



Canadian International
Trade Tribunal

Tribunal canadien du
commerce extérieur

CANADIAN
INTERNATIONAL
TRADE TRIBUNAL

Dumping and Subsidizing

ORDERS AND REASONS

Expiry Review No. RR-2008-004

Stainless Steel Wire

*Orders and reasons issued
Wednesday, July 29, 2009*

*Corrigendum issued
Monday, August 17, 2009*

TABLE OF CONTENTS

ORDERS	i
STATEMENT OF REASONS	1
PRODUCT	2
Production Description.....	2
Additional Product Information.....	2
Production Process	3
Product Applications	3
Marketing and Distribution.....	4
DOMESTIC PRODUCER	4
IMPORTERS AND EXPORTERS	5
SUMMARY OF PREVIOUS FINDINGS.....	5
Summary of the Findings in Inquiry No. NQ-2004-001	5
Summary of the Report in Public Interest Inquiry No. PB-2004-002.....	6
ANALYSIS	6
Like Goods.....	6
Domestic Industry.....	7
Cumulation.....	7
Likelihood of Injury.....	9
Changes in Market Conditions	9
Likely Volumes of Dumped and Subsidized Goods.....	12
Likely Prices of Dumped Goods and Effects on Prices of Like Goods.....	20
Likely Impact of the Dumped and Subsidized Goods on the Performance of Domestic Industry.....	25
Other Factors.....	27
CONCLUSION.....	27
CORRIGENDUM.....	28

IN THE MATTER OF an expiry review, under subsection 76.03(3) of the *Special Import Measures Act*, of the findings made by the Canadian International Trade Tribunal on July 30, 2004, in Inquiry No. NQ-2004-001, concerning:

THE DUMPING OF STAINLESS STEEL WIRE ORIGINATING IN OR EXPORTED FROM THE REPUBLIC OF KOREA, SWITZERLAND AND THE UNITED STATES OF AMERICA AND THE SUBSIDIZING OF SUCH PRODUCT ORIGINATING IN OR EXPORTED FROM INDIA

ORDERS

The Canadian International Trade Tribunal, pursuant to subsection 76.03(3) of the *Special Import Measures Act*, has conducted an expiry review of its findings made on July 30, 2004, in Inquiry No. NQ-2004-001, concerning the dumping of cold drawn and annealed stainless steel round wire, up to and including 0.300 inches (7.62 mm) in maximum solid cross-sectional dimension, originating in or exported from the Republic of Korea, Switzerland and the United States of America, and the subsidizing of goods of this description originating in or exported from India.

Pursuant to subparagraph 76.03(12)(a)(ii) of the *Special Import Measures Act*, the Canadian International Trade Tribunal hereby rescinds its finding in respect of stainless steel wire originating in or exported from the Republic of Korea, Switzerland and India.

Pursuant to subparagraph 76.03(12)(a)(ii) and subsection 76.04(1) of the *Special Import Measures Act*, the Canadian International Trade Tribunal hereby rescinds its finding in respect of stainless steel wire originating in or exported from the United States of America.

Ellen Fry
Ellen Fry
Presiding Member

Diane Vincent
Diane Vincent
Member

André F. Scott
André F. Scott
Member

Susanne Grimes
Susanne Grimes
Acting Secretary

Place of Hearing: Ottawa, Ontario
Date of Hearing: June 9, 2009

Tribunal Members: Ellen Fry, Presiding Member
Diane Vincent, Member
André F. Scott, Member

Research Director: Audrey Chapman

Senior Economist: Simon Glance

Research Officer: Rhonda Heintzman

Senior Statistical Research Officer: Julie Charlebois

Statistical Research Officers: Marie-Josée Monette
Stéphane Racette

Counsel for the Tribunal: Jidé Afolabi

Manager, Registrar Office: Michel Parent

Registrar Officer: Sarah MacMillan

Registrar Support Officer: Cheryl Unitt

PARTICIPANTS:**Domestic Producer**

Central Wire Industries Ltd.

Counsel/RepresentativesBenjamin P. Bedard
Paul D. Conlin
G. Ian Clarke**Party that Requested a Product Exclusion**

Eutectic Canada Inc.

Counsel/Representative

Stéphane Lacasse

WITNESSES:T.J. (Tom) Dodds
Vice-President, Canadian Operations
Central Wire Industries Ltd.Michel Piché
Chief Financial Officer
Central Wire Industries Ltd.L.L. (Larry) Smith
President and C.E.O.
Central Wire Industries Ltd.David McNiece
Retired C.F.O.
Central Wire Industries Ltd.

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

Michael Northey
Ontario and Manitoba Sales Representative
Controlled Products Group

Please address all communications to:

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

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

STATEMENT OF REASONS

1. This is an expiry review, pursuant to subsection 76.03(3) of the *Special Import Measures Act*,¹ of the findings made by the Canadian International Trade Tribunal (the Tribunal) on July 30, 2004, in Inquiry No. NQ-2004-001, concerning the dumping of cold drawn and annealed stainless steel round wire, up to and including 0.300 inches (7.62 mm) in maximum solid cross-sectional dimension, originating in or exported from the Republic of Korea (Korea), Switzerland and the United States of America, and the subsidizing of goods of this description originating in or exported from India. Goods of this description from these countries will be referred to as the “subject goods”.²
2. On November 12, 2008, the Tribunal decided to initiate an expiry review to determine, pursuant to subsection 76.03(10) of *SIMA*, whether the expiry of the findings respecting the subject goods was likely to result in injury or retardation and sent a notice of expiry review to known interested parties.³ The Tribunal also sent letters requesting the Canadian producer, importers, exporters and foreign producers to complete expiry review questionnaires. The Tribunal requested that, if the Canada Border Services Agency (CBSA) found a likelihood of continued or resumed dumping and/or subsidizing, domestic producers, importers, exporters and foreign producers update their responses to questionnaires submitted to the CBSA to include data for the full year of 2008 and that domestic producers complete Part E of the expiry review questionnaire for producers.
3. On November 13, 2008, the CBSA initiated an expiry review investigation to determine whether the expiry of the findings would be likely to result in the continuation or resumption of dumping and subsidizing of the subject goods.
4. On March 12, 2009, the CBSA determined that, pursuant to subsection 76.03(7) of *SIMA*, the expiry of the findings would be likely to result in the continuation or resumption of dumping and subsidizing of the subject goods.
5. The Tribunal held a hearing, with public and *in camera* testimony, in Ottawa, Ontario, on June 9, 2009.
6. The sole domestic producer, Central Wire Industries Ltd. (Central Wire), submitted evidence and made arguments in support of a continuation of the findings. Central Wire was represented by counsel and presented the following witnesses at the hearing: Mr. Larry Smith, President and C.E.O., Mr. Tom Dodds, Vice-President, Canadian Operations, Mr. Michel Piché, Chief Financial Officer, and Mr. David McNiece Retired C.F.O.
7. As part of this expiry review, no parties appeared before the Tribunal or provided submissions in support of a rescission of the findings.
8. An importer of the subject goods, Eutectic Canada Inc., submitted a request for product exclusion.
9. The Tribunal invited Mr. Ron Van Noort of The Wire Mesh Belt Company of Canada Limited (Wire Mesh) to appear as a Tribunal witness at the public hearing. In addition, Mr. Michael Northey of Controlled Products Group appeared as a Tribunal witness in response to a subpoena issued by the Tribunal.

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

2. Goods of this description from other countries will be referred to as “non-subject goods”. Imported and domestically produced goods of this description will be referred to as “subject stainless steel wire”.

3. C. Gaz. 2008.I.3000.

10. The record of these proceedings consists of the following: all relevant documents, including the CBSA's protected expiry review report, statement of reasons, index of background information and related documents; the protected and public replies to the expiry review questionnaires; the public and protected pre-hearing staff reports prepared for this expiry review; requests for information and Central Wire's replies in accordance with the Tribunal's directions; witness statements and exhibits filed throughout the expiry review; the Tribunal's findings and notice of expiry review; and the public and protected pre-hearing staff reports prepared for Inquiry No. NQ-2004-001. Protected exhibits were provided only to counsel who had filed a declaration and undertaking with the Tribunal in respect of confidential information.

PRODUCT

Production Description

11. The subject goods are cold drawn and annealed stainless steel round wire, up to and including 0.300 inches (7.62 mm) in maximum solid cross-sectional dimension, excluding the following goods:

- nickel-coated stainless steel wire;
- copper-coated stainless steel wire;
- stainless steel wire for use in the manufacture of springs, per ASTM A313, matte finish, lubricant coated (all types), in all grades and in all diameters;
- stainless steel wire in diameters of 0.032 inches (0.813 mm) and smaller;
- stainless steel lashing wire;
- type 27-7MO (trade name) stainless steel wire, also identified as UNS S31277, or equivalent;
- types 302 and 430 stainless steel cold-heading wire for use in the manufacture of semi-tubular solid rivets;
- types 308LHS, 309LHS, 387, 409CB and 430LCB stainless steel welding wire packaged in fibre-drum bulk packs, drum packs or barrel packs, known as "Tech Paks" or equivalent, in sizes of 250 lbs. (113.4 kg) or greater, for use in long-run welding applications;
- type 439 titanium stabilized, solid stainless steel welding wire packaged in 500-lb. (226.8-kg) drums;
- type A-286 stainless steel cold-heading wire, also identified as AISI No. 660, UNS K66286 DIN-1.4980, with the following composition: 0.08% max. carbon, 2.00% max. manganese, 1.00% max. silicon, 0.025% max. phosphorous, 0.025% max. sulfur, 13.50/16.00% chromium, 24.00/27.00% nickel, 1.00/1.50% molybdenum, 0.50% max. copper, 1.00% max. cobalt, 0.35% max. aluminum, 1.90/2.35% max. titanium, 0.10/0.50% vanadium and 0.003/0.010% boron;
- type A286/A286SF stainless steel cold-heading wire; and
- type XM-19 stainless steel wire, also identified as UNS S20910.

Additional Product Information

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

Production Process

13. Stainless steel wire, including subject stainless steel wire,⁴ can be produced in a variety of sizes across a wide range of product types and grades. The production process is essentially the cold drawing of stainless steel wire rod of appropriate alloy composition through one or more dies. As the wire is drawn to smaller diameters, annealing operations are performed to process it to its finished size and specification. The wire may be treated to provide special surface conditions or appearance, including matte and diamond finishes. In addition, coatings may be applied to serve as lubricants in subsequent processing or manufacturing operations.

14. Subject stainless steel wire is packaged according to client specifications and product type. The wire can be shipped on spools or reels, or in coils or barrels. Welding wire, such as tungsten-inert gas welding wire, may also be cut to length and shipped in tubes or in bulk (boxes).

