



Canadian International
Trade Tribunal

Tribunal canadien du
commerce extérieur

CANADIAN
INTERNATIONAL
TRADE TRIBUNAL

Dumping and Subsidizing

FINDINGS AND REASONS

Inquiry No. NQ-2004-001

Certain Stainless Steel Wire

*Findings issued
Friday, July 30, 2004*

*Reasons issued
Monday, August 16, 2004*

*Corrigendum issued
Tuesday, August 31, 2004*

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IN THE MATTER OF an inquiry, under section 42 of the *Special Import Measures Act*,
respecting:

**THE DUMPING OF CERTAIN STAINLESS STEEL WIRE ORIGINATING IN OR
EXPORTED FROM THE REPUBLIC OF KOREA, SWITZERLAND AND THE UNITED
STATES OF AMERICA, AND THE SUBSIDIZING OF SUCH PRODUCT ORIGINATING IN
OR EXPORTED FROM INDIA**

FINDINGS

The Canadian International Trade Tribunal, under the provisions of section 42 of the *Special Import Measures Act*, has conducted an inquiry to determine whether the dumping in Canada of cold drawn and annealed stainless steel round wire, up to and including 0.300 inches (7.62 mm) in maximum solid cross-sectional dimension, originating in or exported from the Republic of Korea, Switzerland and the United States of America, and the subsidizing of such product originating in or exported from India have caused injury or retardation or are threatening to cause injury to the domestic industry.

This inquiry is pursuant to the issuance by the President of the Canada Border Services Agency of preliminary determinations dated April 2, 2004, and of final determinations dated June 30, 2004, that the aforementioned product originating in or exported from the Republic of Korea, Switzerland and the United States of America has been dumped and, in the case of India, subsidized and that the margins of dumping and the amount of subsidy of the product are not insignificant.

Pursuant to subsection 43(1) of the *Special Import Measures Act*, the Canadian International Trade Tribunal hereby finds that the dumping in Canada of the aforementioned product originating in or exported from the Republic of Korea and Switzerland, excluding the products described in the appendix to these findings, and the subsidizing of the aforementioned product originating in or exported from India, excluding the products described in the appendix to these findings, have caused injury to the domestic industry.

Furthermore, in accordance with subsections 43(1) and (1.01) of the *Special Import Measures Act*, the Canadian International Trade Tribunal hereby finds that the dumping in Canada of the aforementioned product originating in or exported from the United States of America, excluding the products described in the appendix to these findings, has caused injury to the domestic industry.

Ellen Fry
Ellen Fry
Presiding Member

Zdenek Kvarda
Zdenek Kvarda
Member

James A. Ogilvy
James A. Ogilvy
Member

Susanne Grimes
Susanne Grimes
Acting Secretary

The statement of reasons will be issued at a later date.

APPENDIX

PRODUCTS EXCLUDED FROM THESE INJURY FINDINGS

- Nickel-coated stainless steel wire.
- Copper-coated stainless steel wire.
- Stainless steel wire for use in the manufacture of springs, per ASTM A313, matte finish, lubricant coated (all types), in all grades and in all diameters.
- Stainless steel wire in diameters of 0.032 inches (0.813 mm) and smaller.
- Stainless steel lashing wire.
- Type 27-7MO (trade name) stainless steel wire, also identified as UNS S31277, or equivalent.
- Types 302 and 430 stainless steel cold-heading wire for use in the manufacture of semi-tubular solid rivets.
- Types 308LHS, 309LHS, 387, 409CB and 430LCB stainless steel welding wire packaged in fibre-drum bulk packs, drum packs or barrel packs, known as “Tech Paks” or equivalent, in sizes of 250 lbs. (113.4 kg) or greater, for use in long-run welding applications.
- Type 439 titanium stabilized, solid stainless steel welding wire packaged in 500-lb. (226.8-kg) drums.
- Type A-286 stainless steel cold-heading wire, also identified as AISI No. 660, UNS K66286 DIN-1.4980, with the following composition: 0.08% max. carbon, 2.00% max. manganese, 1.00% max. silicon, 0.025% max. phosphorous, 0.025% max. sulfur, 13.50/16.00% chromium, 24.00/27.00% nickel, 1.00/1.50% molybdenum, 0.50% max. copper, 1.00% max. cobalt, 0.35% max. aluminum, 1.90/2.35% max. titanium, 0.10/0.50% vanadium and 0.003/0.010% boron.
- Type A286/A286SF stainless steel cold-heading wire.
- Type XM-19 stainless steel wire, also identified as UNS S20910.

Place of Hearing:	Ottawa, Ontario
Dates of Hearing:	July 6 to 9, 2004 July 14 and 15, 2004
Tribunal Members:	Ellen Fry, Presiding Member Zdenek Kvarda, Member James A. Ogilvy, Member
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The Furnace Belt Company Limited

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American Wire Producers:

Victoria Bazan

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The Lincoln Electric Company

Carpenter Technology Corporation

Maryland Specialty Wire, Inc.

Sumiden Wire Products Corporation

Industrial Alloys, Inc.

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Cincinnati Metals Company
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H. Paulin & Co., Limited
Interwire Products Inc.
Leland Industries Inc.
Morningstar Industries Limited
Multi-Form Spring Mfg. Ltd.
Panchmahal Steel Limited
Peterson Spring—Kingsville Plant
Premier Spring & Mfg.
Ready Rivet & Fastener Ltd.
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STATEMENT OF REASONS

BACKGROUND

1. The Canadian International Trade Tribunal (the Tribunal), under the provisions of section 42 of the *Special Import Measures Act*,¹ has conducted an inquiry to determine whether the dumping in Canada of certain stainless steel wire (stainless steel wire) originating in or exported from the Republic of Korea (Korea), Switzerland and the United States of America, and the subsidizing of such product originating in or exported from India (collectively, the subject goods) have caused injury or retardation or are threatening to cause injury to the domestic industry.

2. On November 21, 2003, the Commissioner of the Canada Customs and Revenue Agency (CCRA), following a complaint filed by Central Wire Industries Ltd. (Central Wire), initiated an investigation to determine whether imports of stainless steel wire from Chinese Taipei, India, Korea, Switzerland and the United States had been dumped and whether imports of such product from India had been subsidized. On November 24, 2003, pursuant to subsection 34(2) of *SIMA*, the Tribunal issued a notice advising interested parties that it had initiated a preliminary injury inquiry to determine whether the evidence disclosed a reasonable indication that the dumping and subsidizing of stainless steel wire had caused material injury or retardation or were threatening to cause material injury to the domestic industry. On January 20, 2004, pursuant to subsection 37.1(1), the Tribunal determined that the evidence disclosed a reasonable indication that the dumping of stainless steel wire originating in or exported from Chinese Taipei, India, Korea, Switzerland and the United States, and the subsidizing of such product originating in or exported from India had caused injury to the domestic industry.

3. On April 2, 2004, the Canada Border Services Agency (CBSA) (formerly the CCRA) issued a preliminary determination of dumping with respect to stainless steel wire originating in or exported from Korea, Switzerland and the United States, as well as a preliminary determination of subsidizing of such product originating in or exported from India. As a result of this investigation, the CBSA was satisfied that stainless steel wire from Korea, Switzerland and the United States had been dumped, that the margins of dumping were not insignificant and that the volume of dumped goods was not negligible.² The CBSA was also satisfied that such product from India had been subsidized, that the amounts of subsidy were not insignificant and that the volume of subsidized goods was not negligible.³ On the same date, the CBSA terminated the dumping investigation of stainless steel wire originating in or exported from Chinese Taipei and India, as the volume of dumped goods from Chinese Taipei was negligible and the margin of dumping of the goods from India was insignificant.⁴

4. On April 5, 2004, the Tribunal issued a notice of commencement of inquiry⁵ with respect to the dumping of stainless steel wire originating in or exported from Korea, Switzerland and the United States, and the subsidizing of such product originating in or exported from India. The Tribunal's period of inquiry covered a three-year period, from 2001 to 2003. In addition, the Tribunal collected, as part of its request for information (RFI) process, financial, investment, production and employment data for the first four months of 2004 (interim 2004) and the first four months of 2003 (interim 2003), as well as sales data for interim 2004. As part of the inquiry, the Tribunal also sent questionnaires to the domestic producer,

1. R.S.C. 1985, c. S-15 [*SIMA*].

2. Tribunal Exhibit NQ-2004-001-01A, Administrative Record, Vol. 1 at 33.

3. *Ibid.* at 36.

4. *Ibid.* at 33, 34.

5. C. Gaz. 2004.I.1204.

importers, purchasers and foreign producers/distributors of stainless steel wire. From the replies to the questionnaires and other sources, the Tribunal's research staff prepared public and protected pre-hearing staff reports.

5. On June 30, 2004, the CBSA issued a final determination that stainless steel wire originating in or exported from Korea, Switzerland and the United States had been dumped and that the margins of dumping were not insignificant. The CBSA also issued a final determination that stainless steel wire originating in or exported from India had been subsidized and that the amounts of subsidy were not insignificant.⁶

6. A hearing, with public and *in camera* testimony, was held in Ottawa, Ontario, from July 6 to 9 and on July 14 and 15, 2004, to hear submissions and testimony. The Tribunal invited testimony of witnesses from five end users: BOC Canada Limited and Falcon Fasteners, who were subpoenaed by the Tribunal, and Controlled Products Group (CPG), Vanguard Steel Ltd. and Larsen & Shaw.

7. The record of this inquiry consists of Tribunal exhibits, including the public and protected record of the preliminary injury inquiry on stainless steel wire (PI-2003-004), public and protected replies to questionnaires, requests for information and product exclusions and replies thereto, witness statements and exhibits filed by the parties throughout the inquiry, and the transcript of the hearing. All public exhibits were made available to the parties. Protected exhibits were made available only to counsel who had filed a declaration and confidentiality undertaking with the Tribunal in respect of confidential information.

8. The Tribunal issued its findings on July 30, 2004.

RESULTS OF THE CBSA'S INVESTIGATION

9. The CBSA's dumping and subsidizing investigation covered imports of the subject goods from October 1, 2002, to September 30, 2003. The following tables show the percentage of goods dumped or subsidized, the margins of dumping and the amounts of subsidy/countervailing duties, as reported by the CBSA in its final determinations of dumping and subsidizing.

