



Canadian International
Trade Tribunal

Tribunal canadien du
commerce extérieur

CANADIAN
INTERNATIONAL
TRADE TRIBUNAL

Dumping and Subsidizing

DETERMINATION AND REASONS

Preliminary Injury Inquiry
No. PI-2012-003

Carbon Steel Welded Pipe

*Determination issued
Friday, July 13, 2012*

*Corrigendum issued
Wednesday, July 18, 2012*

*Reasons issued
Monday, July 30, 2012*

TABLE OF CONTENTS

STATEMENT OF REASONS	1
BACKGROUND.....	1
CBSA'S DECISION TO INITIATE INVESTIGATIONS	1
SUBMISSIONS ON INJURY AND THREAT OF INJURY.....	3
Complainants	3
Parties Opposed to the Complaint	3
ANALYSIS	3
Legislative Framework.....	3
Like Goods and Classes of Goods.....	4
Domestic Industry.....	5
Volume of Dumped and Subsidized Goods	6
Effect on the Price of Like Goods	6
Impact on the Domestic Industry.....	7
Other Factors.....	8
CONCLUSION.....	9

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

**CARBON STEEL WELDED PIPE ORIGINATING IN OR EXPORTED FROM
CHINESE TAIPEI, THE REPUBLIC OF INDIA, THE SULTANATE OF OMAN,
THE REPUBLIC OF KOREA, THAILAND, THE REPUBLIC OF TURKEY AND
THE UNITED ARAB EMIRATES**

PRELIMINARY DETERMINATION OF INJURY

The Canadian International Trade Tribunal, pursuant to subsection 34(2) of the *Special Import Measures Act*, has conducted a preliminary injury inquiry into whether the evidence discloses a reasonable indication that the dumping of carbon steel welded pipe, commonly identified as standard pipe, in the nominal size range from 1/2 inch up to and including 6 inches (12.7 mm to 168.3 mm in outside diameter) inclusive, in various forms and finishes, usually supplied to meet ASTM A53, ASTM A135, ASTM A252, ASTM A589, ASTM A795, ASTM F1083 or Commercial Quality, or AWWA C200-97 or equivalent specifications, including water well casing, piling pipe, sprinkler pipe and fencing pipe, but excluding oil and gas line pipe made to API specifications exclusively, originating in or exported from Chinese Taipei, the Republic of India, the Sultanate of Oman, the Republic of Korea, Thailand, the Republic of Turkey and the United Arab Emirates and the subsidizing of the above-mentioned goods from the Republic of India, the Sultanate of Oman and the United Arab Emirates (the subject goods), have caused injury or retardation or are threatening to cause injury.

This preliminary injury inquiry follows the notification, on May 14, 2012, by the President of the Canada Border Services Agency, that investigations had been initiated into the alleged injurious dumping and subsidizing of the subject 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 and subsidizing of the subject goods have caused injury or retardation or are threatening to cause injury.

Serge Fréchette
Serge Fréchette
Presiding Member

Pasquale Michaele Saroli
Pasquale Michaele Saroli
Member

Jason W. Downey
Jason W. Downey
Member

Gillian Burnett
Gillian Burnett
Acting Secretary

The statement of reasons will be issued within 15 days.

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

**CARBON STEEL WELDED PIPE ORIGINATING IN OR EXPORTED FROM
CHINESE TAIPEI, THE REPUBLIC OF INDIA, THE SULTANATE OF OMAN,
THE REPUBLIC OF KOREA, THAILAND, THE REPUBLIC OF TURKEY AND
THE UNITED ARAB EMIRATES**

PRELIMINARY DETERMINATION OF INJURY

CORRIGENDUM

The reference to “ASTM FI083” in the first paragraph of the preliminary determination of injury should read “ASTM F1083”.

