

**SENT VIA EMAIL**

April 16, 2024

PUBLIC

SIMA Registry and Disclosure Unit
Trade and Anti-Dumping Programs Directorate
Canada Border Services Agency
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Dear Sir/Madam:

Re: Request for re-investigation of IT/VIT normal values under the *OCTG I* anti-dumping finding

These submissions are filed on behalf of Western Alliance Tubulars Ltd. (“**WAT**”) and the Moosomin First Nation, through Moosomin Economic Development Corporation (“**MEDC**”). WAT is proud to be an Indigenous-owned business, with the Moosomin First Nation (Treaty Six Territory) as a Primary shareholder.

Of the domestic oil country tubular goods (“**OCTG**”) industry, WAT is the sole producer of insulated tubing and vacuum insulated tubing (“**IT/VIT**”). WAT has participated in prior scope rulings and re-investigations concerning the OCTG finding against China.

In accordance with CBSA policy set out in Memorandum D14-1-8, WAT hereby requests the CBSA immediately initiate a re-investigation to review the Ministerial Specification applicable to the normal values for the *OCTG I* finding against China¹ to address three concerns: i) the upwards adjustments to bare OCTG for IT/VIT production costs, ii) the adjustment calculation methodology, and iii) the downwards adjustment applicable to normal values in the *OCTG I* Ministerial Specification.

I. The CBSA should initiate a re-investigation to revise current adjustments for IT/VIT production costs

The purpose of the *Special Import Measures Act* (“**SIMA**”) is to “protect domestic industries from injury caused or threatened by the dumping or subsidizing of foreign goods.”² To date, the IT/VIT production cost adjustments to OCTG from China have not provided protection to the domestic IT/VIT

¹ Certain oil country tubular goods originating in or exported from China issued on March 23, 2010, in Inquiry No. NQ-2009-004, and subsequently continued (“*OCTG I*”); Notice of amended scope ruling issued on November 26, 2021, in OCTG1 2021 SP.

² *Prairies Tubulars (2015) Inc. v Canada (Border Services Agency)*, 2018 FC 991 (CanLII) at para 6.

industry. In particular, it is deeply unfortunate that an Indigenous-owned business is unable to see itself reflected in the protections that are designed for the Canadian industry.

There are significant volumes of Chinese IT/VIT being exported into Canada at low prices. The current normal values for the OCTG I finding against China have permitted this dumping and are not providing sufficient protection for WAT to produce or sell material volumes of IT/VIT. These imports are harming WAT's business and necessitate an update to the upwards adjustment calculated for IT/VIT production costs.

Even with the CBSA's most recent Ministerial Specification, there is not effective protection against dumped IT/VIT from China. Given that OCTG costs have fallen in the surrogate market, the premium associated with IT/VIT processing has in turn fallen by virtue of the value being expressed as a percentage – even though the production costs associated with IT/VIT have not changed. For this reason, the methodology for adjusting IT/VIT for production costs does not accurately reflect market realities. Lastly, WAT supports Tenaris Global Services Canada's ("**Tenaris Canada**") request that the CBSA urgently initiate a re-investigation to review the downwards adjustment applicable to normal values for the OCTG from China.³

(a) Material changes in OCTG surrogate market pricing require a re-investigation

In accordance with CBSA policy set out in Memorandum D-14-1-8, a re-investigation is appropriate to update normal values for OCTG from China following material changes in the "home" market pricing.⁴

Canada remains an attractive market for IT/VIT exporters, to the detriment of domestic IT/VIT producers. WAT understands that to calculate the normal values for IT/VIT, CBSA currently calculates the average \$/MT cost of bare OCTG used in the IT/VIT, and then applies approximately a [REDACTED] upwards adjustment to reflect the additional conversion costs and profit to produce IT/VIT. WAT also understands that due to limited information available about IT/VIT costs of production, CBSA used some information from Chinese IT/VIT producers to determine the appropriate upward adjustment on bare OCTG costs to determine an IT/VIT premium. This adjustment is much smaller than what is required to ensure fairness in the current market.

