



Canadian International
Trade Tribunal

Tribunal canadien du
commerce extérieur

CANADIAN
INTERNATIONAL
TRADE TRIBUNAL

Dumping and Subsidizing

REPORT TO THE
MINISTER OF
FINANCE

Public Interest Inquiry
No. PB-2004-002

Certain Stainless Steel Round Wire

*Report issued
Tuesday, March 22, 2005*

*Corrigendum issued
Friday, April 1, 2005*

Canada

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IN THE MATTER OF a public interest inquiry initiated on November 4, 2004, pursuant to subsection 45(1) of the *Special Import Measures Act* concerning the rate of duty resulting from the findings made by the Canadian International Trade Tribunal on July 30, 2004, in Inquiry No. NQ-2004-001, respecting:

**THE DUMPING OF CERTAIN STAINLESS STEEL ROUND 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**

REPORT OF THE TRIBUNAL

Pursuant to subsection 45(4) of the *Special Import Measures Act*, the Canadian International Trade Tribunal hereby reports to the Minister of Finance that it is of the opinion that the imposition of the anti-dumping duty in the full amount, in respect of stainless steel belting wire originating in or exported from the United States of America and stainless steel wireline originating in or exported from the United States of America, is not in the public interest.

Pursuant to paragraph 45(5)(a) of the *Special Import Measures Act*, the Canadian International Trade Tribunal hereby specifies that, in its opinion, the anti-dumping duty on stainless steel belting wire originating in or exported from the United States of America and on stainless steel wireline originating in or exported from the United States of America should be reduced to 35 percent.

A statement of the facts and reasons that caused the Canadian International Trade Tribunal to be of this opinion is attached.

Ellen Fry
Ellen Fry
Presiding Member

Zdenek Kvarda
Zdenek Kvarda
Member

James A. Ogilvy
James A. Ogilvy
Member

Hélène Nadeau
Hélène Nadeau
Secretary

Tribunal Members: Ellen Fry, Presiding Member
Zdenek Kvarda, Member
James A. Ogilvy, Member

Director of Research: Dennis Featherstone

Lead Research Officer: Manon Carpentier

Research Officers: John Gibberd
Shawn Jeffrey
Éric Futin

Statistical Officers: Marie-Josée Monette
Julie Charlebois
Lise Lacombe

Counsel for the Tribunal: Dominique Laporte
Nick Covelli

Assistant Registrar: Gillian E. Burnett

Registrar Support Officer: Stéphanie Doré

PARTICIPANTS:**Domestic Producer**

Central Wire Industries Ltd.

Counsel/RepresentativeGregory O. Somers
Benjamin P. Bedard
Paul D. Conlin
Jason P. T. McKenzie**Purchaser-End Users/Importer-Distributor/Exporters**

The Furnace Belt Company Limited

Counsel/RepresentativeGreg Kanargelidis
Navin Joneja
Marianne Smith
Simon Thang

The Wire Mesh Belt Company of Canada Limited

Ron Van Noort

Major Wire Industries Limited

Louise Poissant

Maryland Specialty Wire, Inc.

Victoria Bazan

Praxair Canada Inc.

Gerry H. Stobo
Dina Logan

VSL Wires Limited

Rahul Suri

WITNESSES:

Joe Tatone
President
The Furnace Belt Company Limited

Ron Van Noort
Director
The Wire Mesh Belt Company of Canada Limited

Garry Berthiaume
Vice President—Operations
Lonkar Services Ltd.

Chandran Mendis
Manufacturing Welding Technologies
Manufacturing Engineer
Motor Coach Industries

Jean Leblond
President
Major Wire Industries Limited

Louise Poissant
Controller
Major Wire Industries Limited

Florian Festge
Vice-President
W.S. Tyler Canada

Paul L. Morency
Procurement Manager
W.S. Tyler Canada

Tom Dodds
Director of Sales and Marketing
Central Wire Industries Ltd.

Shui Lee
Technical Development Manager
Central Wire Industries Ltd.

COMPANIES THAT RESPONDED TO THE TRIBUNAL'S QUESTIONNAIRES BUT WERE NOT PARTICIPANTS:

Purchaser-End Users

Les Produits Cari-All Inc.

Duchesne & Fils Ltée

Ellett Industries Ltd.

Exchanger Industries,
A Division of Premetalco Inc.

Falcon Fasteners Reg'd

H.B. Morningstar Industries Limited

Larsen & Shaw Limited

Produits d'Acier Hason Inc.

Importers

Air Liquide Canada

BOC Canada Limited

ESAB Group Canada, Inc.

Exocor Inc.

Huntington Alloys Canada Ltd.
o/a Controlled Products Group

Sandvik Materials Technology – Canada

Vanguard Steel Ltd.

Universal Weld Overlays Inc.

Velan Inc.

Please address all communications to:

The Secretary
Canadian International Trade Tribunal
Standard Life Centre
333 Laurier Avenue West
15th Floor
Ottawa, Ontario
K1A 0G7

Telephone: (613) 993-3595
Fax: (613) 990-2439
E-mail: secretary@citt-tcce.gc.ca

STATEMENT OF FACTS AND REASONS

PART I—INTRODUCTION

BACKGROUND

1. On July 30, 2004, in Inquiry No. NQ-2004-001, the Canadian International Trade Tribunal (the Tribunal) found, pursuant to subsection 43(1) of the *Special Import Measures Act*,¹ that the dumping in Canada of cold drawn and annealed stainless steel round wire, up to and including 0.300 inch (7.62 mm) in maximum solid cross-sectional dimension, excluding the products listed below (stainless steel wire), originating in or exported from the Republic of Korea (Korea) and Switzerland and the subsidizing of stainless steel wire originating in or exported from India had caused injury to the domestic industry.

2. Furthermore, in accordance with subsections 43(1) and (1.01) of *SIMA*, the Tribunal found that the dumping in Canada of stainless steel wire originating in or exported from the United States of America had caused injury to the domestic industry.

3. The following products were excluded from the Tribunal's 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 inch (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.

4. Subsection 45(1) of *SIMA* provides that the Tribunal shall, on its own initiative or on the request of an interested person, initiate a public interest inquiry if the Tribunal is of the opinion that there are reasonable grounds to consider that the imposition of an anti-dumping duty or countervailing duty, or the imposition of such duty in the full amount, would not or might not be in the public interest.

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

5. Two interested persons, Major Wire Industries Limited (Major Wire) and The Wire Mesh Belt Company of Canada Limited (Wire Mesh), both end users of stainless steel wire, filed requests with the Tribunal for the initiation of a public interest inquiry. Central Wire Industries Ltd. (Central Wire), the domestic producer, opposed a public interest inquiry. After considering these requests, the Tribunal was of the opinion that there were reasonable grounds to consider that the imposition of the anti-dumping duty and the countervailing duty, or the imposition of such duties in the full amount, would not or might not be in the public interest. Accordingly, on November 4, 2004, the Tribunal commenced a public interest inquiry.

6. As part of its inquiry, the Tribunal sent questionnaires to the domestic producer, and to purchaser-end users and importer-distributors of stainless steel wire, to obtain information on four distinct categories of stainless steel wire, namely, belting wire, cold heading and forming wire, welding wire and other wire, which includes wireline and weaving wire, and all other types of stainless steel wire.² The Tribunal also sent requests for information to the Canada Border Services Agency (CBSA).

7. Seven companies filed notices of participation with the Tribunal. As part of its notice of commencement of public interest inquiry, the Tribunal invited parties to file submissions. The Tribunal received written submissions from five parties stating that there was a public interest warranting the elimination or, alternatively, the reduction of the anti-dumping duty with respect to particular categories of stainless steel wire imported from particular subject countries. These parties are: Major Wire, an end user of weaving wire; The Furnace Belt Company Limited (Furnace Belt) and Wire Mesh, end users of belting wire; Maryland Specialty Wire, Inc. (Maryland), a U.S. producer and exporter of wireline; and Praxair Canada Inc. (Praxair), an importer-distributor of welding wire. A sixth party, VSL Wires Limited, did not file a submission with the Tribunal and did not take part in the hearing. The Tribunal received no submissions supporting the elimination or reduction of the countervailing duty.

8. A seventh party, Central Wire, the domestic producer, filed a submission opposing a recommendation for a reduction of the anti-dumping duty or the countervailing duty on stainless steel wire imported from the subject countries.

9. The Tribunal's research staff prepared public and protected pre-hearing staff reports based on replies to the questionnaires, submissions from interested parties and other information on the record.

10. A hearing, with public and *in camera* testimony, was held in Ottawa, Ontario, from January 31 to February 3, 2005.³ During the hearing, the Tribunal heard submissions and testimony from Furnace Belt, Wire Mesh, Major Wire and Central Wire. In addition, the Tribunal heard the testimony of Tribunal witnesses from three end users of stainless steel wire: Lonkar Services Ltd. (Lonkar), a user of wireline, Motor Coach Industries (MCI), a user of welding wire, and W.S. Tyler Canada (Tyler), a user of weaving wire. Maryland was represented by counsel at the hearing but did not testify. Praxair was not represented by counsel at the hearing nor did it testify.

2. Other types of stainless steel wire falling into the category of "other wire" include: tie wire, crab pot wire, round wire for shaping, redraw wire for further processing, wire for push-pull cables, stranded wire and wire sold to distributors that did not specify the end use.

3. The record of this public interest inquiry consists of the record of the injury inquiry, which comprises the public and *in camera* transcripts, all Tribunal exhibits filed in this public interest inquiry, including the public and protected replies to the questionnaires and requests for information, all submissions and exhibits filed by the parties and the public and *in camera* transcripts of these proceedings. 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.

FINAL DETERMINATIONS OF THE CBSA

11. On June 30, 2004, the CBSA made final determinations with respect to the dumping in Canada of stainless steel wire originating in or exported from Korea, Switzerland and the United States, and the subsidizing of stainless steel wire originating in or exported from India.⁴

Final Determination of Dumping

12. The CBSA found that 100 percent of the stainless steel wire imported from Korea and Switzerland and 99.5 percent of the stainless steel wire imported from the United States during the period of investigation⁵ were dumped. The weighted average margin of dumping⁶ for the only cooperating exporter of stainless steel wire from the United States subject to this public interest inquiry, Sandvik Materials Technology (Sandvik), was 110 percent when expressed as a percentage of the export price. The weighted average margin of dumping for all exporters from Korea and Switzerland, and for all exporters from the United States that did not co-operate with the CBSA or submitted information that was either not provided on time or incomplete, was 181 percent when expressed as a percentage of the export price.⁷ This weighted average margin of dumping represents the highest margin of dumping (excluding anomalies) found for the cooperating exporter. For all these exporters, their shipments of stainless steel wire to Canada since the Tribunal's injury findings are subject to an anti-dumping duty equal to their determined margin of dumping.

Final Determination of Subsidizing

13. From the information received from the four identified Indian exporters, the Government of India and the Government of the State of Maharashtra, where all the exporters are located, the CBSA found that 100 percent of the stainless steel wire imported from India during the period of investigation was subsidized. The CBSA determined that the benefits or amounts of subsidy received from the identified programs utilized in India represented, on average, 6.2 percent of the value of the goods and ranged from 667 rupees/tonne to 12,326 rupees/tonne (C\$0.02/kg to C\$0.37/kg⁸). Shipments to Canada of these four Indian exporters since the Tribunal's injury findings are subject to a countervailing duty equal to their determined amount of subsidy. Furthermore, the CBSA determined that, for any new exporters in India that will sell stainless steel wire in Canada, in the future, a countervailing duty of 13,857 rupees/tonne (C\$0.41/kg) would be payable on those imports.⁹

SUMMARY OF THE TRIBUNAL'S INJURY FINDINGS

14. The Tribunal concluded that the dumping in Canada of stainless steel wire originating in or exported from Korea, Switzerland and the United States, excluding the products described in the appendix to its findings and listed above, and the subsidizing of stainless steel wire originating in or exported from

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4. Tribunal Exhibit PB-2004-002-25 (single copy) (Tribunal Exhibit NQ-2004-001-04, Administrative Record, Vol. 1 at 113.6).
 5. The period of investigation was from October 1, 2002, to September 30, 2003.
 6. The CBSA calculated the margins of dumping based on the difference between the export prices and the normal values.
 7. For all these exporters, the normal values and export prices of the goods were specified by the Minister of National Revenue under section 29 of *SIMA*. Tribunal Exhibit PB-2004-002-25 (single copy) (Tribunal Exhibit NQ-2004-001-04A, Administrative Record, Vol. 1 at 113.36).
 8. Using the average exchange rate of C\$0.02986 for June 2004.
 9. This countervailing duty is based on the total of the highest amount of subsidy received. Tribunal Exhibit PB-2004-002-25 (single copy) (Tribunal Exhibit NQ-2004-001-04A, Administrative Record, Vol. 1 at 113.40).

India, excluding the products described in the appendix to its findings and listed above, had caused injury to the domestic industry.

15. The Tribunal determined that, although 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, 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. The Tribunal concluded that these two factors readily explained the gain in volume and market share by the subject countries.

