



Ottawa, Friday, July 26, 1991

**Inquiry No.: NQ-90-005**

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

**CERTAIN CARBON STEEL WELDED PIPE  
ORIGINATING IN OR EXPORTED FROM ARGENTINA, INDIA,  
ROMANIA, TAIWAN, THAILAND, AND VENEZUELA**

**FINDING**

The Canadian International Trade Tribunal, under the provisions of section 42 of the *Special Import Measures Act*, has conducted an inquiry following the issuance by the Deputy Minister of National Revenue for Customs and Excise of a preliminary determination of dumping dated March 28, 1991, and of a final determination of dumping dated June 21, 1991, respecting the importation into Canada of carbon steel welded pipe originating in or exported from Argentina, India, Romania, Taiwan, Thailand, and Venezuela, in the nominal size range 12.7 mm to 406.4 mm (1/2 in. to 16 in.) inclusive, in various forms and finishes, meeting one or more of the following specifications: ASTM A53, ASTM A120, ASTM A795, ASTM A252, ASTM A589, or AWWA C200-80, or equivalent specifications, including water well casing, piling pipe, sprinkler pipe, and fencing pipe.

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 goods originating in or exported from Argentina, India, Romania, Taiwan, Thailand and Venezuela has caused, is causing and is likely to cause material injury to the production in Canada of like goods.

Sidney A. Fraleigh

Sidney A. Fraleigh  
Presiding Member

Kathleen E. Macmillan

Kathleen E. Macmillan  
Member

Charles A. Gracey

Charles A. Gracey  
Member

Michel P. Granger

Michel P. Granger  
Acting Secretary

The Statement of Reasons will be issued within 15 days.

**Inquiry No.: NO-90-005**

Place of Hearing: Ottawa, Ontario  
Dates of Hearing: June 24 to 28, 1991

Date of Finding: July 26, 1991

Tribunal Members: Sidney A. Fraleigh, Presiding Member  
Kathleen E. Macmillan, Member  
Charles A. Gracey, Member

Director of Research: Peter Welsh  
Research Officer: Anis Mahli  
Statistical Officer: Robert Larose

Registration and Distribution Clerk: Margaret J. Fisher

**Participants:**

Lawrence L. Herman  
for Stelpipe  
(A Unit of Stelco Inc.)  
**(Complainant)**

Ronald C. Cheng  
for Ipsco Inc. and Sidbec-Dosco Inc.  
**(Complainants)**

Peter Clark and  
Chris Hines  
for Rola Steel Products and  
The Tata Iron & Steel Co. (Tisco)  
**(Importer/Exporter)**

Simon V. Potter,  
Brian C. Elkin and Mrs. Zheng Anderson  
for Conduven S.A.  
**(Exporter)**

Donald J. Goodwin and  
Peter Collins  
for Yieh Hsing Enterprise Co., Ltd. and  
Kao Hsing Chang Iron & Steel Corp.  
**(Exporters)**

Maria Bucin\_ and  
Iosif Rus  
for Metalexportimport  
**(Exporter)**



Ottawa, Monday, August 12, 1991

**Inquiry No.: NQ-90-005**

**CERTAIN CARBON STEEL WELDED PIPE  
ORIGINATING IN OR EXPORTED FROM ARGENTINA, INDIA,  
ROMANIA, TAIWAN, THAILAND, AND VENEZUELA**

*Special Import Measures Act* - Whether the dumping of the above-mentioned goods has caused, is causing or is likely to cause material injury, or has caused or is causing retardation to the production in Canada of like goods.

**DECISION:** The Canadian International Trade Tribunal hereby finds that the dumping in Canada of the aforementioned goods originating in or exported from Argentina, India, Romania, Taiwan, Thailand and Venezuela has caused, is causing and is likely to cause material injury to the production in Canada of like goods.

Place of Hearing:	Ottawa, Ontario
Dates of Hearing:	June 24 to 28, 1991
Date of Finding:	July 26, 1991
Date of Reasons:	August 12, 1991
Tribunal Members:	Sidney A. Fraleigh, Presiding Member Kathleen E. Macmillan, Member Charles A. Gracey, Member
Director of Research:	Peter Welsh
Research Officer:	Anis Mahli
Statistical Officer:	Robert Larose
Counsel for the Tribunal:	Brenda C. Swick-Martin
Registration and Distribution Clerk:	Margaret J. Fisher
<b>Participants:</b>	Lawrence L. Herman for Stelpipe (A Unit of Stelco Inc.)  <b>(Complainant)</b>
	Ronald C. Cheng for Ipsco Inc. and Sidbec-Dosco Inc.  <b>(Complainants)</b>

Peter Clark and  
Chris Hines  
for Rola Steel Products and  
The Tata Iron & Steel Co. (Tisco)

**(Importer/Exporter)**

Simon V. Potter,  
Brian C. Elkin and Mrs. Zheng Anderson  
for Conduven S.A.

**(Exporter)**

Donald J. Goodwin and  
Peter Collins  
for Yieh Hsing Enterprise Co., Ltd. and  
Kao Hsing Chang Iron & Steel Corp.