By order of the Tribunal,

Gillian Burnett
Gillian Burnett
Acting Secretary

Tribunal Members:	Serge Fréchette, Presiding Member Pasquale Michael Saroli, Member Jason W. Downey, Member
Research Director:	Audrey Chapman
Research Officer:	Rebecca Campbell
Counsel for the Tribunal:	Eric Wildhaber
Manager, Registrar Programs and Services:	Michel Parent
Registrar Officer:	Cheryl Unitt
Registrar Support Officer:	Stéphane Racette

PARTICIPANTS:

Bolton Steel Tube Co. Ltd.

Novamerican Steel Inc.

Celik Ihracatcileri Birligi (Steel Exporters'
Association, Turkey)ADPICO Abu Dhabi Metal Pipes and Profiles
Industries Complex LLC

Chung Hung Steel Corporation

Continental Steel Ltd.

Government of India

IMCO International Inc.

Knightsbridge International Corp.

Manu International

Ministry of Economy of Republic of Turkey

Protin Import Ltd.

Counsel/RepresentativesBenjamin P. Bedard
Paul Conlin
Drew TylerBenjamin P. Bedard
Paul Conlin
Drew Tyler

Victoria Bazan

Marcel Schmitz

Ivan E. H. Lee

Ken Scherk

Vijay Kumar

Nezih Bosut

Sylvia Mielke

Dipesh Gupta

Ferüdün Başer

Andre Berner

Please address all communications to:

The Secretary
Canadian International Trade Tribunal
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 REASONS

BACKGROUND

1. On May 14, 2012, following a complaint filed on March 23, 2012, by Novamerican Steel Inc. (Novamerican) and Bolton Steel Tube Co. Ltd (Bolton) (the complainants), the President of the Canada Border Services Agency (CBSA) initiated investigations into the alleged injurious dumping and subsidizing of carbon steel welded pipe (CSWP), commonly identified as standard pipe, in the nominal size range from 1/2 inch up to and including 6 inches (12.7 mm to 168.3 mm in outside diameter) inclusive, in various forms and finishes, usually supplied to meet ASTM A53, ASTM A135, ASTM A252, ASTM A589, ASTM A795, ASTM F1083 or Commercial Quality, or AWWA C200-97 or equivalent specifications, including water well casing, piling pipe, sprinkler pipe and fencing pipe, but excluding oil and gas line pipe made to API specifications exclusively, originating in or exported from Chinese Taipei, the Republic of India (India), the Sultanate of Oman (Oman), the Republic of Korea (Korea), Thailand, the Republic of Turkey (Turkey) and the United Arab Emirates (the UAE), and the subsidizing of the above-mentioned goods from India, Oman and the UAE (the subject goods).

2. On May 15, 2012, the Canadian International Trade Tribunal (the Tribunal) issued a notice of commencement of preliminary injury inquiry.¹

3. The complaint is opposed by ADIPCO Abu Dhabi Metal Pipes & Profiles Industries Complex LLC (ADIPCO), Knightsbridge International Corp. (Knightsbridge), the Ministry of Economy of Turkey and Protin Import Ltd. (Protin).

4. Other parties to this preliminary injury inquiry include the following: Celik Ihracatçilari Birligi (Steel Exporters' Association, Turkey), Chung Hung Steel Corporation, Continental Steel Ltd., the Government of India, IMCO International Inc. and Manu International. These parties did not file submissions with the Tribunal indicating their positions with respect to the complaint.

5. On July 13, 2012, pursuant to subsection 37.1(1) of the *Special Import Measures Act*,² the Tribunal determined that there was evidence that disclosed a reasonable indication that the dumping and subsidizing of the subject goods had caused injury or retardation or were threatening to cause injury.

CBSA'S DECISION TO INITIATE INVESTIGATIONS

6. In accordance with subsection 31(1) of *SIMA*, the CBSA decided that there was evidence that the subject goods had been dumped and subsidized, as well as evidence that disclosed a reasonable indication that the dumping and subsidizing had caused injury or were threatening to cause injury. Accordingly, the CBSA initiated investigations on May 14, 2012.

7. The CBSA's period of investigation (POI) with respect to the alleged dumping and subsidizing was from January 1 to December 31, 2011.

