



Ottawa, Tuesday, July 24, 2001

**Expiry Review No. RR-2000-002**

IN THE MATTER OF an expiry review, under subsection 76.03(3) of the *Special Import Measures Act*, of the order made by the Canadian International Trade Tribunal on July 25, 1996, in Review No. RR-95-002, continuing, without amendment, its finding made on July 26, 1991, in Inquiry No. NQ-90-005, and its finding made on January 23, 1992, in Inquiry No. NQ-91-003, concerning:

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

**ORDER**

The Canadian International Trade Tribunal, under the provisions of subsection 76.03(3) of the *Special Import Measures Act*, has conducted an expiry review of its order made on July 25, 1996, in Review No. RR-95-002, concerning certain carbon steel welded pipe originating in or exported from Argentina, India, Romania, Chinese Taipei (formerly designated as Taiwan), Thailand, Venezuela and Brazil.

Pursuant to paragraph 76.03(12)(b) of the *Special Import Measures Act*, the Canadian International Trade Tribunal hereby continues the order made in Review No. RR-95-002 with respect to Argentina, India, Romania, Chinese Taipei, Thailand and Brazil concerning the above-mentioned goods, with an amendment to remove Venezuela.

Richard Lafontaine

Richard Lafontaine  
Presiding Member

Pierre Gosselin

Pierre Gosselin  
Member

Peter F. Thalheimer

Peter F. Thalheimer  
Member

Michel P. Granger

Michel P. Granger  
Secretary



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*Special Import Measures Act* – Whether to rescind or continue, with or without amendment, the order made by the Canadian International Trade Tribunal on July 25, 1996, in Review No. RR-95-002, continuing without amendment its finding made on July 26, 1991, in Inquiry No. NQ-90-005, and its finding made on January 23, 1992, in Inquiry No. NQ-91-003.

Place of Hearing: Ottawa, Ontario  
Dates of Hearing: May 28 to 30, 2001  
Date of Order and Reasons: July 24, 2001

Tribunal Members: Richard Lafontaine, Presiding Member  
Pierre Gosselin, Member  
Peter F. Thalheimer, Member

Directors of Research: Sandy Greig  
Selik Shainfarber

Lead Researcher: Peter Rakowski

Researcher: Joël Joyal

Economist: Eric Futin

Statistical Officer: Marie-Josée Monette

Counsel for the Tribunal: Michèle Hurteau  
Eric Wildhaber

Registrar Officer: Gillian E. Burnett

**Participants:** Lawrence L. Herman  
Craig S. Logie  
for Stelco Inc. and Stelpipe Ltd.

Dalton Albrecht  
Monique Lacasse  
for IPSCO Inc.

Ronald C. Cheng  
Paul D. Conlin  
for Ispat Sidbec Inc.

**(Domestic Producers)**

Gregory A. Tereposky  
Serge L. Fréchette  
Roger Nassrallah  
for C.A. Conduven

**(Foreign Producer)**

**Witnesses:**

Wayne H. Conrad  
National Sales Manager  
Stelpipe Ltd.

Donald K. Belch  
Director – Government Relations  
Stelco Inc.

Gordon Lane  
Canadian Sales Manager  
ASTM Pipe/Hollow Structural Sections  
Waterwell Casing  
IPSCO Inc.

Glenn A. Gilmore  
Trade Supervisor  
IPSCO Inc.

Normand Robitaille  
Commercial Director, Pipe  
Ispat Sidbec Inc.

John A. Dixon  
General Manager, Pipe  
Ispat Sidbec Inc.

Eduardo Trejo  
Vice-President of Sales and Marketing  
C.A. Conduven

Athahualpa Franco  
Export Manager  
C.A. Conduven

Guy A. Cocquyt  
Manager, Business Development  
Prudential Steel Ltd.

Kevin O'Reilly  
Director, National Procurement  
EMCO Distribution  
EMCO Limited

Address all communications to:

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



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IN THE MATTER OF an expiry review, under subsection 76.03(3) of the *Special Import Measures Act*, of the order made by the Canadian International Trade Tribunal on July 25, 1996, in Review No. RR-95-002, continuing, without amendment, its finding made on July 26, 1991, in Inquiry No. NQ-90-005, and its finding made on January 23, 1992, in Inquiry No. NQ-91-003, concerning:

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

TRIBUNAL: RICHARD LAFONTAINE, Presiding Member  
PIERRE GOSSELIN, Member  
PETER F. THALHEIMER, Member

**STATEMENT OF REASONS**

**BACKGROUND**

This is an expiry review, under subsection 76.03(3) of the *Special Import Measures Act*,<sup>1</sup> of the order made by the Canadian International Trade Tribunal (the Tribunal) on July 25, 1996, in Review No. RR-95-002, concerning certain carbon steel welded pipe originating in or exported from Argentina, India, Romania, Chinese Taipei (formerly designated as Taiwan), Thailand, Venezuela and Brazil.<sup>2</sup>

This expiry review is being conducted by the Tribunal under the amended provisions of SIMA, the *Special Import Measures Regulations*<sup>3</sup> and the *Canadian International Trade Tribunal Rules*<sup>4</sup> that came into force on April 15, 2000. Under the new regime, the Commissioner of the Canada Customs and Revenue Agency (the Commissioner) has been given the responsibility of determining whether the expiry

1. R.S.C. 1985, c. S-15 [hereinafter SIMA].
2. Review No. RR-95-002 continued, without amendment, the Tribunal's finding made on July 26, 1991, in Inquiry No. NQ-90-005, and its finding made on January 23, 1992, in Inquiry No. NQ-91-003. Inquiry No. NQ-90-005 pertained to carbon steel welded pipe in the nominal size range 12.7 mm to 406.4 mm (1/2 in. to 16 in.) inclusive, in various forms and finishes, meeting one or more of the following specifications: ASTM A53, ASTM A120, ASTM A795, ASTM A252, ASTM A589 or AWWA C200-80, or equivalent specifications, including water well casing, piling pipe, sprinkler pipe and fencing pipe from Argentina, India, Romania, Chinese Taipei, Thailand and Venezuela. Inquiry No. NQ-91-003 pertained to carbon steel welded pipe produced to ASTM standards A53 or A120 in sizes from 13.7 mm (0.54 in.) to 406.4 mm (16.00 in.) outside diameter, with plain or finished ends and with black, regular mill coat or galvanized surface finishes from Brazil. ASTM refers to American Society for Testing and Materials and AWWA refers to American Water Works Association. ASTM A120 has been replaced by ASTM A53.
3. S.O.R./84-927 [hereinafter SIM Regulations].
4. S.O.R./91-499 [hereinafter Tribunal Rules].