**(Exporters)**

Maria Bucinã and  
Iosif Rus  
Metalexportimport

**(Exporter)**

**Witnesses:**

A.M. (Al) Shkut  
Vice-President  
Emco Distribution Group  
A Division of Emco Limited

R.J. (Bob) Close  
General Sales Manager  
Stelpipe  
(A Unit of Stelco Inc.)

Michael A. McQuade  
Assistant Sales Manager - Pipe  
Stelpipe  
(A Unit of Stelco Inc.)

J.D. (Jack) Lewis  
Vice-President  
Grinnell Supply Sales Company

Donald K. Belch  
Director - Government Relations  
Stelco Inc.

R.P. (Rick) Jaszek  
Sales Manager, Pipe  
Stelpipe  
(A Unit of Stelco Inc.)

Brian Cain  
Vice-President  
Eastern Canadian Region  
Comco Pipe and Supply

Roger Fay  
Sales Manager, Pipe  
Sidbec-Dosco Inc.

Raymond Leblanc, CMA  
Director  
Marketing Administration  
Sidbec-Dosco Inc.

H. Scott Hamilton, P. Eng.  
Manager of Trade and Administration  
Ipsco Inc.

Glenn A. Gilmore  
Trade Supervisor  
Ipsco Inc.

Robert Zimmerman  
Sales Manager  
Olympia Tubes Limited

Pratap M. Gidvani  
President  
Rola Steel Products

Sylvia Taylor  
Manager, Pipe and Tube  
BHP Trading Canada Ltd.

Maria Bucin\_  
Senior Economist  
Ministry of Commerce and Tourism  
Bucharest, Romania

Iosif Rus  
Chief of Pipe Exports  
Metalexportimport  
Bucharest, Romania

Cristina Stroe  
Chief of Marketing  
Metalexportimport  
Bucharest, Romania

Address all communications to:

Secretary  
Canadian International Trade Tribunal  
20th Floor  
Journal Tower South  
365 Laurier Avenue West  
Ottawa, Ontario  
K1A 0G7



Ottawa, Monday, August 12, 1991

**Inquiry No.: NQ-90-005**

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

**CERTAIN CARBON STEEL WELDED PIPE  
ORIGINATING IN OR EXPORTED FROM ARGENTINA, INDIA,  
ROMANIA, TAIWAN, THAILAND, AND VENEZUELA**

TRIBUNAL:               SIDNEY A. FRALEIGH, Presiding Member  
                              KATHLEEN E. MACMILLAN, Member  
                              CHARLES A. GRACEY, Member

**STATEMENT OF REASONS**

**SUMMARY**

The purpose of this inquiry is to determine whether the dumping in Canada of carbon steel welded pipe (standard pipe) originating in or exported from Argentina, India, Romania, Taiwan, Thailand and Venezuela has caused, is causing or is likely to cause material injury to the production in Canada of like goods.

Stelpipe (A Unit of Stelco Inc.), Ipsco Inc. (Ipsco) and Sidbec-Dosco Inc. (Sidbec-Dosco) that, collectively, produce the entire range of the subject goods in Canada are the complainants in this inquiry. They account for a majority of the domestic production of the subject goods. They alleged that dumped carbon steel welded pipe from the named countries has resulted in price suppression and price erosion, leading to a reduction in sales revenue, market share and production, and less than adequate financial returns. Because the recession has affected demand for the subject goods, they suggested that there was every indication that dumping would resume without an injury finding. Further, if dumping were allowed to continue unchecked, at current levels, the threat of injury would be magnified and the industry's ability to raise investment capital would be diminished.

According to counsel for the importer and exporters, the industry's injury was not caused by dumping, but stemmed from other factors such as the recessionary pressures in the economy, the high value of the Canadian dollar versus its American counterpart, the high cost of freight in Canada and high transfer prices for skelp.<sup>1</sup>

The Canadian International Trade Tribunal (the Tribunal) found that the market for the subject goods plummeted during the inquiry period. Meanwhile, the domestic

---

1. The carbon steel raw material which is formed and welded to make pipe.

industry lost market share while imports, at large dumping margins from the subject countries, increased their penetration into a declining market.

The Tribunal has examined the evidence provided by the interested parties to this inquiry and finds that the dumping of the subject goods has caused the industry to experience a significant loss in market share, price suppression that aggravated its financial performance and reduced employment. Therefore, based on the foregoing, the Tribunal finds that the dumping of the subject goods from the named countries has caused, is causing and is likely to cause material injury to the domestic industry.

### **CONDUCT OF THE INQUIRY**

The Tribunal, under the provisions of section 42 of the *Special Import Measures Act* (SIMA), has conducted an inquiry following the issuance by the Deputy Minister of National Revenue for Customs and Excise (the Deputy Minister) of a preliminary determination of dumping dated March 28, 1991, and of a final determination of dumping dated June 21, 1991, respecting the importation into Canada of carbon steel welded pipe originating in or exported from Argentina, India, Romania, Taiwan, Thailand and Venezuela, in the nominal size range 12.7 mm to 406.4 mm (1/2 in. to 16 in.) inclusive, in various forms and finishes, meeting one or more of the following specifications: ASTM A53, ASTM A120, ASTM A795, ASTM A252, ASTM A589 or AWWA C200-80, or equivalent specifications, including water well casing, piling pipe, sprinkler pipe, and fencing pipe. The Deputy Minister's investigation into dumping covered importations of the subject goods between January 1, 1990, and September 30, 1990.