15. Subject stainless steel wire is commonly produced in sizes of 0.003 inches (0.08 mm) to 0.300 inches (7.62 mm). Grades are defined by their chemistries. The predominant grades of subject stainless steel wire sold in Canada are American Iron and Steel Institute (AISI) 304, 304L (low carbon), 314, 316, 316L, 330, 308, 308L, 308LSi (low carbon and high silicon—welding grade), 309LSi, 316LSi, 302, 302 HQ (heading quality⁵) and 430.

Product Applications

16. In terms of volume, subject stainless steel wire sold in Canada consist mainly of belting wire, cold heading and forming wire, welding wire and other wire (which includes wireline and weaving wire). For the most part, these types of stainless steel wire are used for further manufacturing. Some stainless steel wire can also be sold in the form of finished products, such as welding wire.

Uses of Stainless Steel Wire⁶

– Belting Wire

17. Stainless steel belting wire (belting wire) is generally used in the production of conveyor belts which are used in the metal processing, automotive, food and heat-treating industries. The most common grades are types 314, 35/19CB (also known as 330) and 304, in diameters ranging from 0.041 to 0.048 inches (1.04 to 1.22 mm) to 0.192 to 0.200 inches (4.88 to 5.08 mm), with 0.135 inches (3.43 mm) and 0.162 inches (4.11 mm) being the two most popular diameters. Depending on the end use, belting products last anywhere from 2 to 12 months.

– Wireline

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

4. “Stainless steel wire” refers to all types of stainless steel wire, including both those goods covered by the product description and other stainless steel wire, regardless of country of origin. “Other stainless steel wire” refers to all types of stainless steel wire that are not subject to this expiry review.

5. Heading quality stainless steel wire is suitable for the production of products such as fasteners, including nails and rivets.

6. *Certain Stainless Steel Round Wire* (22 March 2005), PB-2004-002 (CITT) at 9-10.

– Welding Wire

19. Stainless steel welding wire (welding wire) is used for applications that include parts and equipment for the oil, gas, petrochemical, and pulp and paper industries. Welding wire is usually sold along with other products and services that distributors offer to end users that operate in the above-mentioned industries. Welding wire is also sold, by itself, to end users in the automotive industry.

– Weaving Wire

20. Stainless steel weaving wire (weaving wire) is used in the production of screen or wire cloth. The most common types of weaving wire are types 304 and 316, in diameters ranging from 0.032 inches (0.813 mm) to 0.375 inches (9.53 mm).

– Cold Heading and Forming Wire

21. Stainless steel cold heading and forming wire are used in the production of various products, such as cold-headed pins, nails, rivets, battery anodes, shelving systems, display racks, storage equipment for the health sector and shopping carts.

Marketing and Distribution

22. Subject stainless steel wire is normally sold in the Canadian market either directly to end users or through distributors. The majority of domestically produced stainless steel wire subject to this expiry review is sold to end users.⁷ The balance is sold to distributors, which in turn sell to smaller distributors or to smaller end users.

23. For importers that responded to the expiry review questionnaires, their collective sales over the period of review were evenly divided between end users and wholesalers/distributors.⁸

DOMESTIC PRODUCER

24. Central Wire was founded in 1955 as a manufacturer of specialty stainless steel and copper alloy wire. It owns production facilities in Perth and Erin, Ontario, Dumas, Arkansas, Perris, South Carolina, and the former Techalloy facilities indicated below. In December 2002, Central Wire purchased the assets of Greening Donald Co. Ltd.'s wire drawing facility in Erin, thereby becoming the only Canadian producer.

25. In 2005, the Central Wire Group was formed with the acquisition of Techalloy Company Inc. (Techalloy) in the United States, which operated production facilities in Baltimore, Maryland, Union, Illinois, and Lancaster, South Carolina, and a warehouse facility in Houston, Texas. In 2006, Central Wire and Techalloy merged into a single entity. Central Wire currently represents 75 percent of U.S. production of stainless steel wire.⁹

26. Central Wire produces the full range of stainless steel wire subject to this expiry review, including welding wire, belting wire, cold heading and forming wire, and wireline. It also produces other types of stainless steel wire which are not subject to the Tribunal's findings.

7. An example of a semi-finished product is cloth woven from fine wire and sold to a manufacturer of air bags for automotive use.

8. This distribution of sales may not be representative of all importers, given the low response rate to questionnaires.

9. *Transcript of Public Hearing*, 9 June 2009, at 51.

IMPORTERS AND EXPORTERS

27. Expiry Review questionnaires were sent to 36 importers. Three importers responded to the CBSA's questionnaire. One of these importers provided the Tribunal with the updated data requested for the fourth quarter of 2008.

28. In view of the low response rate, on March 13, 2009, the Tribunal sent a short-form importers' questionnaire to the 26 largest importers, requesting data for the period from 2006 to 2008. Of these 26 importers, 4 companies provided the requested information, 2 companies provided partial responses to the questionnaire, and 6 companies replied that they did not import the subject goods. Fourteen companies did not reply.

29. The expiry review questionnaire for exporters was sent to 67 foreign producers. Two foreign producers responded to the questionnaire. Neither respondent provided the Tribunal with the updated data requested for the fourth quarter of 2008.

SUMMARY OF PREVIOUS FINDINGS

Summary of the Findings in Inquiry No. NQ-2004-001

30. On July 30, 2004, the Tribunal found that the dumping in Canada of the subject goods originating in or exported from Korea, Switzerland and the United States and the subsidizing of the subject goods originating in or exported from India, excluding certain products, had caused price suppression that injured the domestic industry. The injury caused by the dumping and subsidizing was material in terms of its impact on the financial performance of the domestic industry.¹⁰

31. The Tribunal found that there was some displacement of domestic goods in 2003 by the subject goods, although non-subject goods were also responsible for a significant share of the displacement. The main non-price factors that caused Central Wire to lose sales volume were the decline in market demand and the natural commercial behaviour of customers in seeking imports as a second source of supply. The Tribunal concluded that these two factors explained the gain in volume and market share by the subject countries.

32. The Tribunal also found that Central Wire experienced significant increases in material and other production costs over the period of inquiry in Inquiry No. NQ-2004-001 (from 2001 to 2003), which, in the normal course of events, it would have recovered by increasing its prices. The Tribunal concluded that, starting in 2003, and increasingly in 2004, Central Wire experienced a significant shortfall in its ability to recover its increased costs. In the Tribunal's view, the presence of low-priced dumped and subsidized subject goods was the one factor that could reasonably explain Central Wire's financial performance.

33. The Tribunal indicated that, although the dumping and subsidizing of the subject goods did not appear to have contributed significantly to the loss of volume or market share by Central Wire (and therefore did not contribute to the decline in its employment or capacity utilization), they did cause price suppression in the domestic market. In the Tribunal's view, this price suppression led directly to the erosion in financial performance, particularly in terms of gross margins, experienced by Central Wire in 2003 and the first half of 2004. The Tribunal was persuaded that this deterioration in financial performance caused by the dumping and subsidizing also played a significant part in leading to the reduction in investment and the reduced ability to raise capital.

10. *Certain Stainless Steel Wire* (30 July 2004), NQ-2004-001 (CITT).

Summary of the Report in Public Interest Inquiry No. PB-2004-002

34. On November 4, 2004, the Tribunal commenced a public interest inquiry pursuant to requests filed by two interested parties, Major Wire Industries Limited and Wire Mesh, both end users of stainless steel wire.

35. The public interest investigation was concluded on March 22, 2005. Pursuant to paragraph 45(5)(a) of *SIMA*, the Tribunal recommended that the Minister of Finance reduce from 181 to 35 percent the anti-dumping duty on shipments of belting wire and wireline originating in or exported from the United States.

36. On November 28, 2005, the Governor in Council issued the *Stainless Steel Round Wire Products Anti-dumping Duty Remission Order*.¹¹ Remission was granted to belting wire and wireline, where the anti-dumping duty was reduced to 35 percent, expressed as a percentage of the export price. Consistent with World Trade Organization obligations, in addition to the United States, the reduction of anti-dumping duty was also applied to Korea and Switzerland.¹²

ANALYSIS

37. On March 12, 2009, the CBSA determined, pursuant to paragraph 76.03(7)(a) of *SIMA*, that the expiry of the findings was likely to result in the continuation or resumption of dumping and subsidizing of the subject goods. Consequently, the Tribunal is required, pursuant to subsection 76.03(10), to determine whether the expiry of the findings is likely to result in injury or retardation, as the case may be, to the domestic industry.¹³

38. Therefore, the Tribunal is required, pursuant to subsection 76.03(12) of *SIMA*, to make an order either rescinding the findings issued in 2004, if it determines that the expiry of those findings is unlikely to result in injury, or continuing the findings, with or without amendment, if it determines that the expiry of the findings is likely to result in injury.

39. Before proceeding with its analysis concerning the likelihood of injury, the Tribunal will first determine (1) what domestically produced goods are “like goods” in relation to the subject goods, (2) what constitutes the “domestic industry” for the purposes of its analysis and (3) whether the analysis should be done cumulatively.

Like Goods

40. 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 [such] goods . . . , goods the uses and other characteristics of which closely resemble those of the other goods.” In considering the issue of like goods, the Tribunal typically looks at a number of factors, including the physical characteristics of the goods, their market characteristics and whether the domestic goods fulfill the same customer needs as the subject goods.

11. S.O.R./2005-392.

12. C. Gaz. 2005.II.2970.

13. Subsection 2(1) of *SIMA* defines “injury” as “. . . material injury to a domestic industry” and “retardation” as “. . . material retardation of the *establishment* of a domestic industry” [emphasis added]. Given that there is currently an established domestic industry, the issue of whether the expiry of the findings is likely to result in retardation does not arise in this expiry review.

41. In its statement of reasons in Inquiry No. NQ-2004-001, the Tribunal stated the following:

The evidence indicates that, for each specific type of wire, the domestically produced stainless steel wire is manufactured by similar methods and according to standards similar to those that apply to the subject goods and that these products have the same physical characteristics.¹⁴ . . . domestically produced stainless steel wire and the subject goods can generally be substituted for each other and that they have similar prices and channels of distribution.¹⁵

[Footnotes omitted]

42. In this expiry review, the record contained no evidence or argument that warrants departing from the conclusion on like goods reached in Inquiry No. NQ-2004-001. Accordingly, the Tribunal concludes that stainless steel wire produced by the domestic producer, defined in the same manner as the subject goods, constitutes like goods in relation to the subject goods.

Domestic Industry

43. The domestic industry is defined in subsection 2(1) of *SIMA* 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”

44. Central Wire is the only domestic producer of like goods.¹⁶ The Tribunal will therefore consider Central Wire to constitute the domestic industry for the purpose of this expiry review.

Cumulation

45. 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 or subsidizing of 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 goods imported into Canada from any of the countries and the goods from any other of the countries or between those goods and the like goods.