The CBSA concluded a re-investigation of OCTG normal values in March 2023. Prior to those normal values being set, WAT was awarded an order for IT/VIT [REDACTED] in December 2022.⁵ Shortly after the new normal values were set, WAT was unable to win

³ Tenaris Canada, Representations to request a re-investigation of normal values for oil country tubular goods and seamless casing originating in or exported from China, April 2, 2024.

⁴ CBSA, *Re-investigation and Normal Value Review Policy – Special Import Measures Act (SIMA)*, Memorandum D14-1-8 (July 19, 2019) at para 12(e) [REDACTED].

⁵ Confidential Attachment 1, [REDACTED] in December, 2022.

business. WAT's three subsequent RFQs submitted to [REDACTED], all following March 2023, were rejected in favour of lower-priced Chinese IT/VIT.

Specifically, [REDACTED]
[REDACTED].⁶ The total extended cost [REDACTED]
[REDACTED]
[REDACTED]. Production costs were [REDACTED].⁷

[REDACTED]
[REDACTED].⁸ The total extended cost [REDACTED]
[REDACTED]
[REDACTED]. Production costs were [REDACTED].⁹

[REDACTED]
[REDACTED].¹⁰ The total extended cost [REDACTED]
[REDACTED]
[REDACTED]. Production costs were [REDACTED].¹¹ All three RFQs were lost to Chinese suppliers who were able to offer lower prices under the current normal values.

WAT estimates that the Canadian market for VIT is approximately [REDACTED] per year. This would be approximately [REDACTED] per year. These volumes are almost entirely supplied by Chinese exporters given that Western Alliance is not able to participate, nor is it aware of other IT/VIT producers outside of China who are able to participate.

II. The CBSA should initiate a re-investigation to revise its current normal value calculation methodology

Structuring the IT/VIT upward adjustment as a percentage of underlying bare OCTG cost rather than a fixed dollar amount, in accordance with the typical amount of labour and other non-OCTG materials required, cannot accurately reflect market realities. The percentage calculation results in improperly declining normal values as underlying steel costs decline in the surrogate market. WAT requests that the CBSA determine and apply a dollar per tonne (perhaps indexed based on inflation) adjustment to accurately account for the lack of relationship between IT/VIT production costs and the price of OCTG.

⁶ Confidential Attachment 2, [REDACTED].

⁷ Confidential Attachment 5, Total MT Calculations.

⁸ Confidential Attachment 3, [REDACTED].

⁹ Confidential Attachment 5, Total MT Calculations.

¹⁰ Confidential Attachment 4, [REDACTED]. See also Confidential Attachment 5, Total MT Calculations.

¹¹ Confidential Attachment 5, Total MT Calculations.

Under the current Ministerial Specification, OCTG market prices are effectively driving cost changes in the production of IT/VIT, even though production costs do not change alongside subject goods pricing. Using a percentage to calculate the cost difference between IT/VIT and bare OCTG fails to account for the fact that production costs are not changing. For example, OCTG prices have been falling since mid-2023, but production costs have stayed the same. Currently, as OCTG prices fall, the adjustment shrinks even though there is no change in IT/VIT production costs.

The appropriate calculation methodology should therefore be based on a fixed dollar value rather than a percentage. Based on WAT's own production costs and experience, outlined below, the final number adjusted for production costs should be between [REDACTED] to fairly account for IT/VIT market prices. In the alternative, if the CBSA is unwilling to apply a dollar adjustment, the percentage should be increased to reflect surrogate market realities.

(a) The Canadian domestic industry's processing costs

WAT is the sole domestic IT/VIT producer. The current normal values allow Chinese IT/VIT to be exported and sold for far less than what it costs the domestic industry to produce the same goods. For example, WAT submitted an RFQ for [REDACTED].¹² From this total, [REDACTED]. Thus, for WAT's RFQ submitted [REDACTED].