6. Tribunal Exhibit NQ-2004-001-04A, Administrative Record, Vol. 1 at 113.21, 113.29, 113.32.

TABLE 1
Margins of Dumping by Country
(%)
(October 1, 2002, to September 30, 2003)

Country	Percentage of Goods Dumped	Range of Margins of Dumping ¹	Weighted Average Margin of Dumping
Korea²			
- All Exporters	100	-	181
Switzerland²			
- All Exporters	100	-	181
United States			
- Gibbs Wire & Steel Company, Inc.	99.7	2.9-99.1	24.6
- Sandvik Materials Technology	99.8	0.5-308	110
- Sumiden Wire Products Corporation	86.8	0.1-30.4	10.2
- All Other Exporters ²	100	-	181
Total – United States	99.5	0.1-308	165
Total – All Subject Countries	99.6	0.1-308	167

1. The margin of dumping is expressed as a percentage of the export price.

2. No submissions were received from exporters located in Korea; incomplete submissions were received from exporters located in Switzerland; six U.S. exporters, other than the ones listed, submitted information that was either not provided on time or incomplete; and a further 51 U.S. exporters did not co-operate with the CBSA in its investigation. For all these exporters, the normal values and export prices of the goods were determined pursuant to a ministerial specification under section 29 of *SIMA*. These normal values were based on the export price of the goods plus an advance of 181 percent, representing the highest margin of dumping (excluding anomalies) found for cooperating exporters.

Source: Canada Border Services Agency, *Final Determinations of Dumping and Subsidizing and Statement of Reasons*, 15 July 2004, Tribunal Exhibit NQ-2004-001-04A, Administrative Record, Vol. 1 at 113.25, 113.26, 113.29, 113.36.

TABLE 2
Amounts of Subsidy/Countervailing Duties - India
(October 1, 2002, to September 30, 2003)

Exporter	Percentage of Goods Subsidized (%)	Amount of Subsidy/Countervailing Duty ¹ (rupees/per metric ton)
Venus Wire Industries Limited	100	5,654
VSL Wires Limited	100	667
Macro Bars and Wires (India) Pvt. Limited	100	12,256
Nevatia Steel & Alloys Pvt. Limited	100	12,326
New Exporters ²		13,857

1. The average conversion rate between the Indian rupee and the Canadian dollar was C\$0.0309 during the CBSA's period of investigation. Using the average exchange rate from June 2004 (C\$0.02986), the countervailing duties range from C\$20 to C\$414. The benefits received from these subsidies, in aggregate, represent, on average, 6.2 percent of the value of the goods and exceed the 2.0-percent threshold stipulated in Article 27.10 of the World Trade Organization *Agreement on Subsidies and Countervailing Measures* concerning developing countries.

2. For any new exporters in India that may sell to Canada in the future, countervailing duties will be based on the total of the highest amount of subsidy, which equals 13,857 rupees per metric ton.

Source: Canada Border Services Agency, *Final Determinations of Dumping and Subsidizing and Statement of Reasons*, 15 July 2004, Tribunal Exhibit NQ-2004-001-04A, Appendix 3, Administrative Record, Vol. 1 at 113.40.

10. Based on the information available, the CBSA established that there was a financial contribution by the Government of India that conferred a benefit to the exporters with respect to the following programs:

- Duty Entitlement Pass Book Scheme;
- Income Tax Exemption on Export Profits;
- Export Promotion Capital Goods Scheme; and
- Pre- and Post-shipment Export Financial Assistance.

PRODUCT

Product Definition and Technical Information

11. For purposes of this inquiry, the subject goods are defined as cold drawn and annealed stainless steel round wire, up to and including 0.300 inches (7.62 mm) in maximum solid cross-sectional dimension (stainless steel wire), originating in or exported from Korea, Switzerland and the United States, in the case of the dumped goods, and originating in or exported from India, in the case of the subsidized goods.

12. Stainless steel is alloy steel containing, by weight, 1.2 percent or less of carbon and 10.5 percent or more of chromium, with or without other elements.

13. Stainless steel wire can be produced in a variety of sizes (diameters) across a wide range of product types. Product types are signified by a combination of number or letter codes and, in some cases, descriptions that may refer to such distinguishing attributes as the proportions of alloying elements, chemical makeup, finish or particular treatments applied during production.

Production Process

14. The production process is essentially the cold drawing of stainless steel rod of appropriate alloy composition through one or more dies. As the wire is drawn to smaller diameters, annealing operations are performed to allow it to be further drawn to its finished size and specification.

15. The wire may be treated to provide special surface conditions or appearance, including matte and diamond finishes. In addition, coatings may be applied to serve as lubricants in subsequent processing or manufacturing operations.

16. Stainless steel wire is packaged according to client specifications and product type. The wire can be shipped on spools or reels, in coils, or in fibre-drum bulk packs, drum packs or barrel packs. Wire that is cut to length, such as tungsten-inert gas (TIG) welding wire, is shipped in tubes or in bulk (boxes).

Product Application

17. Much of the stainless steel wire consumed in Canada is sold for further manufacture, in various categories that include cold-heading and forming wire, fine wire (wire in diameters of 0.032 inches [0.813 mm] and smaller), belting wire and spring wire. The wire is used in the manufacture of various products, such as cold-headed pins, nails, bolts, screws, rivets, hinges, springs, racks, grills, hooks, rings and similar formed parts, filters, wire lines and continuous wire conveyor belts.

18. Stainless steel wire can also be sold in the form of finished products, such as welding wire in metal-inert gas (MIG), TIG and sub-arc product forms, and lashing wire. Welding wire is used, among other things, as part of a welding process to bond parts used in manufacturing equipment and products made from stainless steel plate or tubes. Lashing wire, due to its strength and corrosion resistance, is used in the telephone and cable industries to support signal-carrying cables made of other materials.

DOMESTIC PRODUCER

19. Throughout the period of inquiry, stainless steel wire was produced at two plants, one located in Perth, Ontario, and the other in Erin, Ontario. Central Wire has been the owner of these two plants and the only producer in Canada of stainless steel wire since December 2002. Central Wire was founded in 1955, in Perth, as a specialty wire producer. Subsequently, the company underwent several changes in ownership, as well as expansions in the United States and Canada. In the United States, Central Wire acquired, in 1989, a plant in Dumas, Arkansas, and, in 1998, another in Lancaster, South Carolina. Only the South Carolina plant produces stainless steel wire, but mainly for the U.S. market. In Canada, Central Wire purchased, in December 2002, the plant in Erin owned and operated by Greening Donald Co. Ltd. (Greening Donald), which was until then the only other Canadian producer of stainless steel wire.

IMPORTERS AND EXPORTERS

20. The Tribunal sent questionnaires to 28 importers of stainless steel wire that were either distributors or end users of the product. It received complete responses from 9 distributors and 10 end users of stainless

steel wire. During the period of inquiry, these 28 importer respondents accounted for between 62 percent and 88 percent of the total volume of imports of stainless steel wire from the subject countries.⁷ The major importers were CPG, Carpenter Technology (Canada) Ltd., Exocor/TriNex Corporation, The Furnace Belt Company Limited (Furnace Belt), Gibbs Wire & Steel Company, Inc. and Sandvik Canada Inc.

21. The Tribunal sent questionnaires to 69 foreign producers and distributors of stainless steel wire. It received complete responses from 12 foreign producers and 2 foreign distributors. Of these, 2 were Indian producers, 10 were U.S. producers and 2 were U.S. distributors. Together, these 14 companies accounted for between 35 percent and 41 percent of the total volume of imports of stainless steel wire from India and the United States during the Tribunal's period of inquiry.⁸ No response was received from either Korean or Swiss producers.

MARKETING AND DISTRIBUTION

22. Stainless steel wire of various categories is normally sold in the Canadian market either directly from the manufacturing plant to end users, or through distributors, brokers or agents. For example, mill shipments of belting wire, fine wire and cold-heading and forming wire are generally sold directly to end users, which further process the wire into finished and semi-finished products.⁹ Mill shipments of welding wire and spring wire are sold either to distributors, which in turn sell to smaller volume distributors, in the case of small quantities of finished stainless steel wire, or to smaller volume end users, in the case of stainless steel wire used for further processing. Finally, mill shipments of lashing wire are sold both through distributors and directly to end users. Stainless steel wire of various categories is imported into Canada either directly by distributors and end users, or through a broker or agent that then sells the product to distributors or end users.

POSITIONS OF THE PARTIES¹⁰

Central Wire

23. Central Wire submitted that it has been materially injured by the dumping and subsidizing of the subject goods. In this regard, Central Wire noted the decline in its sales volume from 2001 to 2003, as well as the decline in its market share, which worsened in the first quarter of 2004 when a large increase in imports of the subject goods occurred. It submitted that the evidence indicated that the subject goods were able to displace the domestic industry's sales only by undercutting prices in the Canadian market. Central Wire argued that it also suffered injury in the forms of declining capacity utilization and loss of employment.

24. Emphasis was put on the declining trend in gross margin experienced by Central Wire. The fact that the domestic industry was faced with rising alloy costs and could not increase its prices to offset these higher material costs had a very negative impact on its gross margin. Central Wire further contended that the

7. Tribunal Exhibits NQ-2004-001-16.01 (protected) to 16.14A (protected), Administrative Record, Vol. 6 at 2-307; Tribunal Exhibits NQ-2004-001-16.15 (protected) to 16.22 (protected), Administrative Record, Vol. 6A at 1-166; *Pre-hearing Staff Report*, Tribunal Exhibit NQ-2004-001-06, Administrative Record, Vol. 1.1 at 27.

8. *Ibid.*; *Protected Pre-hearing Staff Report*, Tribunal Exhibit NQ-2004-001-07 (protected), Administrative Record, Vol. 2.1 at 81, 84, 87.

9. An example of semi-finished product would be cloth filters woven from fine wire and sold to a manufacturer of air bags for automotive use.

10. This portion of the text is intended to outline a number of key submissions made by the parties. It is not intended to be exhaustive.

availability of dumped and subsidized imports allowed users in Canada either to back away from purchasing domestically or to use the price pressure of imports to force down and prevent increases to the prices of its products. This was especially the case with one of its major customers, Greening Donald.

25. Regarding factors other than dumping and subsidizing that might have contributed to the injury, and in particular the desire of customers to secure a second supplier after its acquisition of the Erin plant, Central Wire argued that this acquisition did not account for any injury in terms of gross margin deterioration or loss of market share. As to the alleged poor reliability and longer delivery time for Central Wire, as well as intra-industry competition, substitution of other products for stainless steel wire, and the lack of certifications for certain grades, Central Wire submitted that the evidence contradicted or did not support these allegations.

26. Finally, Central Wire argued that, if the Tribunal did not find injury, it should find that there is a threat of material injury from the dumping and subsidizing of the subject goods.

American Wire Producers

27. The American wire producers argued that, to the extent that Central Wire had suffered any injury, this injury was not caused by the imports from the United States. One of their arguments was that the conditions of competition were such that a cumulative assessment of the effects of dumped and subsidized imports from the United States, together with those from the other subject countries, was not appropriate in this case.