of an order or finding is likely to result in a continuation or resumption of dumping or subsidizing.<sup>5</sup> This responsibility had formerly rested with the Tribunal. However, under the new regime, the Tribunal continues to be responsible for determining whether the rescission of an order or finding is likely to result in injury or retardation, if the Commissioner determines that there is a likelihood of continued or resumed dumping.

On November 10, 2000, the Tribunal issued a notice of expiry review<sup>6</sup> to all known interested parties. As part of the review, the Tribunal, on behalf of the Canada Customs and Revenue Agency (CCRA), sent comprehensive questionnaires to Canadian producers, importers and exporters/foreign producers of certain carbon steel welded pipe. These questionnaires were developed jointly by the CCRA and Tribunal staff.

On November 11, 2000, the Commissioner initiated his investigation to determine whether the expiry of the Tribunal's order was likely to result in a continuation or a resumption of dumping of the subject goods from the named countries. On March 9, 2001, the Commissioner concluded his investigation and determined, pursuant to subsection 76.03(7) of SIMA, that there was a likelihood of continued or resumed dumping of the subject goods if the order were allowed to expire.

On March 12, 2001, upon receipt of the Commissioner's determination and the CCRA's administrative record, the Tribunal began its inquiry, pursuant to subsection 76.03(10) of SIMA. As part of this process, the Tribunal sent out further questionnaires on market characteristics to producers, importers and purchasers of certain carbon steel welded pipe. The Tribunal also requested Canadian producers to complete and return Part E of the questionnaires that were sent on November 10, 2000 (which were dependent on the Commissioner's determination of a likelihood of continued or resumed dumping). From the replies to these questionnaires, the Tribunal's research staff prepared public and protected pre-hearing staff reports.

The record of this expiry review consists of the testimony heard during the public and *in camera* hearings held in Ottawa, Ontario, from May 28 to 30, 2001, all relevant documents, including the CCRA's *Protected Expiry Review Report* and *Statement of Reasons*, with their supporting documents, the protected and public replies to the Tribunal's and the CCRA's questionnaires, as well as the public and protected pre-hearing staff reports. All public exhibits were made available to interested parties, while protected exhibits were provided only to counsel who had filed a declaration and undertaking with the Tribunal in respect of confidential information.

The domestic producers, Stelpipe Ltd. (Stelpipe), a subsidiary of Stelco Inc. (Stelco), IPSCO Inc. (IPSCO) and Ispat Sidbec Inc. (Ispat), were represented by counsel at the hearing. All three domestic producers submitted evidence and made arguments in support of a continuation of the order.

One foreign producer from Venezuela, C.A. Conduven (Conduven), was also represented by counsel at the hearing. Conduven submitted evidence and made arguments in support of a rescission of the order or, in the alternative, if the order is continued, to have Venezuela removed from the order.

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5. The likelihood of resumed subsidizing, a determination that is also within the purview of the Commissioner pursuant to the new SIMA regime, is not at issue in this review; accordingly, no further reference to subsidizing will be made herein.

6. C. Gaz. 2000.I.3526.

A representative of Prudential Steel Ltd. (Prudential), a Canadian manufacturer of tubular goods, and a representative of EMCO Limited (EMCO), a major Canadian distributor of carbon steel welded pipe, also appeared as witnesses at the Tribunal's request.

## PRODUCT

The carbon steel welded pipe under inquiry is typically referred to as standard pipe. It is generally intended for the low-pressure conveyance of steam, water, natural gas, air, and other liquids and gases, and is produced to ASTM specifications that prescribe the chemical and mechanical properties. The majority of standard pipe is used in plumbing and heating applications and is produced to meet the ASTM A53 specification in standard black and galvanized finishes. The ASTM A53 specification is considered to be the highest quality and is suitable for welding, coiling, bending and flanging. Other uses for standard pipe include piling pipe (ASTM A252), water well casing (ASTM A589 or AWWA C200-80), sprinkler pipe (ASTM A795) and fencing pipe.

Standard pipe is produced in mills using the continuous weld (CW) or electric resistance weld (ERW) process. Manufacturing using either process begins with strips of steel sheet that have been slit from coils of flat steel, which are formed into pipe by heating, rolling and welding. The CW process can be used to manufacture pipe up to 4 1/2 in. in diameter. The ERW process can be used to produce pipe up to 24 in. in diameter.

After the basic pipe is formed using either the CW or the ERW process, it is cut to length, straightened and tested, and the pipe ends are processed, i.e. cropped, faced and reamed. The surface of the pipe will be finished, if required, with such finishes as lacquer or zinc (galvanizing). Other operations include stencilling and bundling of the pipe.

Standard pipe can also be produced using a combination of both the ERW process and a hot stretch reduction mill. Pipe shells are first produced using the ERW process. These shells are heated in a furnace and passed through a stretch reduction mill that reduces the outside diameter of the pipe and can be used to thicken, maintain or reduce the thickness of the pipe walls.

## DOMESTIC INDUSTRY

During the period of review,<sup>7</sup> the vast majority of standard pipe produced in Canada was manufactured by Stelpipe, Ispat and IPSCO. Two other companies, namely, Camrose Pipe Company (Camrose)<sup>8</sup> and Prudential, which are primarily manufacturers of oil country tubular goods and line pipe, also sold carbon steel welded pipe. However, their sales were, for the most part, a byproduct of goods that were intended to meet the required specifications for other pipe, but failed to do so. These "off-spec" goods are used in areas such as fencing and railing and are not used in the principal standard pipe applications, such as heating and plumbing.

