

***UNITED STATES – ANTI-DUMPING MEASURE  
ON OIL COUNTRY TUBULAR GOODS  
FROM ARGENTINA***

**(DS617)**

**COMMENTS OF THE UNITED STATES OF AMERICA  
ON ARGENTINA’S RESPONSES TO THE PANEL’S QUESTIONS FOLLOWING THE  
SECOND SUBSTANTIVE MEETING OF THE PANEL WITH THE PARTIES**

**December 20, 2024**

**TABLE OF EXHIBITS**

<b>Exhibit No.</b>	<b>Description</b>
<b>U.S. First Written Submission</b>	
USA-01	19 C.F.R. § 351.204
USA-02	Applicants’ Letter, “Oil Country Tubular Goods from Argentina, Mexico, the Republic of Korea, and Russia: Response to General Issues Questionnaire” (Oct. 12, 2021) (excerpts)
USA-03	Tenaris Bay City, Inc., IPSCO Tubulars Inc., Maverick Tube Corporation, and Tenaris Global Services (U.S.A.) Corporation, “Oil Country Tubular Goods from Argentina, Mexico, the Republic of Korea, and Russia: Comments on Petitioners’ Second General Issues Questionnaire Response” (Oct. 22, 2021) (excerpts)
USA-04	Applicants’ Letter, “Petitions for the Imposition of Antidumping and Countervailing Duties: Oil Country Tubular Goods from Argentina, Mexico, the Republic of Korea, and Russia,” Vol. 1, Part 3 (Oct. 6, 2021) (excerpt)
USA-05	USITC Blank U.S. Purchaser Questionnaire from OCTG investigations (excerpt)
USA-06	19 C.F.R. §§ 351.102, 351.301
USA-07	Definition of “As the Case May Be”, <i>Collins</i> , <a href="http://www.collinsdictionary.com/dictionary/english/as-the-case-may-be">http://www.collinsdictionary.com/dictionary/english/as-the-case-may-be</a> (accessed Apr. 23, 2024)
USA-08	Definition of “Case”, <i>Oxford Learner’s Dictionaries</i> , <a href="https://www.oxfordlearnersdictionaries.com/us/definition/american_english/case_1">https://www.oxfordlearnersdictionaries.com/us/definition/american_english/case_1</a> (accessed Apr. 23, 2024)
USA-09	<i>Certain Oil Country Tubular Goods from India, Korea, The Philippines, Saudi Arabia, Taiwan, Thailand, Turkey, Ukraine, and Vietnam</i> , Inv. Nos. 701-TA-499-500 and 731-TA-1215-1223 (Preliminary), USITC Pub. No. 4422 (Aug. 2013) (excerpt)
USA-10	<i>Oil Country Tubular Goods from Argentina, Austria, Italy, Japan, Korea, Mexico, and Spain</i> , Inv. Nos. 701-TA-363-364 and 731-TA-711-717 (Preliminary), USITC Pub. No. 2803 (Aug. 1994) (excerpt)
USA-11	<i>Oil Country Tubular Goods from India, Korea, Turkey, Ukraine, and Vietnam</i> , Inv. Nos. 701-TA-499-500 and 731-TA-1215-1216, 1221-1223 (Review), USITC Pub. 5090 (Jul. 2020) (excerpt)

USA-12	<i>Oil Country Tubular Goods from Argentina, Mexico, Russia and South Korea</i> , Inv. Nos. 701-TA-671-672 and 731-TA-1571-1573, Revised and Corrected USITC Hearing Transcript (Sept. 22, 2022) (excerpt)
USA-13	<i>Oil Country Tubular Goods From the Republic of Korea: Final Affirmative Countervailing Duty Determination</i> , 87 Fed. Reg. 59,056, 59,057 (Dep’t of Commerce Sept. 29, 2022)
USA-14	USITC Blank U.S. Importer Questionnaire from OCTG investigations
USA-15	TMK Post-Conference Brief
USA-16	<i>Certain Preserved Mushrooms from Chile</i> , Inv. No. 731-TA-776 (Final), USITC Pub. 3144, at 14-15 (Nov. 1998)
USA-17	<i>Proclamation 9705: Adjusting Imports of Steel Into the United States</i> , 83 Fed. Reg. 11,625 (Mar. 15, 2018)
USA-18	<i>Certain Oil Country Tubular Goods From India, the Republic of Korea, Taiwan, the Republic of Turkey, and the Socialist Republic of Vietnam: Antidumping Duty Orders; and Certain Oil Country Tubular Goods From the Socialist Republic of Vietnam: Amended Final Determination of Sales at Less Than Fair Value</i> , 79 Fed. Reg. 53,691 (Dep’t of Commerce Sept. 10, 2014)
USA-19	<i>Oil Country Tubular Goods from Argentina, Mexico, Russia and South Korea</i> , Inv. Nos. 701-TA-671-672 and 731-TA-1571-1573 (Preliminary), USITC Pub. No. 5248 (Nov. 2021)
USA-20	Definition of “Significant,” <i>The New Shorter Oxford English Dictionary</i> , 4 <sup>th</sup> ed., L. Brown (ed.) (Clarendon Press, Oxford, 1993), Vol. 2, p. 2860
USA-21	19 U.S.C. § 1862
USA-22	15 C.F.R., Part 705
USA-23	WTO Council for Trade in Goods, Minutes of the Meeting of the Council for Trade in Goods, 10 November 2017, G/C/M/130, at 26-27 (Mar. 22, 2018)
USA-24	U.S. Department of Commerce, “The Effect of Imports of Steel on the National Security: An Investigation Conducted under Section 232 of the Trade Expansion Act of 1962, as Amended,” at 1-61 (Jan. 11, 2018)
USA-25	Presidential Proclamation 9759 of May 31, 2018, “Adjusting Imports of Steel into the United States,” 83 Fed. Reg. 25857-25860
USA-26	Petitioners’ Public Posthearing Brief, Exhibits. 3-4