The notices of preliminary and final determinations of dumping were published in Part I of the April 13, 1991, and July 13, 1991, editions of the Canada Gazette, respectively. The Tribunal issued a notice of commencement of inquiry on April 2, 1991, that was published in Part I of the April 13, 1991, edition of the Canada Gazette.

As part of the inquiry, the Tribunal sent questionnaires to Canadian manufacturers and importers of the subject goods, requesting production, financial, import and market information, and other information, covering the period from January 1, 1988, to March 31, 1991. From the replies to the questionnaires and other sources, the Tribunal's research staff prepared public and confidential pre-hearing staff reports. The record of this inquiry consists of all the Tribunal exhibits, including public and confidential sections of replies to questionnaires, exhibits filed by the parties at the hearing and the transcript of all proceedings. Public exhibits were made available to interested parties and confidential exhibits, to independent counsel only.

Public and *in camera* hearings were held in Ottawa, Ontario, commencing June 24, 1991. Stelpipe, Ipsco and Sidbec-Dosco, domestic producers of the subject goods, were represented by counsel at the hearing, submitted evidence and made argument in support of an injury finding. Counsel for the importer, Rola Steel Products, as well as counsel for the exporters, Conduven S.A., Yieh Hsing Enterprise Co., Ltd., Kao Hsing Chang Iron and Steel Corp., The Tata Iron & Steel Co. (Tisco) and Metalexportimport, submitted evidence and made argument in support of a finding of no injury.

On July 26, 1991, the Tribunal issued a finding that the dumped goods had caused, was causing and was likely to cause material injury to the domestic production of like goods.

## **THE PRODUCT**

The American Iron and Steel Institute (AISI) classifies carbon steel welded pipe into the following groups according to their end uses: standard pipe, pressure piping, line pipe, water well pipe and oil country tubular goods. Carbon steel welded pipe is produced on mills using continuous weld (CW) and electric resistance weld (ERW) technologies. Pipe produced on the CW mills varies between a minimum of 0.405 in. and usually a maximum of 4.500 in. in outside diameter, while pipe produced on ERW mills has an outside diameter ranging from 2.0 in. to 24.0 in. In both processes, after the forming of the pipe, the product undergoes straightening and end processing, i.e., it is cropped, faced, reamed. CW and ERW pipes are interchangeable, although certain users prefer ERW to CW pipe.

Standard pipe, which is the subject of this inquiry and is defined in the final determination of dumping, is generally intended for the low-pressure conveyance of steam, water, natural gas, air and other liquids and gases in plumbing and heating systems. This pipe is produced to the American Society for Testing Materials (ASTM) specifications, which prescribe the composition and strength requirements. Most of the subject pipe is used in the plumbing and the heating industries and is produced to ASTM A53 in standard, black wall and in galvanized finishes. The preponderant nominal sizes include 1 in., 2 in., 3 in., 4 in., 6 in. and 8 in. The ASTM A53 specification is considered to be of the highest quality and is suitable for welding, coiling, bending and flanging. Other applications for standard pipe include piling pipe (ASTM A252), water well casing (ASTM A589 or AWWA C200-80), and sprinkler and fencing pipe (ASTM A795). Carbon steel welded tube (ASTM 513) competes with standard pipe in the fencing segment of the market for the subject goods.

Most of the domestic production of standard pipe is marketed through national distributors. They have branches across Canada that purchase their requirements independently from either domestic manufacturers, trading companies or by direct import. There are also many importers as well as domestic end users that import the subject pipe directly. ERW pipe accounts for over 90 percent of imports.

## **THE DOMESTIC INDUSTRY**

There are 10 firms producing the subject goods in Canada. Stelpipe, Ipsco and Sidbec-Dosco, which produce all or most of the range of the subject goods, are the major producers and complainants in this inquiry. The other producers specialize in the production of fewer pipe specifications and sizes. The combined output of the three complainants accounts for over two-thirds of the domestic production. Therefore, for purposes of the present inquiry, Stelpipe, Ipsco and Sidbec-Dosco represent the domestic industry.

Stelco Inc. (Stelco) produced and sold the subject goods under the "Stelco" brand until 1984. During that year, Stelco reorganised its tubular product facilities into a separate business unit, "Stelco Pipe and Tube Company," to produce and market these products. This unit's name changed to "Stelpipe" in 1988. Stelpipe manufactures pipe,



tube and other tubular products on eight mills located in Eastern and Western Canada. Five of the mills produce the subject goods. Four of them are at the Page-Hersey works in Welland, Ontario, and the fifth is in Camrose, Alberta. Besides its milling operations, Stelpipe "tolls" out some pipe production to Adtek Pipe & Tube Inc., in Weston, Ontario. Stelpipe uses both CW and ERW processes and supplies the entire range of the subject goods.