46. If the Tribunal is not satisfied that an assessment of the cumulative effect of the dumping or subsidizing of goods from more than one country would be appropriate, based on its assessment of the relevant conditions of competition, then it shall not assess the effects of dumping or subsidizing cumulatively.

47. In considering the conditions of competition between goods, the Tribunal typically takes into account the following factors: the degree to which the goods from each subject country are interchangeable with the subject goods from the other subject countries or with the like goods; the presence or absence of sales of imports from different subject countries and of the like goods into the same geographical markets, or the presence or absence of offers to sell such goods; the existence of common or similar channels of distribution; and differences in the timing of the arrival of imports from a subject country and of those from the other subject countries, and of the availability of like goods supplied by the domestic industry.

14. (30 July 2004) (CITT) at para. 34.

15. *Ibid.* at para. 37.

16. *Pre-hearing Staff Report*, 30 April 2009, Tribunal Exhibit RR-2008-004-05, Administrative Record, Vol. 1.1 at 17.

48. Central Wire argued that, with respect to “conditions of competition”, the Tribunal determined in its findings in 2004 that the subject goods were interchangeable with the like goods. At the time, the Tribunal also concluded that the subject goods and the like goods were sold through the same channels of distribution and competed with one another in the Canadian market. Given these facts, the Tribunal decided that cumulation was appropriate.

49. In the current expiry review, Central Wire submitted that it is still appropriate for the Tribunal to make an assessment of the cumulative effect of the dumping of the subject goods from Korea, Switzerland and the United States and the subsidizing of the subject goods from India, given that there have been no changes in the market that would justify a different result today. In addition, Central Wire submitted that there is no evidence to indicate that the conditions of competition will change in the next 18 months.¹⁷

50. The evidence in this case indicates that each particular grade of subject stainless steel wire is a commodity product.¹⁸ The Tribunal notes that subject stainless steel wire sold in Canada, regardless of country of origin, are produced to recognized industry specifications.¹⁹ As a commodity product, the subject goods and the like goods are therefore considered to be interchangeable. The Tribunal considers this to be a strong indicator that quality is similar regardless of source. The Tribunal notes however that, for some manufacturing applications, the standard industry specifications may require certain modifications to operate well on a particular producer’s equipment.²⁰

51. The subject goods and the like goods are sold through the same channels of distribution.²¹ In addition, they all generally compete in the same geographical markets.

52. Although differences exist in methods of transportation, the timing of the arrival,²² order size,²³ range of products²⁴ in individual shipments of the subject goods and in the availability of the like goods supplied by Central Wire, the evidence is clear that, overall, the subject goods generally compete with each other and with the like goods in the Canadian market.

53. As the Tribunal has stated in other cases, there may be other factors that it should consider in appropriate circumstances in deciding whether the exports of a particular country should be cumulated and no single factor will necessarily be determinative.²⁵ In this case, the subject goods from India are subsidized, whereas the subject goods from the other subject countries are dumped. Consequently, the Tribunal considered the appropriateness of making a cumulative assessment of the injurious effects of both dumped and subsidized goods, an approach normally referred to as cross-cumulation.²⁶

17. Manufacturer’s Exhibit A-01 at 10, Administrative Record, Vol. 11.

18. *Ibid.*; *Transcript of Public Hearing*, 9 June 2009, at 26.

19. These industry standards are defined, for example, by the American Society for Testing and Materials and the American Welding Society.

20. *Transcript of Public Hearing*, 9 June 2009, at 43-45.

21. *Ibid.* at 17; Tribunal Exhibit RR-2008-004-01, Administrative Record, Vol. 1 at 17.

22. *Transcript of Public Hearing*, 9 June 2009, at 27, 66.

23. Manufacturer’s Exhibit A-03 at 6, Administrative Record, Vol. 11.

24. *Transcript of Public Hearing*, 9 June 2009, at 32-33.

25. See, for example, *Laminate Flooring* (16 June 2005), NQ-2004-006 (CITT) at para. 80.

26. *Grain Corn* (7 March 2001), NQ-2000-005 (CITT); *Black Granite Memorials* (20 July 1994), NQ-93-006 (CITT), and (19 July 1999), RR-98-006 (CITT); *Refined Sugar* (6 November 1995), NQ-95-002 (CITT); *Hot-rolled Carbon Steel Plate* (27 June 2000), NQ-99-004 (CITT).

54. The Tribunal's previous considerations of cross-cumulation have generally concerned the impact of the activities of a subject country engaged in both dumping and subsidizing.²⁷ The Tribunal is of the view that there could be a situation where goods that are only subsidized would have a different effect in the domestic market from goods that are only dumped. In such circumstances, it would not be appropriate to cross-cumulate. However, the Tribunal does not consider that this is the situation in this case.

55. Accordingly, the Tribunal is satisfied that it is appropriate to make an assessment of the cumulative effect of the dumping of the subject goods from Korea, Switzerland and the United States and of the subsidizing of the subject goods from India.

Likelihood of Injury

56. Subsection 37.2(2) of the *Special Import Measures Regulations*²⁸ lists the factors that the Tribunal may consider in addressing the question of likelihood of injury in cases where the CBSA has determined that there is a likelihood of continued or resumed dumping or subsidizing. The factors that the Tribunal considers relevant in this expiry review are discussed below.

57. In making its assessment of likelihood of injury, the Tribunal has consistently taken the view that the focus should be on circumstances that can reasonably be expected to exist in the near to medium term. This time frame is generally 18 to 24 months from the expiry of the finding or order.²⁹

58. Central Wire submitted that it would be appropriate for the Tribunal to focus on an 18-month period rather than on a longer period of up to 24 months.³⁰ However, stainless steel trade journals and other industry publications filed as evidence did not provide forecasts beyond May 2010. Taking into account these limitations and the general uncertainty about future market conditions caused by the global recession, the Tribunal does not consider that it has sufficient evidence to consider a time frame beyond 12 months. Any attempt to forecast global and domestic market conditions for the subject goods for a period of 18 to 24 months would be highly speculative. Therefore, for the purposes of this expiry review, the Tribunal will focus on the circumstances that can reasonably be expected to exist over the next 12 months.

Changes in Market Conditions

59. In coming to its view on the likely volumes and prices of the subject goods and their impact on the domestic industry if the findings are rescinded, the Tribunal will first consider changes in international and domestic market conditions, as contemplated by paragraph 37.2(2)(j) of the *Regulations*.

27. The amount of a subsidy is generally fixed by the government that grants it. Therefore, when subsidized goods are sold at low prices, the extent to which the low prices are attributable to the subsidy is limited by the fixed amount of the subsidy. Dumping margins are not fixed in this way and, accordingly, the extent to which low prices of dumped goods are attributable to dumping is not limited in the same way. Thus, the price effect of subsidized goods may be discernable separately from the price effect of dumped goods.

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

29. *Preformed Fibreglass Pipe Insulation* (17 November 2003), RR-2002-005 (CITT) at 11; *Prepared Baby Foods* (28 April 2003), RR-2002-002 (CITT) at 8; *Solder Joint Pressure Pipe Fittings* (16 October 1998), RR-97-008 (CITT) at 10.

30. Manufacturer's Exhibit A-01 at 11, 12, Administrative Record, Vol. 11.

International Market Conditions

60. During the period extending from January 2006 to May 2009, major changes took place in international market conditions. Between 2006 and 2007, the world economy grew by approximately 5 percent.³¹ Commodity demand and prices reached historic highs.³² However, in 2008, growth slowed to 2.5 percent per year.³³ By the fourth quarter of 2008, it was generally acknowledged that a major global economic recession was in progress. The downturn in economic growth led to a major decline in commodity demand and prices. Economic forecasts indicate that global gross domestic product (GDP) is expected to contract by approximately 0.5 percent to 1.0 percent in 2009 from 2008 levels.³⁴

61. The recession in the United States started in late 2007, somewhat earlier than in the global economy in general. The forecast information on the record indicates that the U.S. economy is expected to contract by approximately 3.0 percent in 2009 compared with 2008, with growth in 2010 limited to 1.5 percent.³⁵ Similarly, the economies of the European Union are expected to contract by 3.3 percent in 2009 compared with 2008, with only slight improvements forecast for 2010 over 2009.³⁶ Real GDP in the advanced economies was forecast by the International Monetary Fund to contract on average by 2.0 percent in 2009, compared with 2008.³⁷

62. Growth in the emerging economies such as India, China and Brazil was forecast to average 3.3 percent in 2009,³⁸ down from 6.3 percent in 2008 and 8.3 percent in 2007.³⁹

63. As a result of the global decline in economic activity, the World Bank expects global trade to decline by 2.1 percent in 2009. This will be the first contraction in global trade since 1982.⁴⁰

64. Largely as a consequence of the decline in world trade, ocean freight rates have declined. The Baltic Dry Index, which measures daily changes in the cost of shipping raw materials,⁴¹ declined by approximately 81 percent between June 2008 and April 2009.⁴² The cost of shipping is expected to continue to decline in 2009 and well into 2010.⁴³

65. The global market for stainless steel has been adversely affected by the recession. Stainless steel producers have cut production in response to the decrease in demand. Globally, crude stainless steel production was down by over 6 percent in 2008.⁴⁴ Damstahl's Bi-Monthly Stainless Steel Briefing reported

31. Manufacturer's Exhibit A-07 at 280, Administrative Record, Vol. 11.

32. Tribunal Exhibit RR-2008-004-17.01, Administrative Record, Vol. 3 at 114; *Pre-hearing Staff Report*, 30 April 2009, Tribunal Exhibit RR-2008-004-05, Administrative Record, Vol. 1.1 at 74.

33. Tribunal Exhibit RR-2008-004-17.01, Administrative Record, Vol. 3 at 114.

34. Manufacturer's Exhibit A-07 at 67, Administrative Record, Vol. 11.

35. *Ibid.* at 67, 291, Administrative Record, Vol. 11.

36. *Ibid.* at 66, Administrative Record, Vol. 11.

37. Manufacturer's Exhibit A-07A at 280, Administrative Record, Vol. 11.

38. The term "emerging economies" is used to describe a nation's social or business activity in the process of rapid growth and industrialization. Currently, there are approximately 28 emerging economies, with the economies of India and China being the largest. Other emerging economies include countries such as Argentina and Brazil.

