation of allegedly dumped subject goods, addressed in the previous section, have significantly impacted their ability to maintain optimal levels of employment.

[136] The Complainants underscored the fact that Evraz, for example, maintained relatively stable employment levels.[63]

[137] However, the alleged dumped Mexican OCTG imports, including the inventory draw down at the time of a severe market downturn in 2020, resulted in all of Evraz's OCTG mills being temporarily idled, affecting employees involved in OCTG production. While the Complainants concede that the impacts on employment in 2020 were due to the market downturn, "the extent to which layoffs were required and the length of time during which Evraz facilities remained idle was directly attributable to Tenaris' destructive importer conduct." [64]

[138] The Complainants also provided examples of significant employment and operational impacts for Welded Tube. [65]

[139] Based on the above and the evidence contained in the complaint, the CBSA is of the opinion that the Complainants' evidence reasonably demonstrates that the imports of the allegedly dumped subject goods, which were previously noted to have contributed to the financial hardship experienced by the Canadian industry, have exacerbated the impact on employment beyond the market downturn, which includes a temporary shutdown of Evraz's facilities.

Negative Impact on the Return on Investments

[140] The Complainants have stated their commitment to make investments in their Canadian operations.

[141] Both Evraz and Welded Tube have made significant investments in their Canadian production facilities in the past; [66] however, these planned investments are very much in doubt given current OCTG market demand and pricing uncertainties. [67]

[63] OCTG 3 Complaint – paragraph 186 (NC).
[64] OCTG 3 Complaint – paragraph 186 (NC).
[65] OCTG 3 Complaint – paragraph 204 (NC).
[66] OCTG 3 Complaint – Exhibit 7-02 (PRO): Declaration of Olesya Afanasyeva (Evraz) at paragraph 33; Exhibit 7-03 (PRO): Declaration of Robert (Butch) Mandel and James McEwen (Evraz) at paragraph 29.
[67] OCTG 3 Complaint – Exhibit 7-03 (PRO): Declaration of Robert (Butch) Mandel and James McEwen (Evraz) at paragraph 29.

[142] Both Evraz and Welded Tube have also spent significant resources developing OCTG products. The Complainants alleged that these investments in product development are now in danger of not providing an appropriate return on investment due to the dumping of subject goods. [68]

[143] Based on the above and the evidence contained in the complaint, the CBSA is of the opinion that the evidence reasonably demonstrates that the Complainants' ability to achieve a reasonable rate of return on investments has been negatively impacted due to poorer financial performance which has been linked to the imports of the allegedly dumped subject goods.

Negative Impact on the Production and Capacity Utilization

[144] The Complainants stated that the trends in capacity and production demonstrate that capacity utilization remains depressed. The Complainants contended that "while the collapse of Evraz and Welded Tube's production, capacity utilization and domestic sales from domestic production is in part attributable to the significant downturn in the oil and gas industry," "Mexican imports were in and of themselves a cause of materially injurious volume effects over the period of investigation." [69]

[145] Similar to the analysis on sales and market share earlier, the data available to the CBSA indicates that the Complainants have suffered greater relative declines in production than the decline in the market suggests they should have, had it been the only cause.

[146] Based on CBSA's analysis and the evidence contained in the complaint, the CBSA is of the opinion that the evidence reasonably demonstrates that the Complainants' ability to maintain production and capacity utilization rates have been negatively impacted by the imports of the allegedly dumped subject goods, which have displaced production of the Complainants.

CBSA's Conclusion – Injury

[147] Overall, based on the evidence provided in the complaint and supplementary data available to the CBSA through its own research and customs documentation, the CBSA is of the opinion that the evidence discloses a reasonable indication that the allegedly dumped subject goods from Mexico have caused injury to the domestic industry in Canada in the forms of a substantial increase in subject imports; loss of market share; price undercutting and lost sales; price depression; price suppression; and negative impacts on: financial performance, employment, return on investments, production and capacity utilization.

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[68] OCTG Complaint narrative – paragraph 194-195 (PRO).
[69] OCTG 3 Complaint – paragraph 157 (NC).

THREAT OF INJURY

[148] The Complainants alleged that the dumped goods threaten to cause further material injury to the domestic producers of oil country tubular goods. The Complainants provided the following information to support the allegation that imports of subject goods threaten to cause further injury to the Canadian industry.

