Canadian International Trade Tribunal
Tribunal canadien du commerce extérieur

CANADIAN INTERNATIONAL TRADE TRIBUNAL

Dumping and Subsidizing

ORDER AND REASONS

Expiry Review No. RR-2004-003

Carbon Steel Welded Pipe

Order and reasons issued
Friday, June 3, 2005

Canada

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IN THE MATTER OF an expiry review, under subsection 76.03(3) of the *Special Import Measures Act*, of the order made by the Canadian International Trade Tribunal on June 5, 2000, in Review No. RR-99-004, continuing, with amendment, its order made on June 5, 1995, in Review No. RR-94-004, continuing, without amendment, its order made on June 5, 1990, in Review No. RR-89-008, continuing, without amendment, the finding of the Anti-dumping Tribunal made on June 28, 1983, in Inquiry No. ADT-6-83, concerning:

CARBON STEEL WELDED PIPE ORIGINATING IN OR EXPORTED FROM THE REPUBLIC OF KOREA

ORDER

The Canadian International Trade Tribunal, under the provisions of subsection 76.03(3) of the *Special Import Measures Act*, has conducted an expiry review of the above-mentioned order concerning carbon steel welded pipe originating in or exported from the Republic of Korea.

Pursuant to subparagraph 76.03(12)(*a*)(ii) of the *Special Import Measures Act*, the Canadian International Trade Tribunal hereby rescinds its order in respect of carbon steel welded pipe originating in or exported from the Republic of Korea.

Patricia M. Close
Patricia M. Close
Presiding Member

Zdenek Kvarda
Zdenek Kvarda
Member

Ellen Fry
Ellen Fry
Member

Hélène Nadeau
Hélène Nadeau
Secretary

Place of Hearing:	Ottawa, Ontario
Dates of Hearing:	April 12 and 13, 2005
Tribunal Members:	Patricia M. Close, Presiding Member Zdenek Kvarda, Member Ellen Fry, Member
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STATEMENT OF REASONS

BACKGROUND

1. This is an expiry review, under subsection 76.03(3) of the *Special Import Measures Act*,[1] of the order made by the Canadian International Trade Tribunal (the Tribunal) on June 5, 2000, in Review No. RR-99-004, continuing, with amendment, its order made on June 5, 1995, in Review No. RR-94-004, continuing, without amendment, its order made on June 5, 1990, in Review No. RR-89-008, continuing, without amendment, the finding of the Anti-dumping Tribunal made on June 28, 1983, in Inquiry No. ADT-6-83, concerning carbon steel welded pipe originating in or exported from the Republic of Korea (Korea) (the subject goods).

2. On September 22, 2004, the Tribunal decided to initiate the expiry review and issued a notice of expiry review[2] to all interested parties. As part of these proceedings, the Tribunal and the Canada Border Services Agency (CBSA) sent questionnaires to Canadian producers, importers and exporters of carbon steel welded pipe. These questionnaires and the replies thereto formed part of the expiry review records of both the Tribunal and the CBSA.

3. On September 23, 2004, the CBSA initiated an expiry review investigation to determine whether the expiry of the order was likely to result in the continuation or resumption of dumping of the subject goods.

4. On January 20, 2005, the CBSA determined, pursuant to subsection 76.03(7) of *SIMA*, that the expiry of the order was likely to result in the continuation or resumption of dumping of the subject goods.

5. The record of these proceedings consists of the following: the testimony heard during the hearing, which had public and *in camera* components, held in Ottawa, Ontario, on April 12 and 13, 2005; 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; witness statements and exhibits filed by the parties throughout the expiry review; the transcript of the hearing; the Tribunal's order and notice of expiry review; and the public and protected pre-hearing staff reports prepared for Review No. RR-99-004. All public exhibits were made available to the interested parties, while protected exhibits were provided only to counsel who had filed a declaration and undertaking with the Tribunal in respect of protected information.

6. Three domestic producers, Mittal Canada Inc. (Mittal), Stelpipe Ltd. (Stelpipe) and IPSCO Inc. (IPSCO), were represented by counsel at the hearing. They submitted evidence and made arguments in support of a continuation of the order. All three producers provided witnesses at the hearing.

7. None of the importers, exporters or producers of Korean carbon steel welded pipe filed evidence, nor were they represented by counsel. However, the Tribunal invited two importers-distributors to testify at the hearing, i.e. Protin Import Ltd. (Protin) and Emco Corporation.

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1. R.S.C. 1985, c. S-15 [*SIMA*].
2. C. Gaz. 2004.I.2681.

PRODUCT

Product Definition and Description

8. For the purpose of this expiry review, the subject goods are defined as follows: carbon steel welded pipe, commonly identified as standard pipe, in the nominal size[3] range 12.7 mm to 406.4 mm (1/2 in. to 16 in.) inclusive, in various forms and finishes, usually supplied to meet ASTM A53, ASTM A252, ASTM A589 or AWWA C200-80 or equivalent specifications,[4] including water well casing, piling pipe, sprinkler pipe and fencing pipe, but excluding oil and gas line pipe made to API specifications exclusively, originating in or exported from Korea, excluding lightwall sprinkler pipe that meets the requirements of ASTM A135 and/or A795 with the following dimensions:

> non-threadable—nominal size of 1 1/4 in. and wall thickness of 0.076 in.; nominal size of 1 1/2 in. and wall thickness of 0.076 in.; nominal size of 2 in. and wall thickness of 0.076 in.; nominal size of 2 1/2 in. and wall thickness of 0.076 in.; nominal size of 3 in. and wall thickness of 0.076 in.; and nominal size of 4 in. and wall thickness of 0.086 in.; and
>
> threadable—nominal size of 1 in. and wall thicknesses of 0.093 in. to 0.123 in.; nominal size of 1 1/4 in. and wall thicknesses of 0.093 in. to 0.131 in.; nominal size of 1 1/2 in. and wall thicknesses of 0.098 in. to 0.135 in.; and nominal size of 2 in. and wall thicknesses of 0.103 in. to 0.140 in.;

and subject to the condition that the pipe be stencilled to indicate that it is approved by the Factory Mutual Research Organization and is listed by Underwriters' Laboratories, Inc. and Underwriters' Laboratories of Canada.