16. The Tribunal found that Central Wire experienced significant increases in material and other production costs over the period of inquiry, 2001 to 2003, which, in the normal course of events, it would have recovered by increasing its prices. The Tribunal noted that, starting in 2003, and increasing in 2004, Central Wire experienced a significant shortfall in its ability to recover its increased costs. In the Tribunal's view, the presence of low-priced subject goods was the one factor that could reasonably explain why this problem occurred.

17. The Tribunal indicated that, although the dumping and subsidizing of the subject goods did not appear to contribute significantly to the loss of volume or market share by Central Wire (and therefore did not contribute to the decline in its employment or capacity utilization), it did cause price suppression in the domestic market for stainless steel wire. In the Tribunal's view, this price suppression led directly to the erosion in financial performance, particularly in terms of gross margins, experienced by Central Wire in 2003 and the first four months of 2004. The Tribunal was 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.

STAINLESS STEEL WIRE INDUSTRY AND MARKET

The Product

18. Stainless steel is an alloy steel that contains, by weight, 1.2 percent or less of carbon and 10.5 percent or more of chromium. Molybdenum and nickel are other elements used in the production of stainless steel. Because nickel is the most valuable alloying element that stainless steel can contain, it has a significant impact on costs.

19. 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. 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. Stainless steel wire is packaged according to client specifications and product type.

20. In Canada, stainless steel wire is produced at two plants, one located in Perth, Ontario, and the other in Erin, Ontario. Central Wire became the only producer in Canada of stainless steel wire as a result of its acquisition of the Erin plant in December 2002.¹⁰

10. In December 2002, Central Wire purchased the Erin plant that was owned and operated by Greening Donald Co. Ltd. (Greening Donald), which was, until then, the only other Canadian producer of stainless steel wire.

Canadian Stainless Steel Wire Market

21. For purposes of this public interest inquiry, the Canadian stainless steel wire market, comprising belting wire, cold heading and forming wire, welding wire and other wire (which includes wireline and weaving wire), is estimated at between \$33 million and \$36 million annually.¹¹ Each category of stainless steel wire is presented below in the order in which it is discussed in Parts III and IV of this report.

Belting Wire

22. Stainless steel belting wire (belting wire) is used in the production of conveyor belts. The most common types of stainless steel wire used in the production of belting products are Types 314, 35/19CB (also known as 330), and 304, in diameters ranging from 0.041-0.048 inch (1.04-1.22 mm) to 0.192-0.200 inch (4.88-5.08 mm), with 0.135 inch (3.43 mm) and 0.162 inch (4.11 mm) being the two most popular diameters.¹² These types of belting wire make up the majority of the raw material used in the production of stainless steel belting products.¹³

23. Stainless steel belting products are usually used in the metal processing, automotive, food and heat-treating industries. Depending on the end use, belting products last anywhere from 2 to 12 months.¹⁴

24. The Canadian industry of belting products is a custom industry. It comprises three major companies: Furnace Belt, Wire Mesh and Mar-Con Wire Belt Inc. (Mar-Con).¹⁵ Furnace Belt and Wire Mesh purchase most of their belting wire from Central Wire, through fixed blanket orders or large purchase orders.¹⁶

25. Central Wire sells belting wire in both the Canadian and U.S. markets. Approximately 80 percent of Central Wire's belting wire business is in the production of Types 314, 35/19CB (330) and 304. It also produces a small amount of Type 316 belting wire.¹⁷

Wireline

26. Stainless steel wireline (wireline) is used in the oil and gas industry to run specialized tools in and out of wells in order to open up the oil and gas zones or wells, and to log and do regular pressure and temperature-type work. The most common type of wireline used in these applications is Type 316 in a diameter of 0.108 inch (2.74 mm). The life expectancy of wireline is between one and three years.¹⁸

11. *Transcript of Public Hearing*, Vol. 3, 2 February 2005, at 301-302.

12. *Transcript of Public Hearing*, Vol. 1, 31 January 2005, at 12, 83, 120-21; *Transcript of Public Hearing*, Vol. 3, 2 February 2005, at 407; Purchaser's Exhibit B-03, para. 5, Administrative Record, Vol. 7.

13. *Transcript of Public Hearing*, Vol. 1, 31 January 2005, at 11-12, 83, 105.

14. *Ibid.* at 86-87, 102; Purchaser's Exhibit B-03, paras. 6, 8, Administrative Record, Vol. 7.

15. *Transcript of Public Hearing*, Vol. 1, 31 January 2005, at 53-55, 58, 105; Tribunal Exhibit PB-2004-002-25 (single copy) (Tribunal Exhibit NQ-2004-001-24.27, Administrative Record, Vol. 5.3A at 270-72).

16. *Transcript of Public Hearing*, Vol. 1, 31 January 2005, at 29, 83, 97; *Transcript of Public Hearing*, Vol. 3, 2 February 2005, at 286; Tribunal Exhibit PB-2004-002-20.08 (protected), Administrative Record, Vol. 6.1 at 262-65.

17. *Transcript of Public Hearing*, Vol. 3, 2 February 2005, at 309-11.

18. Information provided by Lonkar, one of the largest users of wireline. *Transcript of Public Hearing*, Vol. 2, 1 February 2005, at 130, 132, 138, 150, 168.

27. Central Wire sells wireline in the Canadian, U.S. and U.K. markets.¹⁹ The most common type of wireline that Central Wire produces is Type 316 in standard sizes: 0.108 inch (2.74 mm) and 0.125 inch (3.18 mm).²⁰

Welding Wire

28. Stainless steel welding wire (welding wire) is used for applications that include parts and equipment for the oil, gas, petrochemical, and pulp and paper industries. Welding wire is usually sold along with other products and services that distributors offer to end users operating in the above-mentioned industries. Welding wire is also sold, by itself, to end users in the automotive industry, such as MCI, which is the principal long distance coach manufacturing company in Canada and North America.²¹

Weaving Wire

29. Stainless steel weaving wire (weaving wire) is used in the production of screen or wire cloth. Stainless steel wire cloth represents about 10 percent of the wire cloth business of the two end users that appeared at the hearing, Major Wire and Tyler.²² The most common types of weaving wire subject to this public interest inquiry and used by these two end users are Types 304 and 316, in diameters ranging from 0.032 inch (0.813 mm) to 0.375 inch (9.53 mm).²³

30. Central Wire provided very little information on weaving wire, as it indicated that it cannot segregate the information from that regarding all the stainless steel products that form part of the “Other Wire” category. However, the Tribunal heard testimony that Central Wire’s weaving wire is sold in the Canadian market.²⁴

Cold Heading and Forming Wire

31. Stainless steel cold heading and forming wire (cold heading and forming wire) is used in the production of various products, including nails, shelving systems, display racks, storage equipment for the health sector and shopping carts.

32. Central Wire produces cold heading and forming wire, in a variety of alloys and diameters, for both the Canadian and export markets.²⁵

19. *Transcript of Public Hearing*, Vol. 3, 2 February 2005, at 347-48, 353.

20. *Ibid.* at 390-91, 419-20.

21. Importer’s Exhibit C-03, para. 3, Administrative Record, Vol. 7; *Transcript of Public Hearing*, Vol. 2, 1 February 2005, at 186-88.

22. *Transcript of Public Hearing*, Vol. 2, 1 February 2005, at 214, 235-36, 258.

23. *Ibid.* at 260; Tribunal Exhibit PB-2004-002-19.06A, Administrative Record, Vol. 5.1 at 145.

24. *Transcript of Public Hearing*, Vol. 2, 1 February 2005, at 217, 228, 260.

25. *Protected Pre-hearing Staff Report*, revised 2 February 2005, Tribunal Exhibit PB-2004-002-24E (protected), Administrative Record, Vol. 2A at 96.50, 96.51.

PART II—PUBLIC INTEREST FRAMEWORK

33. This is the first public interest inquiry to be held since amendments to section 45 of *SIMA*, dealing with public interest inquiries, became effective on April 15, 2000.

34. Subsection 45(1) of *SIMA* reads as follows:

If, as a result of an inquiry referred to in section 42 arising out of the dumping or subsidizing of any goods, the Tribunal makes an order or finding described in any of sections 3 to 6 with respect to those goods, the Tribunal shall, on its own initiative or on the request of an interested person that is made within the prescribed period and in the prescribed manner, initiate a public interest inquiry if the Tribunal is of the opinion that there are reasonable grounds to consider that the imposition of an anti-dumping or countervailing duty, or the imposition of such a duty in the full amount provided for by any of those sections, in respect of the goods would not or might not be in the public interest.

35. Subsection 45(4) of *SIMA* provides that:

If, as a result of a public interest inquiry, the Tribunal is of the opinion that the imposition of an anti-dumping or countervailing duty, or the imposition of such a duty in the full amount provided for by any of sections 3 to 6, in respect of the goods would not or might not be in the public interest, the Tribunal shall without delay

(a) report to the Minister of Finance that it is of that opinion and provide that Minister with a statement of the facts and reasons that caused it to be of that opinion; and

(b) cause notice of the report to be published in the *Canada Gazette*.

36. Subsection 45(5) of *SIMA* provides that:

If the Tribunal is of the opinion that the imposition of an anti-dumping or countervailing duty in the full amount would not or might not be in the public interest, the Tribunal shall, in the report referred to in paragraph (4)(a), specify either

(a) level of reduction in the anti-dumping or countervailing duty provided for in any of sections 3 to 6; or

(b) a price or prices that are adequate to eliminate injury, retardation or the threat of injury to the domestic industry.

37. Subsection 45(3) of *SIMA* provides that, in a public interest inquiry, the Tribunal shall take into account any factors, including prescribed factors, that it considers relevant. The prescribed factors are listed under subsection 40.1(3) of the *Special Import Measures Regulations*.²⁶ They are:

(a) whether goods of the same description are readily available from countries or exporters to which the . . . finding does not apply;

(b) whether imposition of an anti-dumping or countervailing duty in the full amount

(i) has eliminated or substantially lessened or is likely to eliminate or substantially lessen competition in the domestic market in respect of goods,

(ii) has caused or is likely to cause significant damage to producers in Canada that use the goods as inputs in the production of other goods and in the provision of services,

(iii) has significantly impaired or is likely to significantly impair competitiveness by

26. S.O.R./84-927 [*Regulations*].

- (A) limiting access to goods that are used as inputs in the production of other goods and in the provision of services, or
 - (B) limiting access to technology, or
- (iv) has significantly restricted or is likely to significantly restrict the choice or availability of goods at competitive prices for consumers or has otherwise caused or is otherwise likely to cause them significant harm;
- (c) whether non-imposition of an anti-dumping duty or countervailing duty or the non-imposition of such a duty in the full amount provided for in sections 3 to 6 of [SIMA] is likely to cause significant damage to domestic producers of inputs, including primary commodities, used in the domestic manufacture or production of like goods; and
- (d) any other factors that are relevant in the circumstances.

PART III—POSITIONS OF THE PARTIES

PARTIES SUPPORTING THE ELIMINATION OR REDUCTION OF THE ANTI-DUMPING DUTY

Belting Wire Originating in or Exported from the United States

Furnace Belt

38. Furnace Belt argued that the imposition of the anti-dumping duty at the rate of 181 percent on belting wire imported from the United States was not in the public interest. According to Furnace Belt, the Tribunal should recommend the reduction of the duty on this product to zero percent.

39. Furnace Belt noted that this was the first public interest inquiry to be held following the amendments made to *SIMA* in April 2000 and that, therefore, prior Tribunal decisions that involve public interest inquiries are not of assistance in interpreting the legislative framework applicable to this inquiry. Furnace Belt argued that, contrary to Central Wire's position, the Tribunal is not limited to making recommendations only in exceptional circumstances. Rather, it is mandated to do so if the prescribed factors of the *Regulations* are present.

40. As to the belting products business, Furnace Belt stressed that it could be distinguished from other uses of stainless steel wire on the basis of several considerations: the belting products business is a custom business, and belting products are made to order for customers; accurate forecasting of demand is not possible; users of belting products are predominantly companies in the automotive and food industries that have 24/7 operations and require just-in-time inventories and quick turnaround in order to keep production lines running; and the alloys of Types 314 and 35/19CB, which are the most appropriate for these applications, are difficult to source, and there is no evidence that they are included among the stainless steel wire that has been imported into Canada from the 26 non-subject countries identified by Central Wire.

41. Furnace Belt submitted that, according to the evidence, belting wire is not readily available from non-subject countries. It submitted that the words "readily available" mean wire that is capable of being delivered in a timely manner in order to satisfy its customers. Furnace Belt contended that the producers of belting products do not have established relationships with suppliers located in non-subject countries and, in addition, the quality, reliability of supply and prices are uncertain. It argued that, while the Canadian producers of belting products may be exploring sourcing in non-subject countries, they are far from developing any firm relationships with suppliers in those countries.

42. As to the effect of the duty on competition in Canada, Furnace Belt submitted that, as a result of the acquisition of Greening Donald, Central Wire is the sole Canadian supplier of stainless steel wire. The effect of the imposition of the 181 percent anti-dumping duty has been to eliminate any meaningful competition in Canada for belting wire. Furnace Belt contended that Central Wire has already exhibited a monopolistic behaviour that translates into longer delivery schedules, higher prices and a lower availability. Moreover, it argued that, in the event of supply problems, it would have to wait until Central Wire is able to supply, which will delay its ability to serve its customers and will cause considerable damage to its reputation.