28. On the question of injury, the American wire producers started by submitting that the credibility of the financial results that were presented by Central Wire to the Tribunal was undermined by the lack of information and by flaws in the accounting methodology that had been used to allocate costs between domestic and export sales, as well as between the subject and non-subject goods. On the basis of their own re-allocation of Central Wire's costs, the American wire producers argued that Central Wire's allegations regarding the deterioration of its gross margin were no longer viable. Moreover, they submitted that the volume of imports from the United States had declined by 13 percent between 2002 and 2003 and that there was very little evidence of price undercutting and very few injury allegations relating to imports from the United States.

29. Regarding injury caused by factors other than the dumping and subsidizing, reference was made to the testimony that Central Wire was the driver of price competition in the Canadian market and that some of Central Wire's customers had experienced shortfall supply situations. As to Central Wire's argument concerning its inability to recover increases in the costs of raw materials, the American wire producers submitted that, to a large extent, Central Wire was effectively able to implement surcharges. They also requested a country exclusion for the United States.

ANALYSIS

30. In the present case, the Tribunal is required to inquire, pursuant to subsection 42(1) of *SIMA*, as to whether the dumping and subsidizing of the subject goods have caused injury or retardation or are threatening to cause injury. "Injury" is defined in subsection 2(1) as "material injury to a domestic industry". "Domestic industry", in turn, is defined in part as "the domestic producers as a whole of the like goods or those domestic producers whose collective production of the like goods constitutes a major proportion of the total domestic production of the like goods". Injury and threat of injury are distinct findings, and the Tribunal does not need to make a finding relating to threat of injury under subsection 43(1) unless it first

makes a finding of no injury. Finally, if it finds injury or threat of injury, the Tribunal must decide whether to make any exclusions from its findings.

Like Goods and Classes of Goods

31. The Tribunal will first determine whether domestically produced stainless steel wire is “like goods” to the stainless steel wire imported from the subject countries.

32. Subsection 2(1) of *SIMA* defines “like goods”, in relation to any other goods, as follows:

- (a) goods that are identical in all respects to the other goods, or
- (b) in the absence of any goods described in paragraph (a), goods the uses and other characteristics of which closely resemble those of the other goods.

33. In considering the issue of like goods, the Tribunal typically looks at a number of factors, including the physical characteristics of the goods, their method of manufacture, their market characteristics (such as substitutability, pricing and distribution) and whether the goods fulfil the same customer needs.

34. The evidence indicates that, for each specific type of wire, the domestically produced stainless steel wire is manufactured by similar methods and according to standards similar to those that apply to the subject goods and that these products have the same physical characteristics.¹¹ Although some customers may require some types of stainless steel welding wire to be certified by the Canadian Welding Bureau (CWB), the evidence did not indicate that wire of the same type that lacks this certification is not used for the same or similar end uses.¹²

35. It is clear to the Tribunal that the various types of stainless steel wire produced by Central Wire generally compete directly with the various types of subject goods. The majority of purchaser respondents to the Tribunal’s questionnaires on market characteristics reported that domestically produced stainless steel wire is physically interchangeable¹³ with the subject goods and fulfills the same customer needs.

36. Further, the evidence demonstrates that the market generally shows the same characteristics for domestically produced stainless steel wire and the subject goods. The evidence demonstrates that the domestically produced stainless steel wire and the subject goods can generally be substituted for each other and that they have similar prices and channels of distribution.¹⁴

37. Therefore, the Tribunal concludes that domestically produced stainless steel wire is “like goods” to the subject goods.

38. In their written submission, Greening Donald and Furnace Belt argued that there was more than one class of goods. In their view, there are at least five separate classes of goods (namely, belting wire, fine wire,

11. *Pre-hearing Staff Report*, Tribunal Exhibit NQ-2004-001-06, Administrative Record, Vol. 1.1 at 63.

12. *Transcript of Public Hearing*, Vol. 1, 6 July 2004 at 94-95; *Transcript of Public Hearing*, Vol. 2, 7 July 2004 at 365.

13. *Pre-hearing Staff Report*, Tribunal Exhibit NQ-2004-001-06, Administrative Record, Vol. 1.1 at 63.

14. *Ibid.* at 63, 125-26; *Protected Pre-hearing Staff Report*, revised 28 June 2004, Tribunal Exhibit NQ-2004-001-07A (protected), Administrative Record, Vol. 2.1 at 161; Tribunal Exhibit NQ-2004-001-24.16, Administrative Record, Vol. 5.3A at 81; *Transcript of Public Hearing*, Vol. 1, 6 July 2004 at 28, 51, 90; *Transcript of Public Hearing*, Vol. 2, 7 July 2004 at 267; *Transcript of Public Hearing*, Vol. 3, 8 July 2004 at 535-37; *Transcript of Public Hearing*, Vol. 4, 9 July 2004 at 608.

cold-heading and forming wire, MIG welding wire and lashing wire) that have different physical characteristics, methods of manufacture, market characteristics and customer applications. On the other hand, Central Wire argued that there was only a single class of goods and that the five classes that were identified by Greening Donald and Furnace Belt were simply benchmark products for purposes of facilitating pricing comparisons.

39. In addressing the issue of classes of goods, the Tribunal must determine whether the alleged separate classes of goods constitute “like goods” to each other. Consequently, in determining whether there is more than one class of goods, the Tribunal will look at factors similar to the ones that have been mentioned above in connection with the issue of like goods.¹⁵ If the allegedly separate classes of goods constitute “like goods” to each other, they will be regarded as comprising a single class of goods.¹⁶ In the event that the Tribunal finds that there is more than one class of goods, separate injury analyses will have to be conducted in respect of each class of goods.

40. The Tribunal finds that there is a single class of goods in this case. While there are different end uses and some slight variations in the methods of manufacture for stainless steel wire of different diameters, types or composition, the fact that there are different kinds of wire within the definition of the subject goods does not result in a determination that there are multiple classes of goods. Indeed, all types of stainless steel wire are subject to common methods of production and are manufactured using cold drawing of stainless steel rod and an annealing operation. In respect of fine wire, Greening Donald’s witness acknowledged that, although it required a longer method of production than that for other types of wire, the same processing techniques were used.¹⁷ All the different types of wire also have similar market characteristics, such as pricing structure and channels of distribution, as well as the same general uses that require corrosion-resistance properties. The fact that some kinds of wire might not be fully substitutable with each other for some end uses is not a sufficient basis for concluding that there exists more than one class of goods.

Domestic Industry

41. As indicated above, since December 2002, the two plants that produce stainless steel wire in Canada have been owned by a single producer, Central Wire. Therefore, the Tribunal considers that Central Wire constitutes the domestic industry. The analysis concerning the period prior to December 2002 includes both the Perth plant, owned by Central Wire, and the Erin plant, owned during that period by Greening Donald.

Cumulation

42. Pursuant to subsection 42(3) of *SIMA*, the Tribunal is required, when conducting an inquiry under subsection 42(1), to make an assessment of the cumulative effect of the dumping or subsidizing of the goods that are imported into Canada from more than one country if it is satisfied that the following conditions are met:

- (a) the margin of dumping or the amount of the subsidy in relation to the goods from each of those countries is not insignificant and the volume of the goods from each of those countries is not negligible; and

15. See, for example, *Certain Hot-rolled Carbon Steel Plate* (27 June 2000), NQ-99-004 at 18 (CITT).

16. See, for example, *Thermal Insulation Board* (11 April 1997), NQ-96-003 at 10 (CITT).

17. *Transcript of Public Hearing*, Vol. 2, 7 July 2004 at 221.

(b) an assessment of the cumulative effect would be appropriate taking into account the conditions of competition between goods to which the preliminary determination applies that are imported into Canada from any of those countries and

- (i) goods to which the preliminary determination applies that are imported into Canada from any other of those countries, or
- (ii) like goods of domestic producers.

43. If the Tribunal determines that the conditions for cumulation are satisfied, it will cumulate the effects of the dumped imports together with the effects of the subsidized imports, as is its usual practice.¹⁸

44. The CBSA's final determinations of dumping and subsidizing indicate that the margins of dumping and the amounts of subsidy in relation to the goods from each of the subject countries are not insignificant.¹⁹ Furthermore, the Tribunal finds that the volumes of subsidized or dumped goods from India, Korea, Switzerland and the United States are not negligible.²⁰

45. In determining whether it would be appropriate to make an assessment of the cumulative effect on the domestic industry of the dumping and subsidizing of the subject goods, the Tribunal must consider the conditions of competition in the Canadian marketplace between the subject goods, as well as between the subject goods and the like goods. In making this assessment, the Tribunal typically considers the following factors: the degree to which goods from each subject country are interchangeable with goods from the other subject countries; the presence or absence of sales or offers to sell in the same geographical markets of imports from different subject countries and of the like goods; the existence of common or similar channels of distribution; and differences in the timing of the arrival of imports from a subject country and of those from the other countries, and of the availability of like goods supplied by the domestic industry.²¹ However, the Tribunal does not consider that this list of factors is necessarily exhaustive or that any single factor is necessarily determinative.²²

46. The American wire producers submitted that an assessment in which stainless steel wire imports from the United States are cumulated with those from other subject countries is not appropriate in light of the conditions of competition. In their view, stainless steel wire coming from the United States is not fungible with other subject imports, nor with domestic stainless steel wire. It was also argued that the range of product lines and the ability to supply complementary products and services are factors that distinguish U.S. stainless steel wire from other subject goods, especially for cold-heading and welding wire. In addition, the American wire producers argued that subject imports from India, Korea and Switzerland are shipped by ocean vessels in large quantities and need to be kept in inventory by Canadian importers, while

18. See *Certain Grain Corn* (7 March 2001), NQ-2000-005 at 13-14 (CITT); *Certain Hot-rolled Carbon and Alloy Steel Sheet and Strip* (17 August 2001), NQ-2001-001 at 14 (CITT).

19. Subsection 2(1) of *SIMA* defines the term "insignificant" in part to mean "in relation to a margin of dumping, a margin of dumping that is less than two per cent of the export price of the goods" and "in relation to an amount of subsidy, an amount of subsidy that is less than one per cent of the export price of the goods". However, in this inquiry, as India is considered a developing country according to Part I of the Development Assistance Committee's List of Aid Recipients maintained by the Organisation for Economic Co-operation and Development, the threshold for an amount of subsidy to be considered insignificant is 2 percent.

20. Pursuant to subsection 2(1) of *SIMA*, the volume of dumped or subsidized goods of a country is negligible if it comprises less than 3 percent of the total volume of imports from all sources. In this inquiry, the volumes of dumped goods from Korea, Switzerland and the United States, as well as the volume of subsidized goods from India, exceed the 3-percent threshold.

21. See *Certain Hot-rolled Carbon and Alloy Steel Sheet and Strip* (17 August 2001), NQ-2001-001 at 16 (CITT).

22. *Ibid.*

U.S. companies ship smaller quantities on a weekly basis with very short lead times. They also pointed out that companies like The Lincoln Electric Company, Carpenter Technology Corporation and Sandvik Materials Technology have permanent establishments in Canada. Reference was made to the Tribunal's decision in *Certain Hot-rolled Carbon Steel Plate*²³ in support of the position that North American market integration was also a factor that distinguished U.S. imports from imports from other named countries.