<b>U.S. Responses to the First Set of Panel Questions</b>	
USA-27	Uruguay Round Agreements Act, Pub. L. 103-465 (Dec. 8, 1994), 108 Stat. 4809 (excerpt)
USA-28	<i>Oil Country Tubular Goods from Argentina, Austria, Italy, Japan, Korea, Mexico, and Spain</i> , Inv. Nos. 701-TA-363-364 and 731-TA-711-717 (Final), USITC Pub. 2911 (Aug. 1995) (excerpt)
USA-29	<i>Certain Seamless Carbon and Alloy Standard, Line, and Pressure Steel Pipe from Argentina, Brazil, Germany, and Italy</i> , Inv. Nos. 701-TA-362 and 731-TA-707-710 (Final), USITC Pub. No. 2910 (July 1995) (excerpt)
USA-30	<i>Certain Carbon Steel Butt-Weld Pipe Fittings from France, India, Israel, Malaysia, The Republic of Korea, Thailand, The United Kingdom, and Venezuela</i> , Inv. Nos. 701-TA-360-361 and 731-TA-688-695 (Final), USITC Pub. No. 2870 (Apr. 1995) (excerpt)
USA-31	Trade and Tariff Act of 1984, Pub. L. 98-573 (Oct. 30, 1984), 98 Stat. 2948 (excerpt)
USA-32	USITC Blank U.S. Purchaser Questionnaire from OCTG investigations (full)
USA-33	USITC Blank U.S. Producer Questionnaire from OCTG investigations (full)
USA-34	USITC Blank U.S. Importer Questionnaire from OCTG investigations (full)
USA-35	Application, Volume I, at Exhibits I-11, I-14 (Oct. 6, 2021)
USA-36	<i>The New Shorter Oxford English Dictionary</i> , 4th ed., L. Brown (ed.) (Clarendon Press, Oxford, 1993) (excerpt)
USA-37	Statement of Administrative Action to the Uruguay Round Agreements Act, H.R. Rep. No. 103-316, Vol. I (1994) (excerpt)
USA-38	<i>Oil Country Tubular Goods from Argentina, Mexico, Russia and South Korea</i> , Inv. Nos. 701-TA-671-672 and 731-TA-1571-1573, Revised and Corrected USITC Hearing Transcript (Sept. 22, 2022) (additional excerpt)

<b>Opening Statement of the United States at the Second Panel Meeting</b>	
USA-39	<i>The New Shorter Oxford English Dictionary</i> , 345 (L. Brown ed. 1993)
<b>U.S. Responses to the Second Set of Panel Questions</b>	
USA-40	<i>Oil Country Tubular Goods from Argentina, Mexico, Russia and South Korea</i> , Inv. Nos. 701-TA-671-672 and 731-TA-1571-1573, Revised and Corrected USITC Hearing Transcript (Sept. 22, 2022) (additional excerpt)
<b>U.S. Comments on Argentina’s Responses to the Second Set of Panel Questions</b>	
USA-41	<i>Oil Country Tubular Goods from Argentina, Mexico, Russia and South Korea</i> , Inv. Nos. 701-TA-671-672 and 731-TA-1571-1573, Revised and Corrected USITC Hearing Transcript (Sept. 22, 2022) (additional excerpt)

**Question 1 (To both parties): Please confirm whether in the underlying OCTG investigation, the definition of domestic industry and domestic like product included imported OCTG that was not heat treated in the United States, but only underwent in the United States what Argentina refers to as “minor processing”, such as threading alone.**

**U.S. Comment on Argentina’s Response:**

1. The United States refers to its own response to this question, and provides the following additional comments regarding Argentina’s response.