43. Furnace Belt also made reference to the Tribunal's decision in *Beer*,²⁷ where the Tribunal stated, among other things, that the anti-dumping duty at a level higher than necessary to remove injury was excessive and penalized certain products and exporters by raising prices unnecessarily and perhaps by excluding those products and exporters from the market altogether.

44. Furnace Belt further submitted that the imposition of an anti-dumping duty is very likely to cause significant damage to producers in Canada that use belting wire as an input in the production of belting products. This damage would result in the elimination of the viability of alternative sources of supply in the United States. The risk of supply shortage is very real, and the consequences are potentially disastrous to its business. Moreover, Furnace Belt argued that it was clear that the prohibitive duty is likely to significantly restrict the availability of goods at competitive prices for consumers.

45. In response to the Tribunal's request for alternative positions on the appropriate rate of anti-dumping duty, Furnace Belt indicated that, in its view, the fact that the U.S. prices, excluding surcharges, in all cases exceed those of Central Wire supports a recommendation in favour of the elimination of the anti-dumping duty. In its view, a range of alternative rates of anti-dumping duty should take into account any surcharges, which would make Central Wire's prices higher than U.S. prices by an average of 6.45 percent.

46. With respect to the possible availability of duty drawbacks on products destined for the United States, Furnace Belt submitted that the availability is uncertain. It added that, in any event, many of its customers are not located in the United States and, for these customers, duty drawback is not available.

47. Finally, Furnace Belt rejected the argument that a reduced rate of anti-dumping duty would undermine the normal value process. In its view, the issue in a public interest inquiry is not whether exporters should have participated in a normal value process. Rather, according to Furnace Belt, the issue is whether the public interest would be better served by eliminating or reducing the duty.

Wire Mesh

48. Wire Mesh argued that the imposition of an anti-dumping duty on all the subject countries was not in the public interest because it gave Central Wire a monopoly in Canada and affected Wire Mesh's ability to be competitive in its own industry. Wire Mesh argued that, since the Tribunal's findings of injury, Central Wire has been increasingly unable at times to meet its supply and delivery-time needs. Wire Mesh has found alternative supply sources in the United States, but the 181 percent duty made those sources uncompetitive. As a result, it has had to decline business or send some of its customers elsewhere, resulting in lost sales, profits and customers.

49. According to Wire Mesh, stainless steel wire is a key input, and the lack of a competitive source of supply would greatly affect its customers in the automotive and food processing industries. In particular, it would adversely affect turnaround times and cut into low profit margins. In turn, this would cause the price of automotive parts and food in Canada to increase. Furthermore, Wire Mesh argued that the anti-dumping duty will slowly eliminate companies that rely on stainless steel wire as an input, reduce their global competitiveness and result in job losses in Canada.

27. (25 November 1991), PI-91-001 at 4 (CITT).

Wireline Originating in or Exported from the United States

Maryland

50. Maryland argued that the imposition of an anti-dumping duty on imports of stainless steel wire took away an important alternative source of supply that was actively sought in response to the elimination of competition from the market, which was precipitated by Central Wire's purchase of Greening Donald. It emphasized that stainless steel wire is being used as an input or as a finished product by many companies which, combined, represent a broad set of interests and a broad cross-sector of the Canadian public.

51. It was Maryland's submission that the factors in the *Regulations* address the real concern that, when an anti-dumping duty is imposed, there is a risk that the benefits that accrue to the domestic producer outweigh the costs to other Canadians. Regarding the availability from non-subject sources, Maryland argued that there is currently only one non-subject source for wireline, and that is Sweden.

52. Maryland stated that other factors need to be considered by the Tribunal, such as the fact that there is only one Canadian supplier, the non-commodity nature of the product, the volatility of nickel prices and the consequent risks of an interruption of Central Wire's production, and the fact that oil and gas drilling activity in Canada will be strong for the near to medium term. Looking at these additional factors combined, it is Maryland's position that the evidence on the record supports a finding that the imposition of the duty in the full amount is not in the public interest.

53. Maryland also argued that an anti-dumping duty that punishes exporters for not participating in the normal value process is contrary to the lesser-duty concept, i.e. that the amount of an anti-dumping duty should equal the margin of dumping or less if such lesser duty would be adequate to remove the injury to the domestic industry.²⁸ Maryland added that the cost of participating in the normal value process was often prohibitively high for some exporters for which the Canadian market is relatively small.

54. As to the appropriate level of reduction of duty if the Tribunal were to make such a recommendation, Maryland submitted that it should allow imports from the subject countries to play a role in the Canadian market and that, if the duty in the full amount is not in the public interest, it must be low enough to adequately address the public interest concern. In this context, the target duty rate for wireline from the United States proposed by Maryland was 9 percent.

Weaving Wire

Major Wire

55. Major Wire stated that it was a producer that uses stainless steel wire to manufacture quarry screens. It stressed that the Canadian market for quarry screens is very small and competitive and that it has been able to expand into the United States.

56. Major Wire indicated that, because of the particular physical properties of the stainless steel wire required for the screens, it could take more than 12 months before a new supplier is qualified. It also submitted that it tried unsuccessfully to qualify a supplier in Czechoslovakia.²⁹ Major Wire indicated that Central Wire has been a long-standing supplier, but that it regretted the fact that, after the acquisition of

28. See the *WTO Agreement on Implementation of Article VI of the GATT 1994*, Article 9.

29. The Tribunal takes note that the former Czechoslovakia has been superseded by the Czech Republic and Slovakia.

Greening Donald, it could no longer benefit from two sources of supply. The result is longer supply times and delays when Central Wire's inventory is low. For example, Major Wire alleged that, in 2004, 52.1 percent of Central Wire's shipments were late.

57. Major Wire contended that it had qualified a supplier in Korea and that the prices for its stainless steel wire were favourable. It emphasized that the issue of employment in Canada forms a part of the public interest and stated that it employed more than 100 persons. Major Wire also stated that it was unfortunate that an anti-dumping duty was imposed in a monopoly situation.

Welding Wire

Praxair

58. It was Praxair's principal position that the imposition of an anti-dumping duty on welding wire was not in the public interest. In the alternative, Praxair argued that the rate of anti-dumping duty on welding wire should be reduced to an amount that eliminates any injury to the domestic industry. In Praxair's view, the Tribunal could recommend the reduction or elimination of the anti-dumping duty if it is of the opinion that there are reasonable grounds to consider that the duty in the full amount would not or might not be in the public interest. Praxair argued that there is no basis in law to support the view that the Tribunal could make a recommendation to the Minister of Finance (the Minister) only in exceptional circumstances.

59. Praxair submitted that it relies upon welding wire produced in the United States. It indicated that Central Wire is not a preferred supplier to Praxair because it does not meet Praxair's specifications and packaging requirements. However, in Praxair's view, with an anti-dumping duty ranging from 110 to 181 percent for U.S.-sourced welding wire, it cannot afford to continue purchasing welding wire from the United States. It added that it could source from Brazil, which is a non-subject country, but longer lead times would be necessary. Praxair argued that it has consequently lost a significant welding wire customer. It also argued that, although welding wire has been imported from only two non-subject countries, they offer uncertain availability and quality. Moreover, Praxair suggested that Central Wire has a monopoly in Canada, which would enable it to impose prices and production schedules.

PARTY OPPOSING A REDUCTION OF THE ANTI-DUMPING DUTY AND COUNTERVAILING DUTY

Central Wire

60. It was Central Wire's position that the public interest has not and will not be affected by the imposition of the anti-dumping duty and countervailing duty in the full amount and that no recommendation for the reduction or elimination of duty should be made to the Minister.

61. Central Wire argued that the public interest process was designed to redress serious public interest issues that arise from an aberrant circumstance in the market. According to Central Wire, this is not the case here. Central Wire contended that the only reason put forth to justify a duty reduction was that Sandvik alone had obtained a lower rate of anti-dumping duty because none of the other exporters had chosen to cooperate with the CBSA's normal value process. It submitted that the public interest inquiry should not be used as an alternative to the normal value process. It further contended that the lesser-duty approach of the WTO anti-dumping agreement is found nowhere in *SIMA*. According to Central Wire, a duty reduction recommendation will reward non-cooperating exporters by encouraging them to disregard the CBSA's

normal value process in the hope of achieving a more advantageous result through the public interest inquiry.

62. Turning to the criteria in the *Regulations*, Central Wire submitted that the evidence clearly shows that, in 2004, there were imports of stainless steel wire from 26 non-subject countries. It added that, although the testimony of the users reflects a reluctance to import from non-subject countries, it nevertheless indicates that imports from non-subject countries are available, that they have been used and tested and that their quality has been good. In respect of wireline, Central Wire argued that the evidence shows that this product is available from the United Kingdom. As to competition in the domestic market, and in particular on the issue of the difficulty in qualifying new suppliers, Central Wire pointed out that neither Furnace Belt nor Wire Mesh could indicate a source in the subject countries that they have qualified and to which they would turn if the duty were eliminated.

63. With respect to sales of the subject goods to the Canadian market, Central Wire submitted that the three Tribunal witnesses were uniformly positive about the availability, delivery and quality of its products. As to the concerns expressed by the three party witnesses regarding ability to supply the market, Central Wire submitted that these particular delivery situations should be viewed in the context of the overall volume of business conducted by these parties.

64. Central Wire also submitted that duty drawbacks were available for U.S. wire used in the production of a product that is exported to the United States. On the question of damage to those that use stainless steel wire as an input, Central Wire argued that their financial results show the absence of any damage as a result of the level of the duty. As to any impact on consumers, it submitted that there was no evidence on the record that suggests any impact outside the immediate group of users. Finally, it argued that a public interest inquiry is not the norm and should be used as a remedy only in exceptional circumstances, given that the primary purpose of *SIMA* is the protection of the domestic industry against unfairly traded imports.

65. Central Wire submitted that the duties that are applicable against India and Switzerland have not been an issue in this proceeding and that, accordingly, there was no public interest in the reduction of duties for these countries.

66. As to an alternative position to the non-reduction of the anti-dumping duty, Central Wire contended that, based on the degree of price undercutting which has occurred, the margin of dumping for all exporters in Korea, Switzerland and the United States should be set at 40 percent for all stainless steel wire.

PART IV—EFFECTS OF THE ANTI-DUMPING DUTY

GENERAL

67. For this public interest inquiry, the Tribunal is of the view, basing its conclusions on the evidence and submissions on the record, that the relevant factors to be considered are those referred to in paragraph 40.1(3)(a), subparagraphs 40.1(3)(b)(i) and (ii), clause 40.1(3)(b)(iii)(A), and paragraphs 40.1(3)(c) and (d) of the *Regulations*.

68. The Tribunal notes that Central Wire testified that its profit margins are acceptable for current sales of all its stainless steel wire products and that its financial results are getting stronger.³⁰ When looking at Central Wire's financial results for all stainless steel wire, its sales in the domestic market were much more profitable in the first three quarters of 2004 than during the same period in 2003. At the end of the first three quarters of 2004, Central Wire's gross margin for its domestic sales was double that registered for the corresponding period in 2003. In addition, at the end of the first three quarters of 2004, Central Wire was able to increase its domestic sales volume and value over the same period in 2003. As for its export sales of all stainless steel wire during the first three quarters of 2004, they are slightly under the results achieved during the first three quarters of 2003.³¹ Central Wire testified that, for some of its products, it was able to add several new distributors and clients.³² Central Wire has also made several investments in equipment in the past few months.³³ Finally, Central Wire indicated that it still has available capacity to produce stainless steel wire for the Canadian market.³⁴

69. The Tribunal further notes that the data from Statistics Canada on imports of stainless steel wire that form part of the record indicate the value and volume of imports by country of all types of stainless steel wire. The data indicate that stainless steel wire classified in heading No. 72.23 of the schedule to the *Customs Tariff* was imported from 26 non-subject countries during the first 10 months of 2004.³⁵ However, the data from Statistics Canada do not indicate what types of wire were imported from each country. Thus, the data do not provide information on the availability of individual types of stainless steel wire from non-subject countries and, more specifically, on the types in issue in the present public interest inquiry.

30. *Transcript of Public Hearing*, Vol. 3, 2 February 2005, at 297-98, 408.

31. *Protected Pre-hearing Staff Report*, Tribunal Exhibit PB-2004-002-24 (protected), Administrative Record, Vol. 2A at 27, 28, 63, 64; *Protected Pre-hearing Staff Report*, revised 2 February 2005, Tribunal Exhibit PB-2004-002-24E (protected), Administrative Record, Vol. 2A at 96.50, 96.51, 96.55, 96.56; *Transcript of Public Hearing*, Vol. 3, 2 February 2005, at 286.

32. *Transcript of Public Hearing*, Vol. 3, 2 February 2005, at 286.

33. *Ibid.* at 299.

34. *Ibid.* at 296.

35. Producer's Exhibit A-02, Attachment 1, Administrative Record, Vol. 7.

Belting Wire Originating in or Exported from the United States

70. The Tribunal received witness statements and questionnaire responses³⁶ and heard testimony³⁷ from both Furnace Belt and Wire Mesh. These companies are two of the three major companies in the belting products industry.³⁸ On the basis of having evidence from a large proportion of the industry, the Tribunal believes that it is in a position to assess the impact of the anti-dumping duty on the belting products industry in general.