39. Manufacturer's Exhibit A-07 at 280, Administrative Record, Vol. 11.

40. Tribunal Exhibit RR-2008-004-17.01, Administrative Record, Vol. 3 at 114.

41. Manufacturer's Exhibit A-05, tab 10, Administrative Record, Vol. 11.

42. *Ibid.*

43. Manufacturer's Exhibit A-05, tabs 10, 11, Administrative Record, Vol. 11.

44. Manufacturer's Exhibit A-07 at 14, Administrative Record, Vol. 11.

in April 2009⁴⁵ that the global market for stainless steel was expected to shrink by approximately 20 percent in 2009. Indeed, in January and February 2009, world stainless steel production declined by over 40 percent from the same period in 2008.⁴⁶ Metal Bulletin Research indicated that, in its view, the reductions in global stainless steel production are likely to continue well into the second quarter of 2009.⁴⁷ The decline in demand for stainless steel products has led to a significant drop in stainless steel prices, as indicated by the benchmark price for grade 304 stainless steel, which declined from a high of approximately US\$5,000 per tonne in early 2008 to approximately US\$2,500 per tonne in April 2009.⁴⁸

66. In 2008 compared to 2007, crude stainless steel production in the United States declined by 11 percent and Chinese production declined by 4 percent.⁴⁹ In the EU-15,⁵⁰ crude stainless steel production declined by only 1 to 2 percent in 2008 compared to 2007, but was 15 percent lower than in 2006.⁵¹

67. With respect to subject stainless steel wire, the current recession has also caused a major decrease in demand. Central Wire submitted that the recovery from the current global recession is not likely to take place until the middle of 2010, if not 2011, and that demand for subject stainless steel wire generally follows the trends in the overall economy; however, it generally lags the general economy by about 9 to 18 months.⁵²

68. Limited data are available that deal only with the stainless steel wire subject to this expiry review, either with reference to the subject countries or globally. However, witnesses appearing before the Tribunal agreed that developments in the global market for the stainless steel wire subject to this expiry review generally follow the trends of the market for stainless steel products as a whole.⁵³ The Tribunal is therefore of the view that it will probably take at least 12 months after the beginning of the general economic recovery before demand for subject stainless steel wire begins to recover; that is, the Tribunal expects demand for subject stainless steel wire to be low in most industries for the next 12 months. The one possible exception indicated by the testimony is the demand for wireline used by the oil and gas industry.⁵⁴

69. In summary, over the period of review, the international market conditions experienced highs and lows, deteriorating significantly since the fourth quarter of 2008. The commodity boom which peaked in 2007 ended with the slowing of economic growth in 2008.⁵⁵ Global market demand for stainless steel products generally has been significantly impacted by the global recession, which has led to significant production cuts for stainless steel and significant declines in world stainless steel prices. Global market demand for stainless steel wire has followed similar trends.

45. Tribunal Exhibit RR-2008-004-RI-01, Administrative Record, Vol. 9 at 8.

46. Tribunal Exhibit RR-2008-004-38.05 (single copy), Administrative Record, Vol. 1.01 at 125.

47. *Ibid.*

48. *Ibid.* at 111.

49. Manufacturer's Exhibit A-07 at 19, Administrative Record, Vol. 11.

50. The EU-15 is composed of Austria, Belgium, Denmark, Finland, France, Germany, Greece, Ireland, Italy, Luxembourg, the Netherlands, Portugal, Spain, Sweden and the United Kingdom.

51. Manufacturer's Exhibit A-07 at 18, Administrative Record, Vol. 11.

52. Manufacturer's Exhibit A-03 at 21, Administrative Record, Vol. 11.

53. *Transcript of Public Hearing*, 9 June 2009, at 56-57, 109-110; Manufacturer's Exhibit A-03 at 21, Administrative Record, Vol. 11.

54. The witness from Controlled Products Group testified that, in his view, as a result of the recent increases in oil prices, "... within the next six months that business will return to favour." *Transcript of Public Hearing*, 9 June 2009, at 108.

55. Tribunal Exhibit RR-2008-004-17.01, Administrative Record, Vol. 3 at 114.

Domestic Market Conditions

70. Overall, during the period of review, the general market conditions in Canada broadly resembled global market conditions, but lagged behind U.S. market conditions by approximately 9 to 12 months.

71. The Canadian economy grew by 2.7 percent between 2006 and 2007. Economic growth began to slow in 2008, with economic activity contracting by 3.4 percent in the fourth quarter of 2008, resulting in an annual growth in 2008 of only 0.5 percent over 2007.⁵⁶

72. Economic forecasts expect real GDP to contract by 2.5 percent in 2009.⁵⁷ A recovery is expected to begin late in 2009 in response to the low interest rate policy of the Bank of Canada, the fiscal stimulus of the Government of Canada and some possible upturn in demand in the United States.⁵⁸ These measures are expected to help real GDP expand by 1.8 to 2.5 percent in 2010.⁵⁹ Recovery in Canada is likely to proceed somewhat more quickly than recovery in the United States.⁶⁰

73. The Tribunal also notes two important changes in domestic market conditions specifically relating to subject stainless steel wire. There have been significant changes to the size of the domestic market and sources of supply since the Tribunal's findings in 2004. In 2003, the apparent market in Canada for subject stainless steel wire was approximately 6.0 million kg.⁶¹ However, between 2006 and 2008, the Canadian market contracted to an annual average of approximately 3.3 million kg.⁶² In addition, China, Germany and Taiwan have become significant sources of supply. Imports from these and other non-subject countries, which accounted for only a small proportion of the apparent market at the time of the original inquiry, increased over sixfold, capturing a significant share of the Canadian market over the period of review.⁶³

Likely Volumes of Dumped and Subsidized Goods

74. The Tribunal's assessment of the likely volumes of dumped and subsidized imports⁶⁴ encompasses the likely performance of the foreign industry,⁶⁵ potential for the foreign producers to produce goods in facilities that are currently used to produce other goods,⁶⁶ evidence of the imposition of anti-dumping measures on stainless steel wire or similar goods in other jurisdictions⁶⁷ and whether measures adopted by other jurisdictions are likely to cause a diversion of the subject goods to Canada.⁶⁸

56. Manufacturer's Exhibit A-07 at 286, Administrative Record, Vol. 11.

57. *Ibid.* at 293, Administrative Record, Vol. 11.

58. *Ibid.*

59. Tribunal Exhibit RR-2008-004-RI-01, Administrative Record, Vol. 9 at 21, 30.

60. *Ibid.*

61. Tribunal Exhibit RR-2008-004-10C, Administrative Record, Vol. 1.3 at 180.

62. *Pre-hearing Staff Report*, revised 27 May 2009, Tribunal Exhibit RR-2008-004-05B, Administrative Record, Vol. 1.1 at 117. The Tribunal notes that the difference in market size is in part attributable to the differences in the definitions of the subject goods and the like goods as a result of the product exclusions granted in Inquiry No. NQ-2004-001.

63. Tribunal Exhibit RR-2008-004-10 (protected), Administrative Record, Vol. 2.3 at 175; *Pre-hearing Staff Report*, revised 27 May 2009, Tribunal Exhibit RR-2008-004-05B, Administrative Record, Vol. 1.1 at 119.

64. Paragraph 37.2(2)(a) of the *Regulations*.

65. Paragraph 37.2(2)(d) of the *Regulations*.

66. Paragraph 37.2(2)(f) of the *Regulations*.

67. Paragraph 37.2(2)(h) of the *Regulations*.

68. Paragraph 37.2(2)(g) of the *Regulations*.

Central Wire's Position

75. Central Wire submitted that the effect of the findings has been to limit the total volume of imports of the subject goods, which demonstrates that the subject countries are unable to compete in the Canadian market without dumping or the benefit of subsidies.

76. Central Wire submitted that the capacity of foreign producers in the subject countries is extensive. It provided evidence that shows that producers in the subject countries have substantial capacity to produce the subject goods, both in absolute terms and relative to the size of the Canadian market.⁶⁹

77. Central Wire submitted that the number of stainless steel producers and facilities around the world has increased significantly since the findings issued in 2004, particularly in China and India, but also in countries such as Germany and the Czech Republic.⁷⁰ Given the unexpected global economic downturn and the resulting contraction in demand, there are large amounts of excess capacity which are contributing to the depressed prices for stainless steel products, including subject stainless steel wire. Central Wire submitted that the production of stainless steel wire is capital intensive and, as a result, when markets are soft, there is an imperative to continue producing at or even slightly below the marginal cost of production in order to maintain operations and protect capital investment.⁷¹

78. Central Wire submitted that the subject countries are export oriented and continued to export substantial volumes of other stainless steel wire to Canada during the period of review.⁷² In this regard, Central Wire submitted that the Canadian market is equally comprised of subject stainless steel wire and other stainless steel wire. If the findings were rescinded, imports of the subject goods would increase to volumes similar to those of other stainless steel wire to reflect the 50:50 distribution of all stainless steel wire products in the overall market.⁷³ Central Wire argued further that the presence of existing channels of distribution will make it easy for producers in the subject countries to increase their sales of the subject goods.⁷⁴

79. In order to estimate the likely volumes of the subject goods that would enter Canada if the findings were rescinded, Central Wire compared the imports of all stainless steel wire from India, Korea and Switzerland classified in subheading No. 7223.00⁷⁵ into Canada and the United States.⁷⁶ Central Wire argued that, since there are no anti-dumping or countervailing duties limiting imports of stainless steel wire into the United States, if the findings in Canada were rescinded, total import volumes into Canada would be proportionate to total U.S. import volumes. That is, because the Canadian stainless steel wire market is approximately one tenth the size of the U.S. market, the Canadian import volume would be approximately one tenth the volume of imports of stainless steel wire into the United States.⁷⁷ Central Wire submitted that this demonstrates that the volume of the subject goods from India, Korea and Switzerland would be dramatically higher if the findings were rescinded.

69. Manufacturer's Exhibit A-01 at 19-29, Administrative Record, Vol. 11.

70. Tribunal Exhibit RR-2008-004-34.01A, Administrative Record, Vol. 7 at 34.

71. Manufacturer's Exhibit A-01 at 19, Administrative Record, Vol. 11; *Transcript of Public Hearing*, 9 June 2009, at 135.

72. Manufacturer's Exhibit A-01 at 23, 25, 27, 29, Administrative Record, Vol. 11.

73. *Transcript of Public Hearing*, 9 June 2009, at 139; Manufacturer's Exhibit A-01 at 30, Administrative Record, Vol. 11.

74. *Transcript of Public Hearing*, 9 June 2009, at 139-40.

75. Subheading No. 7223.00 includes both subject and non-subject stainless steel wire.

76. Manufacturer's Exhibit A-01 at 23, 26, 27, 29, Administrative Record, Vol. 11.

77. *Transcript of Public Hearing*, 9 June 2009, at 141.

80. Central Wire also submitted that, due to the global recession, shipping costs are expected to remain low, providing offshore producers in the subject countries an additional cost incentive to export increased volumes of the subject goods to Canada.⁷⁸

81. Concerning the potential of producers to produce the subject goods in facilities that are currently used to produce other goods, Central Wire submitted that producers in the subject countries have the ability to produce both the subject goods and other stainless steel wire on the same equipment.