Stelpipe is a diversified pipe and tubing manufacturer and a separate legal entity in the Stelco group of businesses. It produces standard pipe in the 1/2-in. to 8-in. size range, using the ERW process, in

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7. January 1997 to September 2000.

8. Camrose produced small quantities of pipe that were manufactured to meet standard pipe specifications in 1997 and 1998.

Welland, Ontario.<sup>9</sup> The input material for steel pipe and tubing is hot-rolled coil that is purchased from the Stelco divisions of Hilton Works and Lake Erie Steel Company.

Ispat, formerly Sidbec-Dosco Inc., is a wholly owned subsidiary of Ispat International N.V. Ispat is divided into five strategic business units: primary operations, bars and shapes, wire rod, flat-rolled products and pipe. However, standard pipe is produced only at its mill in Montréal, Quebec. The company uses the CW process to produce pipe in the 1/2-in. to 4 1/2-in. size range. Ispat also sources ERW pipe ranging from 2 in. to 6 in. at Delta Tubes, Inc., a related company with facilities in LaSalle, Quebec. The input material is sourced from Ispat's flat-rolled unit in Contrecoeur, Quebec.

IPSCO commenced operations with an ERW pipe mill in Regina, Saskatchewan, in 1957. The company has since expanded its manufacturing capability with the construction and acquisition of facilities in Canada and the United States. IPSCO produces standard pipe from 2 in. to 16 in. in diameter using the ERW process. The flat-rolled steel (skelp) used to produce carbon steel welded pipe is supplied by IPSCO companies. In addition to carbon steel welded pipe, IPSCO produces other products, including line pipe and oil and gas well casing and tubing.

Domestic producers sell standard pipe to major distributors that sell to heating and plumbing suppliers. These distributors either purchase from domestic producers and importers or import directly.

## POSITION OF PARTIES

### Domestic Industry

Stelpipe, IPSCO and Ispat submitted that, should the order be rescinded, given the Commissioner's determination of a likelihood of resumed dumping, the domestic industry is likely to suffer material injury.

The domestic producers submitted that the condition of the domestic industry has not changed since the Tribunal's decision in Review No. RR-99-004.<sup>10</sup> In fact, the reasons given by the Tribunal in continuing that order, which involved only one country, are even more compelling in the present case, which names seven countries.

According to the domestic producers, the subject goods are commodity products that are interchangeable with domestic like goods. They compete on price, which means that a small price differential will favour imports over domestic products. The level of production capacity in the named countries is high and is easily switched from non-subject goods to the subject goods. Cumulatively or individually, the named countries have the ability to flood the Canadian market. Finally, agents and brokers can be expected to source the subject goods from anywhere in the world to take advantage of market opportunities, wherever they arise. Moreover, many of the same importers noted by the Tribunal in its original inquiries<sup>11</sup> into this matter and in the previous review<sup>12</sup> are still engaging in the importation of standard pipe from other low-priced sources.

The domestic producers submitted that this case is being heard in the context of a major international steel crisis that is particularly harmful to the domestic industry. The Canadian industry is

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9. Stelpipe operated three pipe mills until May 1998, when it closed its 16-in. ERW pipe mill.

10. *Certain Carbon Steel Welded Pipe* (5 June 2000).

11. *Certain Carbon Steel Welded Pipe* (26 July 1991), Inquiry No. NQ-90-005; *Certain Carbon Steel Welded Pipe* (23 January 1992), Inquiry No. NQ-91-003.

12. *Certain Carbon Steel Welded Pipe* (25 July 1996), Review No. RR-95-002.

particularly vulnerable, given its relatively small size and the relative openness of the Canadian market to imports. The domestic producers provided examples of low-priced offers from China and Peru as a reflection of their exposure to low-priced import penetration. In their view, the downward price pressures caused by renewed dumping would result in reduced production and sales volumes, as well as the possible withdrawal by domestic producers from certain market segments and product lines.

The domestic producers argued that the vulnerability to injury must be assessed on an aggregate or industry-wide basis, as all domestic producers will not be affected uniformly, for various reasons, including different methods and costs of production, geographic location and core competencies. They also contended that, over the past nine months, since the initiation of this review, there has been a severe decline in the industry's performance and financial results.

The domestic producers further argued that the Tribunal should take into account the various findings, ongoing investigations and trade actions in other jurisdictions concerning the subject or related goods that involved the named countries. In addition, in their view, the Tribunal should draw negative inferences from the lack of participation by most exporters and importers in these proceedings.

Finally, the domestic producers submitted that the Tribunal must make an assessment of the cumulative effect of the dumping from the named countries in accordance with past Tribunal practice. In the domestic industry's view, the prerequisite conditions for cumulation in this case are present, as the subject goods from the named countries will compete amongst themselves and with domestic like goods.

According to the domestic producers, should the Tribunal find a likelihood of injury as a result of its cumulative analysis, it could then examine any requests for exclusion on an individual basis in accordance with the well-established criteria set out for granting exclusions. It is in this context that the Tribunal should consider the request for exclusion by Conduven, the Venezuelan producer. However, the domestic producers submitted that Conduven's request should be denied by the Tribunal because Conduven produces goods similar to those produced in Canada and has failed to meet any of the other criteria usually applied to justify an exclusion.

#### Conduven

Conduven submitted that the order should be rescinded, as there were a number of important factors affecting the domestic industry's performance that were unrelated to imports from the named countries. These included the large volume of imports of the subject goods from the United States, the high operating costs of one of the domestic producers, the gaps in product availability and certain freight disadvantages faced by domestic producers in certain regions. In addition, Conduven submitted that the apparent ineffectiveness of anti-dumping duties in assisting the domestic industry's financial performance suggested that factors other than dumping were the problem.