Using the CBSA's current methodology to add a processing premium to normal values for OCTG from China results in normal values that are so low they are decimating domestic production. WAT has commercial intelligence that its Chinese counterparts can offer the same goods at a much lower price due to the materially understated adjustment for production costs and outdated normal values. In fact, the normal values ranged between [REDACTED] for an average normal value of [REDACTED] as of November 2023.¹³ When taken with the additional [REDACTED] adjustment, contrasted with WAT's production costs, outlined above, these numbers are insufficient to protect the domestic market and are greatly undercutting WAT's pricing.

(b) The CBSA should use USA production costs as the calculation starting point

Given that the normal values apply to OCTG and IT/VIT from China, China is not an appropriate calculation starting point. The CBSA will find a surrogate market is appropriate under section 20 of the SIMA where domestic prices in the exporting market are "substantially determined by the government of that country and there is sufficient reason to believe that they are not substantially the same as they

¹² Confidential Attachment 3, [REDACTED].

¹³ Confidential Attachment 6, Normal Values as of November 1, 2023.

would be if they were determined in a competitive market.”¹⁴ The CBSA has found multiple times that the US is an appropriate surrogate market for OCTG from China. WAT understands that section 29 of the SIMA grants the CBSA discretion to determine the normal value in such manner as the Minister specifies where the CBSA does not receive sufficient information. However, given that section 20 seeks to apply normal values where an export monopoly exists, it goes against the spirit of section 20 to calculate normal values using data from that same monopoly.

WAT understands that at the time of the scope review, Chinese supplier data was likely the most accurate and fulsome information available to the CBSA. However, based on [REDACTED]

in the interest of having accurate normal values applicable to IT/VIT from China. [REDACTED] data would be an appropriate calculation starting point as the United States is the surrogate market in the *OCTG I* finding and would better reflect market realities in Canada.

III. WAT supports Tenaris Canada’s request for a re-investigation to revise current adjustments to Pipe Logix’s pricing and to update amounts of subsidy

WAT agrees with Tenaris Canada that there has been a significant change of circumstances in the US market that necessitates a revision to the ministerial specification applicable to the normal values for the *OCTG I* finding against China.¹⁵ In particular, WAT supports Tenaris Canada’s position that the POI ending in August 2022 for the recent re-investigation of OCTG finding against China is outdated and should be updated to prevent an influx of underpriced Chinese OCTG imports. Additionally, revising the normal values applicable to OCTG from China to reflect market and economic realities will ensure that any upwards adjustments to IT/VIT production costs start from an appropriate base and prevent dumping of IT/VIT from China.

(a) *The CBSA should initiate a re-investigation to revise current adjustments to Pipe Logix’s pricing*

WAT understands that the CBSA normally revises a ministerial specification through a re-investigation. WAT therefore requests that, alongside considerations for the adjustment for IT/VIT production costs to bare OCTG outlined above, the CBSA revise the current downward adjustment to Pipe Logix’s prices to reflect current OCTG market prices. Ensuring accurate normal values for OCTG from China will protect the Canadian domestic industry from unfair trade in line with the object and purpose of the SIMA.

¹⁴ *Special Import Measures Act*, section 20(1)(a) [REDACTED].

¹⁵ WAT understands that Tenaris Canada seeks to have the normal values applicable to the *Seamless Casing* re-investigated as well. WAT supports fairly traded OCTG across the Canadian market, including via the *Seamless Casing* re-investigation, but WAT will focus on the *OCTG I* and IT/VIT covered thereunder given this is what WAT produces.

(i) *Material price changes have resulted in an outdated and inaccurate downwards adjustment to Pipe Logix's reported prices*

The CBSA presently calculates the normal values for OCTG using an adjustment to reported Pipe Logix pricing. This adjustment no longer reflects actual market prices as OCTG market prices have fallen since the re-investigation's POI concluded.