9. Steel pipe can be identified based on whether it is welded or seamless, the grade of steel used in the pipe and the end uses of the pipe. The American Iron and Steel Institute classifies steel pipe into the following groups according to its end uses: standard pipe, pressure pipe, line pipe, structural pipe, mechanical pipe and oil country tubular goods (OCTG). Standard pipe is generally intended for the low-pressure conveyance of steam, water, natural gas, air and other liquids and gases in plumbing and heating applications.

Production Process

10. Standard pipe is generally produced in mills using either the continuous weld (CW) or butt weld process or the electric resistance weld (ERW) process. Both processes begin with strips of steel sheet that have been slit from coils of flat steel sheet. The width of the strips is equal to the circumference of the pipe to be manufactured.

11. In the CW process, the strips of sheet are heated to a welding temperature of approximately 2,600ºF, in a gas-fired furnace. The hot strips are then passed through a series of rollers to form a tubular shape, with the edges finally being butted together under pressure to form a weld to which no filler metal is added. The CW process can be used to manufacture pipe with a diameter of up to 4.5 in.

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3. Nominal size specifies inside diameter.
4. The definition has covered the ASTM A120 specification in the past, but this specification has been withdrawn and is no longer used in Canada or the United States. According to information put out by ASTM International, ASTM A120 has been replaced by ASTM A53. See *Transcript of Public Hearing,* Vol. 1, 12 April 2005, at 8-11, 89-90; *Transcript of Public Argument*, 13 April 2005, at 90.

12. In the ERW process, cold strips of sheet are passed through a series of rollers to form a tubular shape, and the edges of the strip are heated electrically and welded together under heat and pressure. As in the CW process, no filler metal is added to the weld. This welding process produces a bead of "flash" which is generally trimmed from both sides of the weld. The ERW process can be used to manufacture pipe with a diameter of up to 24 in.

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

14. Once the basic pipe is formed using either one of the processes, it is cut to length, straightened and tested, and the pipe ends are processed, i.e. cropped, faced and reamed. If required, finishes such as lacquer or zinc are applied to the surface of the pipe (galvanizing). Other operations include stencilling and bundling of the pipe.

Product Applications

15. Standard pipe is produced to the ASTM specifications, which prescribe chemical and mechanical properties. Most standard pipe is used in plumbing and heating applications and is produced to meet the ASTM A53 specification in standard black and galvanized finishes. Pipe that meets the ASTM A53 specification is considered to be of the highest quality and is suitable for welding, coiling, bending and flanging. Other uses for standard pipe include piling pipe (ASTM A252), water well casing (ASTM A589 or AWWA C200-80) and sprinkler pipe (ASTM A795).

Marketing and Distribution

16. Generally, the domestic producers sell their standard pipe directly or through major distributors that, in turn, sell the pipe to end users or other distributors in Canada. Canadian distributors of standard pipe may purchase pipe domestically from producers, importers or other distributors, or may import it directly.

DOMESTIC PRODUCERS

17. Mittal, formerly Ispat Sidbec Inc., uses the CW process to produce standard pipe ranging from 1/2 in. to 4 in. in nominal size at its facility in Montréal, Quebec. In addition, Delta Tubes and Company Limited (Delta Tubes), one of Mittal's subsidiaries, supplies Mittal with standard pipe ranging from 2 in. to 6 in. in nominal size. It produces the pipe at its facility in Montréal using the ERW process, and the pipe is shipped to Mittal's Montréal facility for finishing. The standard pipe produced by Delta Tubes ranges from 2 in. to 6 in. and is sold through Mittal.

18. Stelpipe is a wholly owned subsidiary of Stelco Inc. Stelpipe and its predecessors have produced standard pipe in Canada since 1962. Stelpipe produces standard pipe at its facilities located in Welland, Ontario. The standard pipe under review is produced using the ERW process and ranges from 1/2 in. to 8 in. in nominal size.

19. IPSCO was incorporated as the Prairie Pipe Manufacturing Co. Ltd. in 1956. IPSCO commenced the production of pipe in 1957 in Regina, Saskatchewan, upon the completion of an ERW mill. The company assumed its current name, IPSCO Inc., in 1984 and now operates ERW mills located in Regina, Red Deer, Alberta, and Calgary, Alberta. These mills can produce standard pipe with an outside diameter of 2 in. to 16 in.

IMPORTERS AND EXPORTERS

20. None of the exporters of the subject goods provided replies to the exporters' questionnaire.

21. Importers of standard pipe included resellers of steel products, such as trading companies and brokers, as well as distributors of tubing or steel products. The largest importers include Marubeni–Itochu Steel Canada Inc., Burnaby, British Columbia; Protin, Vancouver, British Columbia; and R & R Trading Co. Ltd., Delta, British Columbia. Generally, importers sell to the same type of customers as do the domestic mills.