Conduven argued that the Commissioner's determination on the likelihood of resumed dumping cannot bind or otherwise interfere with the determination that must be made by the Tribunal on the likelihood of injury, despite the fact that some of the factors considered by the Commissioner overlap those of the Tribunal. Conduven further submitted that the Tribunal can only cumulate the effects of imports from more than one country where there have been actual imports during the period of review and where it is satisfied that an assessment of the cumulative effect is appropriate, taking into account conditions of competition. Conduven submitted that, since there were no imports from Venezuela over the period of review, Venezuela cannot be included with the other named countries in the Tribunal's analysis of the cumulative effect of dumping.



According to Conduven, it has no plans to enter the Canadian market, should the finding be rescinded. It contended that its capacity utilization is high, that it is operating at profitable levels in Venezuela and that its export sales depend on their commercial viability. In addition, Conduven submitted that there is a strong demand for both the subject and non-subject goods in Venezuela, as well as in nearby export markets to which it has access. Conduven also pointed to Venezuela's good record in recent trade remedy matters in Canada and elsewhere involving both the subject and non-subject goods.

Conduven acknowledged that there were other producers of the subject goods in Venezuela. However, Conduven is the largest producer and the only producer that has the credentials and organization to export the subject goods.

Conduven, therefore, requested that the order be either rescinded or amended to remove Venezuela from its application.

#### Metalexportimport S.A. (MEI)

MEI, a Romanian exporter, did not attend the hearing. However, it did file a public written statement with the Tribunal, in which it argued that Romania should not be included in the Tribunal's analysis of the cumulative effect of resumed dumping because of "changed circumstances" over the period of review. One of these circumstances was that it had not exported to Canada in recent years. MEI also submitted that there was no reasonable indication of a threat of material injury from the subject goods originating in Romania.

## **ANALYSIS**

As noted earlier, the Commissioner has made a determination under subsection 76.03(7) of SIMA that the expiry of the order in respect of the subject goods from the seven named countries is likely to result in the continuation or resumption of dumping. When such a determination is made by the Commissioner, the Tribunal has the duty, pursuant to subsection 76.03(10) of SIMA, to determine whether the expiry of the order or finding is likely to result in injury or retardation. Before addressing the issue of a likelihood of injury, however, the Tribunal will first consider certain issues that arise in this case with respect to subsection 76.03(11) of SIMA regarding the assessment of the cumulative effect of the dumping of the subject goods.

### **Assessment of Cumulative Effect**

Subsection 76.03(11) of SIMA provides that, for the purpose of its determination, the Tribunal shall make an assessment of the cumulative effect of the dumping of the subject goods "that are imported into Canada from more than one country if the Tribunal is satisfied that an assessment of the cumulative effect would be appropriate taking into account the conditions of competition" between the subject goods that are imported into Canada or between the subject goods and the like goods of domestic producers. This review poses two questions in relation to the Tribunal's discretion to cumulate pursuant to subsection 76.03(11). First, can the Tribunal cumulate even if there are no actual imports from the named countries over the period of review? Second, do the conditions of competition justify cumulating the imports from all the named countries in this case?

With respect to the first question, the Tribunal is of the view that the effect of continued and, even more pertinently in this case, resumed dumping must be looked at prospectively. Indeed, the entire review scheme of SIMA mandates an analysis of what is likely to happen in the future, if the order or finding is rescinded. The Tribunal views the recent amendments to SIMA as having confirmed its past practice of

cumulating the effects of dumped or subsidized goods imported into Canada in a prospective manner.<sup>13</sup> Specifically, in the Tribunal's view, the words "are imported" contained in subsection 76.03(11) of SIMA refer to the goods subject to the order whose expiry the Commissioner has determined, under subsection 76.03(7), is likely to result in a continuation or resumption of dumping, i.e. to the subject goods.

With respect to the second question, the Tribunal finds that the conditions of competition in Canada among the subject goods from Argentina, India, Romania, Chinese Taipei, Thailand and Brazil – whether in competition among themselves or with the like goods of domestic producers - are likely to be the same in the future as they have been in the past. Specifically, the evidence shows that, when the goods from the above-noted countries were present in the Canadian market, they were highly fungible. Further, such goods vie for the same customers and move through substantially the same channels of distribution. Accordingly, the Tribunal considers it appropriate to assess the likely effect of resumed dumping and renewed shipments from the above six countries (the cumulated countries) on a cumulative basis in the analysis that follows below.

Similar conditions of competition would also apply to the subject goods from Venezuela, if such goods were likely to be present in the Canadian market in competition with the subject goods from the cumulated countries or the like goods of domestic producers. However, as will be elaborated upon below, the Tribunal is persuaded that imports from Venezuela are not likely to re-appear in the Canadian market in the near term, if the order is rescinded. It is obvious that any examination of conditions of competition presupposes that competition will actually exist, i.e. that goods from competing producers will be in the same market at the same time. Therefore, since the subject goods from Venezuela will not likely be present in the Canadian market, the Tribunal is satisfied that it is not appropriate to include the subject goods from that country in assessing the cumulative effect of the dumped goods.

#### Likelihood of Injury

Subsection 37.2(2) of the SIM Regulations enumerates a number of factors that the Tribunal may consider in addressing the question of likelihood of injury. The various factors that the Tribunal considers relevant in this case are organized below under three broad headings: likely volumes; likely prices; and likely effects. As stated above, the likely volumes, likely prices and likely effects that would result from a continuation or resumption of dumping from the cumulated countries are assessed together. The particular considerations pertaining to Venezuela are then dealt with separately in a subsequent section.

#### Likely Volumes

The Tribunal notes that questionnaires were sent out to 39 potential exporters of the subject goods in the cumulated countries seeking information, among other things, on their plant capacities, production, home markets and export sales. However, only 4 responses were received and, of these, only 2 were reasonably complete. Accordingly, in evaluating the situation of exporters in these countries, the Tribunal has had to rely on general information published in trade journals that were submitted in evidence, for the most part, by the domestic producers.