Likely Increased Subject Imports

[149] The Complainants cited the recent trends in subject imports as evidence that increased subject good imports is inevitable, "particularly given the closure and decommissioning of the Prudential facility in Calgary" that previously produced lower grade products in Canada. The Complainants also cited the export orientation of TAMSA, coupled with the expected market demand increase in Canada in 2021 and beyond. [70]

[150] In particular, the Complainants referenced that "the absolute volume of imports from Mexico has increased by 8%, from 17,344 MT in interim 2020 to 18,734 MT in interim 2021, notwithstanding a year-over-year decrease in the estimated apparent market." [71]

[151] The Complainants also cited recent statements by Tenaris's CEO and Chairman, that as demand in North America has picked up, Tenaris was actively "strengthening {its} position in the U.S. and Canadian Markets." [72]

[152] The Complainants emphasized the significance of this in relation to the evidence that Tenaris: "does not expect its new ERW mill in Sault Ste. Marie, or its idled U.S. mills to begin or increase production until later in 2021,[73] leaving TAMSA to strengthen its position in Canada and the United States." Beginning in March 2020, Tenaris temporarily shut down numerous mill operations in the United States, but continued operations in Mexico. [74]

[70] OCTG 3 Complaint narrative – paragraph 226 (NC).
[71] OCTG 3 Complaint narrative – paragraph 227 (NC).
[72] OCTG 3 Complaint – Exhibit 7-10 (NC), "Tenaris, Q4 2020 Earnings Call," (Feb 28, 2021) at page 4.
[73] OCTG 3 Complaint – Exhibit 7-13 (NC), "Consolidated Financial Statements for the Years Ended December 2020, 2019 and 2018" at page 62; Exhibit 7-10 (NC), "Tenaris, Q4 2020 Earnings Call," (Feb 28, 2021) at page 4.
[74] OCTG 3 Complaint narrative – paragraph 232 (NC); Exhibit 7-14 (NC), Tenaris, "Half Year Report" at page 12.

Likely Negative Price Effects

[153] The Complainants stated that the likely negative price effects is supported by the fact that the "subject goods have already undercut, depressed and suppressed the prices of the like goods. But there is also – right up until the most period, Q1-2021 – a clear trend of lower pricing in the Mexican imports and an increasing trend of underselling, while at the same time, the domestic industry's costs are rising." As such, the Complainants state that "it is a virtual certainty that the dumped subject goods will have a significant depressing and suppressing effect on the price of like goods" [75]

[154] This concern has become exacerbated by the recent increase in "importing extraordinarily low-priced carbon grade imports from Mexico since Q4 2020." [76]

[155] The Complainants argued that the injurious impact on the domestic industry is likely to worsen, given the current vulnerability of the domestic industry, which includes delays in restarts of production operations, of depressed sales and production, of lost market share, and of declining profitability. The Complainants also cited the CITT's recent orders continuing the findings on OCTG I and II as evidence of the injury vulnerability faced by the Canadian industry to dumped imports.

[156] The Complainants further cited what they characterized as a longstanding pattern of behaviour by Tenaris as a global entity where "there is absolutely no reason to believe that this leveraging will stop over the next 12 months and beyond." [77] This pattern of behaviour is worsened according to the Complainants when considering the substantial volume of annual seamless OCTG TAMSA has available for export. [78]

[157] With Tenaris's United States mills expected to re-start later this year, the Complainants alleged that TAMSA will no longer have as much of a U.S. market to sell OCTG to. The Complainants thus argued that:

> "Due to the United States being the largest destination market for Mexican OCTG exports by far,[79] any reduction in those exports on a percentage basis will require an even larger increase in exports to other markets such as Canada. At the end of Q4 2020 and into Q1 2021, for example, U.S. imports of OCTG from Mexico decreased by 33%, while subject good imports into Canada rose correspondingly by 103%." [80]

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[75] OCTG 3 Complaint narrative – paragraph 232 (NC).
[76] OCTG 3 Complaint narrative – paragraph 170 (NC).
[77] OCTG 3 Complaint narrative – paragraph 238 (NC).
[78] OCTG 3 Complaint narrative – paragraph 241 (PRO); Exhibit 7-15 (NC), Tenaris, "United States Security and Exchange Commission, Form 20-F" (2020) at page 24; Exhibit 7-17 (PRO), Wheatland Tube, "Energy Tubular Capacity Report," (August 4, 2020) at page 8 of 13.
[79] OCTG 3 Complaint – Exhibit 7-36 (NC), United Nations Comtrade Data.
[80] OCTG 3 Complaint narrative – paragraph 253 (NC); Exhibit 12-5 (NC), Statistics Canada Data; Exhibit 7-31 (NC), United States DataWeb, OCTG Imports From Mexico; between December 2020 and February 2021.