SUMMARY OF PAST PROCEEDINGS

Summary of Order in Review No. RR-99-004

22. This was the third review of a finding originally put in place in 1983. With respect to the issue of resumed dumping, the Tribunal noted Korea's huge production capacity in the subject goods, a significant proportion of which was oriented to export markets, with North America being an important destination. The Tribunal also noted the industry practice of "dual stencilling",[5] which made it difficult to distinguish non-subject line pipe from the subject standard pipe, and which may have provided an avenue for circumventing the order. Finally, the Tribunal noted that, following a safeguard investigation, the United States had recently imposed quotas on line pipe imports from a number of countries, including Korea. Although line pipe was not a subject product, the Tribunal was of the view that some Korean line pipe production might be switched to standard pipe production, which could be sold in export markets, including Canada.

23. With respect to the issue of injury, the Tribunal noted that, throughout the 1990s, the domestic industry had closed plants and rationalized production and, at the same time, made substantial investments in new, state-of-the-art production facilities. Nonetheless, sales had been stagnant, the industry had been operating at low levels of capacity, and its overall financial performance had been poor. In fact, the Tribunal noted that the standard pipe industry in Canada had had a few good years over the last two decades, despite the protection afforded by 17 years of anti-dumping duties on Korean pipe. This fact suggested to the Tribunal that there were problems within the industry that went beyond what could be rectified by anti-dumping measures. In the Tribunal's view, continuing the order would not have automatically improved the domestic industry's current performance; however, rescinding the order would have almost certainly made the industry materially worse off.

24. The Tribunal excluded from the order lightwall sprinkler pipe in certain dimensions.

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5. Pipe can be stencilled to indicate that it meets more than one set of specifications. At the time of importation, it is difficult to know whether the dual-stencilled pipe is going to be used in a standard-pipe (subject) or line-pipe (non-subject) application.

Other Orders

25. Carbon steel welded pipe of similar specifications imported from countries other than Korea is also currently subject to anti-dumping measures in Canada. On July 24, 2001, the Tribunal, in Review No. RR-2000-002, issued an order continuing its order made in Review No. RR-95-002 with respect to Argentina, India, Romania, Chinese Taipei, Thailand and Brazil.

POSITIONS OF THE PARTIES[6]

26. The domestic industry argued that the expiry of the order is likely to result in injury and that the order should therefore be continued without amendment. It submitted that the Tribunal should examine the circumstances that are likely to exist for a period of up to 24 months from the expiry of the order. The domestic industry further submitted that, no matter how many years an order has been in place, it should stay in place as long as it is necessary to remedy the injury caused by dumping.

27. The domestic industry argued that the standard pipe that it produces is interchangeable with the subject goods and therefore constitutes like goods for the purpose of this expiry review.

28. The domestic industry argued that, if the order is rescinded, the import volumes of subject goods will likely increase significantly for the following reasons: demand in Korea, the People's Republic of China (China) and the United States is soft; China has become a net exporter of standard pipe and, accordingly, there has been an influx of Chinese standard pipe into Korea; numerous countries have raised barriers to the importation of the subject goods; Korean producers have significant excess capacity, an export orientation, a persistent interest in North American markets and established distribution networks in Canada; and importers and traders in Canada tend to facilitate imports from new sources.

29. The domestic industry argued that resumed dumping would likely affect domestic prices adversely. Standard pipe is a price-sensitive commodity, and a significant increase in the volumes of subject goods would have to be at prices that are competitive with low-priced imports from non-subject countries already present in the Canadian market—prices that significantly undercut the prices of the domestic industry. This would force the domestic industry to reduce its own prices, rather than raise them to offset increasing material costs and maintain profitability.

30. The domestic industry argued that the impact would be felt throughout the Canadian market because Korean producers are likely to ship their standard pipe to both Western and Eastern Canada, as has been the case with shipments of Korean standard pipe to the United States. There are no geographical restrictions on the west-to-east movement of the subject goods, and imports into British Columbia alone would have a domino effect reaching as far as Manitoba.

31. The domestic industry also argued that the Tribunal should take into consideration the vulnerability of the domestic industry when assessing the likelihood that resumed dumping would cause injury. According to the domestic industry, despite profits in 2004, it is vulnerable to injury for the following reasons: its current excess capacity; low production levels; low profit margins due to downward pricing pressure; stagnant growth and demand; reduced hours of employment; exclusion from the B.C. market; and losses in the first quarter of 2005.

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6. This section outlines a number of key submissions made by parties. It is not intended to be exhaustive.

32. The domestic industry also argued that the Tribunal should be strongly inclined to continue the order, given the lack of participation in the expiry review by producers and importers of the subject goods.

ANALYSIS

33. Following the CBSA's determination that the expiry of the order in respect of the subject goods is likely to result in the continuation or resumption of dumping, the Tribunal is required, pursuant to subsection 76.03(10) of *SIMA*, to determine whether the expiry of the order is likely to result in injury or retardation, as the case may be, to the domestic industry. Given that the order under review relates to injury and an established domestic industry, the Tribunal is required, pursuant to subsection 76.03(12), to make an order rescinding the order, if it determines that the expiry of the order is unlikely to result in injury, or continuing the order, with or without amendment, if it determines that the expiry of the order is likely to result in injury to the domestic industry. Injury is defined in subsection 2(1) in part as "material injury".