According to this information, the cumulated countries have a total production capacity for tubular goods<sup>14</sup> that is in excess of 5 million metric tonnes,<sup>15</sup> which is about 25 times the size of the Canadian

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13. See *Certain Carbon Steel Welded Pipe* (25 July 1996), Review No. RR-95-002 (CITT) at 8-9. See also *Certain Hot-rolled Carbon Steel Plate* (5 May 1998), Review No. RR-97-006 (CITT) at 16; *Certain Cold-reduced Flat-rolled Sheet Products of Carbon Steel* (28 July 1998), Review No. RR-97-007 (CITT) at 13; *Certain Hot-rolled Carbon Steel Plate and High-strength Low-alloy Plate* (17 May 1999), Review No. RR-98-004 (CITT) at 11-12.

14. Includes the subject standard pipe, as well as non-subject oil country tubular goods and line pipe.

market for standard pipe.<sup>16</sup> Clearly, this substantially exceeds the Canadian market. If only a fraction of this capacity were directed to Canada, the resulting import volumes would be significant in relation to the size of the Canadian market. In the Tribunal's opinion, the likelihood of this occurring is high.

Although few exporter questionnaire responses were returned, one of the responding companies did provide information that suggests that a significant proportion of its subject goods capacity is earmarked for export markets.<sup>17</sup> The Tribunal has reason to believe that the situation is not significantly different for the other producers in the cumulated countries. It appears that the capacity of producers of the subject goods in the cumulated countries substantially exceeds their home market needs and, therefore, they would have to look to export markets to achieve reasonable plant operating loads.<sup>18</sup>

The Tribunal is aware that the capacity figure of 5 million metric tonnes cited above includes capacity to manufacture both the subject pipe and non-subject oil country tubular goods and line pipe. However, it is clear from the evidence that, from a technical standpoint, it is relatively easy to switch from one type of tubular product to another and, in particular, from non-subject goods to the subject goods. Domestic producers indicated that, under certain conditions, the switchover could be done in their plants in a matter of hours.<sup>19</sup> While the switching of production will ordinarily only occur when commercial considerations make it attractive, the operational ease with which this can be done means, in the Tribunal's opinion, that a certain proportion of non-subject tubular production capacity represents potential capacity to produce the subject goods.

Conditions in steel markets are also relevant in evaluating the likelihood of substantial import volumes from the cumulated countries. According to the evidence, there is a substantial excess of supply over demand in steel markets, as a whole, and there is nothing to indicate that this situation is likely to change over the near term.<sup>20</sup> This situation appears to be generally applicable to standard pipe, although market conditions may vary from country to country based on local activity in the building and construction sector that generates much of the demand for standard pipe. However, the Tribunal has no evidence before it to suggest that the standard pipe market in any of the cumulated countries is particularly strong. On the contrary, the one questionnaire response that provides some data on this matter clearly indicates a sharp decline in home market sales of standard pipe.<sup>21</sup> Weak conditions in the home markets create a further incentive for foreign producers to seek out export markets.

Furthermore, the Tribunal notes that, in the United States, anti-dumping orders are currently in place with respect to five of the six cumulated countries concerning substantially the same goods as those covered by the order under review by the Tribunal. In fact, the U.S. orders were recently reviewed and renewed.<sup>22</sup> Moreover, in May 2001, a dumping investigation in the United States involving standard pipe was initiated with respect to goods from Romania, the only cumulated country in this case that is not

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15. *Protected Pre-hearing Staff Report*, Tribunal Exhibit RR-2000-002-6 (protected), Administrative Record, Vol. 2A at 115. One metric tonne is equal to approximately 1.1 net tons.

16. *Ibid.* at 24.

17. Tribunal Exhibit RR-2000-002-26.9 (protected), Administrative Record, Vol. 6.2 at 315.

18. Tribunal Exhibit RR-2000-002-11 (protected), Administrative Record, Vol. 2.2 at 157; IPSCO's non-confidential submission to the Tribunal (prepared in response to the Tribunal's Notice of Expiry No. LE-2000-002, attachments D, E, F, G, H and K).

19. *Transcript of Public Hearing*, Vol. 1, 28 May 2001, at 39, 40, 183, and Vol. 2, 29 May 2001, at 375.

20. Manufacturer's Exhibit A-10, Administrative Record, Vol. 11. One bright spot in the world steel market is the current and projected robust demand for oil country tubular goods and line pipe. Manufacturer's Exhibit A-08A, Administrative Record, Vol. 11.

21. *Supra* note 17.

22. USITC Publication 3316, at 1.

currently covered by a U.S. standard pipe finding.<sup>23</sup> If the present order in Canada were to be rescinded, the Canadian standard pipe market would be open to the cumulated countries, while the U.S. market would be effectively closed to all six of them, as it is likely that Romanian exports to the United States will be curtailed during the U.S. period of investigation. This would obviously enhance the relative attractiveness of the Canadian market as an outlet for some of the surplus capacity in these countries.

The Tribunal also notes that imports from offshore sources<sup>24</sup> have a long-established presence in the Canadian market. Over the period of this review, offshore sources have held, on average, some 15 percent of the domestic market.<sup>25</sup> The specific foreign suppliers have changed from time to time. However, as certain countries disappeared from the Canadian market following anti-dumping findings, others entered to take their place. The current offshore sources that have effectively replaced the cumulated countries include China, Peru, Malaysia, the Philippines and Turkey.

While the foreign sources have changed over time, many of the agents and brokers that bring standard pipe into the Canadian market have not. The evidence shows that some of the importers that were active in importing standard pipe from the cumulated countries prior to the application of anti-dumping duties are now importing the product from one or more of the new sources cited above.<sup>26</sup> In so doing, they provide an import distribution network in Canada for offshore goods that can supply the Canadian market with standard pipe from other sources. If the order is rescinded, there is reason to believe that this distribution network will likely revert to former suppliers in the cumulated countries and import significant quantities of dumped goods to service Canadian customers.

For the foregoing reasons, the Tribunal is of the opinion that, if the order is rescinded with respect to the cumulated countries, the volume of dumped goods from these six countries is likely to be significant.