82. With respect to the imposition of anti-dumping or countervailing measures by other jurisdictions, Central Wire submitted that producers in India, Korea and the United States have been found to be dumping or subsidizing many types of steel products. Central Wire alleged that producers of stainless steel wire in the European Union are preparing a complaint respecting the dumping and subsidizing of stainless steel wire by certain countries outside Europe, including India.⁷⁹ Central Wire submitted that, if the complaint were to result in a finding that limited sales of stainless steel wire to the European Union, diversion would be likely, as foreign producers would intensify their efforts to sell into the Canadian and U.S. markets.

Tribunal's Analysis

83. Concerning the likely performance of the foreign industry, production capacity relative to demand is a key factor likely to influence the volume of the subject goods. In this respect, the evidence indicates that the aggregate production capacity of producers of stainless steel wire in the subject countries is large⁸⁰ and that excess capacity does exist, given the recent production cutbacks undertaken by producers of stainless steel.

84. Export orientation is another key factor. The evidence indicates that certain large producers in the subject countries are export oriented⁸¹ and that these countries export substantial volumes of stainless steel wire to many countries around the world.⁸²

85. The interest of the subject countries in the Canadian market and their distribution networks in Canada are also significant. India shipped significant volumes of the subject goods to Canada during the period of review and, although producers in the United States, Korea and Switzerland have only shipped minimal volumes, they all maintained a significant commercial presence in Canada through their sales of other stainless steel wire.⁸³ In this regard, the evidence indicates that both the subject goods and other stainless steel wire are sold through the same distribution channels.⁸⁴

86. In addition to the production capacity, capacity utilization and export capability of producers of stainless steel wire in the subject countries, it is important to consider the volume of actual production expected over the next 12 months.

78. Manufacturer's Exhibit A-05 at 10, Administrative Record, Vol. 11.

79. Manufacturer's Exhibit A-03 at 11, Administrative Record, Vol. 11.

80. Manufacturer's Exhibit A-01 at 19-29, Administrative Record, Vol. 11.

81. Manufacturer's Exhibit A-05 at 9, Administrative Record, Vol. 11.

82. *Pre-hearing Staff Report*, 30 April 2009, Tribunal Exhibit RR-2008-004-05, Administrative Record, Vol. 1.1 at 65, 67, 69, 71.

83. Manufacturer's Exhibit A-05 at 9, Administrative Record, Vol. 11.

84. Manufacturer's Exhibit A-01 at 10, Administrative Record, Vol. 11; *Transcript of Public Hearing*, 9 June 2009, at 17.

87. Between 2007 and 2008, production of stainless steel products in India declined by 16 percent, production in Korea declined by 20 percent and production in the United States declined by 12 percent.⁸⁵ The evidence indicates that this production discipline exercised by foreign producers of stainless steel products is expected to be maintained while demand remains at current depressed levels.⁸⁶ Therefore, a corresponding production discipline is expected to be exercised by producers of the subject goods, while the demand for stainless steel wire remains depressed.

88. With respect to Central Wire's submissions that, should the findings be rescinded, imports of the subject goods from India, Korea and Switzerland will reflect the composition and proportionate volume of imports into the United States, the Tribunal notes that there is no evidence confirming Central Wire's view of the 50:50 distribution of the subject goods and other stainless steel wire in the domestic market. However, if the Tribunal were to accept Central Wire's premises respecting the composition and proportionate size of the domestic market, the Tribunal notes that, in 2008, imports of all stainless steel wire from India, Korea and Switzerland into the United States totalled 21.3 million kg.⁸⁷ This suggests that imports of all stainless steel wire into Canada from India, Korea and Switzerland would be approximately 2.1 million kg, half of which, or just over 1 million kg, would be the subject goods. The evidence indicates that current imports of the subject and non-subject goods are not significantly different from this amount.⁸⁸

89. Concerning the potential of producers of the subject goods in facilities that are currently used to produce other goods, the Tribunal is of the view that, in light of the production discipline being exercised by foreign producers, a switch from production of other stainless steel wire to the production of the subject goods is not likely. The available forecasts cover stainless steel products in general and would therefore apply equally to both the subject goods and other stainless steel wire. Based on these forecasts, both categories of products will face the same limited demand conditions over the next 12 months, removing any significant incentive for producers to switch production from one category to the other.

90. Considering the imposition of anti-dumping or countervailing duty measures in other jurisdictions, the Tribunal notes that none of the lengthy list of measures cited by Central Wire against the subject countries concerns the subject goods. In the Tribunal's opinion, whether exporters of the subject goods will necessarily follow the same behaviours as the goods covered by these measures is purely speculative. As indicated above, Central Wire also alluded to the possibility of a dumping complaint being initiated in the European Union against a number of countries, including India.⁸⁹ However, it is impossible to predict whether any such complaint will lead to an injury finding and, hence, a possibility of diversion.

91. As part of its analysis in coming to its view on cumulation, the Tribunal considered it useful, in the context of this case, to consider the likely volumes of imports from the subject countries individually.

– India

92. Notwithstanding the production discipline exercised by Indian producers of stainless steel products in response to the current economic recession, India's capacity to produce and export stainless steel wire remains large relative to the size of the Canadian market for subject stainless steel wire. During the period of review, annual exports of all stainless steel wire from India ranged from 50.2 to 58.9 million kg, with annual

85. Tribunal Exhibit RR-2008-004-38.05 (single copy), Administrative Record, Vol. 1.01 at 125. The record contains no production data for Switzerland.

86. Tribunal Exhibit RR-2008-004-38.05 (single copy), Administrative Record, Vol. 1.01 at 125.

87. *Pre-hearing Staff Report*, 30 April 2009, Tribunal Exhibit RR-2008-004-05, Administrative Record, Vol. 1.1 at 65, 67, 69. See also paragraph 94 concerning the Tribunal's view of the validity of these premises.

88. *Pre-hearing Staff Report* (protected), revised 27 May 2009, Tribunal Exhibit RR-2008-004-06B (protected), Administrative Record, Vol. 2.1 at 114.

89. Manufacturer's Exhibit A-03 at 11, Administrative Record, Vol. 11.

exports to Canada averaging 1.0 million kg,⁹⁰ that is, approximately 2 percent of its total exports. Annual Canadian imports of the subject goods from India during the period of review averaged approximately 520,000 kg, representing over 15 percent of the apparent market.⁹¹

93. The Tribunal observes that, despite the imposition of countervailing duties, the market share of the subject goods from India has increased since the findings issued in 2004. During the Tribunal's period of inquiry in Inquiry No. NQ-2004-001, India's share of the domestic market increased from 3 percent in 2001 to 12 percent in 2003.⁹² In 2006, when the findings were in place, India's share of the domestic market was 15 percent. It increased to 18 percent in 2007 before declining to 13 percent in 2008, a level still slightly higher than in 2003.⁹³ At their peak market share, in 2007, sales of imports from India amounted to 666,000 kg, which was 7 percent below their peak volume of 718,000 kg in 2003.

94. The Tribunal does not accept Central Wire's argument that the volume of the subject goods from India, in the absence of the countervailing duty, would increase to account for the same proportion of the Canadian market as it does in the United States. In this regard, the evidence does not indicate that the estimates provided by Central Wire regarding the nature and composition of demand for subject stainless steel wire in the Canadian and U.S. markets are sufficiently comparable to come to this conclusion. The Tribunal considers that the volume of the subject goods from India during the period of inquiry in Inquiry No. NQ-2004-001 is a better indicator of what the volume of imports of the subject goods from India would be without the countervailing duty.

95. According to Central Wire, there are operational reasons for producers of stainless steel wire to maintain exports in a consistent, limited product range based on where they have excess capacity in their mill operations.⁹⁴ The Tribunal notes the testimony of Central Wire's witnesses that the product mix of the subject goods from India in the Canadian market has not changed significantly since the Tribunal's findings in 2004. The witnesses from Central Wire testified that the subject goods from India were primarily forming wire and some weaving wire of grades 304 and 403.⁹⁵ Being confined to this product range is a constraint on the likely volume of imports from India.

96. The witnesses from Central Wire testified that Indian producers have begun promoting sales of welding wire, a non-traditional Indian export product, at trade shows, but that exports of this product have not yet appeared in Canada.⁹⁶ The evidence does not indicate to what extent this new production will materialize in the next 12 months and, if it does materialize, to what extent any exports would target Canada. However, in the Tribunal's view, it is probable that it would take at least 12 months before any such new product line would generate sufficient production that meets applicable specifications and exceeds domestic demand to become a significant source of exports. In this regard, the Tribunal notes that Lincoln Electric, the company identified by Central Wire as commencing production of welding wire in India, is a U.S.-based producer of welding wire. The Tribunal is of the opinion that, just as Central Wire's facilities in the United States would not compete against its affiliates in Canada, according to the testimony of Central

90. *Pre-hearing Staff Report*, 30 April 2009, Tribunal Exhibit RR-2008-004-05, Administrative Record, Vol. 1.1 at 65.

91. *Pre-hearing Staff Report*, revised 27 May 2009, Tribunal Exhibit RR-2008-004-05B, Administrative Record, Vol. 1.1 at 117, 119.

92. Tribunal Exhibit RR-2008-004-10, Administrative Record, Vol. 1.3 at 32.

93. *Pre-hearing Staff Report*, revised 27 May 2009, Tribunal Exhibit RR-2008-004-05B, Administrative Record, Vol. 1.1 at 119; Tribunal Exhibit RR-2008-004-10, Administrative Record, Vol. 1.3 at 28.

94. *Transcript of Public Hearing*, 9 June 2009, at 33-34.

95. *Ibid.* at 12, 22.

96. *Ibid.* at 35.

Wire's witnesses,⁹⁷ it is unlikely that Lincoln Electric in India will compete in the Canadian market against its own U.S. production. Accordingly, the Tribunal considers it unlikely that the volume of the subject goods from India will be increased significantly over the next 12 months by the addition of welding wire to the Indian product range.

97. In light of the current volume and market share of the subject goods from India in the Canadian market in comparison to the volume during the period of inquiry in Inquiry No. NQ-2004-001, as discussed above, the Tribunal considers that the countervailing duty has had little or no effect on the volume of imports from India. That is, the subject goods from India are already approaching the levels that would be expected without the imposition of the countervailing duty. This is what would reasonably be expected, given that the amount of countervailing duty over the period of review was very low, averaging approximately \$0.05 per kg, which is about 1 percent of the weighted average unit value for duty.⁹⁸ The levels of countervailing duty determined by the CBSA in its reinvestigation completed on November 17, 2008,⁹⁹ are slightly higher, but still at such a low level that removal of the countervailing duty is unlikely to cause a significant increase in the volume of the subject goods from India.

98. Accordingly, the Tribunal is of the opinion that the volume of exports of the subject goods from India is unlikely to increase significantly from its current levels if the findings are rescinded.