Availability of Belting Wire from Non-subject Countries (paragraph 40.1(3)(a) of the Regulations)

71. The Tribunal received evidence that belting wire is available from the United States, India, the People's Republic of China (China) and Germany.³⁹ The Tribunal heard testimony that preliminary testing of the quality of samples of belting wire from some offshore countries was undertaken by Furnace Belt and that Wire Mesh was exploring opportunities with China and Europe.⁴⁰ However, from the testimony provided both in public and *in camera*, it was not clear to the Tribunal whether non-subject countries would be able to supply belting wire that meets the alloy, diameter and other technical requirements.⁴¹

72. The belting wire industry is a custom industry that produces to customer specification rather than producing a well-defined range of standard products, and it typically has very little advance notice of incoming emergency orders.⁴² Its orders require the use of a significant number of diameters and different alloys, although 314 and 35/19CB are used in the great majority of belting products.⁴³ Therefore, it is not always possible for this industry to forecast variations in its demand for specific alloys and diameters. Although some products can be stocked in inventories, the normal business practice of the industry is to keep as little inventory as possible.⁴⁴

73. Two major customer groups that use belting products made from belting wire are the auto assembly and food preparation industries. These industries are supplied by the producers of belting products for use on their assembly lines. The auto assembly industry generally operates on a just-in-time delivery basis,

36. Purchasers' Exhibits B-03 and F-01, Administrative Record, Vol. 7; Purchaser's Exhibit B-04 (protected), Administrative Record, Vol. 8; Tribunal Exhibits PB-2004-002-19.05 and -19.08, Administrative Record, Vol. 5.1 at 115-34, 265-67 respectively; Tribunal Exhibits PB-2004-002-20.05 (protected) to -20.05D (protected) and -20.08 (protected) to -20.08I (protected), Administrative Record, Vol. 6.1 at 85-114.17, 247-295.44 respectively.

37. *Transcript of Public Hearing*, Vol. 1, 31 January 2005, at 9-123; *Transcript of In Camera Hearing*, Vol. 1, 31 January 2005, at 1-76.

38. The third company is Mar-Con, as indicated previously.

39. *Transcript of Public Hearing*, Vol. 1, 31 January 2005, at 21-22, 34, 88, 92; *Transcript of Public Hearing*, Vol. 3, 2 February 2005, at 387.

40. *Transcript of In Camera Hearing*, Vol. 1, 31 January 2005, at 6, 54-55; *Transcript of Public Hearing*, Vol. 1, 31 January 2005, at 120.

41. Purchaser's Exhibit B-03, para. 15, Administrative Record, Vol. 7; *Transcript of Public Hearing*, Vol. 1, 31 January 2005, at 18, 103; *Transcript of In Camera Hearing*, Vol. 1, 31 January 2005, at 6-7.

42. *Transcript of Public Hearing*, Vol. 1, 31 January 2005, at 58, 63, 111; Purchaser's Exhibit B-03, paras. 7, 9-10, Administrative Record, Vol. 7.

43. *Transcript of Public Hearing*, Vol. 1, 31 January 2005, at 12, 83; Purchaser's Exhibit B-03, para. 5, Administrative Record, Vol. 7.

44. *Transcript of Public Hearing*, Vol. 1, 31 January 2005, at 21, 55-56, 91-92, 110-11; Purchaser's Exhibit B-03, para. 7, Administrative Record, Vol. 7.

which requires a quick and reliable delivery time by its suppliers.⁴⁵ The Tribunal received evidence that the food preparation industry generally operates on a “24/7” basis and with low profit margins, with the result that replacement belting products made from belting wire must be provided quickly to ensure that production is not delayed and that profitability is maintained.⁴⁶

74. Consequently, in the Tribunal’s view, speed of delivery is an important aspect of availability of supply for belting wire. Indeed, Wire Mesh indicated that it and its customers would pay a premium for quick delivery from the United States when the required belting wire is not available from Central Wire.⁴⁷ The Tribunal also received evidence that shipments from non-subject countries generally take significantly longer to arrive in Canada than do shipments from the United States. Furnace Belt testified that, if it could turn to the United States as a second source of supply when delivery times from Central Wire are unacceptably long, it would be able to have the U.S. product delivered in a very short period of time.⁴⁸ The Tribunal is of the view that of all the countries that could supply belting wire, the United States is the only one that could supply it as fast as Central Wire.

Effect of the Anti-dumping Duty on Competition in the Domestic Market for Belting Wire
(subparagraph 40.1(3)(b)(i) of the Regulations)

75. As a result of the imposition of the anti-dumping duty in the full amount, there are fewer potential sources of supply of belting wire because the anti-dumping duty has made the price prohibitive for belting wire from the subject countries.⁴⁹ However, prior to the imposition of the anti-dumping duty, the subject countries were not used extensively as sources⁵⁰ and, therefore, in terms of the overall number of sources of supply, the anti-dumping duty in the full amount has not lessened competition significantly in practice.

76. The imposition of the anti-dumping duty in the full amount has however lessened competition significantly for orders needing short delivery time, and this is likely to continue. For these orders, the only possible sources of supply were Central Wire and the United States.⁵¹ The United States has now been effectively eliminated as a source due to the price effect of the anti-dumping duty.⁵² While there was little use of belting wire from the United States prior to the imposition of the anti-dumping duty, the increase in the number of domestic supply problems since the imposition of the anti-dumping duty in the full amount, as discussed below, would have led to the increased use of the U.S. product if the anti-dumping duty had not been imposed. Although they appear not to have done so very quickly or to have persisted, both Furnace Belt and Wire Mesh explored U.S. sources after Central Wire purchased Greening Donald in December 2002.⁵³

45. *Transcript of Public Hearing*, Vol. 1, 31 January 2005, at 58, 86-87; Purchaser’s Exhibit B-03, para. 9, Administrative Record, Vol. 7.

46. *Transcript of Public Hearing*, Vol. 1, 31 January 2005, at 87.

47. *Ibid.* at 88.

48. *Ibid.* at 18, 36-37.

49. *Ibid.* at 12-13, 20, 83-84.

50. *Protected Pre-hearing Staff Report*, revised 21 January 2005, Tribunal Exhibit PB-2004-002-24A (protected), Administrative Record, Vol. 2A at 96.9; *Transcript of Public Hearing*, Vol. 1, 31 January 2005, at 23-24, 42-43, 78, 90, 110.

51. *Transcript of Public Hearing*, Vol. 1, 31 January 2005, at 36-37, 83-84, 103.

52. *Ibid.* at 13, 84; Purchasers’ Exhibits B-03, paras. 18-19, and F-01, Administrative Record, Vol. 7.

53. *Transcript of Public Hearing*, Vol. 1, 31 January 2005, at 83-84, 88; Purchaser’s Exhibit B-03, paras. 13, 14, Administrative Record, Vol. 7.

77. The Tribunal notes that reliability of supply is another important element of competition. The Tribunal heard testimony from both Furnace Belt and Wire Mesh that shipments of belting wire from Central Wire became less reliable in quantity and delivery time after the findings. The Tribunal received evidence that, in the summer of 2004, Central Wire was not able to supply 35/19 belting wire as requested by the belting products industry.⁵⁴ While Central Wire did not deny that delays and/or short supply have occurred in some cases, it submitted that the source of the problem was poor forecasts of requirements by its customers.⁵⁵ Whatever the cause, the Tribunal is convinced that shortages and delays in delivery did occur. The short supply has had an impact on only a small percentage of orders to date, but given the highly competitive market for belting products in North America,⁵⁶ the Tribunal believes that it is a factor with potentially significant implications. These supply problems would previously have led Furnace Belt and Wire Mesh to seek belting wire from the United States to fill their production orders, but the price effect of the imposition of the anti-dumping duty in the full amount on belting wire from the United States has made this an infeasible alternative. Faced with a need to pay the higher prices, the producers of belting products testified that they would forgo sales and production rather than incur a loss on their production caused by paying the import price plus the anti-dumping duty. Furthermore, Wire Mesh testified that it had actually refused quotes from U.S. suppliers because the prohibitive anti-dumping duty would have put it out of competition.⁵⁷ Wire Mesh also testified that it declined orders in 2004 due to a shortage of supply at Central Wire.⁵⁸ The Tribunal is of the view that producing belting products from belting wire purchased at a price that includes the anti-dumping duty in the full amount, even if shipments to customers were on time, would cause the producers of belting products to lose sales or customers because their products are too expensive.

78. In addition to having problems sourcing belting wire from the United States for the Canadian market due to the prohibitive cost, Furnace Belt and Wire Mesh face competition in the U.S. and offshore markets, as a significant proportion of their total sales of goods that incorporate belting wire are export sales to the United States and other countries.⁵⁹ The finished goods that they sell to these countries compete with the finished goods of suppliers based in the United States and other countries. These suppliers are not faced with having to build an anti-dumping duty into their selling price. When supply shortages and delays in delivery of belting wire occur, the resulting delays in shipments of belting products may cause the Canadian belting products industry to lose sales, and possibly customers, to these U.S. and offshore suppliers.

79. The Tribunal notes that damage to the Canadian producers of belting products can also occur in the domestic market because finished belting products imported from the United States do not have the anti-dumping duty applied to them. Thus, the U.S. producers of belting products would have a significant competitive advantage over their Canadian competitors in the Canadian market if the Canadian producers of belting products were caught by a shortfall in supply and needed to buy U.S. belting wire that includes the anti-dumping duty in the full amount in order to fulfil their customers' delivery requirements.

54. *Transcript of Public Hearing*, Vol. 1, 31 January 2005, at 16, 27-28, 116-17; Purchasers' Exhibits B-03, para. 17, and F-01, Administrative Record, Vol. 7; Purchaser's Exhibit B-02A (protected), Administrative Record, Vol. 8.

55. *Transcript of Public Hearing*, Vol. 3, 2 February 2005, at 302-303; Producer's Exhibit A-02, paras. 9, 13, Administrative Record, Vol. 7.

56. *Transcript of Public Hearing*, Vol. 1, 31 January 2005, at 74, 86, 115, 119; *Transcript of In Camera Hearing*, Vol. 1, 31 January 2005, at 46.

57. *Transcript of Public Hearing*, Vol. 1, 31 January 2005, at 74, 84-85; *Transcript of In Camera Hearing*, Vol. 1, 31 January 2005, at 61-63.

58. *Transcript of Public Hearing*, Vol. 1, 31 January 2005, at 100-101.

59. *Ibid.* at 92-93; *Transcript of In Camera Hearing*, Vol. 1, 31 January 2005, at 33.

80. Furthermore, supply problems are likely to continue and potentially increase in the future. As discussed above, the difficulty in forecasting demand for belting wire and the need for speedy delivery result from factors that are inherent in the nature of the industry. In addition, given the significant number of different alloys and diameters used, Central Wire could well be reluctant to stock large quantities of rod in all the alloys and diameters that are used in the belting products industry.⁶⁰ Furthermore, the volatile price of nickel may contribute to rod shortages, as Central Wire and suppliers of rod in other countries try to time their purchase and inventory decisions to reduce exposure to the effects of swings in the price of nickel.⁶¹

81. The reduction in the number of potential suppliers of belting wire also increases the likelihood of reduced competition in terms of price negotiation, speed of delivery and provision of services to buyers. This is particularly the case given that there is only one domestic supplier of belting wire.

Effect of the Anti-dumping Duty on Producers of Products Made from Belting Wire (subparagraph 40.1(3)(b)(ii) of the Regulations)

82. The Tribunal received evidence that belting wire represents a large proportion of the cost of belting products.⁶² As a result, significant increases in the price of belting wire will cause a significant increase in the price of belting products. Given the competition from foreign producers of belting products, it is unlikely that cost increases can be passed on to customers of producers of belting products and therefore such increases would negatively affect the profit margin of producers of belting products.⁶³

Effect of the Anti-dumping Duty on Downstream Competitiveness (clause 40.1(3)(b)(iii)(A) of the Regulations)

83. As discussed above, the major customer groups that use belting products require fast delivery of replacement parts. Further, the anti-dumping duty has caused some delay in delivery to these customers and is likely to cause some further instances of delay, potentially coupled with pricing uncertainty in the future. Given the competition from foreign producers of belting products in the Canadian market, it is not clear to the Tribunal how significant this impact on the competitiveness of downstream customers has been to date or is likely to be in the future.

Effect of Reducing the Anti-dumping Duty on Domestic Suppliers of Inputs to the Production of Belting Wire (paragraph 40.1(3)(c) of the Regulations)

84. Central Wire indicated that raw materials are a major part of its cost of production. Rod is the basic raw material used in the production of stainless steel wire, but it is not produced, and hence not sourced, in Canada.⁶⁴ Central Wire testified that dies and wire-drawing lubricants are some of the other goods and services necessary for the production of belting wire.⁶⁵ In the Tribunal's view, the other goods and services sourced from domestic suppliers used in the wire-making process are likely to represent only a small proportion of the total cost of production.

60. *Transcript of Public Hearing*, Vol. 3, 2 February 2005, at 319, 327-30.

61. *Ibid.* at 289-90, 339.

62. *Transcript of Public Hearing*, Vol. 1, 31 January 2005, at 53, 83.

63. *Transcript of In Camera Hearing*, Vol. 1, 31 January 2005, at 15, 45, 61-63.