47. On the other hand, Central Wire argued that cumulation of the subject countries, including the United States, was appropriate in this case. It asserted that all the subject goods are fungible, are all present in the same market and have similar channels of distribution and that the timing of deliveries is sufficiently similar that the same purchasers source from domestic, U.S. and overseas suppliers.

48. There was considerable evidence that demonstrated that there is competition in the same geographical markets between domestic stainless steel wire and the subject goods,²⁴ and among the subject goods themselves.²⁵ The evidence indicates that, as noted above, for the same specific type of wire, domestic stainless steel wire and the subject goods are generally fungible, subject to some exceptions for specialized applications. The goods generally compete head-to-head as among the subject countries and with domestic goods in terms of pricing²⁶ and quality, and are, for the most part, sold through the same distribution channels.²⁷

49. The evidence indicates that there are some differences between the mode of transportation of stainless steel wire from the United States and that of stainless steel wire from the other subject countries, the size of shipments, delivery time in some instances and also the range of products offered. Delivery times and mode of transportation are generally similar for U.S. and domestic goods, but, in some instances, there are differences in shipment size and product range. There was evidence concerning significant specialized products and services offered by some U.S. producers and the fact that some U.S. producers, unlike producers from the other subject countries, have establishments in Canada and set prices on a North American basis. However, the evidence did not indicate that the American wire producers that participated in this proceeding were necessarily representative of U.S. exporters to Canada as a whole.

50. The Tribunal is of the view that, taking into account the overall conditions of competition, it is appropriate to make an assessment of the cumulative effect of the goods from all subject countries.

Injury

51. Subsection 37.1(1) of the *Special Import Measure Regulations*²⁸ prescribes certain factors that the Tribunal may consider in determining whether the dumping and subsidizing of goods have caused material injury to the domestic industry. Subsection 37.1(3) also requires the Tribunal to consider other factors not

23. (10 January 2003), RR-2001-006 at 10-11 (CITT).

24. *Transcript of Public Hearing*, Vol. 1, 6 July 2004 at 24-27, 100-103, 123-25; *Transcript of Public Hearing*, Vol. 3, 8 July 2004 at 537-39; Tribunal Exhibit NQ-2004-001-24.01, Administrative Record, Vol. 5.3 at 64; *Pre-hearing Staff Report*, Tribunal Exhibit NQ-2004-001-06, Administrative Record, Vol. 1.1 at 125-26.

25. *Ibid.* at 129.

26. *Transcript of Public Hearing*, Vol. 3, 8 July 2004 at 535-37; *Protected Pre-hearing Staff Report*, revised 28 June 2004, Tribunal Exhibit NQ-2004-001-07A (protected), Administrative Record, Vol. 2.1 at 161; Tribunal Exhibit NQ-2004-001-24.16, Administrative Record, Vol. 5.3A at 81.

27. *Pre-hearing Staff Report*, Tribunal Exhibit NQ-2004-001-06, Administrative Record, Vol. 1.1 at 125-26; *Transcript of Public Hearing*, Vol. 1, 6 July 2004 at 28, 51; *Transcript of Public Hearing*, Vol. 4, 9 July 2004 at 608.

28. S.O.R./84-927.

related to the dumping and subsidizing to ensure that any injury caused by those other factors is not attributed to the dumped and subsidized imports.

Consistency of Data

52. Information on the domestic industry's performance is a key element in the Tribunal's analysis. In this case, the Tribunal received two different sets of figures from Central Wire and Greening Donald concerning the performance of the Erin wire production facility prior to its purchase by Central Wire from Greening Donald in December 2002. These figures appeared to support different conclusions concerning the actual levels and trends of the domestic industry's sales and profitability over the period of inquiry.

53. In an effort to understand the apparent discrepancy between these figures, the Tribunal asked for submissions and testimony from both Central Wire and Greening Donald on the methodology used to arrive at their respective figures. As a result of this request, Central Wire also reviewed its initial sales estimates of stainless steel wire on a shipment-by-shipment basis and made a number of significant revisions to its original figures.²⁹

54. The Tribunal concluded that, while both parties acted in good faith in arriving at their respective figures, Central Wire's more detailed methodology was likely to lead to a more precise result.³⁰ Accordingly, the Tribunal has used Central Wire's revised figures, rather than those of Greening Donald, as the basis for its analysis. The impact of choosing to use these figures is outlined in the annex to this statement of reasons. The figures used by the Tribunal for its analysis are those found in the pre-hearing staff report, as modified by Central Wire's July 12 to 14, 2004, revised sales and financial data.³¹

Effects of the Volume of Dumped and Subsidized Goods on Domestic Production and Sales

Volume of Domestic and Imported Goods

55. From 2001 to 2002, the volume of imports from the subject countries increased by 7 percent, from 2.6 million kg to close to 2.8 million kg, and this volume increased by another 6 percent in 2003 to reach

29. These revisions included the removal of double-counted shipment volumes, the removal of certain non like goods from the volumes of like goods sold at both the Erin and Perth plants, the re-allocation of direct costs to domestic sales of like goods at the Erin plant based on the domestic share of the Erin plant's total sales values, and the re-allocation of outbound freight costs (on the Erin plant's shipments to customers) to be part of selling expenses rather than manufacturing costs. Unlike Greening Donald, Central Wire also included surcharges in the revised sales values for the Erin plant, just as it had for the Perth plant. Manufacturer's Exhibit A-10, Administrative Record, Vol. 11; *Transcript of Public Hearing*, Vol. 5, 14 July 2004 at 703, 733.

30. In its estimate of 2001 and 2002 sales from the Erin plant of domestic and export products, Greening Donald allocated total plant sales according to the address of each customer. It was unable, however, to separate like goods from other products that were not part of the product definition. Greening Donald estimated that about 10 percent of total sales values might be for non like goods. By contrast, Central Wire's estimates of sales of like goods involved a shipment-by-shipment review of sales from the Erin plant. Each shipment was identified by the type of product, as well as by its destination. Moreover, Central Wire's sales values included the cost of surcharges to customers, while its production costs excluded the cost of shipping products to customers. These methods were consistent with the other information provided by Central Wire in its response to the Tribunal's producers' questionnaire.

31. Manufacturer's Exhibits A-11 (protected) and A-11A (protected), Administrative Record, Vol. 12; *Transcript of In Camera Hearing*, Vol. 5, 14 July 2004 at 277-78, combined with tables and schedules in the public and protected pre-hearing staff reports found in Vols. 1.1 and 2.1 respectively (hereinafter Revised public pre-hearing staff report or Revised protected pre-hearing staff report).

close to 3.0 million kg. The volume of imports from non-subject countries also increased from 2001 to 2003, but at a much higher rate, rising by 49 percent in 2002 and an additional 140 percent in 2003. Despite these very high growth rates, however, non-subject imports represented less than 10 percent of total imports in 2002 and less than 15 percent of total imports in 2003.³²

56. The volume of subject and non-subject imports followed a different trend from that of the Canadian apparent market for stainless steel wire. While the apparent market increased by 5 percent in 2002 over 2001, it fell by 4 percent in 2003 when the gains of the subject and non-subject imports were greatest. Although Central Wire registered a small increase of 3 percent in its sales from domestic production in 2002 over 2001, its sales in the Canadian market decreased by 21 percent in 2003 and by a further 5 percent in interim 2004 compared to interim 2003.³³

57. The Tribunal must determine if the sales of imports have displaced Central Wire's domestic sales. In 2001 and 2002, Central Wire's share of the Canadian market remained constant, and as noted above, its sales increased in 2002. Therefore, imports did not displace Central Wire's sales in 2002. However, in 2003, Central Wire lost market share in a market that was itself falling. The domestic industry lost nearly 10 percentage points of market share in 2003, while the subject goods gained 5 points and non-subject goods gained almost as much, more than doubling their previous share.³⁴ Non-subject goods experienced a larger increase in sales in absolute terms than did the subject goods.

58. According to the evidence, Central Wire's product is generally sold through similar distribution channels to those utilized by the subject countries,³⁵ usually depending on the category of wire. There is also evidence on the record that Central Wire and importers from the subject countries competed directly for the same customers.³⁶ Furthermore, Central Wire provided evidence, in the form of injury allegations, to illustrate sales lost to the subject goods at specific accounts.³⁷ Witnesses at the hearing corroborated some of these allegations.³⁸

59. The Tribunal concludes therefore that there was some displacement of domestic stainless steel wire in 2003 by the subject goods, although non-subject goods were also responsible for a significant share of the displacement. The Tribunal will now consider the non-price factors that could explain why this displacement occurred.

Non-Price Factors

60. While the Tribunal heard some credible testimony that the quality of domestically produced stainless steel wire caused production problems in some instances and that some customers were not always satisfied with Central Wire's service and marketing, the evidence did not indicate that this necessarily represented the general situation in the market rather than the situation of specific customers and/or specific

32. *Pre-hearing Staff Report*, Tribunal Exhibit NQ-2004-001-06, Administrative Record, Vol. 1.1 at 27; *Protected Pre-hearing Staff Report*, Tribunal Exhibit NQ-2004-001-07 (protected), Administrative Record, Vol. 2.1 at 27.

33. Revised public pre-hearing staff report, Table 9; Revised protected pre-hearing staff report, Table 23.

34. Revised public pre-hearing staff report, Table 9; Revised protected pre-hearing staff report, Table 9.

35. *Transcript of Public Hearing*, Vol. 1, 6 July 2004 at 20; *Transcript of Public Hearing*, Vol. 2, 7 July 2004 at 332-34, 368-69; *Transcript of Public Hearing*, Vol. 3, 8 July 2004 at 470-72, 475; *Transcript of Public Hearing*, Vol. 4, 9 July 2004 at 563-64.

36. Manufacturer's Exhibit A-04 (protected), paras. 37-55, 58-59, 61-63, 65, Administrative Record, Vol. 12.

37. Tribunal Exhibit NQ-2004-001-10.01 (protected), Administrative Record, Vol. 4 at 34, 37, 39-41, 44-49, 53-54, 56-58; *Transcript of In Camera Hearing*, Vol. 1, 6 July 2004 at 5-8, 33-34.

38. *Transcript of Public Hearing*, Vol. 3, 8 July 2004 at 530-31, 537-38.

niche products.³⁹ There were some instances where parties that were seeking a product exclusion argued that the product for which the exclusion was requested was one that Central Wire could not or did not produce. However, the Tribunal notes that products for which exclusions were requested covered only a small proportion of the Canadian apparent market.⁴⁰

61. The Tribunal notes that market demand was relatively stable over the period of inquiry.⁴¹ However, market demand shrank by almost 225,000 kg or 4 percent in 2003.⁴² Among the possible causes for the drop in consumption of stainless steel wire in the Canadian market in 2003 are the use of substitute products and the impact of exchange rates on exports of products that use stainless steel wire to the United States.⁴³ Given the decline in market demand in 2003, a corresponding loss in sales volume by Central Wire in that year would normally be expected. However, as noted in paragraph 56 above, the drop in the volume of Central Wire's sales was significantly greater than the decline in market demand.