34. With respect to the submission by the domestic industry that the Tribunal should take into account the fact that importers and foreign producers of the subject goods did not participate in the expiry review, the Tribunal notes that, pursuant to Article 6.2 of the *Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994*,[7] failure to participate in proceedings shall not be prejudicial to that party's case and that, therefore, it has not drawn any negative inference from the importers' and foreign producers' lack of participation.

Like Goods

35. Subsection 2(1) of *SIMA* defines "like goods", in relation to any other goods, as: "(*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".

36. In considering the issue of like goods, the Tribunal typically looks at a number of factors, including the physical characteristics of the goods, their substitutability and whether the goods fulfil the same customer needs. Based on the evidence, the Tribunal is of the opinion that standard pipe produced by the domestic industry closely resembles the subject goods in physical characteristics and end uses, and can be substituted for them. Therefore, for the purpose of this expiry review, the Tribunal finds that domestically produced standard pipe constitutes like goods to the subject goods.

Domestic Industry

37. Having decided that domestically produced standard pipe constitutes like goods, the Tribunal must consider which producers constitute the domestic industry. Subsection 2(1) of *SIMA* defines "domestic industry" in part 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". Mittal, Stelpipe and IPSCO collectively represent the total domestic production of like goods, and all participated in this expiry review. Therefore, they constitute the domestic industry for the purpose of this expiry review.

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7. 15 April 1994, online: World Trade Organization <http://www.wto.org/english/docs_e/legal_e/final_e.htm>.

Likelihood of Injury

38. Subsection 37.2(2) of the *Special Import Measures Regulations*[8] enumerates the factors that the Tribunal may consider in addressing the question of likelihood of injury. The Tribunal in its deliberations addressed all these factors; however, for the writing of its reasons, it has organized its analysis under the following five general headings: international market conditions; domestic market conditions; the likely volumes of dumped imports; the likely prices of dumped imports; and the likely impact of dumped imports on the domestic industry.

39. In making its assessment of the likelihood of injury consistent with previous cases, the Tribunal is of the view that the focus should be on circumstances that can reasonably be expected to exist in the near to medium term, as opposed to circumstances in the more remote future. In this case, the Tribunal considers it appropriate to consider the record for evidence of events for a period of 18 to 24 months.

International Market Conditions[9]

40. In coming to its view on the likely volumes and prices of imports from Korea into Canada and their impact on the domestic industry, if the order were rescinded, the Tribunal reviewed both international and domestic market conditions.

41. The industry submitted that the massive growth of China's demand for and supply of steel was the driving factor in the steel industry in 2003 and 2004[10] and that the "China factor" will continue to influence steel markets in the near to medium term. Although China is now a net exporter of pipe products, a significant portion of the global production of pipe products is still consumed in and imported into China. On an annualized basis, China represents a potential market for pipe products of close to 1 million metric tonnes. According to the latest data published by *China Metals* (February 2005), imports of pipe products (which include standard pipe) into China totalled 83,876 metric tonnes in January 2005 alone, significant in terms of the size of the Canadian market for standard pipe. These imports were down 19 percent from January 2004 levels.[11] While the Tribunal does not have data as to the volume of Chinese exports of standard pipe, what is clear is that some exports of Chinese standard pipe have increasingly been finding their way to the North American market. In 2004, China exported approximately 36,000 metric tonnes of standard pipe to Canada and a further 250,000 metric tonnes to the United States.[12]

42. Whether the growth in Chinese exports of standard pipe will continue depends upon the demand in China. It is the Tribunal's view that, despite the fact that the Chinese Government has recently banned the use of steel pipe in plumbing for residential buildings,[13] the substitution of plastic pipe will be offset to at least some extent by the overall increasing demand in China, as its economy is expected to continue to grow at rate of 8 to 8.5 percent in 2005.[14] Moreover, unlike in North America where finished steel inventories are high, China has run down its finished steel inventories of late.[15] According to the *CRU Steel Monitor*, "the

8. S.O.R./84-927 [*Regulations*].
9. Paragraph 37.2(2)(*j*) of the *Regulations.*
10. Manufacturer's Exhibit A-01 at 4, Administrative Record, Vol. 11.
11. Manufacturer's Exhibit B-03 at 54, Administrative Record, Vol. 11.
12. *Pre-hearing Staff Report*, Tribunal Exhibit RR-2004-003-05, Administrative Record, Vol. 1A at 22; Manufacturer's Exhibit B-03 at 21, Administrative Record, Vol. 11.
13. Manufacturer's Exhibit B-03 at 5, 19, Administrative Record, Vol. 11.
14. Manufacturers' Exhibits C-03A at 55, and B-03 at 28-29, Administrative Record, Vol. 11.
15. Tribunal Exhibit RR-2004-003-23.04, Administrative Record, Vol. 1.01 at 39.

need to rebuild these stocks is fuelling a revival of the Chinese import market".[16] This general lowering of finished steel inventories may, in the Tribunal's view, have accounted for the decrease in imports of pipe products in January 2005. As these inventories are now being rebuilt, however, imports will likely begin to increase again.[17] Overall, the evidence indicates that exports of standard pipe from China are not likely to increase in the near term, given buoyant domestic demand.

43. Turning to market conditions in Korea, according to data published by the *International Iron and Steel Institute*, Korea is the world's third largest producer of welded pipe and tube products[18] (which include standard pipe), with a combined annual production reported at over 4 million metric tonnes for 2002.[19] Korea exports more than 1 million metric tonnes of pipe and tube products every year,[20] some of which are undoubtedly standard pipe.