[158] The Complainants also cited potential trade restrictions in the U.S. and the European Union (E.U.) as mechanisms which will divert Mexican OCTG to Canada in absence of anti-dumping measures. The expected growth in drilling activity and ensuing demand for OCTG in Canada, coupled with the idling of Evraz and Welded Tube facilities in Canada, were also cited as factors the Complainants believe will lead to increased exports of OCTG from Mexico over the next 12-months, in absence of anti-dumping protection. [81]

Likely Adverse Impact

[159] In regards to the likely adverse impact of the continued dumping of OCTG from Mexico, the Complainants cited the cumulative evidence on the record and in particular, "the detailed evidence of the three arm's length distributors included with this complaint demonstrates not only that the subject goods have been undercutting the like goods over the past two plus years, but that this trend of undercutting is in fact increasing." [82]

[160] As part of the support to the statement regarding undercutting, the Complainants provided data on average import prices from Mexico over the period, to demonstrate the progressive pricing decline from Mexico. The Complainants separated the data by broad classifications (i.e. HS Classification codes) to reduce the impact of changing product mix influencing average prices. [83]

[161] The likely adverse effect of this according to the Complainants is that the decline in import pricing from Mexico coincides with a period where the Complainants are experiencing higher costs due to increases in raw material pricing. They argued that competing with dumped goods that undercut them in the market is damaging enough but even more so when they should in fact be raising their own prices to offset cost increases. [84]

[162] Based on the above, the CBSA is of the opinion that that the Complainants' evidence reasonably demonstrates many of the injury factors cited throughout the complaint are a threat to continue in the future, causing an adverse financial impact through increasingly dumped volumes of OCTG, which undercut the Complainants' domestic selling prices.

Magnitude of the Margin of Dumping

[163] The Complainants submitted that the magnitude of their estimated margin of dumping of 24.9% for Mexico indicates that the threat posed by the dumped subject goods is real, foreseeable, and imminent.

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[81] OCTG 3 Complaint narrative – paragraphs 257 – 260 (NC).
[82] OCTG 3 Complaint narrative – paragraphs 262 (NC).
[83] OCTG 3 Complaint narrative – paragraph 264 - 266 (NC).
[84] OCTG 3 Complaint narrative – paragraphs 270 – 272 (NC).

[164] The CBSA's estimated weighted average margins of dumping for Mexico is 22.1%. This is very comparable in terms of magnitude to the range of margins estimated by the Complainants on individual transactions.

[165] Based on the above, the CBSA is of the opinion that that the Complainants' evidence reasonably demonstrates that the subject goods pose a threat to the domestic industry based on the magnitude of the estimated margin of dumping.

CBSA's Conclusion – Threat of Injury

[166] The CBSA is of the opinion that the evidence disclosed in the complaint reasonably indicates that imports of allegedly dumped subject goods pose a threat of injury to the domestic industry based on a likelihood of a substantial increase in subject imports; the likelihood of subject goods having a negative impact on the price of like goods in Canada, leading to adverse financial results; and the magnitude of the margin of dumping.

CAUSAL LINK – DUMPING AND INJURY/THREAT OF INJURY

[167] The CBSA finds that the Complainants have reasonably linked the injury they have suffered to the alleged dumping of subject goods imported into Canada. The injury includes a substantial increase in subject imports; loss of market share; price undercutting and lost sales; price depression; price suppression; negative impacts on financial performance, employment, return on investments, production and capacity utilization.

[168] This injury relates directly to the price advantage the apparent dumping has produced between the imports of subject goods from Mexico and the like goods produced in Canada. Evidence has been provided to establish this link and includes: price quotes, market data, the sworn declarations of the three arm's length distributors, citations from CITT proceedings and financial information related to the production and sales of like goods in Canada.

[169] The CBSA also finds that the Complainants have provided sufficient evidence of a reasonable indication that the continued alleged dumping of the subject goods threatens to cause further injury in the future.

[170] In summary, the evidence submitted by the Complainants discloses a reasonable indication that the alleged dumping has caused injury and is threatening to cause injury.

CONCLUSION

[171] Based on information provided in the complaint, other available information, and the CBSA's import documentation, the CBSA is of the opinion that there is evidence that OCTG originating in or exported from Mexico have been dumped. Further, there is a reasonable indication that such dumping has caused and is threatening to cause injury to the Canadian industry. As a result, pursuant to subsection 31(1) of SIMA, a dumping investigation was initiated on June 30, 2021.

SCOPE OF THE INVESTIGATION

[172] The CBSA is conducting an investigation to determine whether the subject goods have been dumped.

[173] The CBSA has requested information from all potential exporters and importers to determine whether or not subject goods imported into Canada during the period of investigation (POI) of May 1, 2020 to April 30, 2021, were dumped. The information requested will be used to determine the normal values, export prices and margins of dumping, if any.

[174] All parties have been clearly advised of the CBSA's information requirements and the time frames for providing their responses.

FUTURE ACTION

[175] The CITT will conduct a preliminary inquiry to determine whether the evidence discloses a reasonable indication that the alleged dumping of the goods has caused or is threatening to cause injury to the Canadian industry. The CITT must make its decision on or before the 60th day after the date of the initiation of the investigation. If the CITT concludes that the evidence does not disclose a reasonable indication of injury to the Canadian industry, the investigation will be terminated.