– United States

99. The evidence indicates that production capacity for stainless steel wire in the United States is large.¹⁰⁰ Total exports of all types of stainless steel wire averaged just over 18 million kg per year during the period of review.¹⁰¹ Exports to Canada of all stainless steel wire totalled over 1.1 million kg per year, which is significant, both in absolute terms and relative to the size of the Canadian market for subject stainless steel wire. This export activity demonstrates that the United States continues to have a strong interest in the Canadian market and that there is an established distribution network for all stainless steel wire. Notwithstanding the 12 percent decline in the total production of stainless steel products by producers in the United States¹⁰² in response to the global contraction in demand, it is reasonable to consider that the remaining production and exports of the subject goods are still large and significant relative to the size of the Canadian market for subject stainless steel wire.

100. Since 2004, as previously noted, there have been significant changes in the ownership of the production facilities for stainless steel wire in the United States. As a result of the acquisition of Techalloy in 2005,¹⁰³ Central Wire currently owns facilities that produce approximately 75 percent of all the stainless steel wire produced in the United States.¹⁰⁴ The witnesses from Central Wire testified that its plants in the

97. Tribunal Exhibit RR-2008-004-34.01B, Administrative Record, Vol. 7 at 75; *Transcript of In Camera Hearing*, 9 June 2009, at 43.

98. *Pre-hearing Staff Report*, revised 27 May 2009, Tribunal Exhibit RR-2008-004-05B, Administrative Record, Vol. 1.1 at 111.

99. Tribunal Exhibit RR-2008-004-55, Administrative Record, Vol. 1 at 258.

100. Manufacturer's Exhibit A-01 at 28-29, Administrative Record, Vol. 11.

101. *Pre-hearing Staff Report*, 30 April 2009, Tribunal Exhibit RR-2008-004-05, Administrative Record, Vol. 1.1 at 71.

102. Tribunal Exhibit RR-2008-004-38.05 (single copy), Administrative Record, Vol. 1.01 at 125.

103. Tribunal Exhibit RR-2008-004-17.01, Administrative Record, Vol. 3 at 11.

104. *Transcript of Public Hearing*, 9 June 2009, at 51.

United States would not dump the subject goods in Canada.¹⁰⁵ In the Tribunal's opinion, it is not reasonable to expect that the volume of the subject goods from the balance of the producers of stainless steel wire in the United States would return imports from the United States to the high levels experienced between 2001 and 2003, should the finding against the United States be rescinded.

101. The Tribunal, however, is of the view that, if the findings are rescinded, there will be a small increase in volume of the subject goods from the United States. It is clear, given purchasers' requirements for short delivery times and their desire to order small quantities to minimize inventory costs, that they would likely purchase product from the United States in situations where there is a gap in Central Wire's ability to supply the required product in the desired time frame. In addition, it would be commercially reasonable for some purchasers to switch a small part of their business from domestic production to other U.S. sources of supply solely because they consider it prudent to have an alternate North American source of supply.

– Korea

102. The evidence indicates that Korean producers of stainless steel wire have large production capacities and that total Korean export volumes of stainless steel wire products are large and include significant volumes to North America.¹⁰⁶ Notwithstanding Korea's reduction in total stainless steel production of 20 percent between 2007 and 2008, and an estimated decline in its production by 40 percent in the first quarter of 2009 compared with the first quarter of 2008, total Korean production and exports of stainless steel wire remain large.

103. The evidence indicates that Korea continues to maintain a distribution network in Canada and has demonstrated some continued interest in the Canadian market.¹⁰⁷ However, during the period of review, the volume of imports into Canada of both the subject goods and other stainless steel wire from Korea has been very small.¹⁰⁸ The Tribunal notes that, throughout the period of inquiry in Inquiry No. NQ-2004-001, Korea's share of the market was also very small.

104. As indicated above, the witnesses from Central Wire testified that countries that export the subject goods to Canada tend to target certain products that are determined by operational considerations and that export products therefore tend not to change significantly over time.¹⁰⁹ According to Central Wire, at the time of the original inquiry, Korean participation in the Canadian market was limited primarily to higher-cost and higher-priced products, such as welding wire.¹¹⁰ The witnesses from Central Wire testified that, while Korean production of stainless steel wire covers the full product range, the limited range of their exports of the subject goods to Canada has not changed significantly since the Tribunal's findings in 2004.¹¹¹ This means that the volume of any dumped goods from Korea would be constrained by the size of the limited market segment in which the subject goods from Korea compete.

105. Tribunal Exhibit RR-2008-004-34.01B, Administrative Record, Vol. 7 at 75; *Transcript of In Camera Hearing*, 9 June 2009, at 43.

106. Manufacturer's Exhibit A-01 at 24, Administrative Record, Vol. 11.

107. *Ibid.* at 3, Administrative Record, Vol. 11; Manufacturer's Exhibit A-05 at 9, Administrative Record, Vol. 11.

108. *Pre-hearing Staff Report*, revised 27 May 2009, Tribunal Exhibit RR-2008-004-05B, Administrative Record, Vol. 1.1 at 114; *Pre-hearing Staff Report*, 30 April 2009, Tribunal Exhibit RR-2008-004-05, Administrative Record, Vol. 1.1 at 67.

109. *Transcript of Public Hearing*, 9 June 2009, at 26.

110. Tribunal Exhibit RR-2008-004-03, Administrative Record, Vol. 11 at 7.

111. *Transcript of Public Hearing*, 9 June 2009, at 36.

105. The Tribunal also observes that, although the witnesses from Central Wire referred in testimony to competitive pressures from a number of the subject and non-subject countries,¹¹² their testimony, in the Tribunal's view, did not refer to Korea as a country of major concern.

106. Based on the foregoing, the Tribunal is of the opinion that the evidence indicates that the volume of imports of the subject goods from Korea will remain at very low levels, should the findings be rescinded.

– Switzerland

107. Switzerland is a significant exporter of stainless steel wire products, principally within the European Union and to the United States.¹¹³ The evidence before the Tribunal indicates that Novametal Group (Novametal) is the main producer of stainless steel wire in Switzerland. The evidence indicates that Novametal's production capacity is large. It is unclear however how much of the company's capacity is located in Switzerland as opposed to Brazil and Mexico, where Novametal also operates production facilities.¹¹⁴

108. During the period of review, Switzerland exported a very small volume of the subject goods to Canada. The Tribunal notes that, during the period of inquiry in Inquiry No. NQ-2004-001, imports of the subject goods from Switzerland were also small and on a declining trend.¹¹⁵

109. Switzerland's significant exports to the United States indicate an ongoing interest in the North American market and an established distribution network in North America. However, historical volumes indicate that exporters in Switzerland have only focused on Canada to a very small extent.

110. The evidence indicates that imports from Switzerland consist principally of welding wire.¹¹⁶ Consequently, the volume of any dumped subject goods from Switzerland would be constrained by the fact that it would be competing in this limited market segment.

111. In addition, at the time of the original injury inquiry in 2004, the dominant importer, by far, of the subject goods from Switzerland was Controlled Products Group.¹¹⁷ The witness from Controlled Products Group testified that, following the Tribunal's decision in 2004, it switched its source of supply from Novametal's mill in Switzerland to Novametal's mill in Brazil.¹¹⁸ The witness from Controlled Products Group testified that the company does not believe that it will switch back to importing the subject goods from Switzerland if the findings are rescinded.¹¹⁹ Accordingly, any increased volume of the subject goods from Switzerland would be constrained greatly by the lack of orders for Swiss product by the customer that purchased all but a very small proportion of Swiss exports to Canada during the period of inquiry from 2001 to 2003.

112. *Ibid.* at 11-13.

113. *Pre-hearing Staff Report*, 30 April 2009, Tribunal Exhibit RR-2008-004-05, Administrative Record, Vol. 1.1 at 69.

114. Manufacturer's Exhibit A-01 at 26, Administrative Record, Vol. 11.

115. Tribunal Exhibit RR-2008-004-10, Administrative Record, Vol. 1.3 at 29; *Pre-hearing Staff Report*, revised 27 May 2009, Tribunal Exhibit RR-2008-004-05B, Administrative Record, Vol. 1.1 at 114; Tribunal Exhibit RR-2008-004-11 (protected), Administrative Record, Vol. 2.3 at 27.

116. *Transcript of Public Hearing*, 9 June 2009, at 26.

117. *Ibid.* at 111.

118. *Ibid.* at 116.

119. *Ibid.* at 111.

112. Accordingly, in the Tribunal's opinion, the likely volume of the subject goods from Switzerland expected to enter Canada if the findings are rescinded would be very small.

– Summary

113. On the basis of the foregoing analysis, considering both the general and the country-specific evidence and argument, the Tribunal finds that cumulatively, the likely increase in volume of imports of the subject goods, if the findings are rescinded, is very low. In this regard, the Tribunal notes that the actual cumulative volume of the subject goods is likely to be significant, largely due to the import volumes from India. However, in the Tribunal's opinion, a rescission of the findings will result in only a very small increase in the cumulative volume of the subject goods.

Likely Prices of Dumped Goods and Effects on Prices of Like Goods

114. In assessing the effects that the likely prices of dumped or subsidized goods would have on the prices of like goods, the Tribunal will examine whether the dumped and/or subsidized goods are likely to significantly undercut, depress or suppress the prices of like goods.¹²⁰

Central Wire's Position

115. Central Wire argued that, given the commodity nature of subject stainless steel wire, price is the primary consideration for purchasers.¹²¹

116. Central Wire argued that, if the findings are rescinded, producers in Korea, Switzerland and the United States will have to compete with low-priced non-subject goods, particularly from China and Taiwan, as well as low-priced subject goods from India.¹²² In this regard, Central Wire provided a number of customer contact reports that demonstrate the price competition for specific grades of subject stainless steel wire experienced at individual accounts.¹²³ Central Wire submitted that these reports are indicative of the significant price reductions required to compete with the low-priced subject goods.

117. Central Wire argued that capital-intensive industries, such as the stainless steel wire industry, have a production imperative. Producers are driven by this production imperative to attempt to increase their sales volumes, as long as they can sell at prices that cover marginal costs. Central Wire submitted that, in the case of integrated producers such as Novametel and Sandvik Materials Technology USA (Sandvik), the integrated nature of production provides these producers with the flexibility to take a lower margin on stainless steel wire, while compensating for this by earning higher margins on the sales of wire rod.¹²⁴

Tribunal's Analysis

118. Over the period of review, Central Wire's average unit selling prices fluctuated considerably. In 2008, its average prices were 22 percent above its prices in 2006.¹²⁵ However, in the first quarter of 2009, Central Wire's average unit selling prices declined by over 22 percent compared to the same period in 2008.¹²⁶

120. Paragraph 37.2(2)(b) of the *Regulations*.

121. *Transcript of Public Hearing*, 9 June 2009, at 17.