44. The Tribunal heard testimony that non-residential construction is the main driver of demand for standard pipe in Canada and presumably globally.[21] According to *MEPS, International Steel Market Roundup* (November 2004), Korean building output was sluggish and was forecast to become even more so during the final trimester of 2004, partly because of a softening in the real estate market. Nevertheless, prices for most long products had increased during the last reported month,[22] an increase that may well indicate that the non-residential construction market has picked up since the November 2004 forecast.

45. Korean producers have also faced some low-priced import competition in their home market. The Korean industry publication *Pipe and Tube News* reported that, in the beginning of 2003, 3,600 metric tonnes of welded pipe from Japan entered the Korean market at prices below the 300,000 won per metric tonne level, for resale at prices ranging from 320,000 to 340,000 won per metric tonne.[23] This resale pricing translates to approximately CAN$320 to CAN$340 per metric tonne at the exchange rate at that time. Global pipe prices however have changed dramatically since 2003, and the evidence does not indicate that Korean domestic or export prices fell as a result of these low-priced imports.

46. To sum up, China is a large market for standard pipe, and it appears that current demand for pipe and tube products is healthy and is likely to remain so in the near to medium term. As to Korea, the recent increase in prices for most long products may well indicate a firming of domestic demand for standard pipe.

16. *Ibid.*
17. *Ibid.*
18. Manufacturer's Exhibit A-01 at 12, Administrative Record, Vol. 11; Manufacturer's Exhibit A-05 at 6, Administrative Record, Vol. 11.
19. Manufacturer's Exhibit A-05 at 6, Administrative Record, Vol. 11.
20. Manufacturer's Exhibit B-03 at 60, Administrative Record, Vol. 11.
21. *Transcript of Public Hearing*, Vol. 1, 12 April 2005, at 40-41; *Transcript of Public Hearing*, Vol. 2, 13 April 2005, at 235.
22. Manufacturer's Exhibit B-03 at 62, Administrative Record, Vol. 11.
23. *Ibid.* at 64.

Domestic Market Conditions[24]

47. Turning to domestic market conditions, there are four key changes in the Canadian market for standard pipe since the last review. The first change is that China's share of the standard pipe market increased substantially between 2001 and 2004.[25] During this period, the share held by imports from the United States dropped by about the same amount. Imports from Korea maintained a very small presence in the Canadian market during this time, and their share of the market remained relatively constant. The combined share held by the domestic producers, after peaking in 2003, returned to 2001 and 2002 levels in 2004. The combined share held by imports from countries other than Korea, China and the United States stayed about the same between 2001 and 2004.[26]

48. Second, the year 2004 was an exceptional one in Canada for standard pipe. In volume terms, the apparent market, after falling in both 2002 and 2003, increased by 19 percent in 2004 over 2003. In 2004, there were some supply shortages reported. Prices for standard pipe increased overall by 23 percent in 2004 over 2003, in fact increasing to their highest level since at least 1996,[27] the earliest year for which evidence of pricing is on the record. The combined value of the domestic producers' sales of standard pipe increased by 39 percent in 2004 over the previous year. Looking ahead, the strength of the North American construction market and economy generally should keep volumes up at least for the next year.[28] Although the domestic industry argued that the forecast of non-residential construction data may be artificially high because it has been inflated by recent increases in steel prices, which may be correct, the Tribunal is persuaded that the economic indicators point towards demand staying firm in the near term. There was also testimony heard from industry witnesses that, to date, demand for standard pipe in the Canadian market has not reflected the increase in the value shown in recent reports issued by Statistics Canada for non-residential construction.[29] The Tribunal believes that this may be due to the time lag between the application for building permits and the demand for standard pipe used in commercial building.[30]

49. Third, the domestic industry, capable of making other products on the same production lines as standard pipe, has increasingly preferred to produce higher value-added products, such as OCTG.[31] A review of the protected data filed by IPSCO and Stelpipe shows definite increases for both companies in the production of tubular products other than standard pipe since 2001.[32] Further, the 2003 Annual Report filed by ISPCO clearly shows a management strategy of diverting production capacity away from non-energy tubulars in response to higher demand in small diameter energy markets. Commenting on tubular products, the Annual Report also adds that, by adding value to the basic steel mill product, profitability is enhanced.[33]

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24. Paragraph 37.2(2)(*j*) of the *Regulations*.
25. *Protected Pre-hearing Staff Report*, Tribunal Exhibit RR-2004-003-06 (protected), Administrative Record, Vol. 2A at 32.
26. Due to a reporting discrepancy on the part of a domestic producer, specific market data and other consolidated domestic industry data are protected.
27. Tribunal Exhibit RR-2004-003-10.15, Administrative Record, Vol. 1.2A at 55.
28. Tribunal Exhibit RR-2004-003-05F, Administrative Record, Vol. 1A at 104-107; Manufacturer's Exhibit B-08 at 8-9, Administrative Record, Vol. 11.
29. Tribunal Exhibit RR-2004-003-05H, Administrative Record, Vol. 1A at 104-107, 111-112.
30. *Transcript of Public Hearing*, Vol. 1, 12 April 2005, at 40-41.
31. *Protected Pre-hearing Staff Report*, Tribunal Exhibit RR-2004-003-06 (protected), Administrative Record, Vol. 2A at 48-49; Tribunal Exhibit RR-2004-003-13.03, Administrative Record, Vol. 3B at 70, 153.
32. *Protected Pre-hearing Staff Report*, Tribunal Exhibit RR-2004-003-06 (protected), Administrative Record, Vol. 2A at 48-49.
33. Tribunal Exhibit RR-2004-003-13.03, Administrative Record, Vol. 3B at 70, 153.