2. The United States clarifies exactly what Tenaris argued to the USDOC prior to initiation of the underlying investigation.<sup>1</sup> As we have previously explained, Tenaris’s arguments regarding further processing were generally focused on whether “mere finishing operations” should be included as part of domestic production *at all*, as a matter of defining the scope of the products to be investigated.<sup>2</sup> Tenaris never articulated what, in its view, constituted “mere finishing operations” or any discussion of heat treatment versus threading operations. In its initial comments on industry support, Tenaris alleged that:

The industry support calculations submitted by Petitioners suffer from an additional potential flaw. The Petitioners’ calculations of their own production and/or shipments might include data that pertain to *mere finishing operations* of Petitioners rather than the production of OCTG. As an initial matter, Commerce should confirm whether the data submitted by Petitioners include only their own OCTG production, or include both OCTG production and finishing operations. Based on publicly-available information, two of the petitioner companies – Borusmann Mannesmann Pipe U.S., Inc. (“Borusan U.S.”) and PTC Liberty Tubulars LLC (“PTC”) – appear to have potentially significant finishing operations relative to their actual OCTG production. This deficiency further justifies a decision by Commerce to poll the parties and require that any production data they provide do not include OCTG that *they merely finish rather than produce*.

According to Borusan U.S.’s website, *it is unclear what portion of Borusan U.S.’s operations involves actual pipe production, as opposed to finishing operations for green tube*. Likewise, PTC provides information that indicates its operations include finishing operations.<sup>3</sup>

---

<sup>1</sup> Argentina’s Responses to the Panel’s Second Set of Questions, para. 4.

<sup>2</sup> U.S. Responses to the Panel’s Second Set of Questions, para. 2.

<sup>3</sup> Tenaris’s Pre-Initiation Comments (Oct. 15, 2021) at 9-10 (Exhibit ARG-03) (emphasis added).

There is no discussion in the above excerpt about heat treatment or threading; the only discussion relates to how much of a company’s operations include “finishing” as opposed to producing OCTG.

3. Similarly, in its later comments on industry support, Tenaris again described its concerns with the inclusion of “mere finishing operations”:

Thus, the Petitioners’ calculations of their own production and/or shipments *might include data that pertain to mere finishing operations* of Petitioners rather than the production of OCTG. Notably, Petitioners do not rebut Tenaris USA’s argument that two of the petitioner companies – Borusmann Mannesmann Pipe U.S., Inc. (“Borusan U.S.”) and PTC Liberty Tubulars LLC (“PTC”) – appear to have potentially significant finishing relative to their actual OCTG production. Nor do Petitioners address the fact PTC was not recognized as a U.S. producer in the recent ITC sunset review in 2020, or offer any explanation as to changes that may justify the company being considered part of the industry after the sunset period. This is particularly odd given that sunset review proceedings are by their very nature forward looking in their outlook. Moreover, Petitioners do not address how the issue of finishing pertains to Commerce’s determination of industry support, and do not cite to any Commerce precedent to explain their unclear position. The relationship of pipe formation and pipe finishing has implications for any assessment of a domestic OCTG industry given that the percentage of green pipe and plain end imports of OCTG into the United States will vary year to year and may constitute the majority of imports in any given year.<sup>4</sup>

Again, in these subsequent comments, Tenaris *only* ever took issue with the inclusion of “mere finishing operations” as part of domestic production *at all*, as a matter of defining the scope of the products to be investigated. Tenaris argued that the percentage of imports of green pipe and plain end OCTG vary year to year and that this has implications for any assessment of a domestic OCTG industry, but it never elucidated what these implications would be and how this impacts the industry support calculation.<sup>5</sup>

4. In its final comments submitted prior to the USDOC’s initiation, Tenaris highlighted several of its “core concerns” with the petitioners’ industry support calculation, including “Petitioners’ attempt to reach the 50 percent industry support threshold by cobbling together smaller producers and processors/finishers of OCTG products.”<sup>6</sup> Thus, Tenaris’s arguments before Commerce *only* related to the inclusion of “mere” finishing or processing operations.

---

<sup>4</sup> Tenaris’s Pre-Initiation Comments (Oct. 20, 2021) at 8 (Exhibit ARG-17) (emphasis added).

<sup>5</sup> Tenaris’s Pre-Initiation Comments (Oct. 20, 2021) at 8 (Exhibit ARG-17).

<sup>6</sup> Tenaris’s Pre-Initiation Comments (Oct. 22, 2021) at 5 (Exhibit ARG-22).

5. Indeed, Argentina’s response to the Panel’s question is telling, as it can only quote vague discussions about “minor processing,” and it is unable to quote any specific arguments made with respect to heat treatment or threading before the USDOC prior to initiation.<sup>7</sup> Instead, Argentina has attempted to reframe what was presented to the USDOC during the pre-initiation phase by fine-tuning its wording from Tenaris’s submissions to the USDOC, where Tenaris simply referred to “mere finishing,” to Argentina’s latest responses to the Panel’s questions where it now refers to, for example, “threading alone”<sup>8</sup> or “possibly only threading.”<sup>9</sup> But as Argentina has conceded previously in this dispute, “the timing of a complaining party’s notice to the authority of a problem with information supporting an application is also a relevant consideration in terms of assessing compliance with Article 5.4.”<sup>10</sup> Argentina’s concession is also relevant to compliance with the other articles of the AD Agreement that Argentina invokes on the question of industry support for the application.<sup>11</sup> Thus, on the issue of including only “threading” in its industry support determination, it strains logic to see how the USDOC could have acted inconsistently with the AD Agreement regarding alleged issues that were never brought to its attention.