1. C. Gaz. 2012.I.1382.

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

8. The following table shows the estimated margin of dumping and volume of dumped goods for each of the subject countries:³

CBSA's Dumping Estimates		
Country	Estimated Margin of Dumping (as a percentage of export price)	Estimated Volume of Dumped Goods (as a percentage of total imports)
Chinese Taipei	29	15
India	69	9
Oman	50	4
Korea	29	10
Thailand	33	11
Turkey	24	9
UAE	42	6

9. According to subsection 2(1) of *SIMA*, a margin of dumping of less than 2 percent of the export price is defined as insignificant and a volume of dumped goods is considered negligible if it accounts for less than 3 percent of the total volume of goods that are released into Canada from all countries. The CBSA was of the view that the subject goods had been dumped. Furthermore, it was of the opinion that the estimated overall weighted average margins of dumping and estimated volumes of dumped goods were greater than the thresholds outlined above and, therefore, not insignificant and not negligible.⁴

10. The following table shows the estimated amount of subsidy and volume of subsidized goods for each of the subject countries:⁵

CBSA's Subsidy Estimates		
Country	Estimated Amount of Subsidy (as a percentage of export price)	Estimated Volume of Subsidized Goods (as a percentage of total imports)
India	34	9
Oman	35	4
UAE	19	6

11. Again, according to subsection 2(1) of *SIMA*, an amount of subsidy of less than 1 percent of the export price is considered insignificant and a volume of subsidized goods of less than 3 percent of the total imports of goods is considered negligible. If a country in the investigation is considered a developing country, the levels are 2 percent and 4 percent respectively. The CBSA was of the view that the subject goods had been subsidized. Furthermore, it was of the opinion that the estimated amounts of subsidy and estimated volumes of subsidized goods were greater than the thresholds outlined above and, therefore, not insignificant and not negligible.⁶

3. Tribunal Exhibit PI-2012-003-05, Administrative Record, Vol. 1I at 76.

4. Tribunal Exhibit PI-2012-003-05, Administrative Record, Vol. 1I at 75.

5. Tribunal Exhibit PI-2012-003-05, Administrative Record, Vol. 1I at 82.

6. Tribunal Exhibit PI-2012-003-05, Administrative Record, Vol. 1I at 82.

SUBMISSIONS ON INJURY AND THREAT OF INJURY

Complainants

12. The complainants submitted that the dumping and subsidizing of the subject goods have caused injury. In support of their allegations, they provided evidence of increased volumes of imports of the subject goods, a loss of market share, lost sales, price undercutting, price suppression, capacity underutilization, reductions in employment and a decline in revenues, margins and profits due to the dumping and subsidizing of the subject goods.

13. The complainants also submitted that the dumping and subsidizing of the subject goods threatened to cause injury. In particular, they alleged that the increasing volumes of the subject goods are imported at prices that undercut the prices of domestically produced CSWP and, thereby, pose an imminent threat of injury. The complainants indicated that the growing and unused production capacity in the subject countries, the export-oriented nature of the subject countries and the ongoing trade remedy action concerning CSWP in the United States were further evidence of a threat of injury.

Parties Opposed to the Complaint

14. Opposing parties submitted that any injury suffered by the complainants was caused by other factors, such as the market slowdown, self-inflicted injury due to an unwillingness to update production facilities, customers' limited access to a full product range and the complainants' lack of interest in the western Canadian market.

ANALYSIS

Legislative Framework

15. The Tribunal's mandate in a preliminary injury inquiry is set out in subsection 34(2) of *SIMA*, which requires the Tribunal to determine whether there is evidence that discloses a reasonable indication that the dumping and subsidizing of the subject goods have caused injury or retardation or are threatening to cause injury.⁷ In making its determination, the Tribunal takes into account the factors prescribed in section 37.1 of the *Special Import Measures Regulations*.⁸

7. Subsection 34(2) of *SIMA* allows for a finding of a reasonable indication of "retardation", which, according to subsection 2(1), is defined as "... material retardation to the establishment of a domestic industry." Because, as will be discussed below, a domestic industry for CSWP already exists in Canada, "retardation" is not an issue in this preliminary injury inquiry. The Tribunal notes that it is its longstanding practice to make a cumulative assessment of the injurious effects of both dumped and subsidized goods (cross-cumulation) from a given country in the context of an inquiry under section 42 of *SIMA*. The Tribunal therefore considers that it would be inconsistent not to cross-cumulate the subject goods in a preliminary injury inquiry and has consequently cumulatively assessed the impact of the dumping and subsidizing of the subject goods on the domestic industry.