50. Fourth, the B.C. market for standard pipe, at least since 2001, has become a market serviced to all intents and purposes only by imports, as their lower prices have virtually kept the domestic producers out. The domestic industry's sales to British Columbia have been negligible since 2001.

51. To sum up, domestic market conditions have strengthened, as prices and values both increased to record levels, despite increased imports from China. The market conditions for standard pipe in Canada were very good in 2004, and forecast demand for standard pipe is expected to remain strong. There may continue to be shortages of domestic production of standard pipe in the near to medium term, as some domestic producers continue to move into higher value-added products, whose market is also forecast to remain strong.

Likely Volumes of Dumped Goods

52. The Tribunal's assessment of the likely volumes of dumped imports[34] encompasses the likely performance of the foreign industry,[35] the potential for foreign producers to produce standard pipe on facilities currently used to produce other goods,[36] evidence of the imposition of anti-dumping measures on standard pipe in other jurisdictions[37] and the likelihood of trade diversion.[38]

53. Turning to the likely performance of the foreign industry, the Tribunal observes that there is little information on the record concerning the Korean standard pipe industry. However, as noted earlier, the most recent evidence shows that it has produced 4 million metric tonnes of pipe and tube products annually, some of which are standard pipe, that it has exported about one quarter of its production of pipe and tube products, that the construction market has been weak, but may well be recovering, and that Korean producers have in the past faced low-cost imports in their home market. The domestic industry argued that the situation of the Korean industry would mean that Korean producers would be forced to sell into the higher-priced Canadian market. However, the Tribunal does not agree with this conclusion, given that these conditions have not caused a significant increase in Korean standard pipe in the Canadian market over the past two years. The Tribunal notes that Korean volumes of standard pipe into Canada in 2003 and 2004 are significantly lower than those shipped in 2001 and 2002.

54. In 2004, the Korean standard pipe industry may still have been facing pressure at home from low-priced imports from Asia, as the domestic industry alleged, when the Canadian industry was at times short of standard pipe.[39] Despite these shortages, exports of Korean standard pipe to Canada did not increase in terms of either volume or market share, even though the pricing of Korean product that was imported was competitive with the pricing of domestic product.[40] In fact, Korea only shipped 559 metric tonnes of standard pipe to Canada throughout 2004.[41]

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34. Paragraph 37.2(2)(*a*) of the *Regulations.*
35. Paragraph 37.2(2)(*d*) of the *Regulations.*
36. Paragraph 37.2(2)(*f*) of the *Regulations.*
37. Paragraph 37.2(2)(*h*) of the *Regulations.*
38. Paragraph 37.2(2)(*i*) of the *Regulations.*
39. *Transcript of Public Hearing*, Vol. 1, 12 April 2005, at 138; *Transcript of Public Hearing,* Vol. 2, 13 April 2005, at 240-41.
40. *Protected Pre-hearing Staff Report*, Tribunal Exhibit RR-2004-003-06 (protected), Administrative Record, Vol. 2A at 97.
41. *Pre-hearing Staff Report*, Tribunal Exhibit RR-2004-003-05, Administrative Record, Vol. 1A at 22.

55. Further, as discussed below, even though the U.S. market has been short of standard pipe over the past year, there has been no influx of Korean product there either, despite the fact that the anti-dumping duty imposed on Korean exporters is very low. This suggests to the Tribunal that the North American market in general has not been of high interest to the Korean exporters of standard pipe.

56. With regard to the domestic industry's argument that Korea is being blocked out of the Chinese market as China becomes a net exporter of standard pipe and, therefore, that Korea will divert its Chinese exports to Canada, it is not supported by the evidence. The Tribunal notes that, even though Korean producers experienced a significant decrease in sales of welded tubular products in the Chinese market in 2004 (a decrease by one half, to 24,000 metric tonnes per year, or 2,000 metric tonnes per month[42]), as noted above, Korea shipped virtually no standard pipe to Canada that year. This was not caused by the fact that an anti-dumping duty was in place because the price of the Korean standard pipe, after anti-dumping duties were applied, was near or lower than the overall average market price in Canada. Moreover, statistics for early 2005 suggest to the Tribunal that the volume of exports from Korea to China will in fact increase in 2005. Korean exports of welded tubular products (which include standard pipe) for January and February 2005 appear to be slightly higher than exports for 2004, as Korea exported 4,623 metric tonnes for these two months, i.e. approximately 2,300 metric tonnes per month.[43]

57. Moreover, as seen in the Korean trade data,[44] Korea currently has many export markets for tubular products and, consequently, does not appear to be overly dependent upon China, which constitutes only approximately 12 percent of its total export markets. Therefore, even if Korea does lose import volume into the Chinese market, its export markets are differentiated enough so that, even without the order in place, Canada would unlikely bear the brunt of diversion.

58. Furthermore, markets for standard pipe are likely to be opening up in emerging markets such as India, as the GDP growth figures for such economies remain high.[45] The Tribunal also notes that several orders and findings against standard pipe have recently been rescinded. In March and April 2005, Hungary and Poland removed safeguard measures imposed in 2003. Further, the European Union recently terminated its safeguard measures on related products.[46] These factors lead the Tribunal to conclude that, in addition to Canada, there will be a number of new export opportunities for Korean exporters of standard pipe in the near to medium term.