### Likely Prices

The Tribunal notes that the *Preston Pipe and Tube Report*<sup>27</sup> forecasts a decline in U.S demand for standard pipe of almost 9 percent in 2001 compared to 2000.<sup>28</sup> According to the Preston Report, despite declining U.S. demand, standard pipe imports from the Pacific Rim are “surging”.<sup>29</sup> These conditions give rise to what the Preston Report refers to as a “buyer’s market” in the United States in 2001.<sup>30</sup>

The situation in Canada is similar to that in the United States. According to the evidence, the demand for standard pipe is down from 2000, and there is no expectation of any rebound in 2002.<sup>31</sup> These weak market conditions are reflected in the declining average prices that domestic producers realized over

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23. Other Parties’ Exhibit D-04, Administrative Record, Vol. 13. The investigation names four other countries: China, Indonesia, Malaysia and South Africa. In particular, it does not include Venezuela.
  24. *Public Pre-hearing Staff Report* Tribunal Exhibit RR-2000-002-5, Administrative Record, Vol. 1A at 24; Tribunal Exhibit RR-2000-002-8, Administrative Record, Vol. 1.1 at 47. Offshore sources do not include the United States.
  25. *Protected Pre-hearing Staff Report*, Tribunal Exhibit RR-2000-002-6 (protected), Administrative Record, Vol. 2A at 25.
  26. Tribunal Exhibit RR-2000-002-20.18 (protected), Administrative Record, Vol. 6 at 23, 25, 27; *Transcript of In Camera Hearing*, Vol. 1, 28 May 2001, at 49, and Vol. 2, 29 May 2001, at 104.
  27. [hereinafter Preston Report].
  28. Tribunal Exhibit RR-2000-002-13.5, Administrative Record, Vol. 3D at 266.
  29. *Ibid.* at 264.
  30. *Ibid.*
  31. *Transcript of Public Hearing*, Vol. 1, 28 May 2001, at 63, 162-63; *Transcript of Public Hearing*, Vol. 2, 29 May 2001, at 396.

the past several months. Indeed, according to the evidence, between the first quarter of 2000 and the first quarter of 2001, domestic producer prices declined on average by some 10 to 15 percent.<sup>32</sup>

The Tribunal notes that, in addition to the declines that have already taken place, domestic prices continue to be under downward pressure. Specifically, the evidence shows that imports from a number of offshore sources, such as China, Peru, the Philippines and Turkey, are being, or have recently been, offered in the Canadian market at prices that are substantially below the already depressed average producer prices.<sup>33</sup>

It has been established in this case, as in earlier cases, that standard pipe that meets recognized specifications is highly substitutable with standard pipe from any source that meets the same specifications. As such, customers in Canada are not prepared to pay much of a premium for domestically produced standard pipe.<sup>34</sup> In these circumstances, market prices trend towards the lowest price offerings available, and suppliers of standard pipe, be they domestic producers or importers, have little choice but to adjust their prices or forego sales.

Thus, the Tribunal considers it likely that, if the order is rescinded, imports from the cumulated countries will re-enter the market at the prevailing depressed import price levels or lower. In the Tribunal's opinion, the presence of more sources of low-priced standard pipe in the Canadian market will further dim the prospects for any meaningful rebound in prices in the near term.

#### Likely Effects

The current state of Canadian producers of standard pipe cannot be described as healthy. In the most recent period for which data are available, January to September 2000, the combined market share of the three major producers fell to historically low levels of well under 50 percent, as imports continued to penetrate the market in substantial quantities.<sup>35</sup> Some of the industry's market share loss appears attributable to the fact that domestic producers are, in some instances, choosing to "walk away" from business rather than make sales at prices that are not profitable.<sup>36</sup>

From a financial standpoint, over the three full years reviewed, 1997 to 1999, the industry, as a whole, incurred net pretax losses of tens of millions of dollars.<sup>37</sup> These financial losses continued to accumulate over the first three quarters of 2000. These losses are being generated because, at current average price levels and average industry costs, the domestic producers, as a whole, are unable to achieve positive gross margins, let alone positive net margins. Moreover, according to the evidence, the conditions that underlie this poor financial performance are unlikely to change in the near future.<sup>38</sup>

It is clear to the Tribunal that a number of factors that affect the industry's performance have little to do with dumping. These include certain large legacy costs being borne by one of the major domestic

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32. Manufacturer's Exhibit A-04A (protected), Administrative Record, Vol. 12; Manufacturer's Exhibit C-01 (protected), Administrative Record, Vol. 12.2.

33. *Transcript of Public Hearing*, Vol. 1, 28 May 2001, at 124-25, 146-47; Manufacturer's Exhibit C-01 (protected), Administrative Record Vol. 12.2.

34. *Transcript of Public Hearing*, Vol. 1, 28 May 2001, at 148-49.

35. *Protected Pre-hearing Staff Report*, Tribunal Exhibit RR-2000-002-6 (protected), Administrative Record, Vol. 2A at 25.

36. *Supra* note 34 at 149, 159; *Transcript of Public Hearing*, Vol. 2, 29 May 2001, at 206.

37. *Supra* note 35 at 41.

38. *Transcript of Public Hearing*, Vol. 1, 28 May 2001, at 63, 140-41; Manufacturer's Exhibit A-10, Administrative Record, Vol. 11.

producers that significantly lower the industry's average profitability.<sup>39</sup> Although these costs are expected to be phased out over the next two to three years, even without them, the industry will still require prices that are higher than prevailing prices to be profitable.<sup>40</sup>

Further, some domestic mills are more than 40 years old and, while improvements have been made over the years, their throughput and operating efficiency are below those of more modern mills, which one witness described as "bullet mills".<sup>41</sup> The cost of hot-rolled steel, a major input cost for pipe, varies from one producer to another and affects profitability. Moreover, not all domestic producers manufacture the full range of standard pipe products. Freight costs can also present a competitive challenge for some producers in certain geographic regions. The above factors create important market opportunities for imports. For example, imports from the United States played a significant role in the Canadian market over the period of review<sup>42</sup> with their focus on galvanized and light-walled sprinkler pipe that is not available from all domestic producers.<sup>43</sup>

The domestic industry has taken steps to address some of these non-dumping factors over the past few years. For example, the industry has closed some obsolete or uneconomic facilities.<sup>44</sup> Nevertheless, it is apparent that further adjustments will be needed if the industry is to achieve acceptable rates of return in the future. These adjustments would obviously be facilitated if market conditions improved from present levels and the industry achieved stronger financial performance. However, it seems apparent that this will not happen any time soon if the order is rescinded. On the contrary, a rescission would allow the imports from the cumulated countries to compete with other low-priced imports in the market and would likely cause prices to spiral downwards. This would result in further losses of profit and market share for the domestic industry, draining its financial resources and depriving it of the means to make the necessary adjustments to meet future competitive challenges.