[176] If the CITT finds that the evidence discloses a reasonable indication of injury to the Canadian industry and the CBSA's preliminary investigation reveal that the goods have been dumped, the CBSA will make preliminary determinations of dumping within 90 days after the date of the initiation of the investigation, by September 28, 2021. Where circumstances warrant, this period may be extended to 135 days from the date of the initiation of the investigation.

[177] Under section 35 of SIMA, if, at any time before making a preliminary determination, the CBSA is satisfied that the volume of goods of a country is negligible, the investigation will be terminated with respect to goods of that country.

[178] Imports of subject goods released by the CBSA on and after the date of a preliminary determination of dumping, other than goods of the same description as goods in respect of which a determination was made that the margin of dumping of the goods is insignificant, may be subject to provisional duty in an amount not greater than the estimated margin of dumping on the imported goods.

[179] Should the CBSA make a preliminary determination of dumping, the investigation will be continued for the purpose of making final decisions within 90 days after the date of the preliminary determinations.

[180] After the preliminary determination, if, in respect of goods of a particular exporter, the CBSA's investigation reveal that imports of the subject goods from that exporter have not been dumped, or that the margin of dumping is insignificant, the investigation will be terminated in respect of those goods.

[181] If a final determination of dumping is made, the CITT will continue its inquiry and hold public hearings into the question of material injury to the Canadian industry. The CITT is required to make a finding with respect to the goods to which the final determination of dumping applies, not later than 120 days after the CBSA's preliminary determination.

[182] In the event of an injury finding by the CITT, imports of subject goods released by the CBSA after that date will be subject to anti-dumping duty equal to the applicable margin of dumping on the imported goods.

RETROACTIVE DUTY ON MASSIVE IMPORTATIONS

[183] When the CITT conducts an inquiry concerning injury to the Canadian industry, it may consider if dumped goods that were imported close to or after the initiation of an investigation constitute massive importations over a relatively short period of time and have caused injury to the Canadian industry.

[184] Should the CITT issue such a finding, anti-dumping duties may be imposed retroactively on subject goods imported into Canada and released by the CBSA during the period of 90 days preceding the day of the CBSA making a preliminary determination of dumping.

UNDERTAKINGS

[185] After a preliminary determination of dumping by the CBSA, other than a preliminary determination in which a determination was made that the margin of dumping of the goods is insignificant, 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.

[186] An acceptable undertaking must account for all or substantially all of the exports to Canada of the dumped goods. Interested parties may provide comments regarding the acceptability of undertakings within nine days of the receipt of an undertaking by the CBSA. The CBSA will maintain a list of parties who wish to be notified should an undertaking proposal be received. Those who are interested in being notified should provide their name, telephone and fax numbers, mailing address and e-mail address to one of the officers identified in the "Information" section of this document.

[187] If undertakings were to be accepted, the investigation and the collection of provisional duties would be suspended. Notwithstanding the acceptance of an undertaking, an exporter may request that the CBSA's investigation be completed and that the CITT complete its injury inquiry.

PUBLICATION

[188] Notice of the initiation of this investigation is being published in the Canada Gazette pursuant to subparagraph 34(1)(a)(ii) of SIMA.

INFORMATION

[189] Interested parties are invited to file written submissions presenting facts, arguments, and evidence that they feel are relevant to the alleged dumping. Written submissions should be forwarded to the attention of the SIMA Registry and Disclosure Unit.

[190] To be given consideration in this investigation, all information should be received by the CBSA by November 3, 2021.

[191] Any information submitted to the CBSA by interested parties concerning this investigation is considered to be public information unless clearly marked "confidential". Where the submission by an interested party is confidential, a non-confidential version of the submission must be provided at the same time. This non-confidential version will be made available to other interested parties upon request.

[192] Confidential information submitted to the CBSA will be disclosed on written request to independent counsel for parties to these proceedings, subject to conditions to protect the confidentiality of the information. Confidential information may also be released to the CITT, any court in Canada, or a WTO or Canada-United States-Mexico Agreement (CUSMA) dispute settlement panel. Additional information respecting the CBSA's policy on the disclosure of information under SIMA may be obtained by contacting the SIMA Registry and Disclosure Unit or by visiting the CBSA's website.

[193] The schedule of the investigation and a complete listing of all exhibits and information are available at: www.cbsa-asfc.gc.ca/sima-lmsi/i-e/menu-eng.html. The exhibit listing will be updated as new exhibits and information are made available.

[194] This *Statement of Reasons* is available through the CBSA's website at the address below. For further information, please contact the officers identified as follows:

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