6. In any event, the United States refers to its own response to this question, in which we explained how the record before the USDOC prior to initiation did not support such a concern: There is *no* evidence on the USDOC’s administrative record that suggests any U.S. OCTG producers departed from these well-established reporting principles when providing the information underlying the USDOC’s industry support analysis, such as reporting “threading” alone of imported OCTG as domestic production.<sup>12</sup>

7. Moreover, the United States explained that evidence on the USDOC’s record indicated that applicants PTC Liberty and Borusan have production capabilities beyond threading alone.<sup>13</sup> For example, Borusan’s website screenshot, which is referenced in Tenaris’s comments quoted above, indicates that “Borusan’s Baytown location manufactures OCTG casing with diameters ranging from 4.5” to 10.75” and wall thicknesses up to 0.625” primarily with ‘made and melted USA’ steel. Green tube from our world-class facility in Gemlik, Turkey from 4.5” to 13.375” diameter *is also heat-treated, inspected, and threaded at our Baytown facility.*”<sup>14</sup> PTC Liberty’s website screenshot indicates the company’s Liberty, Texas facility consists of “500,000 square foot facility houses *heat treat capability* of 300,000 tons per year and two Electric Resistance Welding (ERW) *mills* with 480,000 tons of annual capacity for ERW pipe.”<sup>15</sup> This record

---

<sup>7</sup> Argentina’s Responses to the Panel’s Second Set of Questions, para. 4.

<sup>8</sup> Argentina’s Second Written Submission, para. 54.

<sup>9</sup> Argentina’s Responses to the Panel’s Second Set of Questions, para. 5.

<sup>10</sup> See Argentina’s First Written Submission, para. 159 (citation omitted).

<sup>11</sup> See U.S. Opening Statement at the Second Substantive Meeting of the Panel, para. 8.

<sup>12</sup> U.S. Responses to the Panel’s Second Set of Questions, para. 6.

<sup>13</sup> U.S. Responses to the Panel’s Second Set of Questions, para. 7.

<sup>14</sup> Tenaris’s Pre-Initiation Comments (Oct. 15, 2021) at Exhibit 5 (Exhibit ARG-03) (describing the services provided by Borusan) (emphasis added).

<sup>15</sup> Tenaris’s Pre-Initiation Comments (Oct. 15, 2021) at Exhibit 6 (Exhibit ARG-03) (describing the services provided by PTC Liberty) (emphasis added).



evidence describes a domestic industry with capabilities beyond “threading alone.” Thus, Argentina’s response to this question relies on a rationale that is unsupported in the record before the USDOC prior to initiation of the investigation.

**Question 4 (To both parties): In reaching the finding that domestic producers “were capable of hiring as warranted”, Argentina contends that the USITC dismissed certain questionnaire responses and testimony by a Tenaris employee that allegedly conflicted with this finding. We are referring to the questionnaire responses and witness testimony cited in Argentina’s first written submission, at paragraphs 603 and 604, and footnotes 681, 682, 683, and 684. We have some questions on these:**

- a. **Did the USITC ignore these allegedly-conflicting materials in reaching the finding that domestic producers “were capable of hiring as warranted”? If not, where on the record is there an indication that they were considered?**
- b. **To what extent was the substance of these allegedly-conflicting materials taken into account by the USITC through its reliance on table III-5 of the staff report, or through its consideration of Tenaris’ submissions on this point, in reaching this finding?**

**Question 5 (To both parties): In relation to the allegedly-conflicting materials referred to in the previous question: were the allegedly-conflicting materials a representative reflection of the body of record evidence before the USITC on the allegations of labor shortages, or were these materials unrepresentative when viewed in light of the body of record evidence before the USITC?**

**U.S. Comment on Argentina’s Response:**

8. The U.S. comment addresses Argentina’s responses to Questions 4 and 5.

9. Argentina argues that the evidence of record in the USITC investigation indicates that “U.S. producers faced difficulties ramping up production in part to the challenge of hiring workers” and that the “USITC ignored evidence that detracted from or was contrary to evidence proffered by Petitioners.”<sup>16</sup> Argentina specifically alleges that the USITC ignored the testimony of Tenaris’s HR Senior Director that “[Tenaris’s] challenge [was] hiring enough qualified workers to ramp up U.S. production quickly enough to meet the increased demand for OCTG of [its] U.S. customers.”<sup>17</sup>

10. The USITC did not ignore the evidence put forward by Tenaris, but rather found that the weight of the evidence on the record did not support Tenaris’s contention that the domestic industry, as a whole, suffered a labor shortage. For example, as the United States pointed out in its response to Question 4.a, Tenaris’s HR Senior Director fully acknowledged that Tenaris was capable of hiring the labor it needed since late 2020:

---

<sup>16</sup> Argentina’s Responses to the Panel’s Second Set of Questions, para. 10.

<sup>17</sup> Argentina’s Responses to the Panel’s Second Set of Questions, para. 10.