Sidbec-Dosco is a wholly owned subsidiary of Sidbec Inc., which is owned by the province of Quebec. It has four facilities in Canada, but produces standard pipe only in Montréal. The Montréal facility uses CW technology for pipe up to 4 in. in outside diameter. Since 1987, Sidbec-Dosco has sourced ERW pipe from Delta Tube (Delta), a company owned jointly by Nova Steel and Sidbec Inc. Delta's size range is 2 in. to 6 in. in outside diameter. During the inquiry period, Sidbec-Dosco sold pipe products throughout Canada, except British Columbia.

Ipsco began to produce the subject goods in 1957. Ipsco operates nine ERW pipe mills located in Regina, Edmonton, Red Deer and Calgary. Five of the mills can produce the subject goods. The size range is from 2 3/8 in. to 16 in. in outside diameter. It has sold its products throughout Canada, except the Maritimes.

Each of the three complainants is part of an integrated steel firm. They use skelp, the raw material for carbon steel welded pipe, produced mainly in the steel mills of those firms. Most of the other seven Canadian producers are independent pipe mill operations that purchase skelp from steel mills in Canada or abroad.

## **THE RESULTS OF THE DEPUTY MINISTER'S INVESTIGATION**

The Deputy Minister's investigation covered imports of carbon steel welded pipe (standard pipe) from Argentina, India, Romania, Taiwan, Thailand and Venezuela during the period of January 1, 1990, to September 30, 1990. In the final determination of dumping, the Deputy Minister found that most imports of standard pipe from the subject countries had been dumped by a weighted average margin of dumping varying from 13.6 percent to 46.5 percent for the six named countries.

## **MARKET INDICATORS**

Canadian consumption of the subject goods, over the inquiry period, peaked at 256,000 tonnes in 1988. It then declined sharply to 209,000 tonnes in 1989 and fell further to 202,000 tonnes during 1990. During the first quarter of 1991, the market continued to shrink. Subject pipe consumption in the first quarter of 1991 was 41,000 tonnes down sharply from 57,000 tonnes in the first quarter of 1990. Total sales declined from \$208 million in 1988 to \$151 million in 1990.

Domestic production of the subject goods declined throughout the inquiry period. There were significant changes in domestic producers' share of the market. In 1989, it increased significantly from 1988, a year of high demand for pipe. In 1990, there was a sharp decrease in the domestic industry's market share, particularly in the first quarter. During the latter part of 1990 and the first quarter of 1991, the domestic industry had recovered some of this lost market share. Among domestic producers, Stelpipe was generally able to maintain its production levels and increase its share of the domestic

market. Sidbec-Dosco maintained its share in the market, albeit at lower levels of production. Ipsco and other domestic producers lost market share.

The market share of imports of standard pipe from the named countries increased from 11 percent in 1988 to 14 percent in 1990, then slipped to 7 percent during the first quarter of 1991, while that of imports from countries signatories to price undertaking fell from 5 percent in 1988 to 3 percent in 1990, then rebounded to 8 percent during the first quarter of 1991. Korean imports, which held 6 percent of the market during 1988, plummeted to 1 percent of the market in 1990 and the first quarter of 1991. The consumption of U.S. pipe increased from 1 percent in 1988 to 7 percent in 1991, with much of the increase occurring later in the period and in a declining market. Meanwhile, imports from the rest of the world fluctuated irregularly between 3 percent of the market in 1988 and 1 percent during the first quarter of 1991.

The average unit sales values of the subject goods sold by the three complainants fell about 11 percent between 1988 and the first quarter of 1991. These average sales values were higher than the average unit sales values of most imports.

According to the financial data they provided, the three producers experienced declining sales, albeit at variable rates. These data also reveal that Stelpipe reported severe and increasing losses through each phase of the inquiry period. On the other hand, Ipsco's profitability rebounded during 1990 and the first quarter of 1991, to a level equal to that achieved during 1988. Meanwhile, Sidbec-Dosco's profits steadily eroded.

## **THE COMPLAINT**

### **Stelpipe**

Counsel argued that Stelpipe's material injury has taken the form of substantial price erosion and price suppression, reduced sales, growing losses, underutilization of capacity, reduced employment and a stagnant market share.

Counsel compared the economic indicators in the Tribunal's Review No. RR-89-008 respecting the same products from Korea with those developed for the current inquiry. Korea dumped imports at a margin of 19 percent and captured 1.4 percent of the market during 1989. In this inquiry, imports from the subject countries were found to be dumped at an average margin of 33 percent and held about 10 percent of the market for the subject goods. Counsel concluded that, since the Tribunal's order was in the affirmative with respect to the Korean case, it would be "contradictory" not to find past, present and future injury in this case. The margins of dumping and the level of import penetration estimated for these products have been considerably greater than those of the Korean products.

Counsel noted that one of Stelpipe's main indicators of injury in the current case was price erosion and price suppression. To protect its market share in a very competitive, contracting market, where price is considered to be the most important factor, Stelpipe discounted deeply (20 percent) its published price list in Western Canada and introduced an incentive plan in Eastern Canada to encourage distributors, in that regional market, to buy domestic pipe. Also, the financial portion of Stelpipe's brief shows that price erosion and price suppression have adversely affected this producer's profitability.