64. *Transcript of Public Hearing*, Vol. 3, 2 February 2005, 365-66; Producer's Exhibit A-02, para. 32, Administrative Record, Vol. 7.

65. *Transcript of Public Hearing*, Vol. 3, 2 February 2005, at 403.

85. For Central Wire, if the anti-dumping duty in the full amount imposed on belting wire from the United States were to remain in place, it would have a choice of ways to increase its revenues. Central Wire could focus on gaining market share or raising prices, or both. If Central Wire increased its sales volume, its suppliers would experience a corresponding benefit.

86. If the anti-dumping duty on belting wire from the United States were to be removed, then the Tribunal is of the view that Central Wire would likely face a resumption of the injury from dumping that recently occurred. This would likely take the form of price suppression, potentially to a greater degree than that which occurred in the period of inquiry for the dumping, and possibly other forms of injury. This would likely cause Central Wire to seek lower prices from its suppliers and potentially to purchase a lower volume of goods and services.

87. If the anti-dumping duty imposed on belting wire from the United States were to be reduced to a level at which U.S. suppliers of belting wire continued to sell at prices at least as high as those of Central Wire, then Central Wire would not likely experience a significant diminution in the benefits resulting from the imposition of the anti-dumping duty. Its domestic suppliers would likely be in a similar position.

Other Factors (paragraph 40.1(3)(d) of the Regulations)

88. Based on the evidence of the extent of price undercutting, if the anti-dumping duty in the full amount were passed on to Canadian customers, the resulting price for the subject goods would far exceed Central Wire's price.

89. As discussed in the "General" section above, Central Wire testified that its profit margins are acceptable for current sales of all its stainless steel wire products. The only significant factor that could require it to raise its prices further is any increase in the cost of the nickel element in the cost of the rod.⁶⁶ The price of nickel has been very volatile over the past few years. This volatility is global and affects the pricing and production of stainless steel wire not only in Canada but also in the United States and the rest of the world.⁶⁷ More specifically, as it relates to its belting wire business, Central Wire indicated that its sales remain strong and business is very good. However, when comparing Central Wire's domestic and export sales of belting wire during the first three quarters of 2003 and the corresponding period in 2004, the Tribunal notes that it achieved better results in its export markets. During the first three quarters of 2004, Central Wire doubled its export sales volume, value and gross margin over the same period in 2003. As for its domestic sales, while it was able to increase its sales volume and value of belting wire in the domestic market in the first three quarters of 2004 over the corresponding period in 2003, it was unable to be more profitable.⁶⁸

66. *Transcript of Public Hearing*, Vol. 1, 31 January 2005, at 31-32, 45-46; *Transcript of Public Hearing*, Vol. 3, 2 February 2005, at 364.

67. *Transcript of Public Hearing*, Vol. 1, 31 January 2005, at 93, 96; *Transcript of Public Hearing*, Vol. 2, 1 February 2005, at 233; *Transcript of Public Hearing*, Vol. 3, 2 February 2005, at 350-52.

68. *Protected Pre-hearing Staff Report*, Tribunal Exhibit PB-2004-002-24 (protected), Administrative Record, Vol. 2A at 27, 28.

90. Prior to the findings, producers of belting products bought their belting wire primarily from Central Wire. They did not seek product from the United States as their primary source.⁶⁹ The evidence received by the Tribunal did not indicate that they intend to change this approach to sourcing U.S. product.⁷⁰

91. Central Wire submitted that the public interest inquiry is not a substitute for the normal value process and that, rather than parties seeking duty relief through a public interest inquiry, exporters should seek normal values.⁷¹ The Tribunal notes that this is not a factor that it is specifically directed to take into account under *SIMA*. However, the Tribunal is specifically directed to take into account the impact of the anti-dumping duty on the competitiveness of the users of the subject goods and notes that users, unlike exporters, cannot apply for normal values. Accordingly, users do not have it within their control to use the normal value process to address the impact on their competitiveness caused by the imposition of the anti-dumping duty in the full amount. In other words, the normal value process is a matter to be dealt with by the exporters, while the public interest process under *SIMA* specifically addresses the impact on users, which have no say in how normal values are calculated. Accordingly, the normal value and public interest processes are two independent processes that involve the interests of different players in the market.

92. Regarding Central Wire's submission that users of stainless steel wire could obtain relief through duty drawbacks, the Tribunal notes that the duty drawback regime provided for under section 89 of the *Customs Tariff* is discretionary and potentially complex technically. Moreover, the Tribunal understands that it can apply only where the wire is made from U.S origin rod and when the final product is exported to the United States. Also, Furnace Belt submitted that there is uncertainty as to the conditions required for eligibility and that numerous exceptions exist.⁷² Given the apparently limited application of this regime, the Tribunal is not in a position to conclude that it would mitigate significantly the impact of the anti-dumping duty.

Conclusion

93. Belting wire is not readily available from countries or exporters to which the findings do not apply at a delivery speed comparable to that of Central Wire, which is required by the major customers of belting products. In this respect, the anti-dumping duty in the full amount has significantly lessened competition in the domestic market for belting wire. It has also significantly impaired the competitiveness of the domestic producers of belting products, given that their customers have access to more price competitive, alternative sources of supply. This situation is likely to continue, given that the inherent nature of the belting products industry is not the only reason for supply problems. If the anti-dumping duty imposed on belting wire from the United States were to be reduced to a level at which U.S. suppliers continued to sell at prices at least as high as those of Central Wire, then Central Wire and its domestic suppliers would not likely experience a significant diminution in the benefits resulting from the imposition of the anti-dumping duty. However, if the anti-dumping duty in the full amount were passed on to Canadian customers, the resulting price for belting wire from the United States would far exceed Central Wire's price. Central Wire testified that its profit margins are currently acceptable. The only significant factor that could require it to raise its prices further is any increase in the cost of the nickel element in the cost of the rod. However, the pricing and production of stainless steel wire are affected not only in Canada but also throughout the world by the

69. *Transcript of Public Hearing*, Vol. 1, 31 January 2005, at 15, 83-84, 88; Purchaser's Exhibit B-03, paras. 17, 19, Administrative Record, Vol. 7.

70. *Transcript of Public Hearing*, Vol. 1, 31 January 2005, at 103; Purchasers' Exhibits B-03, para. 19, and F-01, Administrative Record, Vol. 7.

71. Producer's Exhibit A-02, para. 34, Administrative Record, Vol. 7.

72. See section 97 of the *Customs Tariff*.

volatility of the price of nickel. The evidence did not indicate that producers of belting products would seek product from the United States as their primary source.

94. Taking into account the foregoing factors, the Tribunal is of the opinion that the imposition of the anti-dumping duty in the full amount on belting wire originating in or exported from the United States is not in the public interest.

Wireline Originating in or Exported from the United States

95. The Tribunal heard testimony from a Tribunal witness, Lonkar, a major user of stainless steel wireline.⁷³ Lonkar is one of the largest companies that use wireline to run specialized tools in and out of oil and gas wells. Lonkar testified that wireline is about 50 percent of the cost of each truck that it outfits for these operations.⁷⁴ Most of the wireline that Lonkar purchases is from Central Wire, through a distributor, ATL Canadian Technologies. Lonkar also buys wireline from the United States and Sweden.⁷⁵ As well, Maryland submitted a witness statement, although the Tribunal notes that it was untested at the hearing.⁷⁶ Consequently, the Tribunal believes that it is in a position to assess the impact of the anti-dumping duty on the wireline industry in general.

Availability of Wireline from Non-subject Countries (paragraph 40.1(3)(a) of the Regulations)

96. The Tribunal received evidence that sources in the United States and Sweden are able to supply wireline that meets the quality standards required for oil and gas wells in Alberta and British Columbia, where high temperatures, high pressure and a highly corrosive environment are common.⁷⁷ In addition, Central Wire indicated that the United Kingdom is an international supplier of wireline.⁷⁸

97. The Tribunal heard testimony that, because the bulk of drilling, in many areas, takes place in a relatively short season, from December to the end of March, those involved in manufacturing and distributing wireline need to be well prepared with inventory to cover the demand and that currently there are no supply problems.⁷⁹ Problems in supply occur when unforeseen disruptions create an emergency demand that cannot be met domestically. In this situation, wireline has to be immediately sourced offshore and shipped via air. The resulting cost is high, but evidence indicates that users will pay the premium to obtain the required rush delivery.⁸⁰ In situations when users know ahead of time that their costs are going up, they can sometimes pass on these increased costs to their customers.⁸¹

98. The Tribunal is of the view that, because of the requirements for speedy delivery, the loss of even one country as a source of supply is significant, given that there is no guarantee that Sweden or the United Kingdom will be able to supply at the crucial time and that it takes between three and four months to have wireline manufactured if it is not held in inventory by any of the producers.⁸²

73. *Transcript of Public Hearing*, Vol. 2, 1 February 2005, at 129-84.

74. *Ibid.* at 140, 150.

75. *Ibid.* at 133, 158.

76. Exporter's Exhibit E-03, Administrative Record, Vol. 7.

77. *Transcript of Public Hearing*, Vol. 2, 1 February 2005, at 131, 182.

78. *Transcript of Public Hearing*, Vol. 3, 2 February 2005, at 388.

79. *Transcript of Public Hearing*, Vol. 2, 1 February 2005, at 133, 135, 147.

80. *Ibid.* at 135, 148, 154-55.

81. *Ibid.* at 145-46.

82. *Ibid.* at 134.

Effect of the Anti-dumping Duty on Competition in the Domestic Market for Wireline
(subparagraph 40.1(3)(b)(i) of the Regulations)

99. As indicated above, although there exist alternative suppliers in Sweden and the United Kingdom, the Tribunal is of the view that it is important to have as many alternative sources as possible, because Sweden and the United Kingdom may not be able to supply the particular wireline required at the crucial time. The extra cost that the anti-dumping duty adds for the U.S. product is so high that the United States is not currently a viable alternative source. Thus, the imposition of the anti-dumping duty in the full amount has significantly lessened competition by effectively removing the United States as a geographically close alternative source of wireline for Canadian users.

100. The Tribunal received evidence that Maryland, a former U.S. supplier, has ceased supplying wireline to the Canadian market.⁸³ It is not clear to the Tribunal whether this is a temporary choice or a permanent decision by Maryland, but even if it were a permanent decision, the Tribunal does not consider that it would mean an end to the United States as a potential source of wireline. The Tribunal received evidence that there are some U.S. drilling areas that require wireline that can withstand highly corrosive and high-temperature environments similar to those faced in drilling in Western Canada.⁸⁴ It is the Tribunal's view that the suppliers to this segment of the U.S. market could be alternative suppliers of the required wireline to the Canadian market if the anti-dumping duty were not imposed in the full amount.

101. Competition in the domestic wireline market has been lessened, particularly for orders needing quick delivery. This is of concern, despite the evidence that the supply of wireline is good at the present time and that users and distributors use inventory to minimize emergency situations.⁸⁵ Lonkar testified that there have been a few occasions of short supply over the past few years.⁸⁶ Supply to the industry involves a number of alloys and diameters, as well as line sizes,⁸⁷ and consequently it can be complex to forecast precise requirements to supply wireline. Although Central Wire does keep in stock standard sizes of wireline in the three main alloys and rod for less common alloys, it does not keep all of the many types of wireline in stock.⁸⁸ Given the current "boom" in oil drilling, which is expected to last for at least the next three years, Lonkar testified that pressure on the supply of wireline will increase.⁸⁹ In the Tribunal's view, the foregoing circumstances will probably lead to an increase in the number of short supply situations in the near future.

102. The reduction in the number of potential suppliers of wireline reduces price, delivery and service competition, as indicated in the analysis for belting wire. This is particularly the case given that there is only one domestic supplier of wireline.

83. *Ibid.* at 176-77; *Transcript of Public Hearing*, Vol. 3, 2 February 2005, at 288.

84. *Transcript of Public Hearing*, Vol. 2, 1 February 2005, at 182.

85. *Ibid.* at 135, 137, 147, 149.

86. *Ibid.* at 133.

87. *Ibid.* at 167-68.

88. *Transcript of Public Hearing*, Vol. 3, 2 February 2005, at 390-92.

89. *Transcript of Public Hearing*, Vol. 2, 1 February 2005, at 179-81.

Effect of the Anti-dumping Duty on Producers of Services Using Wireline (subparagraph 40.1(3)(b)(ii) of the Regulations)

103. When supply shortages of wireline occur in the present circumstances, there is a need to try to order the required wireline from Sweden or possibly the United Kingdom. This increases the purchaser's costs.⁹⁰ The evidence on the record indicates that Lonkar is able to pass on some increased costs to its customers, but only in situations when it is aware of these increases ahead of time.⁹¹ However, the Tribunal does not consider this to apply to emergency orders.

104. Central Wire has indicated that it is producing a large amount of wireline for both the Canadian and U.S. markets⁹² and that it also has equipment that it could commission at any time, if required, to double its capacity to produce wireline.⁹³ The Tribunal notes that expanded capacity would not likely avoid all supply shortages because it is the availability of inventory that users require for an emergency situation. A perfect forecast of the inventory required to meet specific wireline needs is probably impossible, given the ever-present possibility of emergencies involving a wide range of alloys, diameters and sizes.