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

16. The “reasonable indication” standard is lower than the evidentiary threshold that applies in injury inquiries under section 42 of *SIMA*. That is, the evidence in question need not be “. . . conclusive, or probative on a balance of probabilities”⁹ Nevertheless, simple assertions are not sufficient and must be supported by relevant evidence.¹⁰

17. Before examining the allegations of injury and threat of injury, the Tribunal must identify the domestically produced goods that are like goods in relation to the subject goods and the domestic industry that produces those goods. This preliminary analysis is required because 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 those domestic producers whose collective production of the like goods constitutes a major proportion of the total domestic production of the like goods”

Like Goods and Classes of Goods

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

(a) goods that are identical in all respects to the other goods, or

(b) in the absence of any goods described in paragraph (a), goods the uses and other characteristics of which closely resemble those of the other goods.

19. In determining the like goods and whether there is one or more classes of goods, the Tribunal typically considers a number of factors, including the physical characteristics of the goods (such as composition and appearance) and their market characteristics (such as substitutability, pricing, distribution channels, end uses and whether the goods fulfill the same customer needs).

20. The Tribunal notes that, in the CBSA’s statement of reasons accompanying its decision under subsection 31(1) of *SIMA* regarding the subject goods, the CBSA found that CSWP produced by the domestic industry competes directly with, has the same end uses as and can be substituted for the subject goods and that the subject and like goods constitute only one class of goods.¹¹

21. Bolton and Novamerican submitted that the like goods and the subject goods are commodity products that compete with one another in the Canadian marketplace and that they are fully interchangeable. They pointed to the Tribunal’s finding in *Carbon Steel Welded Pipe*¹² which examined the same product as the subject goods (with the exception of their origin). Bolton and Novamerican recalled that the Tribunal found one class of goods in that matter and submitted that the same conclusion should be reached in this case.

9. *Ronald A. Chisholm Ltd. v. Deputy M.N.R.C.E.* (1986), 11 CER 309 (FCTD).

10. The Tribunal notes that Article 5 of the World Trade Organization (WTO) *Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994* (WTO *Anti-dumping Agreement*) requires an investigating authority to examine the accuracy and adequacy of the evidence provided in a dumping complaint to determine whether there is sufficient evidence to justify the initiation of an investigation, to reject a complaint or terminate an investigation as soon as the investigating authority is satisfied that there is not sufficient evidence of either dumping or injury to justify proceeding with the case and not to consider unsubstantiated assertions as sufficient evidence.

11. Tribunal Exhibit PI-2012-003-05, Administrative Record, Vol. II at 70.

12. (20 August 2008), NQ-2008-001 (CITT) [*CSWP 2008*].

22. For its part, Protin alleged that “. . . the [Tribunal] erred in [CSWP 2008] . . . in determining . . . a single class of goods. . . [The] higher grades can be downgraded to commercial quality . . . [for] other grades the reverse is not allowed”.¹³

23. In turn, ADPICO alleged the following: “If the subject goods are considered to be named ‘standard pipe’ they [are likely to be comprised] of more than one class of goods. For example the products such as galvanized (zinc coated) or black painted pipe have different harmonized standard codes”¹⁴ Protin and ADPICO provided no further substantiation for the aforementioned allegations.

24. The Tribunal is of the view that there is insufficient reason, if any, to view domestically produced CSWP as anything but a commodity product that competes directly with the subject goods. Accordingly, in the context of this preliminary injury inquiry, the Tribunal finds that CSWP produced in Canada that is of the same description as the subject goods is like goods.