Besides the marked reduction in demand for the subject goods, which, for the most part, has been associated with the slowdown in the construction industry (major user), the subject goods have been increasingly sold by "attaché case" traders. Witnesses testified that these traders import pipe in large quantities in limited sizes for quick sale at the docks in Montréal or Vancouver. These suppliers have dictated the price for the subject goods, thus destabilizing the prices in the market.

As for the likelihood of material injury, counsel submitted that if dumping from the named countries were allowed to continue unchecked at the existing rate, Stelco's ability to raise investment capital would be diminished in the future.

### **Sidbec-Dosco and Ipsco**

Counsel for Sidbec-Dosco and Ipsco supported the argument by counsel for Stelpipe. He then addressed three issues: the state of the Canadian market for the subject goods, the impact of imports from other countries and the test of injury that might be used to evaluate the impact of dumping on an industry.

Counsel submitted that, although apparent consumption of the subject goods declined during the latter phase of the inquiry period, the greater drop in market share of pipe from the named countries, in relation to other participants in the market, should not be interpreted as an indication that there is no likelihood of injury. Counsel suggested that importers and brokers of the subject goods from the named countries are awaiting the outcome of this hearing to plan their next move.

Counsel conceded that imports from the United States and countries subject to price undertakings have surged during the early part of 1991. He argued that if these countries become the price leaders, then it is obvious that the named countries could not compete without resorting to dumping.

According to counsel, dumped imports from the named countries caused the industry to receive less than adequate financial returns on domestic sales of the subject goods. Counsel suggested that reduced profitability is a sufficient cause to find past, present and future injury. Finally, counsel stated that a strong performance by one firm in an industry should not dilute the impact of dumping on the industry as a whole.

## **THE RESPONSE**

### **Conduven S.A.**

Counsel for Conduven S.A., a Venezuelan exporter, contended that, on the facts of this case, there is no indication of material injury. They further disagreed with counsel for Stelpipe that once specifications are met "pipe is pipe," and that there is no difference between CW pipe and ERW pipe. Moreover, the Tribunal should not accept the industry's proposition that, since the Tribunal found injury in the Korean case, the same conclusion should be reached in this case.

With respect to the price offerings submitted by the industry as evidence of price suppression and price erosion, counsel claimed that the evidence on the record did not show any sale of the goods specified in those offerings. Counsel did not agree with counsel for Stelpipe that the impact of U.S. pipe in the domestic market is minimal.

Counsel contended that the industry had been unsuccessful in its efforts to prove a causal relationship between dumping from the subject countries and its alleged material injury.

Stelpipe, according to counsel, is an accounting fiction created for "accounting management purposes." In their view, the Tribunal would err in law if it considered Stelpipe as a legal entity. Counsel asked the Tribunal to review inter-company allocations of costs of production and costs of sales. Counsel questioned the inconsistencies between the financial data submitted in this case and those submitted for the review of the finding on imports of carbon steel welded pipe from Korea, in Review No. RR-89-008.

Counsel attributed Stelpipe's injury to the following reasons: (a) the recession; (b) the Free Trade Agreement; (c) the high value of the Canadian dollar; (d) obsolete facilities; (e) higher production costs; and (f) distribution practices. Finally, counsel argued that a large part of Stelpipe's evidence was ambiguous, full of contradictions and vague in vital areas.

### **Rola Steel Products and The Tata Iron & Steel Co. (Tisco)**

Counsel for Rola Steel Products, importer, and The Tata Iron & Steel Co. (Tisco), exporter, confined their submission to Indian exports of the subject goods. They indicated that the industry had not submitted any data that would connect Indian pipe to the industry's alleged injury. There was no evidence of lost sales or price suppression because of Tisco's entry into the Canadian market.

Counsel agreed fully with the position taken by counsel for Conduven S.A. With respect to the presence of pipe on the docks, Indian products are generally pre-sold.

Counsel submitted that the industry's injury had been caused by factors other than dumping such as imports from Brazil and the United States, the tight relationship between the domestic producers and the major distributors, obsolescence of a major portion of Canadian facilities and competition from tube and other products in the fencing segment of the market. Counsel concluded that Tisco had not contributed in any way to the injury claimed by Stelpipe or the other two producers.

### **Yieh Hsing Enterprise Co., Ltd. and Kao Hsing Chang Iron & Steel Corp.**

Counsel addressed the following issues: competition in the market; the quality of the evidence against Taiwan; Stelpipe's costing of skelp; alleged "fire sales" of pipe stored at the docks in Vancouver; the future for domestic pipe in Western Canada; and causes of the industry's injury.

According to statistics in the staff report, imports of the subject goods from the United States have grown. Evidence submitted by the witness for BHP Trading Canada Ltd. (BHP) shows that prices for U.S. pipe are much more competitive. For example, U.S. market prices for the subject pipe are only 25 percent higher than Stelpipe's skelp prices. Counsel suggested that Stelco might have been overcharging its subsidiary for skelp. To support this allegation, they introduced as evidence two quotations for Canadian-made, hot-rolled coil at low prices. One offer was to a Canadian trading

company by a complainant; the other an offer, to sell to a pipe mill in Taiwan.<sup>2</sup> This was evidence that Stelpipe was paying too high a price for its skelp.