62. The purchase of the Erin plant by Central Wire from Greening Donald in December 2002 also had an impact on domestic production and sales. With this purchase, domestic production shifted from two producers, i.e. Greening Donald and Central Wire, to one. This meant that, whereas purchasers could previously buy product from a second domestic producer if they were unable to obtain product from the domestic producer with which they normally dealt, now they had only one possible domestic source. In addition, this purchase meant that Greening Donald, which was a major consumer of its own fine wire, experienced a significant change in the supply arrangements for this manufacturing input, in that it lost control over its production. There is evidence on the record that this major reduction in domestic competition led at least two major customers at the Erin plant to seek a second source of supply, and, with domestic supply now reduced to a single company, this meant finding that second source outside Canada.⁴⁴ In one instance, a second source of supply was sought because it was required by an important automotive customer.⁴⁵ One witness also testified that shortages of product from its domestic supplier caused it significant concerns on two occasions.⁴⁶ The Tribunal notes that seeking a second source for key manufacturing inputs is normal commercial behaviour and, therefore, undoubtedly was not confined to these two customers. Indeed, Central Wire confirmed that, before acquiring the Erin plant, it recognized that one of the risks associated with its acquisition was the possible loss of sales to existing customers.⁴⁷

39. *Transcript of Public Hearing*, Vol. 4, 9 July 2004 at 626-27, 630-31, 653, 663; *Transcript of In Camera Hearing*, Vol. 2, 7 July 2004 at 215-19.

40. Based on the volume of imports reported by product exclusion requesters, other than spring manufacturers, these products represented less than 5 percent of the total Canadian apparent market in 2003. Tribunal Exhibit NQ-2004-001-31.01 (protected) to 31.30 (protected), Administrative Record, Vol. 2 at 41-164.2; Revised public pre-hearing staff report, Table 9.

41. *Transcript of Public Hearing*, Vol. 3, 8 July 2004 at 448, 454-55, 492-93, 496.

42. Revised public pre-hearing staff report, Table 9.

43. One example is in the automotive industry, where carbon steel fine wire is increasingly being used instead of stainless steel fine wire in the production of filters for airbag inflators. *Transcript of Public Hearing*, Vol. 2, 7 July 2004 at 188-91, 213.

44. Two major customers at the Erin plant, Greening Donald and Furnace Belt, provided evidence to that effect. *Transcript of Public Hearing*, Vol. 2, 7 July 2004 at 182, 288-89.

45. *Ibid.* at 211-12, 245-46.

46. *Ibid.* at 257-58, 260-62, 288, 291.

47. *Transcript of In Camera Hearing*, Vol. 1, 6 July 2004 at 4, 61-63; Tribunal Exhibit NQ-2004-001-RI-01A (protected) at 10, Administrative Record, Vol. 10.

63. While there was some testimony of other disruptions in the market that followed the consolidation of the industry, such as unresponsiveness to orders on the part of Central Wire, the evidence did not indicate that such disruptions were widespread in the market.⁴⁸

Conclusion

64. As discussed above, there were several non-price factors at work in the market that played a role in explaining the displacement of domestic sales in 2003 by the subject goods. In the Tribunal's view, the main non-price factors that caused Central Wire to lose sales volume were the decline in market demand and the natural commercial behaviour of customers in seeking imports as a second source of supply. These two factors readily explain the gain in volume and market share by the subject countries.

Effects of Dumped and Subsidized Goods on Prices

Costs

65. The cost of raw materials to stainless steel wire producers is affected by fluctuations above a base level in the cost of metals such as nickel and molybdenum used in the stainless steel rod that is cold drawn and annealed to make the wire. The prices of stainless steel wire, in turn, reflect these cost fluctuations, as producers apply surcharges to recover their additional input costs. Surcharges are typically applied by the seller of stainless steel wire on top of a relatively stable base price and are added to the customer invoice at the time of shipment of the order. Surcharges on a particular order depend upon the alloy that is used to prepare the stainless steel wire in that order. A rising level of alloy costs would normally flow through directly to the final customer by means of the surcharge mechanism. While there could be brief lags between the change in the cost of the alloy to the wire producer and the surcharge invoiced to the final customer, the surcharges generally reflect the current level of alloy cost increases above a base level.

66. From information submitted by Central Wire, it is evident that surcharges, in general, were either zero or fairly low for most of 2001 and 2002, but that they started to move upwards in 2003, peaking in March or April 2004, before starting to ease slightly in May 2004.⁴⁹ According to evidence on the record, these surcharges were driven primarily by increases in the price of nickel, which also increased substantially throughout this latter period.⁵⁰ Average levels of surcharges, as submitted by Central Wire, rose from about \$0.10/kg in interim 2003 to nearly \$0.60/kg in December 2003.⁵¹ In early 2004, the individual alloy surcharges generally more than doubled from their December level, which suggests that the average surcharge would have exceeded \$1.00/kg in interim 2004.⁵² If the prices of stainless steel wire had increased by the same amount, they would have risen by well over \$1.00/kg between interim 2003 and interim 2004. Instead, the average unit sales value received by Central Wire in interim 2004 increased by approximately two thirds of that amount.⁵³

48. *Transcript of Public Hearing*, Vol. 2, 7 July 2004 at 300; *Transcript of Public Hearing*, Vol. 4, 9 July 2004 at 627, 664-65.

49. Tribunal Exhibit NQ-2004-001-RI-01F, Administrative Record, Vol. 9.

50. *Pre-hearing Staff Report*, Tribunal Exhibit NQ-2004-001-06, Administrative Record, Vol. 1.1 at 89.

51. *Ibid.* at 90.

52. Average surcharge information was provided, in electronic form, by Central Wire in response to the Tribunal's producers' questionnaire (Tribunal Exhibit NQ-2004-001-09.01, Administrative Record, Vol. 3 at 53). The component alloy surcharges were included in Central Wire's response to the Tribunal's RFIs (Tribunal Exhibit NQ-2004-001-RI-01 at 5, Administrative Record, Vol. 9). The component alloy surcharges were updated to May 2004 by Central Wire in its response to the Tribunal's RFI (Tribunal Exhibit NQ-2004-001-RI-01F, Administrative Record, Vol. 9). No weighted averages or weights were provided.

53. Revised protected pre-hearing staff report, Table 23. This table contains the average unit prices received by Central Wire, as reported in its revised financial statements.

67. The unit costs of production other than the costs of materials declined slightly from 2001 to 2002. However, these cost components increased significantly in 2003 and again in interim 2004.⁵⁴ Part of the increase in unit manufacturing costs appears to be attributable to the need to spread fixed costs over a lower volume of production domestically. In addition, the significant decline in the domestic industry's export shipments⁵⁵ in 2003 would likely have had a negative effect on total production and plant loading and, therefore, on unit fixed costs of production for domestic sales.

68. As a result of the increases in material and other costs, Central Wire's unit cost of goods sold increased significantly in 2003 and interim 2004.⁵⁶

Market Prices

69. The domestic industry saw its average sales prices fall slightly in 2002, before they rose by 11 percent in each of 2003 and interim 2004, for an overall increase of about 27 percent over the entire period. Average prices of the subject goods fell in both 2002 (5 percent) and 2003 (18 percent), although by different proportions for each subject country. Finally, average prices of imports from non-subject countries fell in 2002 (34 percent), but rose in 2003 (20 percent).⁵⁷

70. Average prices for the subject goods were higher than the average prices for domestic goods for each year of the period of inquiry except 2003, when average prices for the subject goods fell slightly below the revised domestic average prices. Central Wire gave evidence however that the apparently higher prices of the subject goods were the result of different product mix rather than a reflection of actual price levels of comparable products.⁵⁸ This view was not contradicted by evidence from other parties. There was also a wide range of average prices among the subject countries, and there was some evidence that different countries had different product mixes of exports to Canada.⁵⁹ Central Wire asserted that, on a comparable product-by-product basis, import prices of the subject goods were lower than domestic prices.⁶⁰

71. The Tribunal agrees that, for purposes of comparison between one source country and another, average prices may be misleading, given that the prices of different wire products can vary by a factor of 10, depending primarily on the nature of the alloy and the diameter of the wire.⁶¹ However, the Tribunal also notes that, if product mix from any one source is relatively consistent from year to year, there is a valid basis for establishing trends over time.

72. In order to obtain some data that did not raise any potential issues of product mix, the Tribunal conducted a survey of defined benchmark products in different product segments. Looking at the domestic producer's prices of individual types of benchmark wire products over the eight quarters of 2002 and 2003,⁶² belting wire prices for the benchmark product generally increased. Fine wire prices for the

54. Revised protected pre-hearing staff report, Table 23.

55. Exports by Central Wire fell by 22 percent in 2003. Revised public pre-hearing staff report, Table 14.

56. The unit cost of materials in 2003 went up by 16 percent compared to 2002, and by a further 20 percent in interim 2004 versus 2003. Revised protected pre-hearing staff report, Table 23.

57. Revised protected pre-hearing staff report, Table 23; *Pre-hearing Staff Report*, revised 30 June 2004, Tribunal Exhibit NQ-2004-001-06C, Administrative Record, Vol. 1.1 at 173.

58. Revised protected pre-hearing staff report, Table 11; Manufacturer's Exhibit A-04 (protected) at paras. 18, 26, Administrative Record, Vol. 12; Manufacturer's Exhibit A-07 at para. 2, Administrative Record, Vol. 11.

59. Manufacturer's Exhibit A-05 at paras. 10-17, Administrative Record, Vol. 11.

60. *Transcript of Public Hearing*, Vol. 1, 6 July 2004 at 22-23, 102, 104-106.

61. *Ibid.* at 20, 23, 44, 115. Prices are expressed in terms of \$/kg.