Effect of the Anti-dumping Duty on Downstream Competitiveness (clause 40.1(3)(b)(iii)(A) of the Regulations)

105. As indicated earlier, the majority of drilling for oil and gas wells in many areas of Western Canada is normally carried out in a limited number of winter months. Shortages of wireline can cause critical production delays within the narrow exploration time window, as well as pricing uncertainty for wireline services, both of which can impair the competitiveness of producers in the oil and gas industry.

Effect of Reducing the Anti-dumping Duty on Domestic Suppliers of Inputs to the Production of Wireline (paragraph 40.1(3)(c) of the Regulations)

106. As indicated in the above analysis for belting wire, if the anti-dumping duty in the full amount imposed on wireline from the United States were to remain in place, it would mean that Central Wire would have a choice of ways to increase its revenues, and it could focus on gaining market share or raising prices, or both. If Central Wire increased its sales volume, its suppliers would experience a corresponding benefit. Also, if the anti-dumping duty on wireline from the United States were to be removed, then the Tribunal is of the view that Central Wire would likely face a resumption of the injury from dumping that recently occurred. This would likely take the form of price suppression, potentially to a greater degree than that which occurred in the period of inquiry for the dumping, and possibly other forms of injury. This would likely cause Central Wire to seek lower prices from its suppliers and potentially to purchase a lower volume of goods and services. If the anti-dumping duty on wireline from the United States were to be reduced to a level at which U.S. suppliers of wireline continued to sell at prices at least as high as those of Central Wire, then Central Wire would not likely experience a significant diminution in the benefits resulting from the imposition of the anti-dumping duty. Its domestic suppliers would likely be in a similar position.

90. *Ibid.* at 154-55.

91. *Ibid.* at 145-46.

92. *Transcript of Public Hearing*, Vol. 3, 2 February 2005, at 299, 353.

93. *Ibid.* at 372.

Other Factors (paragraph 40.1(3)(d) of the Regulations)

107. Based on the evidence concerning the prices of wireline from the United States, if the anti-dumping duty in the full amount were passed on to Canadian customers, the resulting price for the subject goods would far exceed Central Wire's price.

108. As discussed in the "General" section above, Central Wire testified that its profit margins are acceptable for current sales of all its stainless steel wire products. The only significant factor that could require it to raise its prices further is any increase in the cost of the nickel element in the cost of the rod. The price of nickel has been very volatile over the past few years. This volatility is global and affects the pricing and production of stainless steel wire not only in Canada but also in the United States and the rest of the world. More specifically, as it relates to wireline, it indicated that its business is very good and that its inventory levels are good.⁹⁴ The financial indicators for "other wire" are available only for that category as a whole. Since wireline is but one type of stainless steel wire within that category, separate financial results for wireline are not available. However, with respect to other wire as a whole, when looking at the financial results that Central Wire obtained in the first three quarters of 2004 compared to the same period in 2003, both its domestic and export sales were strong. While Central Wire's sales volume of other wire in the domestic market was slightly inferior in the first three quarters of 2004 to that of the corresponding period in 2003, it registered significant increases in both its sales value and gross margin. The results that Central Wire achieved for its export sales of other wire during the first three quarters of 2004 were not as good as those for its domestic sales, but they were nonetheless superior to those reported for the first three quarters of 2003.⁹⁵

Conclusion

109. While there are two non-subject countries that produce wireline that could be used in Canada, the requirements for speedy delivery and the difficulty in forecasting demand mean that there is no guarantee that the wireline from these countries would be available at the crucial time in Canada. Furthermore, pressures on wireline supply are likely to increase in the near future. Domestic supply shortages can cause critical production delays for oil and gas producers in their narrow exploration time window, as well as pricing uncertainty in wireline services. This would affect the competitiveness of the downstream industries. There are suppliers in the United States that would be alternative sources of wireline and could deliver in a time frame comparable to that of Central Wire. If the anti-dumping duty imposed on wireline from the United States were to be reduced to a level at which the U.S. suppliers could sell into Canada at prices at least as high as those of Central Wire, then Central Wire and its domestic suppliers would not likely experience a significant diminution in the benefits resulting from the imposition of the anti-dumping duty. However, if the anti-dumping duty in the full amount were passed on to Canadian customers, the resulting price for wireline from the United States would far exceed Central Wire's price. Central Wire testified that its profit margins are currently acceptable. The only significant factor that could require it to raise its prices further is any increase in the cost of the nickel element in the cost of the rod. However, the pricing and production of stainless steel wire are affected not only in Canada but also throughout the world by the volatility of the price of nickel.

94. *Ibid.* at 288, 299.

95. *Protected Pre-hearing Staff Report*, revised 2 February 2005, Tribunal Exhibit PB-2004-002-24E (protected), Administrative Record, Vol. 2A at 96.55, 96.56.

110. On the basis of the foregoing analysis, the Tribunal is of the opinion that the imposition of the anti-dumping duty in the full amount on wireline originating in or exported from the United States is not in the public interest.

Welding Wire

111. The Tribunal received written submissions from Praxair, a distributor,⁹⁶ and heard testimony from a Tribunal witness, MCI, a buyer of welding wire.⁹⁷ The Tribunal also received questionnaire responses from eight importer-distributors and three purchaser-end users of welding wire.⁹⁸

112. Praxair supplies welding wire, as well as welding and cutting products, that are used in many industrial applications. As well, it supplies specialty gases in cylinders and containers. Praxair purchases welding wire from a variety of sources for distribution to its customers, which are end users of welding wire.⁹⁹ MCI, a large end user of welding wire, buys all of its stainless steel welding wire from Central Wire through its main distributor, Integris Metals.¹⁰⁰

Availability of Welding Wire from Non-subject Countries (paragraph 40.1(3)(a) of the Regulations)

113. It is clear to the Tribunal that welding wire is available from several non-subject countries. The Tribunal received a submission from Praxair that one of its major customers has switched its business to another distributor that is supplying welding wire from a non-subject country.¹⁰¹ Praxair also indicated that it has sourced some of its welding wire from Brazil.¹⁰²

114. In addition, the evidence from Central Wire and an importer indicates that a number of non-subject countries are possible sources of supply of welding wire. In addition to Brazil, these include the Czech Republic, Germany, Poland, Sweden and Chinese Taipei.¹⁰³ As well, a potential supplier from another non-subject country was mentioned in the protected reply to the Tribunal's questionnaire as having approached an end user with an offer to supply it with welding wire.¹⁰⁴

115. Praxair expressed concern that the supply of welding wire from Brazil would require longer lead times than those required for product ordered in the United States, which may have an impact on its ability to satisfy customer needs.¹⁰⁵ However, the evidence from customers did not indicate a significant need for

96. Importer's Exhibit C-03, Administrative Record, Vol. 7; Importer's Exhibit C-04 (protected), Administrative Record, Vol. 8.

97. *Transcript of Public Hearing*, Vol. 2, 1 February 2005, at 185-212.

98. Tribunal Exhibits PB-2004-002-16.01 to -16.08, Administrative Record, Vol. 5 at 35-64; Tribunal Exhibits PB-2004-002-17.01 (protected) to -17.08C (protected), Administrative Record, Vol. 6 at 1-162; Tribunal Exhibits PB-2004-002-19.01, -19.02 and -19.20, Administrative Record, Vol. 5.1 at 84-87, 88-90, 300-303 respectively; Tribunal Exhibits PB-2004-002-20.01 (protected) and -20.02 (protected), Administrative Record, Vol. 6.1 at 1-26, 27-37 respectively; Tribunal Exhibit PB-2004-002-20.20 (protected), Administrative Record, Vol. 6.1A at 1-26.

99. Importer's Exhibit C-03, paras. 3, 6, Administrative Record, Vol. 7.

100. *Transcript of Public Hearing*, Vol. 2, 1 February 2005, at 187, 191, 206, 208.

101. Importer's Exhibit C-04 (protected), paras. 22-23, Administrative Record, Vol. 8.

102. Importer's Exhibit C-03, para. 25, Administrative Record, Vol. 7.

103. *Transcript of Public Hearing*, Vol. 3, 2 February 2005, at 296-97, 337, 386-87; *Pre-hearing Staff Report*, revised 21 January 2005, Tribunal Exhibit PB-2004-002-23A, Administrative Record, Vol. 1A at 96.24.

104. Tribunal Exhibit PB-2004-002-20.20 (protected), Administrative Record, Vol. 6.1A at 3.

105. Importer's Exhibit C-03, para. 25, Administrative Record, Vol. 7.

quick delivery to meet emergency requirements for welding wire. Furthermore, welding wire is normally sold through distributors, such as Praxair and Integris Metals, whose service to their customers includes the ordering of large quantities and holding inventories to deal with customers' requests, including those for just-in-time delivery requirements.¹⁰⁶

116. Accordingly, the Tribunal is of the view that welding wire can be supplied readily by non-subject countries.

Effect of the Anti-dumping Duty on Competition in the Domestic Market for Welding Wire
(subparagraph 40.1(3)(b)(i) of the Regulations)

117. The addition of the anti-dumping duty in the full amount to the export price of welding wire from the subject countries will lead to a very large increase in its landed price in Canada. With this resulting prohibitive price, it is unlikely that purchasers will buy welding wire from the subject countries. As a result, competition between the subject countries and Central Wire in the provision of welding wire will decrease significantly or be eliminated.

118. However, as indicated above, there are a number of non-subject import sources available to Canadian purchasers of welding wire, and there has already been some switching to these sources. Furthermore, the evidence does not indicate that the presence or quick delivery time of welding wire from the United States is a major requirement for competition in the domestic market in respect of welding wire. Accordingly, the net lessening of competition due to the imposition of anti-dumping duty is unlikely to be significant.

119. MCI, a major user of welding wire, did not indicate any concerns with the reliability of supply of welding wire for its just-in-time needs.¹⁰⁷ Although one of the three purchaser-end users that responded to the Tribunal's questionnaire submitted that Central Wire has never been able to supply it in the quantity, time frame and price required to be competitive, these allegations were not supported by concrete examples that could be explored at the hearing.¹⁰⁸

120. Consequently, in the Tribunal's view, the net impact of the anti-dumping duty in the full amount on competition in the domestic market has not been and is unlikely to be significant.

Effect of the Anti-dumping Duty on Producers of Products Made from Welding Wire
(subparagraph 40.1(3)(b)(ii) of the Regulations)

121. Praxair argued that Central Wire does not manufacture or have certification for some types of welding wire that was previously imported from the subject countries. As a result, in Praxair's view, its customers could suffer shortages or long lead times for delivery.¹⁰⁹ However, Central Wire argued that it can supply all the required types of wire, that it has certification for most welding wire products that are

106. *Transcript of Public Hearing*, Vol. 2, 1 February 2005, at 194-95, 201-202, 207; Importer's Exhibit C-03, paras. 4, 6, 11, 14, Administrative Record, Vol. 7.

107. *Transcript of Public Hearing*, Vol. 2, 1 February 2005, at 195.

108. Tribunal Exhibits PB-2004-002-20.01 (protected) and -20.02 (protected), Administrative Record, Vol. 6.1 at 4, 30 respectively; Tribunal Exhibit PB-2004-002-20.20 (protected), Administrative Record, Vol. 6.1A at 4; *Protected Pre-hearing Staff Report*, Tribunal Exhibit PB-2004-002-24 (protected), Administrative Record, Vol. 2A at 49.

109. Importer's Exhibit C-03, paras. 16, 17, Administrative Record, Vol. 7; Importer's Exhibit C-04 (protected), para. 18, Administrative Record, Vol. 8.

supplied into the Canadian market and that certification is a relatively quick process.¹¹⁰ The Tribunal is not satisfied that the evidence supports Praxair's position. MCI, a major user of welding wire, testified as a Tribunal witness that it has experienced no problem with welding wire supply or delivery since the imposition of the anti-dumping duty, despite its just-in-time needs.

122. While Praxair is not a producer that uses welding wire, it is a distributor of welding wire. Praxair indicated that, as a result of the imposition of the anti-dumping duty, it has suffered and will suffer damage in the form of lost sales and customers for its range of products.¹¹¹ As indicated earlier, Praxair supplies welding wire as part of a wide range of welding equipment and specialty gases. However, the evidence does not indicate that the problem raised by Praxair is necessarily a problem for welding wire distributors in general. As indicated above, Praxair referred to an instance in which one purchaser switched from Praxair to another distributor in Canada, so that it appears that there is not necessarily a net loss of business to Canadian distributors as a whole.