59. The evidence indicated that, during the period of review, the subject standard pipe was being produced domestically on common facilities used to produce other goods, including OCTG and line pipe, and that these other products have higher value added than standard pipe.[47] The domestic producers testified that Korean producers could also switch production between standard pipe and other goods made on common equipment. The Tribunal is of the view that the ability of Korean producers to shift production among products made on common equipment means that it is likely that not more but less Korean standard pipe will become available in the future. The Tribunal heard testimony that Korean producers, like the domestic industry, are looking to shift to higher value-added products.[48] This appears to be confirmed by Canadian import data, as Korean exports of OCTG and line pipe to Canada have increased in 2005, at a

42. Tribunal Exhibit RR-2004-003-05G, Administrative Record, Vol. 1A at 109.
43. *Ibid.*
44. *Ibid.*
45. Manufacturer's Exhibit C-03A at 49, Administrative Record, Vol. 11; Tribunal Exhibit RR-2004-003-29, Administrative Record, Vol. 1 at 153.2.
46. *Pre-hearing Staff Report*, Tribunal Exhibit RR-2004-003-05E, Administrative Record, Vol. 1A at 101.
47. *Transcript of Public Hearing*, Vol. 1, 12 April 2005, at 94-95, 184-85.
48. *Ibid.* at 36, 119, 145-46.

time when, as discussed above, Korean producers have chosen not to increase exports of standard pipe to Canada.[49] Given that oil and gas exploration is thriving and is expected to continue to thrive in Canada, the Tribunal expects that demand will be high for Korean higher value-added products.[50]

60. The United States is an important market for standard pipe. According to the *Preston Pipe and Tube Report* (February and March 2005), 2004 was a record year for pipe and tube demand in North America, the best since 1982, the year before the Canadian finding was first put in place.[51] While the United States has an anti-dumping measure in place against Korea on standard pipe, the margins in place against the four named Korean exporters are very low, less than 2 percent, while the assigned margin for all remaining exporters is 4.8 percent.[52] These margins are certainly not high enough to explain the decrease in volume of imported Korean standard pipe of 176,000 metric tonnes since 2000.[53] Conversely, the Korean average monthly imports of the broader category of "welded tubular products" into the U.S. market increased in 2004 over 2003, but were much less than the monthly level of imports in 2001 and 2002.[54] On balance, the Tribunal is of the view that the volume of imports from Korea entering the United States since 2000 does not indicate that Korean producers are attempting to increase their share of that market, even though their low dumping margins would make it possible for them to be competitive with U.S. producers. Nor, as a witness for the domestic industry testified,[55] given the low U.S. dumping margins, will imports from Korea of standard pipe likely be diverted to Canada should the order be rescinded.

61. The domestic industry cited numerous other examples of measures imposed by authorities in countries other than Canada in respect of the same or similar goods from Korea. The Tribunal notes that the United States is the only country to have imposed anti-dumping measures against Korea involving the same goods, i.e. carbon steel welded pipe.

62. Finally, it was argued that there exists considerable available capacity in Korea to ship standard pipe to export markets, particularly Canada. The mere fact of available capacity does not convince the Tribunal that Korea will necessarily dump significant volumes. In its review of *Concrete Reinforcing Bar*,[56] the Tribunal stated that "the important factor is not the mere existence of unused capacity and export dependence but how and where this extra capacity is likely to be used for exports."[57] In the present context, the Tribunal is of the view that, before using any excess capacity to export a significant amount of standard pipe to Canada, Korea will likely seek to satisfy growing markets in Asia and elsewhere and to shift to higher value-added products produced on the same equipment.

63. For all the reasons discussed above, should the order be rescinded, the volumes of dumped imports entering the Canadian market are not likely to be significant.

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49. Manufacturer's Exhibit C-03A at 21-22, Administrative Record, Vol. 11.
50. *Transcript of Public Hearing,* Vol. 1, 12 April 2005, at 120-21, 136.
51. Manufacturer's Exhibit A-06 at 1, Administrative Record, Vol. 11.
52. *Ibid.* at 6.
53. Manufacturer's Exhibit B-03 at 21, Administrative Record, Vol. 11.
54. *Ibid.* at 72.
55. *Transcript of Public Hearing*, Vol. 1, 12 April 2005, at 109.
56. (11 January 2004), RR-2004-001 (CITT).
57. *Ibid.* at 18.

Likely Prices of Dumped Goods

64. A review of the pricing data on the record shows that average annual Korean selling prices for standard pipe[58] in the Canadian market over the 2001-2004 period were well above the selling prices of other Asian imports, at times lower than domestic prices and at other times above the selling prices of the domestic producers or suppliers of imports from the United States.[59]

65. As discussed above, the evidence does not indicate that Korean producers are particularly interested in increasing their Canadian market share of standard pipe, but even if they were, the Tribunal does not believe that they would do so by lowering their prices to the Chinese level. The *Import Permits* data, which consist mainly of pipe other than standard pipe,[60] show that import prices from Korea rose significantly in the first quarter of 2005 over prices in the first quarter of 2004. For Industry Class 12 (standard and other pipe), for the first quarter of 2005, the value-for-duty price for Korea was CAN$1,137 per metric tonne, almost double the value-for-duty price of CAN$597 per metric tonne in the first quarter of 2004. The unit value for duty for China in the first quarter of 2005 was CAN$782 per metric tonne, whereas that for Japan was CAN$1,314 per metric tonne.[61] This similarity between Korean and Japanese prices lends weight to the testimony of a Tribunal witness who testified that Korea was following Japan's lead into higher-end, more expensive pipe, rather than dropping prices to Chinese levels. It was also noted that low Chinese prices may reflect sales of substandard product.[62] To the extent that this is the case, there would be no need for Korean exports to compete with Chinese pricing, given that the evidence did not indicate any quality problems with Korean product. Rather, Korea appears in a middle position between advanced and developing nations in terms of quality and price. The Korean publication *Pipe and Tube News* states that "Korean steel pipes are behind Chinese or Southeast Asian products in terms of price on overseas markets and slightly lower than those from Germany and Japan in quality."[63]

