



Ottawa, Monday, July 21, 2003

Preliminary Injury Inquiry No. PI-2003-001

IN THE MATTER OF a preliminary injury inquiry, under subsection 34(2) of the *Special Import Measures Act*, respecting:

**THE DUMPING OF CERTAIN STRUCTURAL TUBING KNOWN AS HOLLOW
STRUCTURAL SECTIONS (HSS) ORIGINATING IN OR EXPORTED FROM THE
REPUBLIC OF KOREA, THE REPUBLIC OF SOUTH AFRICA AND THE
REPUBLIC OF TURKEY**

PRELIMINARY DETERMINATION OF INJURY

The Canadian International Trade Tribunal, under the provisions of subsection 34(2) of the *Special Import Measures Act*, has conducted a preliminary injury inquiry into whether there is evidence that discloses a reasonable indication that the dumping of structural tubing known as hollow structural sections (HSS) made of carbon and alloy steel, welded, in sizes up to and including 16.0 inches (406.4 mm) in outside diameter (OD) for round products and up to and including 48.0 inches (1,219.2 mm) in periphery for rectangular and square products, commonly but not exclusively made to ASTM A500, ASTM A513, CSA G.40.21-87-50W and comparable specifications, originating in or exported from the Republic of Korea, the Republic of South Africa and the Republic of Turkey, has caused injury or retardation or is threatening to cause injury.

This preliminary injury inquiry is pursuant to the notification, on May 21, 2003, by the Commissioner of the Canada Customs and Revenue Agency, that an investigation had been initiated into the alleged injurious dumping of the above-mentioned goods.

Pursuant to subsection 37.1(1) of the *Special Import Measures Act*, the Canadian International Trade Tribunal hereby determines that there is evidence that discloses a reasonable indication that the dumping of the above-mentioned structural tubing has caused injury to the domestic industry.

Ellen Fry
Ellen Fry
Presiding Member

Pierre Gosselin
Pierre Gosselin
Member

Patricia M. Close
Patricia M. Close
Member

Michel P. Granger
Michel P. Granger
Secretary

The statement of reasons will be issued within 15 days.

Date of Determination: July 21, 2003
Date of Reasons: August 5, 2003

Tribunal Members: Ellen Fry, Presiding Member
Pierre Gosselin, Member
Patricia M. Close, Member

Director of Research: Réal Roy

Research Manager: John Gibberd

Statistician: Geneviève Chaloux

Counsel for the Tribunal: John Dodsworth
Eric Wildhaber

Registrar Officer: Karine Turgeon

Participants:

for Lawrence L. Herman
Craig S. Logie
Copperweld Corp.
Welded Tube of Canada Limited
Atlas Tube Inc.
Novamerican Steel Inc.

for Donald J. Goodwin
Evgeny Pavlenko
Global Steel Services

for Victoria Bazan
Goktas Yassi Hadde Mam. San. Ve Tic. A.S.
MMZ Onur Boru Profil Uretim San. Ve Tic. A.S.
Leroux Steel Inc.

Atila Bastirmaci
Commercial Counselor's Office
Turkish Embassy

M. Aydin Özgüven
Yasan Yassi Metal San. Ve Tic. A.S.

Cem Kartal Kaya
Güven Boru Profil Sanayi Ve Ticaret Limited Sirketi

Fevzi Özdemir
Özdemir Boru Profil Sanayi Ve Ticaret Limited Sirketi



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REPUBLIC OF TURKEY**

TRIBUNAL: ELLEN FRY, Presiding Member
PIERRE GOSSELIN, Member
PATRICIA M. CLOSE, Member

STATEMENT OF REASONS

BACKGROUND

On July 21, 2003, pursuant to subsection 37.1(1) of the *Special Import Measures Act*,¹ the Canadian International Trade Tribunal (the Tribunal) issued a preliminary determination of injury relating to the dumping of structural tubing known as hollow structural sections (HSS) made of carbon and alloy steel, welded, in sizes up to and including 16.0 inches (406.4 mm) in outside diameter (OD) for round products and up to and including 48.0 inches (1,219.2 mm) in periphery for rectangular and square products, commonly but not exclusively made to ASTM A500, ASTM A513, CSA G.40.21-87-50W and comparable specifications, originating in or exported from the Republic of Korea (Korea), the Republic of South Africa (South Africa) and the Republic of Turkey (Turkey).

The Tribunal's decision completed its preliminary injury inquiry, which was commenced following the notification, on May 21, 2003, by the Commissioner of the Canada Customs and Revenue Agency (the Commissioner), that an investigation had been initiated into the alleged injurious dumping of the above-mentioned goods. The investigation was initiated by the Commissioner following a complaint filed on April 7, 2003, by Atlas Tube Inc., Copperweld Corp. and Welded Tube of Canada Limited. During the preliminary injury inquiry, Novamerican Steel Inc. joined the other three producers in support of the complaint and filed a notice of participation.

