

Federal Court of Appeal



Cour d'appel fédérale

Date: 20161025

Docket: A-177-15

Citation: 2016 FCA 262

**CORAM: NADON J.A.
TRUDEL J.A.
SCOTT J.A.**

BETWEEN:

MERTEX CANADA INC.

Applicant

and

**EVRAZ INC. NA CANADA, ALGOMA TUBES INC., PRUDENTIAL STEEL ULC,
WELDED TUBE OF CANADA CORPORATION, ENERGEX TUBE
AND THE ATTORNEY GENERAL OF CANADA**

Respondents

Heard at Montréal, Quebec, on October 25, 2016.
Judgment delivered from the Bench at Montréal, Quebec, on October 25, 2016.

REASONS FOR JUDGMENT OF THE COURT BY:

TRUDEL J.A.

Federal Court of Appeal



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REASONS FOR JUDGMENT OF THE COURT

(Delivered from the Bench at Montréal, Quebec, on October 25, 2016).

TRUDEL J.A.

[1] Mertex Canada Inc. (or the applicant) has filed for judicial review of an Order of the Canadian International Trade Tribunal issued on March 2, 2015 (Expiry Review no. RR-2014-003, reasons issued on March 23, 2015). With this Order, the Tribunal continued its 2010

findings concerning the dumping of subsidized oil country tubular goods (OCTGs) from the People's Republic of China.

[2] The applicant's theory of the case is that the Tribunal unreasonably exercised its discretion when considering whether injury would result to the domestic industry in the event that green tubes were excluded from the general class of OCTGs (see paragraphs 172-179 of the Tribunal's decision).

[3] Indeed, Mertex does not seriously contest the other findings made by the Tribunal.

[4] We have not been persuaded to intervene, despite the able submissions of counsel for Mertex. The impugned paragraphs of the Tribunal's decision merely constitute a "what if" analysis done after the Tribunal had decided that green tubes were OCTGs and that the likely resumption or continuation of the dumping and subsidizing of the subject goods (OCTGs, including green tubes) would likely cause material injury to the domestic industry (Tribunal's decision at paragraph 156).

[5] As a result, the injury analysis conducted in the course of examining Mertex's exclusion request, although of interest to the domestic industry, is not relevant for deciding whether or not the Tribunal's decision should be quashed because it is unreasonable.

[6] This said, we find that the Tribunal's Order contains no reviewable error. Consequently, this application for judicial review will be dismissed with costs.

"Johanne Trudel"

J.A.

FEDERAL COURT OF APPEAL

NAMES OF COUNSEL AND SOLICITORS OF RECORD

DOCKET: A-177-15

STYLE OF CAUSE: MERTEX CANADA INC. v.
EVRAZ INC. NA CANADA,
ALGOMA TUBES INC.,
PRUDENTIAL STEEL ULC,
WELDED TUBE OF CANADA
CORPORATION, ENERGEX
TUBE AND THE ATTORNEY
GENERAL OF CANADA

PLACE OF HEARING: Montréal, Quebec

DATE OF HEARING: OCTOBER 25, 2016

REASONS FOR JUDGMENT OF THE COURT BY: NADON J.A.
TRUDEL J.A.
SCOTT J.A.

DELIVERED FROM THE BENCH BY: TRUDEL J.A.

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