62. *Protected Pre-hearing Staff Report*, Tribunal Exhibit NQ-2004-001-07 (protected), Administrative Record, Vol. 2.1 at 40-42, 44; *Protected Pre-hearing Staff Report*, revised 28 June 2004, Tribunal Exhibit NQ-2004-001-07A (protected), Administrative Record, Vol. 2.1 at 161; *Transcript of In Camera Hearing*, Vol. 5, 14 July 2004 at 256-57.

benchmark product also generally rose, but there were some quarterly fluctuations. Cold-heading and forming wire prices for the benchmark product rose over the period, but again with fluctuations. A similar pattern occurred in the prices for MIG welding wire benchmark product. Finally, lashing wire prices for the benchmark product remained relatively flat over the period, but with some fluctuations.⁶³

73. Central Wire alleged that, although average domestic prices increased during the period of inquiry, the continuing competitive price pressure from the dumped and subsidized goods on a product-by-product basis meant that, when production costs increased as a result, for example, of higher alloy surcharges, Central Wire could not increase its prices or pass through the surcharges sufficiently to maintain its gross margins. In support of these allegations, Central Wire provided field reports from its sales representatives⁶⁴ covering a wide range of stainless steel wire products. These reports indicated that customers had received offers of lower-priced subject goods and, in some cases, had purchased these lower-priced products. In some instances, these field reports were confirmed by purchaser witnesses. Very few reports were contradicted by the testimony of witnesses for importers or exporters.⁶⁵ In addition, there was testimony that some exporters did not add surcharges to their invoices⁶⁶ and that, in one case, an exporter applied surcharges to Canadian customers considerably later than it applied them in its home market.⁶⁷

74. Other evidence on the record however was not totally consistent concerning the relative pricing of the domestic and subject goods. The evidence indicated that, in some instances, the prices of some types of stainless steel wire from some subject countries were higher than those of domestic stainless steel wire.⁶⁸

75. However, overall there was significant evidence of prices of the subject goods that were lower than the prices of domestic goods across a wide range of products.⁶⁹ Given that the subject goods accounted for a large portion of the Canadian market (approximately half), the Tribunal is of the view that the lower-priced subject goods had a significant depressing influence over pricing in the domestic market, even though the prices of the subject goods were not always lower.

76. The Tribunal also notes that, overall, average prices of the subject goods decreased steadily over the period of inquiry, even in 2003 when both domestic and non-subject average prices increased

63. The Tribunal notes that, for several benchmark products, the evidence is quite limited. For example, it provides only single-quarter comparison data for fine wire, and the range of products in the cold-heading and forming wire benchmark category is so wide that meaningful conclusions are difficult to draw from the data available. Nevertheless, with the exercise of appropriate caution, the benchmark products can provide a useful supplement to the more broadly based data on the record.

64. Manufacturer's Exhibit A-04 (protected) at 24-35, 38-39, 41-43, Administrative Record, Vol. 12.

65. *Transcript of Public Hearing*, Vol. 1, 6 July 2004 at 46-47, 52-53, 56-59; Foreign Producer's Exhibit E-06 (protected) at 3, Administrative Record, Vol. 14.

66. *Transcript of Public Hearing*, Vol. 3, 8 July 2004 at 524, 538, 542.

67. *Transcript of Public Hearing*, Vol. 2, 7 July 2004 at 352-53; *Transcript of In Camera Hearing*, Vol. 2, 7 July 2004 at 179-80.

68. *Transcript of Public Hearing*, Vol. 4, 9 July 2004 at 599-600, 605, 617-19, 629, 659-60.

69. Tribunal Exhibit NQ-2004-001-24.16, Administrative Record, Vol. 5.3A at 82; Revised protected pre-hearing staff report, Table 11; *Protected Pre-hearing Staff Report*, Tribunal Exhibit NQ-2004-001-07 (protected), Administrative Record, Vol. 2.1 at 40; *Protected Pre-hearing Staff Report*, revised 28 June 2004, Tribunal Exhibit NQ-2004-001-07A (protected), Administrative Record, Vol. 2.1 at 161; *Transcript of In Camera Hearing*, Vol. 1, 6 July 2004 at 8, 55, 56; *Transcript of In Camera Hearing*, Vol. 2, 7 July 2004 at 145, 360; *Transcript of Public Hearing*, Vol. 1, 6 July 2004 at 70-71, 85-86, 100-103, 123-25, 161-62; *Transcript of Public Hearing*, Vol. 2, 7 July 2004 at 183, 269-71, 359-61, 390-91; *Transcript of Public Hearing*, Vol. 3, 8 July 2004 at 531, 533-35, 537-39, 556-57; *Transcript of Public Hearing*, Vol. 4, 9 July 2004 at 629-31, 658-60.

significantly.⁷⁰ This suggests that there was increasing pressure on domestic prices from those subject goods that were lower in price.

77. In 2002, the domestic industry suffered from a slight erosion in its average unit revenues but, because of a decrease in its unit costs of goods sold and an increase in its total volumes of production for domestic sales, it was able to constrain the reduction in total gross margins to less than 10 percent. In 2003, however, the domestic industry was unable to increase its prices sufficiently to cover its increased unit costs of goods sold. It suffered a significant reduction in its unit gross margins and, when these were combined with the drop in domestic sales, its total gross margins fell by over a third from their levels in 2002. In interim 2004, this problem became even more pronounced, as both unit and total gross margins fell by nearly half of their interim 2003 levels.⁷¹

Other Factors

78. There were a number of factors other than the prices of the subject goods that might have affected the level of prices of stainless steel wire in the domestic market.

79. The first factor is the increases in Central Wire's material and other costs, as discussed above.

80. Another factor that may have affected prices of stainless steel wire was the termination of domestic intra-industry competition. There was evidence that, prior to the purchase of the Erin plant by Central Wire, competition between Greening Donald and Central Wire had led to lower prices for some customers.⁷² Following the purchase in December 2002, there was evidence that Central Wire attempted to increase prices to some customers, although witnesses recognized that at least part of this increase could reasonably have been due to alloy surcharges.⁷³ Although it is likely that the purchase of the Erin plant made it easier for Central Wire to raise prices, the fact remains that, despite this, it was unable to raise prices by enough to cover rising costs.

81. Pricing of non-subject goods was another factor that might have affected the pricing of like goods. The evidence indicates however that, although average unit prices of non-subject goods fell in 2002, they rose significantly in 2003, faster than the average prices of domestic goods.⁷⁴

82. Another factor that might have affected market prices was the general level of market demand for stainless steel wire. As noted above, the overall market was relatively stable over the period of inquiry, but fell by 4 percent in 2003.⁷⁵ However, the evidence did not indicate that this decrease in overall market demand had the effect of depressing prices.

70. Revised protected pre-hearing staff report, Table 11. The only exception to this general downward trend among the subject countries was imports from Switzerland, and even for that country, the average prices of imports into Canada were falling in 2003.

71. Revised protected pre-hearing staff report, Table 23.

72. *Transcript of Public Hearing*, Vol. 2, 7 July 2004 at 198, 224-25, 240, 280; *Transcript of Public Hearing*, Vol. 3, 8 July 2004 at 531-32.

73. *Transcript of Public Hearing*, Vol. 1, 6 July 2004 at 162; *Transcript of Public Hearing*, Vol. 2, 7 July 2004 at 237-38, 280-81; *Transcript of Public Hearing*, Vol. 3, 8 July 2004 at 533-34; *Transcript of In Camera Hearing*, Vol. 2, 7 July 2004 at 146-47.

74. Revised public pre-hearing staff report, Table 11.

75. *Ibid.*, Table 9. There was insufficient information on the record to get a clear indication of whether the overall market was growing or falling in interim 2004.

83. Another factor that might have affected the overall market price levels was the movement of exchange rates. There were suggestions that the decline in the value of the U.S. dollar, particularly over the course of 2003, played a major part in the inability of the domestic producer to raise its prices sufficiently to cover the higher costs of raw materials. It is true that the U.S. dollar depreciated significantly in terms of the Canadian dollar over the course of 2003. The value of the U.S. dollar fell from C\$1.58 in December 2002 to C\$1.31 in December 2003, a fall of about 17 percent.⁷⁶ These exchange rate movements would have made the subject goods, which were often priced in U.S. dollars,⁷⁷ cheaper in the Canadian market to the extent that the U.S. dollar prices were not increased to take this into account. However, they also would have meant that the cost to the domestic producer of alloy rod inputs, to the extent that they were also priced in U.S. dollars, became relatively cheaper in Canadian dollars, if the prices were not increased to take exchange rates into account. Had both situations existed, they would have had the effect of offsetting each other to some extent, although whether this occurred, and the degree to which it may have occurred, is not clear from the evidence. The evidence did not indicate that the net impact of exchange rates was significant relative to that of dumped imports.

Conclusion

84. The domestic industry experienced significant increases in material and other production costs over the period of inquiry, which, in the normal course of events, it would have recovered by increasing its prices. Starting in 2003, and increasing in 2004, the domestic industry experienced a significant shortfall in its ability to recover its increased costs. In the Tribunal's view, the presence of low-priced subject goods is the one factor that can reasonably explain why this problem occurred.

Impact on the Domestic Industry

85. The domestic industry initially alleged that injury from the dumped and subsidized imports began in the fourth quarter of 2001 and increased through to the CBSA's preliminary determinations in April 2004. It asserted that the first three quarters of 2001 were a relatively normal period when dumped and subsidized imports were not a problem. As a result of the revisions made by Central Wire to its sales and financial estimates for the period from 2001 to interim 2004, however, it became evident that the domestic industry's performance with respect to domestic sales of stainless steel wire in 2002 was not much different from that of 2001. Sales volumes and revenues in 2002 were both up slightly from 2001, while gross margins fell somewhat on both unit and total bases. Capacity utilization for the production of stainless steel wire increased, while direct employment was stable.

86. The state of the domestic industry took a significant turn for the worse in 2003, after Central Wire took over the ownership of the Erin plant in December 2002. Total domestic sales volumes fell by 21 percent, sales revenues fell by 13 percent, and the domestic industry's share of the domestic market for stainless steel wire fell by nearly 10 percentage points. These market results, in turn, led to a significant deterioration in financial performance. Gross margins were down by over 20 percent on a per unit basis and by nearly 40 percent on a total basis.⁷⁸ Although there were no direct data available on industry cash flows or returns on investment, the overall decline in the financial performance of the domestic industry would

76. *Pre-hearing Staff Report*, Tribunal Exhibit NQ-2004-001-06, Administrative Record, Vol. 1.1 at 124.

77. *Transcript of Public Hearing*, Vol. 3, 8 July 2004 at 537-38; *Transcript of Public Hearing*, Vol. 4, 9 July 2004 at 628; Tribunal Exhibit NQ-2004-001-RI-02A, Administrative Record, Vol. 10; Tribunal Exhibit NQ-2004-001-16.15 (protected), Administrative Record, Vol. 6A at 7, 8, 11.