25. Concerning the issue of classes of goods, the Tribunal must consider whether there are sufficient differences based on an analysis of the above-mentioned factors for determining “likeness” to justify separating the goods into different classes. In other words, the Tribunal must consider whether the individual products within the range of goods are “like goods” in relation to one another.

26. The Tribunal notes that, in *CSWP 2008*, in support of a finding of a single class of goods for products of the same description as the subject goods, the Tribunal found that “. . . overall, while not identical in all respects to each other, all types of CSWP have similar physical and market characteristics. The fact that some types of CSWP may not be fully substitutable for each other for some end uses is not, in the Tribunal’s opinion, a sufficient basis for determining that there exists more than one class of goods.”¹⁵

27. The Tribunal was presented with no argument or evidence in the context of this preliminary injury inquiry that would warrant it taking an approach that is different from the one that it took in *CSWP 2008*. Accordingly, for the purposes of this preliminary injury inquiry, the Tribunal is satisfied that the subject goods and the like goods constitute one class of goods.

Domestic Industry

28. The evidence on the record indicates that the domestic industry is comprised of three major producers: Bolton, Novamerican and Quali-T-Tube. The evidence on the record further indicates that Atlas Tube, Evraz Inc. NA, Lakeside Steel Inc., Tenaris and Welded Tube of Canada also produce, from time to time, certain smaller quantities of CSWP in Canada.

29. In the Tribunal’s view, the record indicates that Bolton and Novamerican alone are responsible for a major proportion of the known domestic production of like goods.¹⁶ Accordingly, in the context of this preliminary injury inquiry, Bolton and Novamerican constitute the domestic industry for the purposes of assessing alleged injury or threat of injury.

13. Tribunal Exhibit PI-2012-003-06.01, Administrative Record, Vol. 3 at 1.

14. Tribunal Exhibit PI-2012-003-06.02, Administrative Record, Vol. 3 at 2.

15. *CSWP 2008* at para. 45.

16. Tribunal Exhibit PI-2012-003-03.02, Administrative Record, Vol. 2A at 10.

Volume of Dumped and Subsidized Goods

30. The complainants submitted that imports of the subject goods entered the Canadian market in increasing volumes from 2009 to 2011. They submitted that imports from the subject countries increased from approximately 35,000 metric tonnes to over 69,000 metric tonnes during that period.¹⁷

31. Turkey submitted that imports of CSWP from Turkey have remained relatively steady over the past eight years, with the only increase occurring in 2009 and 2010, during the recovery period following the global economic crisis. It also noted that imports of CSWP from Turkey have not reached the levels recorded in 2004-2005.

32. The import data compiled by the CBSA show trends comparable to those provided by the complainants.¹⁸ From 2009 to 2011, the volume share of imports of the subject goods relative to the total imports entering the Canadian market increased from 49 percent to 64 percent. In contrast, the share of imports from non-subject countries relative to total imports decreased from 51 percent to 36 percent from 2009 to 2011.¹⁹

33. Since 2009, the volume of subject goods in the Canadian market increased relative to both the volume of domestic production and the volume of domestic consumption. Specifically, between 2009 and 2011, the volume of subject goods increased by approximately 60 percentage points relative to both the volume of domestic production and the volume of domestic consumption.²⁰

34. In light of the above, the Tribunal finds that the evidence discloses a reasonable indication that, from 2009 to 2011, the absolute volume of imports of the subject goods increased significantly. In addition, the volume of imports of the subject goods increased relative to both the volume of domestic production and the volume of consumption of the like goods.

Effect on the Price of Like Goods

35. The complainants submitted that they have suffered injury in the form of price undercutting and price suppression. They noted that the prices of the subject goods undercut the prices of like goods while costs of inputs steadily increased. The complainants also provided confidential evidence to illustrate the negative effect of competition from the subject goods on their selling prices and to substantiate their allegations of price undercutting and suppression.²¹

36. Turkey submitted that the average price of CSWP from Canadian producers increased from \$1,130 in 2009 to \$1,172 in 2011.