COMMISSIONER'S DECISION

The Canada Customs and Revenue Agency (CCRA) calculated margins of dumping for the period from January 1, 2002, to February 28, 2003, based on estimated normal values supplied by the complainants and on export prices obtained from customs entry documentation. The estimated weighted average margins of dumping were 22 percent for Korea, 23 percent for South Africa and 13 percent for Turkey.

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

SUBMISSIONS

Domestic Industry

The complainants submitted that imports of the subject goods had caused material injury to the production of HSS in Canada in the form of suppressed and eroded prices, declines in net revenues, reduced gross margins and net income, loss of market share, lost sales, lower production and capacity utilization, and reduced levels of employment. They also submitted that imports of the subject goods threatened to cause injury. As well, they claimed that there was a threat of material injury as a result of weakening prices in markets in Asia and elsewhere caused by continued weakness in tubular and HSS markets in those areas, combined with excess production and capacity, large-volume exports and aggressive pricing by the subject countries. They argued that exporters and traders will turn to Canada to sell off portions of the oversupply at prices better than those in their home markets.

Submissions Opposed to the Industry's Complaint

The Tribunal received two submissions opposed to the industry's complaint. Global Steel Services (Global) argued that the Tribunal should dismiss the case, claiming that the CCRA's investigation was seriously flawed by not including seamless goods. Global argued that the American Society for Testing and Materials (ASTM) A500 specification describes a single class of goods that includes seamless tubing as well as welded tubing. It argued that seamless tubing made to the ASTM A500 specification satisfies the requirements of a job necessitating ASTM A500 and thereby competes with welded tubing. It claimed that this means that Canadian producers of seamless tubing that manufacture goods to the ASTM A500 specification compete with producers of welded tubing that manufacture goods to the same specification. As well, Global indicated that imports of ASTM A500 seamless tubing compete with imports and Canadian production of ASTM A500 welded tubing. It alleged that not including producers of seamless tubing affects the determination of the standing of Canadian producers as the "domestic industry" under *SIMA* and that not including imports of seamless tubing affects the negligibility test under section 42 of *SIMA*. Global submitted that, in light of the significant questions concerning standing and negligibility, the Tribunal should find that injury to the Canadian production of a single class of goods is not substantiated by the complaint.

Götkas Yassi Hadde Mam. San. Ve Tic. A.S., MMZ Onur Boru Profil Uretim San. Ve Tic. A.S. and Leroux Steel Inc. argued that the information before the Tribunal does not disclose a reasonable indication that the alleged dumping of the subject goods has caused material injury or retardation or threatens to cause material injury. They submitted that, in particular, the evidence fails to resolve the question of whether the three producers that filed the complaint make up the domestic industry within the meaning of *SIMA*.

ANALYSIS

The Tribunal's mandate at the preliminary stage of an injury inquiry is set out in subsection 34(2) and section 37.1 of *SIMA*, which require the Tribunal to determine whether there is evidence that discloses a reasonable indication that the dumping of the subject goods has caused injury or retardation or is threatening to cause injury. Subsection 2(1) of *SIMA* defines "injury" as "material injury to a domestic industry" and "domestic industry" as the domestic producers as a whole of the "like goods" or whose production constitutes a "major proportion" of the domestic production. Therefore, as the first step in determining whether there is evidence that discloses a reasonable indication of injury, retardation or threat of injury, the Tribunal must identify the like goods and the domestic industry that produces those goods.

The Tribunal finds that welded HSS made of carbon and alloy steel, produced in Canada, constitute like goods.

With respect to the submissions opposed to the complaint, the Tribunal notes that the definition of the subject goods includes welded, but not seamless, HSS. Under *SIMA*, the Commissioner has the exclusive jurisdiction to establish the scope of the subject goods and to determine whether a dumping investigation will be initiated. Therefore, the Tribunal will not comment on the Commissioner's findings in this respect. At this juncture, the Tribunal does not have enough information to determine if seamless HSS constitute like goods.

According to the evidence, there are seven domestic producers of welded HSS made of carbon and alloy steel. The CCRA determined that the three producers that filed the complaint account for approximately three quarters of the production of welded HSS in Canada. Accordingly, based on the evidence to date, the Tribunal finds that those three producers constitute the domestic industry.

The evidence on the record relating to injury indicates that there was a significant increase in imports of the subject goods from Korea, South Africa and Turkey in 2002 and in the first two months of 2003, in comparison with 2000 and 2001. In addition, the subject goods increased their share of the Canadian apparent market during the same period.

The complainants filed evidence to support their position that declines in their sales, net revenues and market shares were caused by the dumped imports. They also supplied evidence that suggests declines in their domestic prices, reductions in their gross margins and net income, and decreases in their production, capacity utilization and employment were caused by the dumped imports.

Having regard to the foregoing, the Tribunal finds that there is evidence that discloses a reasonable indication that the dumping of the subject goods has caused injury to the domestic industry.

Ellen Fry

Ellen Fry
Presiding Member

Pierre Gosselin

Pierre Gosselin
Member

Patricia M. Close

Patricia M. Close
Member