Counsel addressed the price offerings, which Stelpipe included in its brief. Those offerings were made by BHP during September 1989 to a distributor in Edmonton. According to a witness from BHP, the prices quoted therein were higher than Stelpipe's prices in the west.

The evidence of Stelpipe's witnesses shows that there was no Taiwanese steel on Vancouver docks. BHP generally pre-sells most of its imports. The staff report shows that Taiwanese pipe accounted for about one percent of the domestic market. BHP intends to continue to source the subject goods from Taiwan because, even at normal values, Taiwanese pipe would still be priced lower than Stelpipe's price of comparable pipe in British Columbia.

Counsel argued that the industry, in general, and Stelpipe, in particular, have suffered from factors other than dumping. First, if domestic producers bought skelp on the open market, their production costs would be lower; thus their profitability would be higher. Second, the depreciation of the U.S. dollar versus the Canadian dollar has given U.S. mills certain advantages over their Canadian counterparts. Because of high overland freight costs in Canada, Taiwan can ship steel to Canada at much lower prices than it would cost Stelpipe to ship the same goods from Welland to Vancouver. Finally, recessionary pressures in the North American economy have markedly reduced demand for the subject goods.

### **Metalexportimport**

The representative of the Romanian exporter of the subject goods stated that the industry's evidence did not prove that the Romanian pipe was undercutting domestic prices. According to distributors' witnesses, who appeared for the domestic industry, the quality of the pipe is another important factor in the market for the subject goods. The quality of Romanian pipe is not comparable to that of Canadian products. The industry's injury, which was caused by factors other than dumping, could not be attributed to Romanian pipe. Domestic shipments increased during the dumping investigation, while imports of Romanian pipe declined.

### **REASONS FOR DECISION**

In any matter concerning dumped imports, the Tribunal must address three fundamental questions. It must first determine whether the complainants account for a major proportion of the domestic production of the subject goods. Secondly, the Tribunal determines whether the domestic production has incurred, is incurring or is likely to incur, material injury. Finally, the Tribunal must examine whether there is a direct link between the material injury and imports from the subject countries. Without this causal relationship, the Tribunal cannot make a positive finding even if the industry's economic performance has been poor or is declining.

---

2. Exhibits F4 (Protected) and F4-1 (Protected) dated May 31, 1991, and May 3, 1991, respectively.

In reaching a decision in an inquiry under section 42 or in a review under section 76 of SIMA, there are two other considerations that guide the Tribunal. The first is that the decision in each case is based exclusively on the evidence, testimony and argument pertaining to the facts of that case. In this regard, counsel for the complainants argued that what was found by the Tribunal in the Korean review case (RR-89-008) must prevail in the current inquiry. The Tribunal is of the view that while previous findings may be of some relevance to the Tribunal in its deliberations, it cannot be bound by its previous determinations. Each individual case must be decided on its own merits, taking into account the evidence available for that case alone.

The second consideration guiding the Tribunal is that it focuses its judgment on the question of injury to the domestic production of the subject goods. There is no requirement, as suggested by counsel for the importer and exporters, that legal entities be the only bodies contemplated in the Tribunal's determination of material injury to domestic production. In this regard, Canadian producers of the goods present facts, including sales and financial data, relating to their production of the subject goods in a way that enables the Tribunal to determine the issue of injury to domestic production.

To examine the industry's performance and whether imports from the subject countries were or were likely to be injurious, the Tribunal had before it extensive data on a wide range of economic indicators for the period 1988 to the first quarter of 1991. Key indicators were levels and trends in the Canadian market for pipe, domestic production, imports, prices for pipe and the financial performance of the industry. The Tribunal also heard testimony on the relative importance of different types of pipe, their particular markets and sources of supply, as well as how pipe was distributed.

Data compiled by the staff show that Stelpipe, Sidbec-Dosco and Ipsco account for a majority of the domestic production of carbon steel welded pipe. In its analysis of levels and trends in the subject goods production, market and trade, the Tribunal found, moreover, that circumstances changed considerably during the interval from 1988 to the end of the first quarter of 1991. In 1988, the domestic market for pipe peaked following a period of very strong growth in the Canadian economy, and, in particular, very high levels of industrial and commercial construction, the final market for most carbon steel welded pipe. Imports from both subject and other countries entered the market in large quantities to complement strong domestic production of pipe. Imports in 1988 from all sources made up 25 percent of the total market for carbon steel welded pipe. In 1989, the Canadian market for carbon steel welded pipe declined sharply (18 percent) in an economy where growth had slowed. Total imports declined significantly more than domestic production (45 percent vs. 9 percent), and, because of a slower rate of decline in their output, Canadian producers briefly increased their share of a shrinking market, from 75 percent to 83 percent.

Taking account of the exceptional nature of the market in 1988, the Tribunal gave particular attention to developments since 1989. Between 1989 and 1990, there was a continued decline (3.3 percent) in the Canadian market for pipe. Trends in imports, including those from subject countries, were markedly different from those of domestic production. Imports from subject countries increased by 42 percent while there was a sharp decline of 13 percent (22,000 tonnes) in domestic production. Consequently, imports from subject countries increased their market share from 9 percent in 1988 to 14 percent in 1990. About one-third of the decline of 22,000 tonnes in domestic sales was due to a smaller market, but the larger portion was lost to imports principally from

subject countries, but also from other countries, particularly the United States and Brazil. Exporters from subject countries thus increased their market penetration, both absolutely and in terms of market share.