78. Revised public pre-hearing staff report, Table 9, Table 10; Revised protected pre-hearing staff report, Table 9, Table 23.

logically imply a corresponding reduction in both indicators. There was no indication however that this deterioration in performance affected the levels of inventories held by Central Wire.⁷⁹ Capacity utilization fell by nearly 15 percentage points from 2002, while direct employment fell by 25 percent.⁸⁰ Economies of scale due to the acquisition of the Erin plant did not explain most of the impact on employment.⁸¹ Investment expenditures in 2003 fell by over 50 percent, leaving aside the costs of the Erin acquisition.⁸² There were no reductions in average wages paid in 2003.⁸³

87. This downward trend continued in interim 2004 compared to interim 2003. Total domestic sales volumes decreased, although less than the decrease experienced in 2003. Although there is no comprehensive information on the size of the total Canadian market in interim 2004, evidence on the record⁸⁴ suggests that imports continued to grow and, consequently, that the market share for the domestic industry continued to drop. The domestic industry was able to increase its average unit prices in interim 2004, but average unit costs, particularly for materials, increased even faster. As a consequence, the domestic industry suffered further serious declines in unit gross margins, which fell by approximately 50 percent. Central Wire indicated that a continuation of its reduced margins would undermine its ability to raise further capital for investment and force it to reconsider the future of the Erin plant.⁸⁵

88. Due to the circumstances surrounding the purchase of the Erin plant by Central Wire, the Tribunal was unable to obtain the domestic sales segment financial information for selling and financial expenses for the Erin plant in 2001 and 2002. Accordingly, it was unable to assess the trends in net income of either the Erin plant or the total domestic industry from 2001 to 2003. From interim 2003 to interim 2004, however, both unit and total net incomes decreased substantially, as rising selling and financial expenses were applied to falling gross margins.

89. As discussed above, although the dumping and subsidizing of the subject goods did not appear to contribute significantly to the loss of volume or market share by the domestic industry (and therefore did not contribute to the decline in employment or capacity utilization), in the Tribunal's view, it did cause price suppression in the domestic market for stainless steel wire. This price suppression led directly to the erosion in financial performance, particularly in terms of gross margins, experienced by the domestic industry in 2003 and interim 2004. The Tribunal is persuaded that this deterioration in financial performance caused by the dumping and subsidizing also played a significant part in leading to the reduction in investment and the reduced ability to raise capital noted above.

79. As indicated in its reply to the Tribunal's producers' questionnaire (Tribunal Exhibit NQ-2004-001-10.01 [protected], Administrative Record, Vol. 4 at 3), Central Wire did not track inventories of stainless steel wire separately from overall inventories in its financial records and, in consequence, has no way of identifying whether stainless steel wire inventories were rising or falling over the Tribunal's period of inquiry.

80. Revised protected pre-hearing staff report, Table 30; *Pre-hearing Staff Report*, Tribunal Exhibit NQ-2004-001-06, Administrative Record, Vol. 1.1 at 51.

81. According to its testimony, Central Wire had planned to keep all but one of the Erin employees after the acquisition. *Transcript of Public Hearing*, Vol. 1, 6 July 2004 at 136-37.

82. *Protected Pre-hearing Staff Report*, Tribunal Exhibit NQ-2004-001-07 (protected), Administrative Record, Vol. 2.1 at 54.

83. Tribunal Exhibit NQ-2004-001-RI-01C (protected) at 3, Administrative Record, Vol. 10.

84. *Transcript of Public Hearing*, Vol. 1, 6 July 2004 at 39-40; Tribunal Exhibit NQ-2004-001-01D, Administrative Record, Vol. 1 at 73.8.

85. *Transcript of In Camera Hearing*, Vol. 1, 6 July 2004 at 31-32.

Other Factors

90. Not all the declines in the domestic industry's performance indicators over the period of inquiry can be attributed to the effect of the dumped and subsidized subject goods. As discussed above, Central Wire's purchase of the Erin plant and the natural commercial behaviour of customers in seeking a second source of supply, combined with the decline in overall domestic demand for stainless steel wire, were primarily responsible for the decline in the volumes of sales by the domestic industry in 2003 and interim 2004. These factors also bear some responsibility for the reductions in capacity utilization and employment experienced by the domestic industry.

91. Central Wire experienced significant cost increases, in 2003 and interim 2004, particularly for stainless steel rod input materials used in the production of stainless steel wire, which were a prime cause of its deteriorating financial results. However, in the Tribunal's view, the increased costs would not have had this impact in the absence of the price suppression caused by the dumped and subsidized imports.

92. The American wire producers argued that total plant costs of production should be allocated to domestic, export and non like goods on the basis of those segments' respective shares of total plant sales value, thus, in their view, altering the financial impact of Central Wire's cost increases. Central Wire argued that the allocation of manufacturing and overhead costs on the basis of production volume was more reasonable. The Tribunal does not consider Central Wire's approach to be unreasonable.

93. A number of allegations were made with respect to aspects of the domestic industry's operations that might have explained some or all of its deteriorating performance. These allegations included poor quality product, lack of product certification, long delivery times, weak customer service, inadequate marketing and sales support, high minimum volume requirements and detrimental monopolistic behaviour.⁸⁶ While some of these allegations may have been justified in particular instances, the Tribunal is not convinced by the evidence that they constitute problems that have been pervasive in the marketplace. The Tribunal also notes that, to the extent that these allegations were well founded, their primary effect would have been the loss of sales volumes, which is not an area of industry performance where the Tribunal considers that dumping and subsidizing have caused injury in this case.

94. As discussed above, the Tribunal is not convinced that the decline in the value of the U.S. dollar played a significant role in the suppression of prices of stainless steel wire.

Conclusion

95. Based on the foregoing analysis, the Tribunal concludes that the dumped and subsidized subject goods caused price suppression that injured the domestic industry. The injury caused by the dumping and subsidizing was material in terms of its impact on the financial performance of the domestic industry in both 2003 and interim 2004.

86. *Transcript of Public Hearing*, Vol. 2, 7 July 2004 at 175-78, 364-67, 380; *Transcript of Public Hearing*, Vol. 3, 8 July 2004 at 444-45, 548; *Transcript of Public Hearing*, Vol. 4, 9 July 2004 at 614-17, 626-30, 634-37; *Transcript of In Camera Hearing*, Vol. 4, 9 July 2004 at 215-21.

Exclusions

Product Exclusions

96. It is well established that the Tribunal has the discretion to grant product exclusions under subsection 43(1) of *SIMA*.⁸⁷ The fundamental principle is that the Tribunal will grant product exclusions only when it is of the view that such exclusions will not cause injury to the domestic industry. The Tribunal has granted product exclusions for particular products in circumstances when, for instance, the domestic industry does not produce those particular products.⁸⁸ The Tribunal also considers factors such as whether there is any domestic production of substitutable or competing goods, whether the domestic industry is an “active supplier” of the product or whether it normally produces the product or whether the domestic industry has the capability of producing the product.⁸⁹

97. The evidence concerning stainless steel fine wire and lashing wire indicates that, on average, the domestic industry was able to recover fully in its selling price its increases in costs for these categories of wire.⁹⁰ Consequently, the domestic industry did not suffer price suppression in its sales of fine wire and lashing wire, and in the Tribunal’s view, the imports of fine wire and lashing wire from the subject countries did not cause injury to the domestic industry. Accordingly, the Tribunal excludes stainless steel fine wire and lashing wire from its findings.

98. The Tribunal received in excess of 100 requests for product exclusions from some 30 companies, institutes and associations.

99. Central Wire consented to all 72 requests made with respect to nickel-coated stainless steel wire, copper-coated stainless steel wire and stainless steel wire for use in the manufacture of springs, per ASTM A313, matte finish, lubricant coated (all types), in all grades and in all diameters. In response to the requests, Central Wire stated that it did not manufacture copper-coated stainless steel wire. In respect of nickel-coated stainless steel wire, Central Wire stated that it did not produce this product on a regular basis. As to stainless steel wire for use in the manufacture of springs, per ASTM A313, matte finish and lubricant coated, Central Wire noted that, although it produces this type of stainless steel wire, this was not its core business and did not represent a market segment in which the company had been active. For the three categories of product exclusions to which it consented, Central Wire submitted that these goods had not caused injury and were not threatening to cause injury.⁹¹ In light of the foregoing, the Tribunal finds it appropriate to exclude these three categories of stainless steel wire from the goods covered by its findings.

100. The Tribunal will now deal with the remaining requests for product exclusions, which were opposed by Central Wire.

87. *Certain Cold-rolled Steel Sheet* (13 July 1994), CDA-93-1904-09 (Ch. 19 Panel) at 54. See, also, *Hetex Garn A.G. v. Anti-dumping Tribunal*, [1978] 2 F.C. 507 (F.C.A.).

88. See, for example, *Certain Flat Hot-rolled Carbon and Alloy Steel Sheet Products* (2 July 1999), NQ-98-004 at 33 (CITT).

89. *Stainless Steel Round Bar* (3 September 2003), RR-2003-003 and RR-2003-004 at 21 (CITT).

90. Tribunal Exhibit NQ-2004-001-RI-01B (protected) at 19, Administrative Record, Vol. 10; *Transcript of In Camera Hearing*, Vol. 1, 6 July 2004 at 76, 77; *Transcript of In Camera Hearing*, Vol. 5, 14 July 2004 at 257, 260-61.

91. *Transcript of Public Hearing*, Vol. 1, 6 July 2004 at 11.

101. The Tribunal grants the request to exclude from its findings types 308LHS, 309LHS, 387, 409CB and 430LCB stainless steel welding wire packaged in fibre-drum bulk packs, drum packs or barrel packs, known as “Tech Paks” or equivalent, in sizes of 250 lbs. (113.4 kg) or greater, for use in long-run welding applications. Central Wire submitted that, although it does not currently sell stainless steel welding wire in this type of packaging, it could do so through a third-party service provider. Based on the evidence on the record, the Tribunal notes that Central Wire does not offer this type of packaging at present. Further, it is not convinced that Central Wire will offer this type of packaging in the near future.

102. For the same reasons, the Tribunal also grants the request to exclude from its findings type 439 titanium stabilized, solid stainless steel welding wire packaged in 500-lb. (226.8-kg) drums.

103. The Tribunal grants the request to exclude from its findings type A286/A286SF stainless steel cold-heading wire. This alloy is required by automotive and aerospace industries in highly specialized, high-temperature applications. Although Central Wire submitted that it produced similar products and that it had the capability to manufacture this type of wire, the Tribunal is not convinced that Central Wire will produce an identical or substitutable product in the near future.

104. The Tribunal grants the request to exclude from its findings type A-286 stainless steel cold-heading wire, also identified as AISI No. 660, UNS K66286 DIN-1.4980, with the specific chemical composition identified in the exclusion request.⁹² Although Central Wire submitted that it produced very similar products and that it had the capability to manufacture this type of wire, the Tribunal is not convinced that Central Wire will produce an identical or substitutable product in the near future, given its highly specialized nature.

105. The Tribunal does not grant the requests to exclude from its findings type 630 stainless steel welding wire in MIG, TIG and sub-arc product forms, also identified as 17-4PH; type 307 stainless steel welding wire in MIG and TIG product forms; and type 410 NiMo stainless steel welding wire in MIG, TIG and sub-arc product forms. The Tribunal finds that Central Wire regularly manufactures similar products and is convinced that it can and will manufacture these specific types of wire or substitutable products if orders are placed. Although Central Wire does not have the CWB certifications for these types of wire, the evidence indicates that it has certifications for various types of similar welding wire and that additional certifications can be obtained easily.