122. Manufacturer's Exhibit A-01 at 33, Administrative Record, Vol. 11; *Transcript of Public Hearing*, 9 June 2009, at 142-43.

123. Manufacturer's Exhibit A-06 (protected) at tabs 2-6, Administrative Record, Vol. 12.

124. *Transcript of Public Hearing*, 9 June 2009, at 33-34, 135-36.

125. *Pre-hearing Staff Report*, revised 27 May 2009, Tribunal Exhibit RR-2008-004-05B, Administrative Record, Vol. 1.1 at 124.

126. Tribunal Exhibit RR-2008-004-18.01H (protected), Administrative Record, Vol. 4 at 377.

119. On average, the import unit values of the subject goods¹²⁷ were considerably lower than domestic prices. This was mainly due to the low prices and high volumes of imports from India.¹²⁸ The average import unit values exclusive of anti-dumping duties for Korea, Switzerland and the United States were generally higher than the average selling prices of the like goods. However, in making these comparisons, the Tribunal is mindful of the fact that average prices in this case may not always present a clear-cut price comparison because of variations in product mix. In this respect, to the extent possible, the Tribunal considered product-specific evidence.

120. The commodity nature of subject stainless steel wire means that price is a major element of competition and, therefore, that purchasers are likely to switch from one supplier to another on the basis of price.

121. However, notwithstanding the commodity nature of the product, the evidence clearly demonstrates that Canadian purchasers regularly balance the lower cost of imports against the need for the shorter delivery times and smaller order sizes available from the domestic industry.¹²⁹ For example, the witness from Wire Mesh testified that, since it supplies the automotive sector, rapid delivery times are extremely important.¹³⁰ The witnesses from Central Wire testified that it can obtain a small price premium because of its ability to provide shorter delivery times and fill smaller order sizes.¹³¹ In this respect, the witness from Wire Mesh testified that subject import prices generally need to be about 10 percent lower than domestic prices to overcome the advantages of domestic goods.¹³²

122. Other factors that contribute to Central Wire's ability to earn a premium relative to imported sources of supply are the production risks and inventory costs associated with purchasing from a foreign supplier. The witness from Wire Mesh testified that even small inconsistencies in the material due to the annealing process used or packaging, even though the product meets industry specifications, can cause processing or production rate problems.¹³³ In addition, significant costs are associated with holding volumes of the subject goods in inventory as a result of the large volumes entailed in importing product. For example, a container of the subject goods shipped from offshore can cost over \$200,000, tying up significant capital. In addition, there is the risk that sales will not be sufficient to utilize the full volume of material in a shipment of imported product.¹³⁴ In this respect, the witness from Wire Mesh testified that it would not likely change its current sourcing patterns to source an increased quantity of imported goods if the findings are rescinded.¹³⁵ The witness from Wire Mesh also testified that it has always made spot purchases from the United States whenever it had small volumes or when the desired quantity and/or specification was not available from domestic production in the required time frame.¹³⁶

123. As part of its analysis, the Tribunal considered each of the subject countries individually.

127. The Tribunal compared the average import unit values, as Central Wire argued that they were more reflective of the trade level at which it competes.

128. *Pre-hearing Staff Report*, revised 27 May 2009, Tribunal Exhibit RR-2008-004-05B, Administrative Record, Vol. 1.1 at 123.

129. *Transcript of Public Hearing*, 9 June 2009, at 25-26.

130. *Ibid.* at 73.

131. *Ibid.* at 25-26; *Transcript of In Camera Hearing*, 9 June 2009, at 64.

132. *Transcript of Public Hearing*, 9 June 2009, at 104; *Transcript of In Camera Hearing*, 9 June 2009, at 64.

133. *Transcript of Public Hearing*, 9 June 2009, at 88.

134. *Ibid.* at 72-73, 88-89, 101-102.

135. *Ibid.* at 89.

136. *Ibid.* at 79.

– India

124. Central Wire submitted that India was the low price leader in the Canadian market in 2007 and 2008 and that this trend has continued into 2009.¹³⁷ Central Wire submitted that the average prices of imports of the subject goods from India, when compared to its own prices for the same goods are substantially lower.¹³⁸ In this regard, Central Wire filed a series of customer contact reports which indicated that the price of competing imports from India were often one third to one half less than the price offered by Central Wire.¹³⁹ In addition, Central Wire referred to two specific product price comparisons in its testimony that indicated that, when selling the identical product at a specific account, it will face competition with Indian-sourced product at prices which are approximately one third lower than Central Wire's prices.¹⁴⁰ Central Wire argued that exporters in India could reduce their prices by a portion of the per-kilogram amount of countervailing duty and still increase their returns.¹⁴¹

125. As discussed above, Central Wire has certain competitive advantages which allow it to realize a price premium of about 10 percent.¹⁴² Since, as indicated above, the evidence indicates that fairly traded Indian prices during the period of review were already significantly more than 10 percent lower than domestic prices,¹⁴³ the Tribunal is of the view that most or all of the customers that would switch to the subject goods from India because of price have done so already. This view is supported by the fact that, as indicated above, the market share held by suppliers of the subject goods from India has increased since the Tribunal's findings in 2004, but, despite the very low prices, is not currently on an increasing trend.

126. Therefore, the Tribunal is of the view that prices of the subject goods from India are unlikely to significantly decrease if the findings are rescinded, because it is unlikely that a significant price reduction would generate a significant increase in sales. If prices decreased by the full amount of the countervailing duty, the amount of the reduction would be very small. However, if distributors decided not to pass on to their customers any savings due to the removal of the countervailing duty, any price reduction to the ultimate purchaser would be correspondingly reduced or eliminated.

127. In light of the foregoing, the Tribunal is of the opinion that it is unlikely that the prices of the subject goods from India will, to any significant degree, decrease if the findings are rescinded.

– Korea

128. Central Wire submitted that producers in Korea have been unable to sell the subject goods at normal values and that, if the findings are rescinded, they will have to compete with low-priced imports from India, China and Taiwan. Central Wire also noted that the average import unit value for duty of all stainless steel wire from Korea was substantially below the average unit value for duty of the subject goods from Korea.

137. *Ibid.* at 21; Manufacturer's Exhibit A-01 at 33, Administrative Record, Vol. 11.

138. *Transcript of In Camera Hearing*, 9 June 2009, at 52-53.

139. *Pre-hearing Staff Report* (protected), 30 April 2009, Tribunal Exhibit RR-2008-004-06 (protected), Administrative Record, Vol. 4, tabs 2-6.

140. *Transcript of In Camera Hearing*, 9 June 2009, at 52-53.

141. *Transcript of Public Hearing*, 9 June 2009, at 144-45.

142. *Ibid.* at 25; *Transcript of In Camera Hearing*, 9 June 2009, at 64.

143. *Pre-hearing Staff Report*, revised 27 May 2009, Tribunal Exhibit RR-2008-004-05B, Administrative Record, Vol. 1.1 at 116; *Pre-hearing Staff Report* (protected), revised 27 May 2009, Tribunal Exhibit RR-2008-004-06B (protected), Administrative Record, Vol. 2.1 at 123.

129. The evidence indicates that, during the original inquiry, Korean participation in the Canadian market was primarily at the high end of the market. In this respect, as indicated above, the witnesses from Central Wire testified that, during the period of inquiry in Inquiry No. NQ-2004-001, Korea mainly shipped high-cost, high-priced products, such as welding wire, to Canada.

130. There is little evidence on the record regarding current prices of the subject goods from Korea. During the period of review, the weighted average selling prices of the subject goods from Korea, without the inclusion of anti-dumping duties, were substantially higher than Central Wire's average selling price of like goods.¹⁴⁴

131. In view of the above, the Tribunal concludes that the evidence on the record does not demonstrate that, in the absence of the findings, imports of the subject goods from Korea will enter Canada in the next 12 months at prices that are likely to significantly undercut the prices of the like goods.

– Switzerland

132. Central Wire submitted that producers in Switzerland of the subject goods have been unable to compete at normal values, indicating that they would have to lower their prices to compete in Canada with the suppliers of low-priced non-subject goods that are already present.¹⁴⁵ The witnesses from Central Wire testified that the welding wire sold by Novametal into the United States is priced slightly lower than the welding wire that Central Wire sells in the United States.

133. The Tribunal notes that there is very little evidence respecting the prices of the subject goods from Switzerland. There is evidence to support the testimony of Central Wire's witnesses that indicates that welding wire sold by Novametal in the United States was sold at prices lower than U.S. domestic prices.¹⁴⁶ However, the evidence indicates that Novametal sourced this product from Brazil rather than from Switzerland.¹⁴⁷ This appears to be similar to the current situation for Novametal's product in Canada.¹⁴⁸ The Tribunal is of the view that it is unlikely that this producer would lower its prices of Swiss product to Canada to compete with its own Brazilian product.

134. Accordingly, in assessing the very limited evidence on Swiss prices, the Tribunal did not consider that the evidence indicated that the prices of the subject goods from Switzerland would be low enough to significantly undercut the prices of the like goods in Canada.

– United States

135. Central Wire submitted that pricing by U.S. exporters demonstrates that they compete on price and that they price their products aggressively in export markets such as Canada.¹⁴⁹

144. *Pre-hearing Staff Report* (protected), revised 27 May 2009, Tribunal Exhibit RR-2008-004-06B (protected), Administrative Record, Vol. 2.1 at 123; *Pre-hearing Staff Report*, revised 27 May 2009, Tribunal Exhibit RR-2008-004-05B, Administrative Record, Vol. 1.1 at 116.

145. *Transcript of Public Hearing*, 9 June 2009, at 146; Manufacturer's Exhibit A-01 at 34, Administrative Record, Vol. 11.

146. *Transcript of In Camera Hearing*, 9 June 2009, at 43-45.

147. *Ibid.* at 50-51.

148. *Ibid.* at 63.

149. Manufacturer's Exhibit A-01 at 37, Administrative Record, Vol. 11.

136. It is reasonable to consider that, should the findings be rescinded, average selling prices of the subject goods from the United States would decrease to a certain extent due to the elimination of the anti-dumping duty. However, any such decrease is unlikely to take the price of goods from the United States to a level significantly below the price of domestic goods. In order to sell product in gap-filling and second-source situations, as discussed above, the evidence indicates that the suppliers of U.S. product could compete effectively with offshore sources with prices significantly higher than these sources, because of the advantages in the delivery time and order size of U.S. product. Indeed, the witness from Wire Mesh testified that prices of U.S. belting wire have never been competitive, even without the current anti-dumping duty of 35 percent and at a time when the exchange rate was at par.¹⁵⁰ Moreover, the Tribunal notes that, during each year of the period of review, the average price of the subject goods from the United States, exclusive of the anti-dumping duty, was higher than the average domestic selling prices of like goods.¹⁵¹

137. The evidence indicates that like goods were exported to the United States during the period of review at slightly higher average prices than when sold in the Canadian market.¹⁵² This suggests that the prices in the United States are comparable or slightly higher than Canadian domestic prices. In addition, the witnesses from Central Wire testified that its plants in the United States and other producers in the United States have operations and cost structures that are similar to those of its plants in Canada. Also, producers in the United States add similar metal surcharges to their selling prices with similar lags in the ability to pass on the wire rod surcharges at the time of sale of stainless steel wire.¹⁵³ Accordingly, the Tribunal considers that the cost and domestic prices of U.S. product are similar to or higher than the cost and domestic prices of Canadian product.