In accordance with CBSA policy set out in Memorandum D-14-1-8, WAT agrees that a re-investigation is appropriate to update values for OCTG pricing due primarily to changes in selling prices in the exporter's "home" (or, in this case, "surrogate") market.¹⁶

The Ministerial Specification released on March 17, 2023, used a [REDACTED] downwards adjustment to reflect the difference between Pipe Logix's monthly OCTG market pricing report and prices from surrogate country data. WAT understands from Tenaris Canada's request that the difference between Pipe Logix and market prices is now much smaller, which necessitates a much lower adjustment to be fair and accurate.

WAT understands that material volumes of low-priced OCTG from China are imminent. Domestic producers are likely to suffer loss to business if the CBSA does not urgently initiate a re-investigation to prevent such injury to the domestic industry.

(b) *Using Tenaris USA's pricing data will support accurate calculations*

Using Tenaris USA data to calculate an adjustment would allow the CBSA to calculate normal values for OCTG from China that accurately reflect current market conditions. Given Tenaris USA's position in the OCTG market, the domestic industry will benefit from normal values calculated using its robust sales database.

Tenaris USA's data will also provide a sound starting point for the upwards adjustment calculation to IT/VIT from China. Given that the adjustment is currently calculated using data from China, which materially understates actual prices in the Canadian market, using US-based data will encourage an accurate starting point. In turn, this will allow the premium adjustment for IT/VIT production costs to reflect domestic market pricing realities.

(c) *The CBSA should initiate a re-investigation to update amounts for subsidy*

WAT urgently requests that the CBSA revise amounts of subsidy receiving by the Chinese OCTG industry using updated data from Tenaris Canada. There have been material developments in the Chinese OCTG market since amounts for subsidy were last calculated, in some instances *over* a decade ago.

¹⁶ Re-Investigation Policy, at para 12(c).

Pursuant to CBSA Memorandum D-14-1-8, “the elapsed time since values were last issued” is an important factor in determining whether a re-investigation is appropriate. WAT agrees with Tenaris Canada that the ten years elapsed since subsidy amounts were updated for Chinese OCTG producers strongly favours a re-investigation.

IV. Conclusion

The CBSA is keenly aware that, without accurate and appropriate trade protections, China’s OCTG capacity could eradicate the Canadian domestic industry. WAT is at a serious risk of being pushed from its own market due to Chinese producers exploiting low normal values and cost adjustments to export to Canada at unfair, low prices.

Initiating a re-investigation for the OCTG finding covering IT/VIT would be consistent with the objects and purposes of CBSA re-investigations and the SIMA. Re-investigations are intended to keep normal values “up-to-date in order to ensure effective enforcement of the Canadian International Trade Tribunal’s (CITT) orders and findings,”¹⁷ whereas, as discussed above, the SIMA is designed to protect domestic industries from dumped or subsidized foreign goods.¹⁸

WAT and the Moosomin First Nation through MEDC hereby request that the CBSA revise the current Ministerial Specification applicable to OCTG from China. In doing so, WAT requests that the premium adjustments to bare OCTG for IT/VIT production costs are revised to accurately reflect Canadian IT/VIT market prices and that the methodology used in calculating IT/VIT adjustments for production costs is revised to implement a sound starting point to calculate accurate normal values. Finally, WAT supports Tenaris Canada’s request that the CBSA urgently initiate a re-investigation to review the normal values for the *OCTG I* finding against China and to update the amounts for subsidy.

Yours truly,



Larry Kryska



Carl Neggers, Chair
Moosomin Economic Development Corporation

¹⁷ Re-Investigation Policy, at para 1.

¹⁸ *Prairies Tubulars (2015) Inc. v Canada (Border Services Agency)*, 2018 FC 991 (CanLII) at para 6.



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Supporting documents attached:

Attachment Number	Description
Confidential Attachment 1	[REDACTED] in December, 2022
Confidential Attachment 2	[REDACTED] [REDACTED]
Confidential Attachment 3	[REDACTED] [REDACTED]
Confidential Attachment 4	[REDACTED] [REDACTED]
Confidential Attachment 5	Total MT Calculations
Confidential Attachment 6	Normal Values as of November 1, 2023