- “Mr. Schnurbusch, the HR Senior Director for Tenaris’ U.S. operations, explained that Tenaris was forced to suspend operations at certain facilities and reduce workers due to the drop in oil prices and the COVID-19 pandemic in 2020, and consequently headcount dropped to 900 employees. However, once oil prices and demand for OCTG increased and the effects of the pandemic eased in late-2020, Tenaris ramped up operations and by the end of 2021 headcount was at 2,700 employees at its U.S. facilities.”<sup>18</sup>
- “He [Mr. Schnurbusch] reported that Tenaris has hired significant employees since late 2020, total headcount (fixed and variable employees) is up, and Tenaris seeks to hire more employees:

[W]e have hired approximately 1,900 employees since October 2020, current headcount is up to around 3,400 employees, and we expect to add another 560 employees in the coming months.

Therefore, although Tenaris reduced workers because it suspended operations due to unprecedented market conditions . . . , Tenaris re-hired these workers as soon as it was possible to restart operations.”<sup>19</sup>

Indeed, news sources and company statements, including statements by Tenaris USA, report multiple production increases and production restarts during 2021.<sup>20</sup> Therefore, Tenaris’s contention that it experienced a labor shortage is contradicted by its own acknowledgement that it was able to hire employees starting in late 2020 and ramp up production thereafter and throughout 2021.<sup>21</sup>

11. Argentina’s further reliance on a statement about training workers by the President and Chief Executive Office of Welded Tube USA<sup>22</sup> also did not support Tenaris’s contention that the

---

<sup>18</sup> Tenaris Posthearing Brief at Exhibit 1 at 20-21 (citing USITC Hearing Transcript at 177 (Schnurbusch)) (Exhibit ARG-29).

<sup>19</sup> Tenaris Posthearing Brief at Exhibit 1 at 21 (citing USITC Hearing Transcript at 177 (Schnurbusch)) (Exhibit ARG-29).

<sup>20</sup> See USITC Final Report, at III-9 – III-11 (Table III-6) (Exhibit ARG-01) (news sources and company statements, including statements by Tenaris USA, report production increase, production restart, and production restart/expansion during 2021).

<sup>21</sup> There is no logical reason to presume that the rest of the domestic industry experienced labor shortages because, according to Argentina, one domestic producer other than Tenaris, one importer, and one purchaser mentioned domestic producer labor constraints during the POI, when 19 domestic producers, 27 importers, and 28 purchasers responded to the USITC’s questionnaire (and most did not). See Argentina’s First Written Submission, paras. 603-604 and nn.680 and 681. See also USITC Final Report at II-4-5, II-14 (“28 responding purchasers”), III-1 (“Nineteen firms provided usable data on their operations”), and IV-1 (Exhibit ARG-01).

<sup>22</sup> See Argentina’s Responses to the Panel’s Second Set of Questions, para. 12.

domestic industry, as a whole, suffered a labor shortage. It is important to read the referenced testimony in the context in which it was given:

- Before the representative from Welded Tube USA testified, a representative from U.S. Steel Tubular Products indicated that its mill ran throughout late 2020 and 2021: “We had the employment that we needed to run more, and we could have taken more orders during this time if it were not for the subject imports.”<sup>23</sup>
- A second U.S. Steel representative then added that the industry was recovering at the end of 2020 and the beginning of 2021, and “[w]e were looking for orders, and trying to build an order book to sustain employment ... and keep our operations running.”<sup>24</sup> U.S. Steel had three large customers, but “Tenaris went in and bid those accounts” and “[w]e lost that [business] to Tenaris’ imported product.”<sup>25</sup> Even so, it was not true that they were “slow to ramp up [because of a labor shortage], we had the people. We had the availability.”<sup>26</sup>
- And in response to a direct question about whether representatives of the domestic industry were “all saying that the pandemic hasn’t affected your ability to retain, or hire production related workers,”<sup>27</sup> U.S. Steel confirmed as follows:

It was more challenging than normal, but we have a very good Human Resources department that was able to reach out, and get us the employees that we needed. So we had the employees, and we had the capacity to produce, and to produce more during that timeframe [*i.e.*, late 2020 and 2021].<sup>28</sup>

12. It is in this context—statements by the domestic industry about the industry’s ability to hire as warranted during late 2020 and 2021—that the representative from Welded Tube USA then said, “If I could add to that.... It’s not just the hiring; it’s the training ....”<sup>29</sup> This individual then continued and confirmed, “And we were able to certainly get folks to work. It was just getting them up to speed to be able to run the facility.”<sup>30</sup> In other words, contrary to Argentina’s responses to Questions 4 and 5, the complete testimony of individuals representing the petitioning domestic industry confirms that domestic producers did not suffer from labor shortages and were able to hire (and train) people as needed. Nothing in the statement by Welded Tube’s representative indicates otherwise. Indeed, when directly asked if domestic

---

<sup>23</sup> USITC Hearing Transcript at 74 (Dorn) (Exhibit USA-40).

<sup>24</sup> USITC Hearing Transcript at 74 (Beltz) (Exhibit USA-40).