For the foregoing reasons, the Tribunal finds that, if the order is rescinded with respect to the cumulated countries, there is a likelihood of material injury to the domestic industry.

### Venezuela

Unlike the producers in the cumulated countries that did not appear at the hearing to defend their interests in these proceedings, Conduven, a major producer of the subject goods in Venezuela, submitted a brief and appeared at the hearing. Conduven also responded to the information requests from the Tribunal and counsel.<sup>45</sup>

According to Conduven, the general economic environment in Venezuela affecting tubular mills is favourable. Specifically, at prevailing oil prices, the Venezuelan oil and gas industry is currently thriving, and it is generating solid demand for tubular products. No major declines in oil prices are forecast that would substantially reduce current oil and gas activity.<sup>46</sup> In fact, in April 2001, the President of the

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39. *Transcript of Public Hearing*, Vol. 1, 28 May 2001, at 34-35, 69-70.

40. *Protected Pre-hearing Staff Report*, Tribunal Exhibit RR-2000-002-6 (protected), Administrative Record, Vol. 2A at 41; Manufacturer's Exhibit A-04A (protected), Administrative Record, Vol. 12; Manufacturer's Exhibit C-01 (protected), Administrative Record, Vol. 12.2.

41. *Transcript of In Camera Hearing*, Vol. 1, 28 May 2001, at 31.

42. *Public Pre-hearing Staff Report*, Tribunal Exhibit RR-2000-002-6, Administrative Record, Vol. 1A at 24.

43. *Supra* note 39 at 53-54, 150.

44. *Supra* note 39 at 139-40; Tribunal Exhibit RR-2000-002-13.5, Administrative Record, Vol. 3D at 7.

45. SSP Trading, a Thai producer, M.F. Persico Pizzamiglio, a Brazilian producer, MEI, a Romanian trading company, and Tepro, a Romanian producer, provided partial responses to the Tribunal's and CCRA's questionnaires. MEI also submitted a short brief.

46. *Transcript of Public Hearing*, Vol. 2, 29 May 2001, at 351.

Venezuelan national oil company, PDVSA, confirmed that it is proceeding with a five-year US\$45 billion expansion plan for the Venezuelan oil and gas industry. This would involve joint investments with foreign partners in the areas of exploration, production, refining and marketing.<sup>47</sup> Under this plan, Venezuela is aiming to increase its oil production by almost 50 percent.<sup>48</sup>

Conduven stated that the demand for standard pipe was also good and growing in Venezuela. In this context, Conduven noted that the US\$45 billion oil and gas expansion plan would lead to an increase in general industrial activity, including the building of new warehouses and other commercial structures. The Venezuelan government also announced a US\$1.5 billion public housing and reconstruction program. Both these initiatives would raise demand for standard pipe in Venezuela.<sup>49</sup> Conduven added that the Venezuelan government has the financial capacity to implement its plans for the oil and gas and housing sectors because of Venezuela's current high levels of foreign reserves.<sup>50</sup>

Conduven submitted that it is currently operating its mills at high capacity rates and that it expected strong demand for its tubular products over the next two years.<sup>51</sup> Moreover, most of its capacity is directed to supplying tubular products for the oil and gas industry, primarily in Venezuela.<sup>52</sup> Standard pipe production represents only a small proportion of its overall tubular production.<sup>53</sup>

Conduven contended that it is a profitable company in its home market and that it only participated in export markets where it was commercially viable for it to do so.<sup>54</sup> In this regard, it was focusing its exporting efforts on the nearby countries in Latin America and the Caribbean.<sup>55</sup> For example, Conduven stated that it is currently experiencing strong demand for standard pipe from Columbia and El Salvador. Both these countries recently experienced earthquakes, and they are in the process of rebuilding.<sup>56</sup> Trinidad is another source of strong current demand.<sup>57</sup>

More generally, Conduven indicated that its present and future trade efforts would be directed to building export relationships with countries with which it has existing trade agreements, such as Mexico.<sup>58</sup> In light of Venezuela's efforts to become a member of MERCOSUR, Conduven would also be looking to Brazil and to the other members of that trade agreement.<sup>59</sup>

As far as other Venezuelan tubular mills were concerned, according to Conduven, they were essentially geared to supplying the Venezuelan domestic market for the subject and non-subject tubular goods. They did not have the personnel, expertise, contacts, organization or international credentials, such as ISO certification, that are required to engage seriously in export activities.<sup>60</sup>

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47. Other Parties' Exhibit D-02, Appendix H, Administrative Record, Vol. 13.

48. *Ibid.*

49. Other Parties' Exhibit D-02, Appendixes F and H, Administrative Record, Vol. 13.

50. *Supra* note 46 at 348.

51. Tribunal Exhibit RR-2000-002-26.1 (protected), Administrative Record, Vol. 6.2 at 172, 174; Tribunal Exhibit RR-2000-002-RI-01A (protected), Appendix A, Administrative Record, Vol. 10.

52. Tribunal Exhibit RR-2000-002-26.1 (protected), Administrative Record, Vol. 6.2 at 174.

53. *Supra* note 46 at 342-43.

54. Other Parties' Exhibit D-01, Administrative Record, Vol. 13; *supra* note 46 at 279.

55. Other Parties' Exhibit D-02, Administrative Record, Vol. 13; Tribunal Exhibit RR-2000-002-RI-01A (protected), Appendix A, Administrative Record, Vol. 10.