Effect of the Anti-dumping Duty on Downstream Competitiveness (clause 40.1(3)(b)(iii)(A) of the Regulations)

123. The Tribunal expects that the readily available supply of welding wire from non-subject countries and a lack of significant damage to producers that use welding wire will mean that downstream producers will not experience problems with their supply of products manufactured from welding wire as a result of the imposition of the anti-dumping duty.¹¹²

Effect of Reducing the Anti-dumping Duty on Domestic Suppliers of Inputs to the Production of Welding Wire (paragraph 40.1(3)(c) of the Regulations)

124. As indicated in the above analysis for belting wire, if the anti-dumping duty in the full amount imposed on welding wire were to remain in place, it would mean that Central Wire would have a choice of ways to increase its revenues, and it could focus on gaining market share or raising prices, or both. If Central Wire increased its sales volume, its suppliers would experience a corresponding benefit. Also, if the anti-dumping duty on welding wire were to be removed, then the Tribunal is of the view that Central Wire would likely face a resumption of the injury from dumping that recently occurred. This would likely take the form of price suppression, potentially to a greater degree than that which occurred in the period of inquiry for the dumping, and possible other forms of injury. This would likely cause Central Wire to seek lower prices from its suppliers and potentially to purchase a lower volume of goods and services. If the anti-dumping duty on welding wire were to be reduced to a level at which suppliers of welding wire continued to sell at prices at least as high as those of Central Wire, then Central Wire and its domestic

110. Producer's Exhibit A-03, paras. 3, 7-9, Administrative Record, Vol. 7.

111. Importer's Exhibit C-03, paras. 22, 28, Administrative Record, Vol. 7.

112. Praxair submitted that these downstream producers that use welding wire are consumers. Importer's Exhibit C-01, paras. 47-49, Administrative Record, Vol. 7. The Tribunal notes that the *Canadian Oxford Dictionary*, 2d ed., defines "consumer" in part as "a person who consumes, esp. one who uses a product . . . a purchaser of goods or services" and defines "consumer goods" as "goods put to use by consumers, not used in producing other goods". The Tribunal considers that the term "consumer" should refer to the buyer and user of the final finished product and that consequently these producers, for which the welding wire is an intermediate product used in the process of manufacturing the finished product, are not consumers. Therefore, the Tribunal does not consider it necessary to address Praxair's submissions in the context of the impact of the anti-dumping duty on consumers in accordance with subparagraph 40.1(3)(b)(iv) of the *Regulations*. However, the impact on the downstream producers that purchase from Praxair has been addressed under the factor prescribed by clause 40.1(3)(b)(iii)(A) of the *Regulations*.

suppliers would not likely experience a significant diminution in the benefits resulting from the imposition of the anti-dumping duty.

Other Factors

125. As discussed in the “General” section above, Central Wire testified that its profit margins are acceptable for current sales of all its stainless steel wire products. The only significant factor that could require Central Wire to raise its prices further is any increase in the cost of the nickel element in the cost of the rod. The price of nickel has been very volatile over the past few years. This volatility is global and affects the pricing and production of stainless steel wire not only in Canada but also in the United States and the rest of the world. More specifically, as it relates to its welding wire business, Central Wire indicated that its sales volumes are back to levels of three or four years ago and that it added several new distributors and clients.¹¹³ Central Wire’s financial information for welding wire reports excellent results for its domestic sales. When comparing the first three quarters of 2004 with those of 2003, Central Wire’s sales volume in the domestic market increased by more than half, its sales value doubled, and its gross margin more than tripled. As for its sales of welding wire in export markets, although they remain profitable, they have been significantly reduced, both in terms of volume and value.¹¹⁴ It also made investments in its equipment by adding cleaning lines for its welding wire applications.¹¹⁵

Conclusion

126. Welding wire is readily available from non-subject countries. The net lessening of competition in the domestic market is unlikely to be significant, in terms of either product availability or required delivery times. A major producer that uses welding wire is obtaining just-in-time deliveries of welding wire as required and has not suffered any disruption in supply since the imposition of the anti-dumping duty in the full amount. The evidence did not indicate any significant impact from the imposition of the anti-dumping duty in the full amount on downstream producers that use welding wire. If the anti-dumping duty on welding wire were to be removed, it would likely cause a resumption of price suppression that would potentially be accompanied by other forms of injury to both Central Wire and its domestic suppliers of inputs. While it is true that the reduction of the anti-dumping duty to a level at which suppliers could continue to sell at prices at least as high as those of Central Wire would not likely diminish significantly Central Wire’s and its domestic suppliers’ benefits resulting from the imposition of the anti-dumping duty, in the Tribunal’s view, this factor is not, in itself, sufficient to recommend a reduction of the duty. Central Wire testified that its profit margins are currently acceptable. The only significant factor that could require it to raise its prices further is any increase in the cost of the nickel element in the cost of the rod. However, the pricing and production of stainless steel wire are affected not only in Canada but also throughout the world by the volatility of the price of nickel.

127. On the basis of the foregoing analysis, the Tribunal is not of the opinion that the imposition of the anti-dumping duty in the full amount in respect of welding wire would not or might not be in the public interest.

113. *Transcript of Public Hearing*, Vol. 3, 2 February 2005, at 286, 384.

114. *Protected Pre-hearing Staff Report*, Tribunal Exhibit PB-2004-002-24 (protected), Administrative Record, Vol. 2A at 63, 64.

115. *Transcript of Public Hearing*, Vol. 3, 2 February 2005, at 299.

Weaving Wire

128. The Tribunal received a witness statement and questionnaire response from Major Wire¹¹⁶ and heard testimony from both Major Wire and Tyler.¹¹⁷ Tyler testified at the hearing as a Tribunal witness. These companies are two of the four major firms in the stainless steel screen weaving business in Canada.¹¹⁸ The other two companies did not provide responses to the Tribunal's purchasers' questionnaire.

129. Major Wire testified that the value of the North American stainless steel screen weaving market is estimated at about \$3 million and that Canada represents 10 percent of those sales.¹¹⁹ Major Wire also indicated that stainless steel weaving wire represents between 60 and 65 percent of the selling price of stainless steel screen cloths.¹²⁰ Major Wire and Tyler purchase their weaving wire principally from Central Wire, but have, on occasion, imported or looked into the possibility of importing the product from the subject and non-subject countries.¹²¹

Availability of Weaving Wire from Non-subject Countries (paragraph 40.1(3)(a) of the Regulations)

130. Major Wire testified that it takes considerable time to test and become satisfied with the quality and delivery time of weaving wire from a new supplier. The process may take more than a year.¹²² Major Wire tried to obtain the desired quality of weaving wire from the Czech Republic but it was unsuccessful.¹²³ It indicated that it had not seriously explored any other sources in the approximately nine months since the provisional anti-dumping duty went into effect.¹²⁴

131. In its submission, Major Wire indicated that it was not disputing the fact that there are alternative sources of weaving wire, such as the Czech Republic, Germany and Chinese Taipei.¹²⁵ It indicated that its Canadian and U.S. competitors use weaving wire from some of these sources.¹²⁶

132. Tyler testified that it is satisfied with the quality of weaving wire from China and it considers South Africa to be another country to explore as a source of weaving wire.¹²⁷ Central Wire suggested that the following non-subject countries produce weaving wire: China, Germany, Japan and Chinese Taipei.¹²⁸

116. Purchaser's Exhibit H-01, Administrative Record, Vol. 7; Tribunal Exhibits PB-2004-002-19.06 to -19.06B, Administrative Record, Vol. 5.1 at 135-193.8; Tribunal Exhibits PB-2004-002-20.06 (protected) to -20.06E (protected), Administrative Record, Vol. 6.1 at 115-204.9.

117. *Transcript of Public Hearing*, Vol. 2, 1 February 2005, at 212-78; *Transcript of In Camera Hearing*, Vol. 2, 1 February 2005, at 77-82.

118. *Transcript of Public Hearing*, Vol. 2, 1 February 2005, at 213, 230, 257.

119. *Ibid.* at 213-14.

120. *Ibid.* at 230.

121. *Ibid.* at 216-18, 228, 260, 267; Tribunal Exhibit PB-2004-002-20.06A (protected), Administrative Record, Vol. 6.1 at 152-53.

122. *Transcript of Public Hearing*, Vol. 2, 1 February 2005, at 215-17; Purchaser's Exhibit H-01, para. 4, Administrative Record, Vol. 7.

123. *Transcript of Public Hearing*, Vol. 2, 1 February 2005, at 216.

124. *Ibid.* at 250-51.

125. *Ibid.* at 223.

126. *Ibid.* at 230-31, 254; Purchaser's Exhibit H-01, para. 6, Administrative Record, Vol. 7.

127. *Transcript of Public Hearing*, Vol. 2, 1 February 2005, at 263-64, 267.

128. *Transcript of Public Hearing*, Vol. 3, 2 February 2005, at 388.

133. Consequently, the Tribunal considers that there is ample supply of weaving wire available from non-subject countries.

134. Major Wire testified that it is concerned with delays in its deliveries from Central Wire since the imposition of the anti-dumping duty in the full amount.¹²⁹ However, it did not indicate that access to weaving wire from the United States in particular would address the problem that it is experiencing with delivery delays from Central Wire.¹³⁰ Tyler testified that it is not experiencing any problem with the delivery time for its weaving wire from Central Wire.¹³¹ It is not clear to the Tribunal whether the experience of Major Wire or of Tyler is more representative of the experience of their industry as a whole. Based on the evidence, the Tribunal is not convinced that there are significant problems in obtaining the required delivery time for weaving wire from non-subject countries.

Effect of the Anti-dumping Duty on Competition in the Domestic Market for Weaving Wire
(subparagraph 40.1(3)(b)(i) of the *Regulations*)

135. As for the other categories of stainless steel wire considered earlier, the addition of the anti-dumping duty in the full amount to the export price of weaving wire from the subject countries will lead to a very high landed price in Canada. With this resulting prohibitive price, it is unlikely that purchasers will buy weaving wire from the subject countries. As a result, competition between the subject countries and Central Wire in the provision of weaving wire will decrease significantly or be eliminated.

136. However, as discussed above, there are a number of non-subject import sources available to Canadian purchasers of weaving wire. Consequently, in the Tribunal's view, the net impact of the anti-dumping duty in the full amount on competition in the domestic market is unlikely to be significant.

Effect of the Anti-dumping Duty on Producers of Products Made from Weaving Wire
(subparagraph 40.1(3)(b)(ii) of the *Regulations*)

137. Major Wire alleged that the imposition of the anti-dumping duty has caused it to lose access to a low-priced source of weaving wire from Korea.¹³² Major Wire invested considerable time and effort to test and approve the quality of the weaving wire from Korea. As indicated above, Major Wire testified that, since the anti-dumping duty has been put into effect, the delivery time for its shipments of weaving wire from Central Wire has increased, causing it to lose sales contracts in the United States. It also testified that these losses were to competitors based in the United States that can source weaving wire at a favourable price from anywhere in the world.¹³³

138. The Tribunal notes that, as discussed above, Major Wire could obtain weaving wire from alternative non-subject sources but, to this point, unlike Tyler, it has chosen not to try to develop these sources.

139. The Tribunal also notes that Tyler does not believe that the anti-dumping duty has had a negative impact on it. Consequently, the Tribunal is of the view that the concerns of Major Wire do not necessarily represent concerns that go beyond Major Wire to its industry as a whole.

129. *Transcript of Public Hearing*, Vol. 2, 1 February 2005, at 225-27.

130. *Ibid.* at 237.

131. *Ibid.* at 265, 269.

132. *Ibid.* at 253.

133. *Ibid.* at 228-29, 247-48; Purchaser's Exhibit H-01, para. 6, Administrative Record, Vol. 7.

Effect of the Anti-dumping Duty on Downstream Competitiveness (clause 40.1(3)(b)(iii)(A) of the Regulations)

140. The Tribunal expects that the readily available supply of weaving wire from non-subject countries and the apparently successful approach to sourcing weaving wire by at least one firm in the industry will mean that downstream users do not experience problems with their supply of products manufactured with weaving wire as a result of the imposition of the anti-dumping duty. Consequently, the Tribunal does not consider that the imposition of the anti-dumping duty in the full amount has significantly impaired or is likely to impair the competitiveness of downstream users of products manufactured with weaving wire.

Effect of Reducing the Anti-dumping Duty on Domestic Suppliers of Inputs to the Production of Weaving Wire (paragraph 40.1(3)(c) of the Regulations)

141. As indicated in the above analysis for belting wire, if the anti-dumping duty in the full amount on weaving wire were to remain in place, it would mean that Central Wire would have a choice of ways to increase its revenues, and it could focus on gaining market share or raising prices, or both. If Central Wire increased its sales volume, its suppliers would experience a corresponding benefit. Also, if the anti-dumping duty on weaving wire were to be removed, then the Tribunal is of the view that Central Wire would likely face a resumption of the injury from dumping that recently occurred. This would likely take the form of price suppression, potentially to a greater degree than that which occurred in the period of inquiry for the dumping, and possibly other forms of injury. This would likely cause Central Wire to seek lower prices from its suppliers and potentially to purchase a lower volume of goods and services. If the anti-dumping duty on weaving wire were to be reduced to a level at which suppliers of weaving wire continued to sell at prices at least as high as those of Central Wire, then Central Wire and its domestic suppliers would not likely experience a significant diminution in the benefits resulting from the imposition of the anti-dumping duty.

Other Factors

142. As discussed in the “General” section above, Central Wire testified that its profit margins are acceptable for current sales of all its stainless steel wire products. The only significant factor that could require it to raise its prices further is any increase in the cost of the nickel element in its cost of the rod. The price of nickel has been very volatile over the past few years. This volatility is global and affects the pricing and production of stainless steel wire not only in Canada but also in the United States and the rest of the world. As weaving wire is but one type of stainless steel wire included in the “Other Wire” category, the only financial indicators available are for that category of stainless steel wire as a whole. When looking at the financial results that Central Wire obtained in the first three quarters of 2004 compared to the same period in 2003, both its domestic and export sales of other wire were strong. While Central Wire’s sales volume of other wire in the domestic market was slightly inferior in the first three quarters of 2004 to that of the corresponding period in 2003, it registered significant increases in both its sales value and gross margin. The results that Central Wire achieved for its export sales of other wire during the first three quarters of 2004 were not as impressive as those for its domestic sales, but they were nonetheless superior to those reported for the first three quarters of 2003.¹³⁴

134. *Protected Pre-hearing Staff Report*, revised 2 February 2005, Tribunal Exhibit PB-2004-002-24E (protected), Administrative Record, Vol. 2A at 96.55, 96.56.