37. Turkey and Protin submitted that the high cost of hot-rolled coil (HRC), the major input material for CSWP, is a major reason for the injury experienced by the domestic producers of CSWP. Protin added that HRC prices are artificially high in North America due to anti-dumping and countervailing duties already imposed on HRC. To this end, it made reference to certain findings in Canada²² that, it submitted, have caused material injury to users of HRC, such as producers of CSWP, because the findings increase material costs to uncompetitive levels.

17. Tribunal Exhibit PI-2012-003-02.01, Administrative Record, Vol. 1 at 198.

18. Tribunal Exhibit PI-2012-003-03.02 (protected), Administrative Record, Vol. 2A at 83.

19. Tribunal Exhibit PI-2012-003-05, Administrative Record, Vol. 1I at 71.

20. Tribunal Exhibit PI-2012-003-03.02 (protected), Administrative Record, Vol. 2A at 83; Tribunal Exhibit PI-2012-003-03.01 (protected), Administrative Record, Vol. 2 at 104, 108.

21. Tribunal Exhibit PI-2012-003-03.01 (protected), Administrative Record, Vol. 2 at 85-87.

22. Tribunal Exhibit PI-2012-003-06.01, Administrative Record, Vol. 3 at 3.

38. A review of the pricing evidence indicates that average unit import prices of the subject goods were consistently and significantly lower than both the complainants' average unit selling prices and the average prices of CSWP from non-subject countries from 2009 to 2011. In addition, the Tribunal notes that, during this period, the average prices of CSWP from non-subject countries were significantly above domestic prices.²³ This supports the Tribunal's view that the price of the subject goods had an impact on the price of domestic CSWP.

39. Given that CSWP is a commodity product²⁴ and is therefore relatively price sensitive, the Tribunal is of the view that the evidence on the record, including the allegations of lost sales and low price offers provided by the complainants, supports the likelihood of price undercutting and price depression by the subject goods in 2009 and 2010.

40. With respect to the price of HRC, the Tribunal reviewed the evidence and compared the prices of the like goods and the subject goods in the Canadian market with the price of HRC.²⁵ The data indicate that, in 2009 and 2010, the average price of CSWP in the Canadian market was decreasing while, at the same time, the average price of HRC was increasing.

41. On the basis of the foregoing, the Tribunal finds that the evidence in this preliminary injury inquiry discloses a reasonable indication that the dumping and subsidizing of the subject goods have resulted in price undercutting and price suppression.

Impact on the Domestic Industry

42. The complainants also claimed that they have suffered material injury in the form of reduced market share and lost sales. This, they claim, has in turn resulted in a decline in capacity utilization, a reduction in employment and a decline in revenues, gross margins and net profits.

43. Turkey submitted that domestic production and imports have both increased, which is a sign of strong market demand.

44. Turkey and Knightsbridge contended that the increase in imports of CSWP in the domestic market demonstrates that the domestic producers cannot meet the demands of the market. Knightsbridge further submitted that the market share of the subject countries increased after the finding against China, further demonstrating the need for imported CSWP in the domestic market.

45. The evidence shows that, in terms of volume, the Canadian market share of the subject goods decreased by 8 percentage points between 2009 and 2011. In contrast, the subject goods steadily increased their share of the Canadian apparent market from 2009 to 2011, increasing by 14 percentage points.²⁶ The market share of imports from non-subject countries decreased by 6 percentage points from 2009 to 2011.²⁷

23. Tribunal Exhibit PI-2012-003-03.01 (protected), Administrative Record, Vol. 2 at 83.

24. Tribunal Exhibit PI-2012-003-02.01, Administrative Record, Vol. 1 at 25; *CSWP 2008* at para. 63.

25. Tribunal Exhibit PI-2012-003-03.01 (protected), Administrative Record, Vol. 2 at 83, 154.

26. Tribunal Exhibit PI-2012-003-03.02 (protected), Administrative Record, Vol. 2A at 83; Tribunal Exhibit PI-2012-003-03.01 (protected), Administrative Record, Vol. 2 at 108.

27. Tribunal Exhibit PI-2012-003-03.02 (protected), Administrative Record, Vol. 2A at 83; Tribunal Exhibit PI-2012-003-03.01 (protected), Administrative Record, Vol. 2 at 108.