56. *Supra* note 46 at 265.

57. *Supra* note 46 at 265.

58. Conduven referred to this agreement as the G-3 agreement.

59. Other Parties' Exhibit D-02, Administrative Record, Vol. 13.

60. *Ibid.*; *Transcript of Public Hearing*, Vol. 2, 29 May 2001, at 261-63.

Having regard to the foregoing considerations, Conduven noted that Venezuela did not export standard pipe to Canada over the period of review<sup>61</sup> and, more importantly, that neither it nor any other Venezuelan producer had any plans to do so in the future.<sup>62</sup>

The Tribunal notes that Conduven has supported its position with operational facts and figures, with testimony from senior officials and with information from independent trade publications and journals pertaining to the Venezuelan market. For their part, the domestic producers submitted little information that is specific to Venezuela other than with respect to production capacity. In regard to capacity, the domestic producers did challenge Conduven's claim that it is operating at high capacity levels.

The Tribunal notes that there is no universal standard for calculating practical plant capacity. Indeed, it appears from the testimony of witnesses for the domestic producers that they too use somewhat different approaches from each other to calculate plant capacity.<sup>63</sup> It is not in dispute that, in reporting its capacity and production figures, Conduven answered the Tribunal's questionnaire in a transparent manner. While the figures can be interpreted in different ways, the Tribunal is satisfied that they reflect reasonably good levels of capacity utilization,<sup>64</sup> although they do reveal a certain degree of unused capacity. However, the mere existence of unused capacity is less important to the Tribunal than how and where this extra capacity is likely to be used.

In this regard, the Tribunal is persuaded by the evidence that Venezuelan standard pipe capacity will be primarily focused on the Venezuelan market, as well as the markets of Venezuela's Caribbean and Latin American neighbours and trading partners. The Tribunal is also satisfied that Conduven will not enter markets where it cannot operate on a commercially sound basis. In this connection, the Tribunal notes that, in 1995, the European Union removed an anti-dumping finding with respect to Venezuela on substantially the same goods as the subject goods.<sup>65</sup> Furthermore, the evidence shows that, with the exception of shipments to the Canary Islands, Venezuela has not resumed shipments to the European Union since that time.<sup>66</sup> More recently, in January 2000, the United States also rescinded an anti-dumping finding with respect to Venezuelan standard pipe. Despite the removal of that constraint,<sup>67</sup> Venezuela has not re-entered the U.S. market for these goods because of the poor market conditions that prevail.<sup>68</sup>

Looking at related non-subject goods, in March 2000, the United States implemented a safeguard measure<sup>69</sup> on imports of line pipe that, among other things, established import quotas for countries wishing to export line pipe to the United States. Venezuela received a quota that allows it to export 9,000 net tons of line pipe to the United States annually until March 2003. However, in the first year of this quota,<sup>70</sup>

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61. *Protected Pre-hearing Staff Report*, Tribunal Exhibit RR-2000-002-6 (protected), Administrative Record, Vol. 2A at 20. It should be noted that one witness, representing a Canadian distributor of standard pipe, stated that he had been advised by a sales representative that Venezuelan standard pipe was being offered in Canada. However, he was unable to provide any dates, prices, volumes or, indeed, anything at all, that would help to ascertain the validity or accuracy of this claim. Therefore, the Tribunal gives it no weight.

62. *Supra* note 59.

63. *Transcript of Public Hearing*, Vol. 1, 28 May 2001, at 83-86, 182-83, 216-17.

64. Tribunal Exhibit RR-2000-002-26.1 (protected), Administrative Record, Vol. 6.2 at 172, 174.

65. Other Parties' Exhibit D-02, Appendix B, Administrative Record, Vol. 13.

66. *Transcript of Public Hearing*, Vol. 2, 29 May 2001, at 343-44.

67. There continues to be a countervailing duty of 0.78 percent on Venezuelan shipments of standard pipe to the United States. However, this amount is so small as to be irrelevant in terms of its effect on trade, in the Tribunal's opinion.

68. *Supra* note 66 at 279.

69. Manufacturer's Exhibit A-08A, Administrative Record, Vol. 11.

70. Ending February 2001.



Venezuela shipped only a portion of this tonnage entitlement<sup>71</sup> because, according to Conduven, it was unwilling to sell at prices that were not profitable.<sup>72</sup> Conduven did export some 50,000 net tons of unfinished casing to the United States in 2000, where it was further processed.<sup>73</sup> However, there is nothing to indicate that the participation of Venezuela in this part of the U.S. tubular market is or has been disruptive.<sup>74</sup>

On the whole, the Tribunal finds that Conduven's case for relief from the present order is cogent, credible and supported by the preponderance of evidence. Although the Commissioner has found a likelihood of resumed dumping from Venezuela, if the order is rescinded, there can be no injurious effect if, as the evidence has established, Venezuela is likely to be absent from the Canadian market for standard pipe over the future time horizon normally examined in a review, namely 18 to 24 months.

Therefore, the Tribunal finds that there is no likelihood of material injury from Venezuela if the order is rescinded.

## CONCLUSION

In light of the foregoing, the Tribunal, pursuant to paragraph 76.03(12)(b) of SIMA, hereby continues the order made on July 25, 1996, in Review RR-95-002, with respect to Argentina, India, Romania, Chinese Taipei, Thailand and Brazil pertaining to certain carbon steel welded pipe, with an amendment to remove Venezuela.

Richard Lafontaine  
Richard Lafontaine  
Presiding Member

Pierre Gosselin  
Pierre Gosselin  
Member

Peter F. Thalheimer  
Peter F. Thalheimer  
Member

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71. Manufacturer's Exhibit A-08A, Administrative Record, Vol. 11.

72. *Supra* note 66 at 334-35.

73. *Supra* note 66 at 275-76.

74. It appears that some of the casing that was shipped to and finished in the United States made its way to Canada. However, there is no evidence that it displaced domestic sales or otherwise injured domestic producers, or that the finished goods were still considered to be of Venezuelan origin.