Conclusion

143. Weaving wire is readily available from non-subject countries and, indeed, one major firm in the industry is obtaining weaving wire from a non-subject country that meets its requirements. Consequently, the net impact of the anti-dumping duty in the full amount on competition in the domestic market is unlikely to be significant. Although Major Wire, a major producer of products made from weaving wire, testified that it has experienced competitive problems as a result of the imposition of the anti-dumping duty, a second producer, Tyler, testified that it was not experiencing such problems. Therefore, the Tribunal does not consider that Major Wire's situation is necessarily representative of its industry as a whole. The evidence did not indicate that the imposition of the anti-dumping duty in the full amount has significantly impaired or is likely to impair the competitiveness of downstream producers that use weaving wire. If the anti-dumping duty on weaving wire were to be removed, it would likely cause a resumption of price suppression that would potentially be accompanied by other forms of injury to both Central Wire and its domestic suppliers of inputs. While it is true that the reduction of the anti-dumping duty to a level at which suppliers could continue to sell at prices at least as high as those of Central Wire would not likely diminish significantly Central Wire's and its domestic suppliers' benefits resulting from the imposition of the anti-dumping duty, in the Tribunal's view, this factor is not, in itself, sufficient to recommend a reduction of duty. Central Wire testified that its profit margins are currently acceptable. The only significant factor that could require it to raise its prices further is any increase in the cost of the nickel element in the cost of the rod. However, the pricing and production of stainless steel wire are affected not only in Canada but also throughout the world by the volatility of the price of nickel.

144. On the basis of the foregoing analysis, the Tribunal is not of the opinion that the imposition of the anti-dumping duty in the full amount in respect of weaving wire would not or might not be in the public interest.

Other Categories of Stainless Steel Wire and Other Subject Countries

145. The Tribunal carefully reviewed the limited evidence on the record concerning cold heading and forming wire. Only a very small sample of cold heading and forming wire purchaser-end users provided information to the Tribunal for this public interest inquiry.¹³⁵ No end user or importer of cold heading and forming wire filed submissions or participated in the hearing. Since the Tribunal's injury findings, Central Wire has had some success with its cold heading and forming wire business. It has been able to obtain new customers and has added spooling capacity for its cold heading and forming wire market. It is also developing new products for the cold heading and forming wire marketplace.¹³⁶ When looking at Central Wire's financial results for cold heading and forming wire, both its domestic and export sales were profitable during the first three quarters of 2003 and 2004. When comparing the first three quarters of 2004 over those of 2003, Central Wire was able to increase its domestic sales volume, value and gross margin, but reported a slight decrease in its export sales and gross margin.¹³⁷ The Tribunal found no basis for concluding that the elimination or reduction of the anti-dumping duty on cold heading and forming wire would not or might not be in the public interest.

135. Tribunal Exhibits PB-2004-002-19.17, -19.21 and -19.23, Administrative Record, Vol. 5.1 at 292-94, 307-309, 314-406 respectively; Tribunal Exhibits PB-2004-002-20.17 (protected) and -20.17A (protected), Administrative Record, Vol. 6.1 at 296-326; Tribunal Exhibits PB-2004-002-20.21 (protected) to -20.21C (protected) and -20.23 (protected), Administrative Record, Vol. 6.1A at 27-55.6, 84-109 respectively.

136. *Transcript of Public Hearing*, Vol. 3, 2 February 2005, at 287, 299.

137. *Protected Pre-hearing Staff Report*, revised 2 February 2005, Tribunal Exhibit PB-2004-002-24E (protected), Administrative Record, Vol. 2A at 96.50, 96.51.

146. In addition to belting wire, wireline, welding wire, weaving wire and cold heading and forming wire, Central Wire identified several other types of stainless steel wire that are subject to the imposition of the anti-dumping duty in the full amount. These are: tie wire, crab pot wire, round wire for shaping, redraw wire for further processing, wire for push-pull cables, stranded wire and other wire sold to distributors that did not specify the end use.¹³⁸ No end user or importer of these types of other wire filed submissions or attended the hearing. As indicated in the “General” section above, Central Wire testified that its profit margins are acceptable for current sales of all its stainless steel wire products. Furthermore, as reported above for both wireline and weaving wire, the financial results for Central Wire’s domestic and export sales of other wire were profitable during both the first three quarters of 2003 and 2004, with 2004 showing stronger results. The Tribunal found no basis for concluding that the elimination or reduction of the anti-dumping duty on these other types of stainless steel wire would not or might not be in the public interest.

147. The Tribunal also reviewed the evidence concerning belting wire and wireline from the other countries, Korea and Switzerland, subject to the anti-dumping duty. It found no basis for concluding that the elimination or reduction of the anti-dumping duty on these products from Korea and Switzerland would not or might not be in the public interest.

148. Further, the Tribunal reviewed the evidence on the record concerning the countervailing duty applicable to stainless steel wire from India. It found no basis to recommend the elimination or reduction of the countervailing duty applicable to stainless steel wire from India.

138. Tribunal Exhibits PB-2004-002-13.01A and -13.01B, Administrative Record, Vol. 3 at 29-30, 41.

PART V – RECOMMENDATIONS TO THE MINISTER

149. Given that the Tribunal is of the opinion that the imposition of the anti-dumping duty in the full amount on belting wire and wireline from the United States would not be in the public interest, the Tribunal is required to specify either a level of reduction in the anti-dumping duty or a price or prices that are adequate to eliminate injury to the domestic industry.¹³⁹

150. There is a very wide range of prices for these types of stainless steel wire that reflect various alloys, diameters and sizes. This makes specific pricing recommendations difficult to make and probably impractical to administer. Therefore, the Tribunal recommends a level of reduction in the anti-dumping duty with respect to belting wire and wireline from the United States.

151. As discussed above, in considering whether the anti-dumping duty in the full amount is in the public interest, the Tribunal was required to take into account the impact of the duty on a range of potentially competing Canadian economic interests. In considering what reduced level of anti-dumping duty would be appropriate, the Tribunal's objective is to recommend a rate that achieves an appropriate balance among these interests, by alleviating the negative impact on Canadian purchasers of the imposition of the anti-dumping duty in the full amount, while not diminishing the benefits to the domestic belting wire and wireline producer and its domestic suppliers resulting from the imposition of the anti-dumping duty. The Tribunal considers that this can be achieved by recommending a rate that is significantly reduced but that can be expected to keep belting wire and wireline from the United States in a price range at least as high as that of domestic goods.

152. In preparing its recommendation, the Tribunal considered the evidence and submissions from the preliminary injury, injury and public interest inquiries. The evidence included responses to the Tribunal's questionnaires,¹⁴⁰ the statements and testimony of parties,¹⁴¹ the testimony of Tribunal witnesses,¹⁴² and data from both Statistics Canada¹⁴³ and the CBSA.¹⁴⁴

153. The Tribunal considered in particular the evidence and argument concerning market and pricing conditions, including the relative prices and/or volume of belting wire and wireline from the United States

139. Subsection 45(5) of *SIMA*.

140. Tribunal Exhibits PB-2004-002-14.01 (protected) to -14.01E (protected), Administrative Record, Vol. 4 at 1-112; Tribunal Exhibits PB-2004-002-17.01 (protected) to -17.08C (protected), Administrative Record, Vol. 6 at 1-162; Tribunal Exhibits PB-2004-002-20.01 (protected) to -20.08I (protected), -20.17 (protected) and -20.17A (protected), Administrative Record, Vol. 6.1 at 1-295.44, 296-326; Tribunal Exhibits PB-2004-002-20.20 (protected) to -20.23 (protected), Administrative Record, Vol. 6.1A at 1-119.

141. Producer's Exhibit A-02, Administrative Record, Vol. 7; Producer's Exhibit A-02A (protected), Administrative Record, Vol. 8; Purchasers' Exhibits B-03, F-01 and H-01, Administrative Record, Vol. 7; Purchaser's Exhibits B-02A (protected) and B-04 (protected), Administrative Record, Vol. 8; Importer's Exhibit C-03, Administrative Record, Vol. 7; Importer's Exhibit C-04 (protected), Administrative Record, Vol. 8; Exporter's Exhibit E-03, Administrative Record, Vol. 7; *Transcript of Public Hearing*, Vol. 1, 31 January 2005, at 9-123; *Transcript of In Camera Hearing*, Vol. 1, 31 January 2005, at 1-76; *Transcript of Public Hearing*, Vol. 2, 1 February 2005, at 212-55; *Transcript of In Camera Hearing*, Vol. 2, 1 February 2005, at 77-82; *Transcript of Public Hearing*, Vol. 3, 2 February 2005, at 283-423; *Transcript of In Camera Hearing*, Vol. 3, 2 February 2005, at 83-136.

142. *Transcript of Public Hearing*, Vol. 2, 1 February 2005, at 129-212, 256-78.

143. Producer's Exhibit A-02, Attachment 1, Administrative Record, Vol. 7.

144. Tribunal Exhibits PB-2004-002-22A (protected) to -22H (protected), Administrative Record, Vol. 2 at 40-189.79.

and from Central Wire in the Canadian market;¹⁴⁵ the markup on export prices from the United States to reflect the cost of importing the product;¹⁴⁶ and the premium that users are willing to pay for delivery speed.¹⁴⁷ The Tribunal also considered the oral submissions in which, at the Tribunal's request, counsel argued in the alternative concerning what rate of duty should apply if the anti-dumping duty were reduced.¹⁴⁸

154. Taking into account the foregoing considerations and in accordance with paragraph 45(5)(a) of *SIMA*, the Tribunal recommends that the Minister reduce from 181 to 35 percent the anti-dumping duty on shipments of belting wire originating in or exported from the United States. The Tribunal also recommends that the Minister reduce from 181 to 35 percent the anti-dumping duty on shipments of wireline originating in or exported from the United States. The Tribunal makes no recommendation with respect to the countervailing duty or with respect to the anti-dumping duty in relation to the other products that are covered by its original findings, or belting wire and wireline from the other subject countries.

Ellen Fry
Ellen Fry
Presiding Member

Zdenek Kvarda
Zdenek Kvarda
Member

James A. Ogilvy
James A. Ogilvy
Member

145. Producer's Exhibits A-01A (protected) and A-02A (protected), Administrative Record, Vol. 8; *Protected Pre-hearing Staff Report*, Tribunal Exhibit PB-2004-002-24 (protected), Administrative Record, Vol. 2A at 27; *Protected Pre-hearing Staff Report*, revised 21 January 2005, Tribunal Exhibit PB-2004-002-24A (protected), Administrative Record, Vol. 2A at 96.9, 96.11, 96.15; *Protected Pre-hearing Staff Report*, revised 2 February 2005, Tribunal Exhibit PB-2004-002-24E (protected), Administrative Record, Vol. 2A at 96.53, 96.55; *Transcript of Public Hearing*, Vol. 2, 1 February 2005, at 138-39; *Transcript of In Camera Hearing*, Vol. 3, 2 February 2005, at 108-109.

146. *Protected Pre-hearing Staff Report*, Tribunal Exhibit PB-2004-002-24 (protected), Administrative Record, Vol. 2A at 30; Tribunal Exhibits PB-2004-002-24B (protected) and -24C (protected), Administrative Record, Vol. 2 at 96.33, 96.35 respectively.

147. *Transcript of Public Hearing*, Vol. 1, 31 January 2005, at 88; *Transcript of Public Hearing*, Vol. 2, 1 February 2005, at 135-37, 154-55.

148. *Transcript of Public Argument*, 3 February 2005, at 36-38, 54-70, 95-99.

IN THE MATTER OF a public interest inquiry initiated on November 4, 2004, pursuant to subsection 45(1) of the *Special Import Measures Act* concerning the rate of duty resulting from the findings made by the Canadian International Trade Tribunal on July 30, 2004, in Inquiry No. NQ-2004-001, respecting:

**THE DUMPING OF CERTAIN STAINLESS STEEL ROUND 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**

REPORT OF THE TRIBUNAL

CORRIGENDUM

The last sentence of paragraph 145 of the Statement of Facts and Reasons should read: “The Tribunal found no basis for concluding that the imposition of the anti-dumping duty in the full amount on cold heading and forming wire would not or might not be in the public interest.”

The last sentence of paragraph 146 of the Statement of Facts and Reasons should read: “The Tribunal found no basis for concluding that the imposition of the anti-dumping duty in the full amount on these other types of stainless steel wire would not or might not be in the public interest.”

The last sentence of paragraph 147 of the Statement of Facts and Reasons should read: “It found no basis for concluding that the imposition of the anti-dumping duty in the full amount on these products from Korea and Switzerland would not or might not be in the public interest.”

By order of the Tribunal,

Hélène Nadeau
Secretary