46. The evidence reveals that, between 2009 and 2011, although there was an overall increase in domestic production and sales of like goods and an increase in capacity utilization rates, each declined in 2011.²⁸ When the Tribunal considers the fact that the Canadian market grew steadily from 2009 to 2011, the evidence shows that the lost sales by the domestic industry were likely due to the increase in volume of the subject goods.²⁹

47. It follows that deterioration in these areas would negatively impact the domestic industry's employment and financial performance. The evidence indicates that the domestic industry has had to reduce shifts and has also had to proceed with shutdowns, which resulted in employee layoffs between 2010 and 2012.³⁰

48. With respect to the domestic industry's financial performance, the evidence shows considerable fluctuation between 2009 and 2011. Despite improvement to its financial performance in 2010, the domestic industry saw considerable deterioration in its position from 2010 to 2011.³¹

49. On the basis of the evidence in this preliminary injury inquiry, the Tribunal is of the view that the domestic industry's financial position would have been worse had the domestic industry not adjusted to market conditions. However, the Tribunal believes that these adjustments cannot be sustained over the long term.

50. The Tribunal notes that the domestic industry did not provide specific information with respect to productivity, return on investment, cash flow, inventories, growth and ability to raise capital. Nevertheless, the Tribunal finds that there is sufficient preliminary evidence on the record, concerning volumes, prices and financial impact, to determine that such evidence discloses a reasonable indication that the dumping and subsidizing of the subject goods have caused injury to the domestic industry in the form of lost sales, reduced market share, a decline in capacity utilization, and a reduction in employment, revenues and gross margins.

Other Factors

51. Parties opposed to the complaint argued that various non-dumping and non-subsidizing factors were the cause of injury to domestic producers. The main non-dumping and non-subsidizing factor concerns the availability of CSWP in Western Canada. Protin submitted that there is limited availability of high-end CSWP and that the complainants are essentially unknown in the western Canadian market due to high transportation costs. Similarly, Knightsbridge submitted that Western Canada is viewed as an export market and that customers located there are given last priority by the domestic producers, which results in escalated prices and late shipments. These views link to Knightsbridge's argument that the presence of increased imports of CSWP demonstrate that the domestic producers cannot supply the demands of the market.

52. In response, the complainants submitted that they have attempted to sell CSWP in Western Canada but have been unable to compete with the level of pricing. They argued that their lack of sales in Western Canada is not due to a lack of interest but, rather, is a result of the negative effects of the dumped and subsidized goods.

28. Tribunal Exhibit PI-2012-003-03.01 (protected), Administrative Record, Vol. 2 at 104, 149-50, 152.

29. Tribunal Exhibit PI-2012-003-03.02 (protected), Administrative Record, Vol. 2A at 83; Tribunal Exhibit PI-2012-003-03.01 (protected), Administrative Record, Vol. 2 at 108.

30. Tribunal Exhibit PI-2012-003-03.01 (protected), Administrative Record, Vol. 2 at 149-50, 152.

31. Tribunal Exhibit PI-2012-003-03.01 (protected), Administrative Record, Vol. 2 at 149-50, 152.

53. For the purposes of this preliminary injury inquiry, the Tribunal finds that the limited evidence on the record regarding the impact of other factors on the domestic industry is insufficient to negate the Tribunal's conclusion that the overall evidence discloses a reasonable indication that the dumping and subsidizing of the subject goods have caused injury. If this matter proceeds to an inquiry under section 42 of *SIMA*, the Tribunal will be in a position to examine these specific questions or other factors and their relative importance in that context.

CONCLUSION

54. Pursuant to subsection 37.1(1) of *SIMA*, the Tribunal determines that there is evidence that discloses a reasonable indication that the dumping and subsidizing of the subject goods have caused injury or are threatening to cause injury.

Serge Fréchette
Serge Fréchette
Presiding Member

Pasquale Michaele Saroli
Pasquale Michaele Saroli
Member

Jason W. Downey
Jason W. Downey
Member