In its analysis of developments in 1990, the Tribunal looked both at the results for the year, as a whole, and how production and imports evolved throughout the year. According to testimony, in the pipe industry, the first quarter is generally slower than the remainder of the year. In 1990, this was not the pattern as both domestic production and imports declined throughout the year. Imports from subject countries peaked in the first part of the year, in both absolute terms and in market share, and then declined. Imports from most other countries, except the United States and Brazil, followed a similar trend. Domestic production also declined, but much less than imports, and recovered market share lost in 1989 and in the first quarter of 1990. The share of imports from subject countries declined from 19 percent in the first quarter of 1990 to 7 percent during the same quarter of 1991. The domestic industry's market share increased from 70 percent in the first quarter of 1990 to an average of 77 percent for the remainder of 1990.

The trends observed in domestic production and imports after the first quarter of 1990 continued through the first quarter of 1991. The decline in imports from subject countries after the start of 1990 could be attributable to several factors. Importers are likely to have responded to a weakening market. However, testimony confirmed that importers generally reduce their orders from exporters in countries that are the subject of dumping investigations by Revenue Canada.

Before concluding that imports from subject countries displaced domestic production, the Tribunal examined the impact increased imports from other countries might have had on domestic production. The analysis of imports through 1990, and into the first quarter of 1991, shows a large increase in imports from the United States; and from Brazil, whose exports to Canada are subject to a price undertaking intended to eliminate injury. In the Tribunal's view, increased imports from the United States are unlikely to have had a significant impact on the share of the market held by domestic production and, in particular, by the three complainants. U.S. imports consist essentially of thin wall pipe for sprinkler systems that account for a specialized segment of the domestic market. In the case of Brazilian exports, the Tribunal recognizes that they may have replaced some imports from subject countries. However, based on import and production data it reviewed, and taking account of the segment of the market supplied by U.S. imports, the Tribunal concluded that, for the most part, the reduced presence of dumped imports in the market after the first quarter of 1990 and into the first quarter of 1991 has enabled the domestic industry to recover market share. Without a finding, imports from the subject countries would likely return to the market at the expense of supply from domestic producers.

Domestic producers presented evidence of low price offerings from exporters and importers from the subject countries. While the Tribunal was not convinced that these samples of price offerings became actual sales lost to Canadian domestic production, it is clear, nonetheless, that the pipe trade was fully aware of these prices given the small number of players. These offerings could be and, in the view of the Tribunal, were used in negotiating prices that were lower than standard price lists from domestic producers. Testimony further illustrated that, contrary to being able to increase prices, domestic producers were under considerable pressure to sell below list prices. Further, Stelpipe

had to introduce a "Buy Canadian" price discount program as a way of trying to maintain sales.

The Tribunal considers that the high level of import penetration is directly attributable to low prices of imports from the subject countries. Revenue Canada found that dumping margins were, on average, high, particularly for exporters in Venezuela and Thailand, the two largest suppliers of dumped imports. Testimony at the hearing was unanimous that carbon steel welded pipe is a basic and highly price sensitive commodity. Given its bulk, transport costs for pipe are high, even when using ocean transport, the most economical means of transport. Testimony confirmed that, because of the way pipe is distributed and the preference Canadian purchasers of pipe have for sourcing domestically, imports need to be offered well below domestic prices to compete in the market. Based on evidence and testimony, it was apparent to the Tribunal that large dumping margins gave importers considerable flexibility in competing in the Canadian market. They could compete sufficiently below Canadian price levels to ensure they captured market share without creating major price disruptions in the domestic pricing structure. With an uninterrupted supply of dumped imports, these margins would continue to give importers the scope to take an increasing share of the market in the future. While not causing major price disruptions, these imports would nonetheless be price suppressive and materially injurious to the domestic industry.

Taken together, the financial results of the three firms show a pattern of declining profitability with, however, differing results for each producer. These differing financial results reflect, in part, how each producer reacted to competition from dumped imports. In fact they reacted quite differently. Ipsco drastically reduced its market presence, even taking account of the closure of its pipe mill in Port Moody, British Columbia. It refrained from competing head on with dumped imports in the Western Canadian market. It rationalized its facilities and shifted capacity to the production of other higher value products. Through effective planning, Ipsco could generate strong financial results. Sidbec-Dosco reduced its production of the subject goods, but succeeded in maintaining its share of a declining market. Sidbec operated at very low levels of profitability between 1988 and 1990, and reported losses during the first quarter of 1991. Stelpipe responded to dumped import competition by aggressive pricing and sought to maintain its production level, while increasing its market share in the west. Stelpipe's success in maintaining its production volume came at a high cost. Starting the period operating at a loss, losses on the production of the subject goods increased through to the end of the period. The Tribunal concludes that, without competition from dumped imports, the industry, as a whole, would have had stronger prices and a consequent higher level of profitability or reduced losses, depending on the firm.