<sup>25</sup> USITC Hearing Transcript at 74-75 (Beltz) (Exhibit USA-40).

<sup>26</sup> USITC Hearing Transcript at 75 (Beltz) (Exhibit USA-40).

<sup>27</sup> USITC Hearing Transcript at 76 (Schmidtlein) (Exhibit USA-40).

<sup>28</sup> USITC Hearing Transcript at 77 (Dorn) (Exhibit USA-40).

<sup>29</sup> USITC Hearing Transcript at 77 (Mandel) (Exhibit USA-40).

<sup>30</sup> USITC Hearing Transcript at 77 (Mandel) (Exhibit USA-40).

producers in 2021 “all were chasing labor shortages,”<sup>31</sup> the President and Chief Executive Officer of Borusan Mannesmann definitively answered, “No. We never stopped production.”<sup>32</sup>

13. As for Argentina’s claims about the Dallas Fed Energy Survey, the Texas Alliance of Energy Producers’ survey, and testimony before the House Committee on Energy & Commerce, Argentina fails to point to any evidence in these sources that indicates domestic OCTG producers experienced labor shortages during the POI.<sup>33</sup> This evidence thus does not undermine the USITC’s determination that domestic producers were able to hire as warranted.

14. Finally, it is readily apparent at pages 46-47 of the Final Report that the USITC considered the arguments put forward by Tenaris, but found that the weight of the evidence on the record did not support Tenaris’s contention that the domestic industry, as a whole, suffered a labor shortage.<sup>34</sup> The USITC explained that domestic producer questionnaire responses, as well as domestic industry witnesses, confirmed that the domestic industry generally was capable of hiring as warranted when demand for domestic OCTG increased.<sup>35</sup> The USITC further cited positive evidence in the record that showed that the domestic industry “sharply expanded employment in interim 2022, after the filing of the petitions ....”<sup>36</sup> The USITC thus considered all aspects of Tenaris’s argument, as highlighted by the USITC’s statement that its ultimate finding on the labor shortage issue was “[c]ontrary to Tenaris’s argument that labor shortages significantly constrained domestic production.”<sup>37</sup>

15. In sum, the allegedly conflicting materials put forward by Tenaris and relied on by Argentina in this dispute did not undermine or outweigh the positive evidence supporting the USITC’s finding that the injury suffered by the domestic industry was not attributable to labor shortages. For these reasons, and for the reasons provided for in previous U.S. submissions, the USITC Final Report and the investigatory record confirms that the USITC evaluated the evidence and reached a conclusion that an unbiased and objective investigatory authority could have reached in rejecting Tenaris’s argument that labor shortages significantly constrained domestic production.

**Question 6 (To Argentina): The United States asserts that it is “patently untrue” for Argentina to “assert[] that U.S. purchasers were ignorant as to the origin of the OCTG they purchased”, but instead, “the positive evidence of record demonstrates that most U.S.**

---

<sup>31</sup> USITC Hearing Transcript at 78 (Schmidtlein) (Exhibit USA-40).

<sup>32</sup> USITC Hearing Transcript at 78 (Johnson) (Exhibit USA-40).

<sup>33</sup> Argentina’s Responses to the Panel’s Second Set of Questions, para 15 (Tenaris Prehearing Brief at Exhibit 54 (“Special Questions”, Second Quarter Dallas Fed Energy Survey, Federal Reserve Bank of Dallas (23 June 2022)) (Public Version) (Exhibit ARG-04)).

<sup>34</sup> USITC Final Report at 46-47 n.265 (Exhibit ARG-01).

<sup>35</sup> USITC Final Report at 46-47 n.265 (Exhibit ARG-01).

<sup>36</sup> USITC Final Report at 46-47 (Exhibit ARG-01); *see* USITC Final Report at III-33 (Table III-38) and C-5 (Table C-1) (Exhibit ARG-01).

<sup>37</sup> USITC Final Report at 46. (Exhibit ARG-01).

**purchasers knew the origin of the OCTG they purchased”. We are referring to the United States' second written submission, at paragraph 64. What is Argentina's response?**

**U.S. Comment on Argentina’s Response:**

16. As explained in the U.S. Second Written Submission, the positive evidence of record demonstrates that most U.S. purchasers knew the origin of the OCTG they purchased. The USITC Purchaser Questionnaire explicitly asked U.S. purchasers to identify the source of their purchases in terms of the country of origin.<sup>38</sup> It also asked U.S. purchasers to provide a response to the question, “How often does your firm know the manufacturing location (country of origin) of the OCTG that you purchase?”<sup>39</sup> The evidence collected in response to these questions indicates that most U.S. purchasers definitively knew whether the OCTG they purchased was subject OCTG imports or U.S.-produced OCTG:

Of the 29 responding purchasers, 24 purchased domestic OCTG, 12 purchased imports of the subject merchandise from Argentina, 20 purchased imports of the subject merchandise from Mexico, 18 percent purchased imports of the subject merchandise from Russia, 16 purchased imports of the subject merchandise from South Korea, and 20 purchased imports of OCTG from other sources .... Six purchasers indicated that they did not know the source of some of their purchases. Those firms often listed their suppliers as distributors and/or producers (such as Tenaris) with production in multiple countries. In response to an additional question, 16 purchasers stated they always knew the manufacturing location of the OCTG that they purchased, seven stated that they usually did, four stated that they sometimes did, and two stated that they never did, four stated that they sometimes did, and two stated that they never did.<sup>40</sup>

17. Argentina tries to explain away this positive evidence by contending that it is all a question of “timing.”<sup>41</sup> This argument is not based on evidence. Even the testimony of the President of Tenaris USA, which Argentina quotes at length, does not state that U.S. purchasers did not know the origin of the OCTG they purchased; it only states that “[m]ost end users do not care what the origin [of Tenaris OCTG] is.”<sup>42</sup> In other words, the statement that purchasers did not *care* what the origin of OCTG is does not mean that they did not *know* the origin, and the positive evidence of record that the United States quotes in the previous paragraph demonstrates

---

<sup>38</sup> See USITC Blank Purchaser Questionnaire at 6 (Question II-1a) (“Report separately your firm’s domestic purchases and imports of OCTG” (emphasis original)) (Exhibit USA-32).

<sup>39</sup> USITC Blank Purchaser Questionnaire at 6 (Question II-1b) (Exhibit USA-32).

<sup>40</sup> USITC Final Report at II-3, n.6 (emphasis added) (Exhibit ARG-01).

<sup>41</sup> Argentina’s Responses to the Panel’s Second Set of Questions, para. 24.

<sup>42</sup> Argentina’s Responses to the Panel’s Second Set of Questions, para. 25 (quoting USITC Hearing Transcript 171-172 (Zanoti)) (emphasis added) (ARG-06).

that they almost always knew the origin of the OCTG they purchased.

18. Argentina otherwise argues that the 16 purchasers who indicated they always knew the origin of the OCTG they purchased, the seven that indicated they usually knew, and the four that indicated they sometimes knew, do know what they are talking about.<sup>43</sup> According to Argentina, other evidence “is inconsistent with, or calls into question the reliability of,” the purchasers’ own statements,<sup>44</sup> specifically the fact that many purchasers indicated that “the country of origin of OCTG is not generally considered an important consideration for purchasers.”<sup>45</sup> This argument is a *non sequitur*: The fact that purchasers do not consider the country of origin of OCTG “an important consideration” does not mean that they do not know it. And the positive evidence on record is clear that purchasers knew the origin of the OCTG they purchased, because most U.S. purchasers indicated in their questionnaire responses that they definitely knew whether the OCTG they purchased was subject OCTG imports or U.S.-produced OCTG.

19. In sum, none of the arguments put forward by Argentina in response to Question 6 alter the fact that its assertion about U.S. purchasers being ignorant as to the origin of the OCTG they purchased is patently untrue: The evidence of record confirms that 23 out of 29 responding purchasers always or usually knew whether they purchased imported OCTG or U.S.-produced OCTG, as well as the manufacturing location of the imported OCTG they purchased.

**Question 9 (To both parties): The Panel understands that the Prusa Analysis (concerning a lagged approach to pricing) was based on aggregate pricing data. Did Tenaris provide data to the USITC that would have enabled the USITC to identify the subset of Tenaris’ price data for which adjustments for the time-lag should have been made?**

**U.S. Comment on Argentina’s Response:**

20. Contrary to Argentina’s argument,<sup>46</sup> as the United States indicated in its response to Question 9, Tenaris did not provide data to the USITC that would have enabled the USITC to identify the subset of Tenaris’s price data for which adjustments for the time-lag could have been made in the importer data and U.S. producer data. Tenaris also did not provide any clear indication of how many of its sales were made by contract with periodic adjustments.<sup>47</sup>

21. The record of the investigation confirms that the USITC conducted a thorough analysis of Tenaris’s contention that the USITC’s normal price comparison methodology should be lagged by one month. Following that analysis, the USITC then detailed four reasons why it was

---

<sup>43</sup> See Argentina’s Responses to the Panel’s Second Set of Questions, paras. 26-32.

<sup>44</sup> Argentina’s Responses to the Panel’s Second Set of Questions, para. 31.

<sup>45</sup> Argentina’s Responses to the Panel’s Second Set of Questions, para. 31 (citing USITC Final Report at II-26 (Exhibit ARG-01)).

<sup>46</sup> Argentina’s Responses to the Panel’s Second Set of Questions, para. 34.

<sup>47</sup> U.S. Response to the Panel’s Second Set of Questions, para. 33 (citing USITC Final Report at 35 at n.193 (citing Tenaris Prehearing Br., Exhibit 63 (Prusa Analysis) (indicating that 25 percent of Tenaris’s sales are not by contract, and stating only that Tenaris’s contracts “typically” have quarterly price adjustments)) (Exhibit ARG-01)).