138. The witnesses from Central Wire testified regarding its operations in Canada and the United States that, despite the production imperative, there is little or no ability to increase exports at the present time by lowering prices because this would require earning negative margins.¹⁵⁴ Given that producers in the United States have domestic prices and cost structures similar to those of Central Wire in Canada and the United States, they, like Central Wire, are likely to have little or no ability to lower their prices to the point of significantly undercutting current Canadian domestic prices.

139. Central Wire argued that this limitation does not apply to Sandvik, because Sandvik is an integrated producer and, therefore, as indicated above, it can choose to take a lower margin on its sales of the subject goods than non-integrated producers. However, the Tribunal is of the view that, since Sandvik's basic cost structure, as a U.S. company, is likely to be at higher levels than the costs of an integrated offshore company, it would be unlikely for Sandvik to be able to lower its prices as far as its offshore integrated competitors. The evidence also indicates that Sandvik focuses on welding wire and that it would need to compete in the Canadian market against a significant number of other potential sources of welding wire, including China, Taiwan, Switzerland, Brazil, the Czech Republic and Korea. It is unlikely that Sandvik's cost structure will enable it to lower prices sufficiently to compete on price with the lowest prices from this multiplicity of sources.

150. *Transcript of Public Hearing*, 9 June 2009, at 79.

151. *Pre-hearing Staff Report* (protected), revised 27 May 2009, Tribunal Exhibit RR-2008-004-06B (protected), Administrative Record, Vol. 2.1 at 126; *Pre-hearing Staff Report*, revised 27 May 2009, Tribunal Exhibit RR-2008-004-05B, Administrative Record, Vol. 1.1 at 116.

152. *Pre-hearing Staff Report* (protected), 30 April 2009, Tribunal Exhibit RR-2008-004-06 (protected), Administrative Record, Vol. 2.1, at 37; *Pre-hearing Staff Report* (protected), revised 27 May 2009, Tribunal Exhibit RR-2008-004-06B (protected), Administrative Record, Vol. 2.1 at 126.

153. *Transcript of Public Hearing*, 9 June 2009, at 53-55.

154. *Ibid.* at 61-63.

140. Moreover, as discussed above, Central Wire currently produces approximately 75 percent of U.S. domestic production, and it is unlikely to lower the prices of imports from its U.S. plants to a level that will cannibalize its own sales in the domestic market.

141. Accordingly, the evidence does not indicate that U.S. prices are likely to be reduced to a level that will be significantly lower than Canadian prices if the findings are rescinded.

– Conclusion

142. As discussed above, the import prices of the subject goods from India are already substantially below domestic selling prices, and removal of the countervailing duty is not expected to result in significant decreases in the prices of these subject goods from India. With respect to the subject goods from Korea, Switzerland and the United States, the Tribunal is of the opinion that, while the removal of the anti-dumping duty may result in a small decrease in the prices of the subject goods, this small price change is unlikely to be large enough to cause significant price undercutting, suppression or depression.

143. On the basis of the foregoing, considering the subject goods cumulatively, the Tribunal concludes that, if the findings are rescinded, some imports of the subject goods are likely to re-enter the Canadian market at somewhat lower prices, but it is unlikely that the prices will be reduced to the point where they will significantly undercut, depress or suppress the prices of like goods.

Likely Impact of the Dumped and Subsidized Goods on the Performance of Domestic Industry

144. The Tribunal will now consider the likely impact that the above volumes and prices of the subject goods will have on the domestic industry if the findings are rescinded, taking into consideration the domestic industry's recent performance.¹⁵⁵

Central Wire's Position

145. Central Wire submitted that it is currently facing significant challenges due to the economic recession and that any additional competitive pressures as a result of a rescission of the findings would be unsustainable.

146. With respect to its financial performance, Central Wire submitted that the prospects for the remainder of the year are severe. The losses in sales volumes have caused reductions in capacity utilization that are unsustainable for any period of time. Gross margins came under pressure in 2008 and there has been further deterioration in the first quarter of 2009.

147. Central Wire submitted that, as a result of the significant changes in surcharges over the period of review, examination of sales values are less informative than gross margins and, in particular, the metal margin, which is the sales value less the cost of wire rod, is relevant. Although gross margins deteriorated somewhat between 2008 and the first quarter of 2009, metal margins have deteriorated more quickly. The deterioration in financial performance has led to lay-offs and a cut-back in plant operations of 5 to 4 days per week.¹⁵⁶ In order to maintain current employment levels and support capital equipment, Central Wire cannot withstand any further erosion to its margins. Central Wire submitted that the current economic downturn has left it vulnerable to any additional import competition and that it is therefore at risk of suffering injury if the findings are rescinded. In this regard, Central Wire argued that resumed injury was imminent and that it would be unnecessary to wait 18 months for injury to occur if the findings are rescinded.¹⁵⁷

155. Paragraphs 37.2(2)(c),(e) and (g) of the *Regulations*.

156. Manufacturer's Exhibit A-01 at 41, Administrative Record, Vol. 11. The Tribunal notes that only a portion of these employment effects are with respect to the like goods.

157. *Transcript of Public Hearing*, 9 June 2009, at 123.

148. Accordingly, Central Wire argued that any additional imports of the subject goods will have a dramatic negative effect on Central Wire in terms of production, sales, market share, profits, productivity, return on investment, capacity utilization, cash flow, employment, growth and the ability to raise capital.

Tribunal's Analysis

149. Based on the forecast time frame to recover from the current recession, as discussed above, the domestic industry will continue to be negatively impacted by the recession throughout the 12-month period being considered by the Tribunal.

150. As discussed above, with respect to the subsidized imports of the subject goods from India, the Tribunal expects that there will be no significant increase in the volume of imports or significant decrease in prices of the subject goods in the next 12 months. The Tribunal recognizes that the subject goods from India may well be having a significant competitive impact on the domestic industry at the present time. However, in the Tribunal's opinion, rescinding the findings will cause little or no injurious effect to the domestic industry, because the competitive pressures from these fairly traded subject goods over the period of review will be largely unchanged.

151. In considering the likely impact of resumed dumping by Korea, given the likely minimal volume, the limited product range and the fact that the evidence does not indicate that Korean prices would be significantly lower than domestic prices, the Tribunal is of the opinion that any injurious impact of imports from Korea on the domestic industry will be minimal if the findings are rescinded.

152. In assessing the likely impact of resumed dumping by Switzerland, given the likely minimal volume, the limited product range and the fact that the evidence does not indicate that Swiss prices would be significantly lower than domestic prices, the Tribunal is of the opinion that any injurious impact of imports from Switzerland on the domestic industry will be minimal if the findings are rescinded.

153. Respecting the likely impact of a resumption of dumped imports from the United States, as discussed above, the Tribunal recognizes that there is significant production capacity in the United States. However, it is of the view that the increased volume of the subject goods will be low and that the producers in the United States, generally, will be unable to lower their prices in Canada to injurious levels. When asked which producers of the subject goods from the United States caused it concern, Central Wire only identified one producer.¹⁵⁸ The Tribunal notes that this one company, as an integrated producer, may have more latitude to lower prices than non-integrated producers. However, its exports would be limited to a single segment of the Canadian market. Moreover, given the cost structures of producers in the United States, as discussed above, they are unlikely to be able to lower their prices to an extent that will compete effectively against the lower prices from the numerous offshore sources currently in the domestic market. Furthermore, the Tribunal notes that the potential sources of dumped goods from the United States are limited to the 25 percent of all stainless steel wire produced in the United States that is not controlled by Central Wire. As previously discussed, most of the increased volume of U.S. goods would be caused by the need to fill supply gaps and have an alternative North American source of supply, and there would be no need to lower prices significantly below the prices of Canadian product in order to satisfy this type of demand.

154. As indicated above, when the Tribunal considers the cumulative effect of the dumped and subsidized goods, it concludes that, in total, there will be only a small increase in the volume the subject goods over the next 12 months and that, cumulatively, any price undercutting, price suppression or depression caused by the dumping and subsidizing of the subject goods will be minimal. Consequently, cumulatively, if the findings are rescinded, it is unlikely that injury to Central Wire will result in terms of production, sales, market share, profits, productivity, return on investment, capacity utilization, cash flow, employment, growth or the ability to raise capital.

158. *Transcript of In Camera Hearing*, 9 June 2009, at 43-47.

Other Factors

155. Pursuant to paragraph 37.2(2)(k) of the *Regulations*, the Tribunal may consider any other factors relevant in the circumstances. The Tribunal did not receive any submissions concerning other factors.

CONCLUSION

156. In summary, the Tribunal concludes that, if the findings are rescinded, the increase in volume and market share of dumped and subsidized goods will be minimal. Furthermore, the evidence does not indicate that the likely prices of the dumped and subsidized goods will be injurious.

157. Pursuant to paragraph 76.03(12)(a)(ii) of *SIMA*, the Tribunal hereby rescinds its finding in respect of the subject goods originating in or exported from Korea, Switzerland and India.

158. Pursuant to paragraph 76.03(12)(a)(ii) and subsection 76.04(1) of *SIMA*, the Tribunal hereby rescinds its finding in respect of the subject goods originating in or exported from the United States.

Ellen Fry
Ellen Fry
Presiding Member

Diane Vincent
Diane Vincent
Member

André F. Scott
André F. Scott
Member

IN THE MATTER OF an expiry review, under subsection 76.03(3) of the *Special Import Measures Act*, of the findings made by the Canadian International Trade Tribunal on July 30, 2004, in Inquiry No. NQ-2004-001, concerning:

**THE DUMPING OF STAINLESS STEEL WIRE ORIGINATING IN OR
EXPORTED FROM THE REPUBLIC OF KOREA, SWITZERLAND AND THE
UNITED STATES OF AMERICA AND THE SUBSIDIZING OF SUCH
PRODUCT ORIGINATING IN OR EXPORTED FROM INDIA**

ORDERS

CORRIGENDUM

Paragraph 91 of the Statement of Reasons should read: “As part of its analysis in coming to its view cumulatively, the Tribunal considered it useful, in the context of this case, to consider the likely volumes of imports from the subject countries individually.”

By order of the Tribunal,

Hélène Nadeau
Secretary