Counsel for the importer and exporters argued that dumped imports were not the cause of the difficulties the industry faced. They attributed the loss in market share and, in particular, its poor financial performance to two other factors. They considered that, in the face of a depressed market, the domestic industry had to respond with lower prices to maintain its market share. From the perspective of the financial performance of the industry, the high cost of pipe production in Canada was more important.

The Tribunal agrees that decreased commercial and industrial construction clearly had a negative impact on the industry, particularly in 1990 and 1991. However, while recognizing decreased demand as a contributing factor, it considers that the increased penetration of dumped imports into a declining market and the prices at which they



were sold, were of sufficient magnitude and at levels to have been materially injurious to the industry.

The Tribunal has examined carefully the allegation that the industry's poor performance is attributable to high production costs. It has understood this allegation to address three separate issues. The first raised by counsel stemmed from Stelpipe's acquisition of skelp from Stelco at high transfer costs thus magnifying Stelpipe's financial losses. The second related to the allegation that, whatever the basis of costing skelp to pipe producers in the three integrated steel companies, the three domestic producers could obtain skelp at lower prices than they pay. Finally, counsel argued that Stelpipe's plan to replace its CW mill with a new SRM facility (stretch-reduction mill) was proof that Stelpipe's poor performance was due to high conversion costs.

Dealing with the allegation that Stelpipe's losses may be overstated, the Tribunal recognizes that Stelpipe witnesses failed to provide adequate explanations of its costing of skelp and, in particular, its allocation of overhead expenses between Stelpipe and Stelco. However, Stelpipe witnesses testified that the company's methods of skelp costing and cost accounting had not changed during the inquiry period. Consequently, the Tribunal had no reason to question the deteriorating trend in Stelpipe's financial performance between 1988 and the first quarter of 1991. In short, although the Tribunal had certain doubts about the level of losses recorded, it accepted the company's contention that losses occurred and that they increased over the period.

With respect to the second issue, counsel for the importer and exporters submitted price quotations for Canadian-made coil to show that skelp was available in the market at lower prices than those paid by domestic producers. The Tribunal also heard testimony by the domestic industry on how its skelp costs compared with those available in the market and the prices at which the three integrated steel mills sold skelp to other pipe producers. Clearly, the price of skelp accounts for a high proportion of total production costs, and integrated pipe mills would be at a disadvantage if they had to pay much higher prices for skelp than their competitors. Evidence and testimony show that while priced differently from the primary steel mills to these integrated companies' pipe mills, the price of skelp was not greatly out of line with prices reported by the industry. The price of skelp to the domestic producers was a known fact. To conclude that high skelp costs had an effect on the financial performance of the domestic industry, the Tribunal would need conclusive evidence that, during the period, a significant gap had emerged between prices paid for skelp by the three Canadian producers and those paid by other competitors and, particularly, exporters of dumped pipe. The Tribunal did not consider the price quotations submitted by counsel to be an appropriate basis to show that such a gap existed. The Tribunal notes that these offers were made in the second quarter of 1991, a time outside the inquiry period. Even if the offers had been made within the inquiry period, price offers for coil would need to be adjusted upwards to reflect the additional costs of processing coil before its use as skelp. The offers would also need to give a precise description of the product range to allow for an appropriate comparison of prices.

Finally, the Tribunal noted counsel's argument that Stelpipe's plan to replace its CW mill by a new SRM facility is evidence of obsolescence and high production costs. The Tribunal did not give the same weight or interpretation to this development as did some respondents. Obsolescence is not an "either or" concept. The nature of running a business is to improve constantly the efficiency of production facilities either through

progressive rationalization or the replacement of units of production. It is very likely imprudent to replace a large item such as a mill until cost analyses demonstrate the increased efficiency of a new mill will pay for its cost of installation. The challenge to management is to choose the appropriate moment to upgrade technology. In considering whether dumped imports are injurious, the Tribunal assesses the impact of those imports on production as it is currently carried out. It is not the intent of SIMA that the onus should be on an industry to update its technology to respond to the dumping of imports. In this case, in particular, dumping margins are high. For the Tribunal to be persuaded that high production costs were a factor in injury, counsel would have needed to demonstrate that the industry would be unable to compete with imports at prices inclusive of dumping duties.

### **CONCLUSION**

The Tribunal concludes that dumped imports of carbon steel welded pipe have caused, are causing and are likely to cause material injury to the domestic industry. The primary indicators of injury are a significant loss of market share, price suppression that has aggravated the financial performance of the industry and reduced employment. The industry has been negatively affected by the depressed market for pipe, particularly in commercial and residential construction, but this effect has been worsened by the significant presence of dumped imports. In the absence of a positive finding, the Tribunal is convinced that there is also a likelihood of material injury. Because of large dumping margins, imports from the subject countries would resume progressively, increasing their market share. In the Tribunal's view, the evidence leaves no doubt that continued dumping of imports would be materially injurious to the industry.

Sidney A. Fraleigh  
Sidney A. Fraleigh  
Presiding Member

Kathleen E. Macmillan  
Kathleen E. Macmillan  
Member

Charles A. Gracey  
Charles A. Gracey  
Member