“unpersuaded by Tenaris’s argument”:<sup>48</sup>

First, the basis for Tenaris’s proposed adjustments to the USITC’s quarterly price comparisons – that Tenaris’s contracts contain a quarterly pricing lag – would largely be limited to subject imports from Argentina and Mexico; although those accounted for the vast majority of Tenaris’s U.S. shipments of subject imports during the POI, we must consider the significance of underselling by cumulated subject imports[, not just by imports from some countries].

Second, even as to subject imports from Argentina and Mexico, the percentage of Tenaris’s U.S. shipments subject to contracts containing a time lag is unclear.

Third, Tenaris’s argument assumes that domestic OCTG is generally sold at spot market prices, allegedly creating the appearance of underselling when these market prices rise while subject import contract prices remain unchanged for another quarter, when[,] ... [in actuality, other members] of the domestic industry’s sales were also made pursuant to contracts in 2021, some including quarterly pricing mechanisms similar to those in Tenaris’s contracts.

Finally, to the extent that Tenaris’s time lag argument purported to describe cumulated subject imports, it is inconsistent with other record evidence. Under Tenaris’s time lag argument, underselling by cumulated subject imports should have decreased earlier in the period, when spot market prices fell, and significantly increased later in the period, when market prices increased dramatically. Instead, the record shows that the rate of cumulated subject import underselling was fairly consistent from 2019 to 2021, rising only slightly from 55.9 percent of quarterly comparisons in 2019 to 57.1 percent of quarterly comparisons in 2020 and to 60.4 percent of quarterly comparisons in 2021.<sup>49</sup>

Based on all of the above reasons, the USITC correctly concluded that Tenaris’s time lag methodology did not constitute “a reliable means of analyzing price competition by cumulated subject imports in the U.S. market.”<sup>50</sup>

22. The record of the investigation also demonstrates that Dr. Prusa’s analysis of a lagged approach to pricing was not based on actual data. Dr. Prusa testified that he “did not [actually]

<sup>48</sup> See USITC Final Report at 34-35 (Exhibit ARG-01).

<sup>49</sup> USITC Final Report at 35 (Exhibit ARG-01), citing Tenaris’s Prehearing Br. at Exhibit 63 (Prusa Analysis); derived from CR/PR Tables V-6-14.

<sup>50</sup> USITC Final Report at 35 (Exhibit ARG-01).

review the contracts. I spoke with Tenaris officials and they explained how their contracts were structured.”<sup>51</sup> Then when asked by a USITC Commissioner whether all of the contracts had a quarterly adjustment, Dr. Prusa acknowledged that he was “unable to say, but it sounds like the overwhelming -- some of them have even longer adjustments, so that’s why the adjustments aren’t perfect.”<sup>52</sup> Argentina’s argument that the Prusa Analysis supported a deviation from the USITC’s normal price comparison methodology thus is contradicted by Dr. Prusa’s own acknowledgement as to the marginal reliability of this analysis.

23. Lastly, Argentina’s efforts to challenge the USITC’s conclusion mischaracterizes the evidence on which the USITC based its findings. For example, Argentina states that “the USITC rejected the relevance of the price adjustment mechanism in its entirety because it affected only part of Tenaris’ sales” and “because the adjustments would be limited to subject imports shipped by Tenaris.”<sup>53</sup> Argentina, however, fails to acknowledge that Tenaris did not break out its pricing data in a way that would identify those sales that had a quarter lag pricing mechanism, as would have been needed to properly apply Tenaris’s alternative methodology. Likewise, Tenaris was unable to quantify the sales that were tied to market indices, generalizing instead that for the 75 percent of its sales that were made pursuant to contracts, they “typically” were tied to market indices.<sup>54</sup>

24. Argentina’s efforts to build a case to support Tenaris’s pricing comparison methodology is nothing more than its own alternative interpretation of the record in a manner that would favor the result it would have preferred. Therefore, the USITC Final Report and investigatory record confirm that the USITC evaluated the evidence and reached a conclusion that an unbiased and objective investigating authority could have reached in deciding not to alter its traditional methodology to account for Tenaris’s unquantified long-term contracts.

**Question 10 (To both parties): In relation to the questionnaire responses that Argentina contends were disregarded by the USITC, was [[ ]] the US producer and/or importer being quoted? We are referring to the questionnaire responses cited in Argentina's first written submission, at paragraph 603 and footnotes 681 and 682.**

**U.S. Comment on Argentina’s Response:**

25. The United States respectfully refers the Panel to its December 6 response to Question 10.

---

<sup>51</sup> USITC Hearing Transcript at 232 (Prusa) (Exhibit USA-41).

<sup>52</sup> USITC Hearing Transcript at 232 (Prusa) (Exhibit USA-41) (emphasis added).

<sup>53</sup> Argentina’s Responses to the Panel’s Second Set of Questions, para. 43.

<sup>54</sup> USITC Final Report at 35, n.193 (citing Tenaris Prehearing Br., Exhibit 63 (Prusa Analysis) (indicating that 25 percent of Tenaris’s sales are not by contract, and stating only that Tenaris’s contracts “typically” have quarterly price adjustments) (Exhibit ARG-01).