106. The Tribunal does not grant the request to exclude from its findings type 310 stainless steel welding wire in MIG, TIG and sub-arc product forms; and type 312 stainless steel welding wire in MIG, TIG and sub-arc product forms. The evidence on the record indicates that these types of wire are manufactured by Central Wire and that it currently possesses the CWB certification for type 310. As discussed with respect to the preceding exclusion requests, the Tribunal is convinced that the certification for type 312 can be obtained easily. The Tribunal does not consider that the fact that U.S. producers may be able to deliver it in a shorter time than Central Wire is sufficient in this instance to warrant an exclusion. With all its welding wire products, Central Wire works through Canadian distributors that can supply products to customers quickly.

92. The specific chemical composition is as follows: 0.08% max. carbon, 2.00% max. manganese, 1.00% max. silicon, 0.025% max. phosphorous, 0.025% max. sulfur, 13.50/16.00% chromium, 24.00/27.00% nickel, 1.00/1.50% molybdenum, 0.50% max. copper, 1.00% max. cobalt, 0.35% max. aluminum, 1.90/2.35% max. titanium, 0.10/0.50% vanadium and 0.003/0.010% boron.

107. The Tribunal does not grant the request to exclude from its findings type 385 (904L) stainless steel welding wire in MIG, TIG and sub-arc product forms. Evidence of production of this type of wire was provided by Central Wire. Although Central Wire does not have CWB certification for this type of wire, the evidence indicates that it has certifications for various types of similar welding wire. As discussed with respect to preceding exclusion requests, the Tribunal is convinced that additional certifications can be obtained easily.

108. The Tribunal grants the request to exclude from its findings type 27-7MO (trade name) stainless steel wire, also identified as UNS S31277, or equivalent. This type of wire is a specialized, niche product that provides very good corrosion-resistance for its use in the petroleum industry. Central Wire indicated that it was capable of producing a substitutable product. Based on the evidence, which among other things provided a detailed comparison of product specifications, the Tribunal is not convinced that the product manufactured by Central Wire (GD31MO) is fully substitutable.

109. The Tribunal grants the request to exclude from its findings type XM-19 stainless steel wire, also identified as UNS S20910, an alloy which provides increased strength and improved corrosion resistance over type 316. Although Central Wire submitted that it had the capability to manufacture this type of wire, the evidence does not indicate that it intends to produce this very specialized product in the near term.

110. The Tribunal does not grant the request to exclude from its findings types 253MA, 353MA, 2507 duplex and 300 series stainless steel welding wire in MIG, TIG and sub-arc product forms. The evidence filed by Central Wire shows that it produces a substitutable product for types 253MA, 353MA, and 2507 duplex and that it could produce a wire with the same specifications if requested. As to the 300 series, these products are manufactured by Central Wire. The fact that the goods manufactured by Central Wire are shipped to the United States and re-exported to Canada by another company does not constitute a basis upon which a product exclusion should be granted.

111. Several exclusion requests dealing with type 302 stainless steel wire were filed with the Tribunal. It was submitted that a similar quality of product was not available in Canada and that Central Wire had large minimum order requirements and long delivery times. The Tribunal notes that Central Wire is a manufacturer and that the evidence indicates that these conditions are generally characteristic of manufacturers, whereas distributors are in a better position to ship quickly and in smaller quantities. The evidence shows that Central Wire manufactures type 302 stainless steel cold-heading wire, and the Tribunal therefore sees no reason to grant a broad exclusion for this type of wire. Nevertheless, the Tribunal is of the view that it is appropriate in the circumstances to exclude from its findings type 302 stainless steel cold-heading wire for use in the manufacture of semi-tubular solid rivets. On the basis of the evidence on the record,⁹³ the Tribunal is satisfied that the manufacture of semi-tubular solid rivets requires a quality of cold-heading wire that Central Wire does not manufacture and constitutes a market segment in which it has not been active. For the same reasons, the Tribunal also finds it appropriate to exclude from its findings type 430 stainless steel cold-heading wire for use in the manufacture of semi-tubular solid rivets.

112. The Tribunal does not grant the request to exclude from its findings types 410 and 430 stainless steel wire, given that they are standard products that are produced and sold in Canada by Central Wire.

93. *Transcript of Public Hearing*, Vol. 4, 9 July 2004 at 630-31.

113. The Tribunal does not grant the request to exclude from its findings types 302, 410 and 430 stainless steel cold-heading wire with an X coating. Although exclusion requests have been granted for copper-coated wire of these types, it sees no basis to exclude non-copper-coated stainless steel cold-heading wire with an X coating, given the evidence that Central Wire manufactures a product that is substitutable for X coating.

114. The Tribunal does not grant the request to exclude from its findings type 302HQ stainless steel cold-heading wire known as “Custom Flo”. The evidence on the record indicates that Central Wire can obtain a functionally identical alloy and manufacture a substitutable product.

115. The Tribunal does not grant the request to exclude from its findings black molybdenum-disulfide bearing coating referred to as KnightCote™ on cold-heading wire in diameters of 0.500 inches (12.70 mm) and smaller applied using a method other than batch coating or strand coating, and the request for types 302 to 304, and 410 stainless steel cold-heading wire, in diameters of 0.300 inches (7.62 mm) and smaller, coated with KnightCote™. Central Wire provided evidence that it could make a substitutable cold-heading wire with its own proprietary black molybdenum-disulfide bearing coating, that it had done so in the past and that it could do so in the future. Although it heard testimony that attempted to distinguish the KnightCote™ coating from other coatings on the basis of the method of application and the resulting thinness and uniformity of the coating, the Tribunal is not convinced that the product is sufficiently different to warrant an exclusion.

116. The Tribunal does not grant the request to exclude from its findings all types of stainless steel cold-heading wire in diameters from 0.090 inches (2.29 mm) to 0.300 inches (7.62 mm). The evidence demonstrates that Central Wire regularly manufactures cold-heading wire in these diameters. The Tribunal has granted exclusions for certain products that fall within this range, but sees no reason to grant such a broad request.

117. In light of its decision to exclude stainless steel fine wire from its findings, there is no need for the Tribunal to address separately the requests for types 304L/316L stainless steel knitting wire, in outside diameters of 0.011 inches (0.279 mm) and 0.006 inches (0.152 mm), packaged on new spools DIN 200 suitable for modern, high-speed knitting machines, and the request for type 304 stainless steel wire, 3 ends 36 AWG, soft on #16 carrier bobbins (braiding material). These two types of wire fall within the broad category of fine wire that has already been excluded by the Tribunal from its findings.

118. The Tribunal notes that, in its view, as discussed above, the products excluded from its findings have not caused injury to the domestic industry. Consequently, it is clear that the injury caused by the subject goods constitutes material injury, notwithstanding the exclusion of these products from the Tribunal’s findings.

Country Exclusion

119. The American wire producers submitted that the Tribunal should exclude goods from the United States from its findings. The Tribunal does not consider that this would be appropriate. As discussed above, the Tribunal has found that, overall, the conditions of competition between imports from the United States, other subject countries and domestic goods are similar. In addition, there was significant evidence of injury linked specifically to goods from the United States.⁹⁴ The Tribunal also notes that, during the period of

94. Manufacturer’s Exhibit A-04 (protected) at 32,34, 38, Administrative Record, Vol. 12.

inquiry, imports from the United States represented over 30 percent of the apparent market, and therefore injurious behaviour of these goods would be expected to have a significant influence in the market.

CONCLUSION

120. The Tribunal finds, pursuant to subsection 43(1) of *SIMA*, that the dumping of stainless steel wire originating in or exported from Korea and Switzerland, excluding the products described in the appendix to the findings, and the subsidizing of such product originating in or exported from India, excluding the products described in the appendix to the findings, have caused injury to the domestic industry.

121. Furthermore, the Tribunal finds, pursuant to subsections 43(1) and (1.01) of *SIMA*, that the dumping of stainless steel wire originating in or exported from the United States, excluding the products described in the appendix to the findings, has caused injury to the domestic industry.

Ellen Fry
Ellen Fry
Presiding Member

Zdenek Kvarda
Zdenek Kvarda
Member

James A. Ogilvy
James A. Ogilvy
Member

ANNEX

PRODUCTS EXCLUDED FROM THESE INJURY FINDINGS

122. As a result of the revisions made by Central Wire during July 12-14, 2004, the total volumes of domestic market sales were reduced by about 17 percent in 2001, 11 percent in 2002 and 5 percent in 2003.⁹⁵ These changes in market volumes resulted in a significant reduction in the domestic industry's share of the market in each of 2001, 2002 and 2003 compared to previous estimates. Central Wire's market share, as a result of these changes, remained relatively stable between 2001 and 2002, while it fell by nearly 10 percentage points in 2003.⁹⁶

123. Central Wire's previous estimates of average unit values of benchmark products in 2003 were revised upwards by the following amounts: belting wire (2 cents); fine wire (3 cents); cold-heading and forming wire (19 cents); and lashing wire (20 cents). Central Wire's estimate for welding wire was unchanged. On average, the prices of all like goods sold by Central Wire went up by less than 10 percent.⁹⁷

124. Furthermore, Central Wire's revisions resulted in significant, mostly downward revisions in its apparent financial performance on domestic sales of like goods over the period from 2001 to interim 2004. Compared to the original estimates, revised gross margins fell by 46 percent in 2001, by 41 percent in 2002 and by 37 percent in 2003, but went up by 56 percent in interim 2004.⁹⁸

125. Finally, in addition to reducing market domestic sales and Central Wire's share of the Canadian market, as indicated above, these sales data revisions affected the data concerning Central Wire's domestic production, exports, productivity and capacity utilization.

95. Revised protected pre-hearing staff report, Table 9.

96. *Ibid.*

97. *Transcript of Public Hearing*, Vol. 5, 14 July 2004 at 679-81, 719, 724.

98. Revised protected pre-hearing staff report, Table 23.

IN THE MATTER OF an inquiry, under section 42 of the *Special Import Measures Act*,
respecting:

**THE DUMPING OF CERTAIN STAINLESS STEEL WIRE ORIGINATING IN
OR EXPORTED FROM THE REPUBLIC OF KOREA, SWITZERLAND AND
THE UNITED STATES OF AMERICA, AND THE SUBSIDIZING OF SUCH
PRODUCT ORIGINATING IN OR EXPORTED FROM INDIA**

STATEMENT OF REASONS

CORRIGENDUM

In the English version, the title of the annex to the statement of reasons should read:

“EFFECTS OF CENTRAL WIRE’S DATA REVISIONS”.

By order of the Tribunal,

Hélène Nadeau
Secretary