66. The Tribunal notes that there was however some protected evidence that indicated that, in the last half of 2004, some individual purchases of Korean standard pipe entered at prices lower than some Chinese standard pipe.[64] However, these import figures submitted to the Tribunal were not consistent with the viva voce evidence and could not be explained by the witness who submitted the figures.

67. Given that the evidence does not suggest that Korean producers lowered their prices to compete with the lowest-priced imports in their home market in 2003,[65] the Tribunal does not consider it likely that they would to do so in any significant fashion when selling to the Canadian market. Even if they did lower their import prices significantly, they would still have the additional price disadvantage of incurring the cost of ocean freight and, if distributors wanted to move the product east of British Columbia, where it would be landed, the additional costs of overland freight.

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58. Korean selling prices included anti-dumping duties.
59. *Protected Pre-hearing Staff Report*, Tribunal Exhibit RR-2004-003-06 (protected), Administrative Record, Vol. 2A at 97.
60. This is evidenced in the CBSA's enforcement data that show only 297 metric tonnes shipped from Korea to Canada in the first half of 2004.
61. Manufacturer's Exhibit C-03A at 22-23, Administrative Record, Vol. 11.
62. *Transcript of Public Hearing,* Vol. 2, 13 April 2005, at 217-18.
63. Manufacturer's Exhibit B-03 at 64, Administrative Record, Vol. 11.
64. *Transcript of In Camera Hearing*, Vol. 2, 13 April 2005, at 117-20.
65. Manufacturer's Exhibit B-03 at 64, Administrative Record, Vol. 11.

68. Rather than lowering their prices, it appears that Korean producers are raising prices. This is because the price of standard pipe is closely linked to the price of its principal raw material, namely hot-rolled band (HRB), as manufacturers strive to maintain the spread between the selling price for standard pipe and the price paid for that input material.[66] The price of HRB increased by CAN$135 per metric tonne in China from December 2004 to February 2005 and, over the same period, increased by CAN$77 per metric tonne in Korea.[67] According to *GFMS Metals Consulting*, the price of HRB is now the highest in the world in Asia,[68] an indication that standard pipe prices from both Korea and China should rise. Importers testifying before the Tribunal indicated that this was already the case, standard pipe prices from Korea having increased by 20 percent to date in 2005.[69] When combined with the fact that the price of standard pipe available from the domestic industry has dropped by some CAN$200 to CAN$300 per metric tonne over the last few months, given falling HRB prices,[70] the resulting difference between Korean import pricing and domestic prices is in the range of 1 to 9 percent.[71]

69. For the above reasons, the Tribunal considers that, should the order be rescinded, Korean exporters are unlikely to sell standard pipe on the Canadian market at low Chinese price levels and are likely to sell standard pipe at price levels, even if dumped, that are closer to those of the domestic producers.

Likely Impact of Dumped Goods on the Domestic Industry

70. The Tribunal now turns to the likely impact that the above volumes and prices will have on the domestic industry if the order is rescinded,[72] taking into consideration the domestic industry's likely performance.

71. As discussed above, the domestic industry performed strongly in 2004. The March 2005 edition of the *Preston Pipe and Tube Report* for the United States and Canada states: "The final numbers are in and we can report that indeed [in 2004] we had the best Pipe and Tube market since 1982."[73] The Tribunal's own financial data show that, in 2004, the domestic industry had the best year since 1996, the earliest year on the record. This record year happened when the import penetration was more than 50 percent of the Canadian market.[74] Thus, even a large presence of imports in the market would not necessarily affect the profitability of the domestic industry.

72. There was considerable evidence concerning recent reductions in the domestic price of standard pipe. However, as noted above, input costs have been coming down, and the producers would normally pass changes in costs on to customers. In determining the performance of the Canadian industry, the important thing is not the price of pipe per se, it is the spread between revenues and costs. Over the period of review, unit revenues for the domestic industry went up by almost CAN$70 per metric tonne more than the unit cost of goods sold.

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66. Manufacturer's Exhibit B-09 (protected), Administrative Record, Vol. 12.
67. *Pre-hearing Staff Report*, revised 7 April 2005, Tribunal Exhibit RR-2004-003-05D, Administrative Record, Vol. 1A at 102.
68. Manufacturer's Exhibit B-07 at 13, Administrative Record, Vol. 11.
69. *Transcript of Public Hearing*, Vol. 2, 13 April 2005, at 115-16.
70. *Transcript of Public Hearing*, Vol. 1, 12 April 2005, at 45.
71. *Transcript of In Camera Hearing*, Vol. 2, 13 April 2005, at 80-83.
72. Paragraph 37.2(2)(*e*) of the *Regulations*.
73. Manufacturer's Exhibit A-06 at 1, Administrative Record, Vol. 11.
74. *Protected Pre-hearing Staff Report*, Tribunal Exhibit RR-2004-003-06 (protected), Administrative Record, Vol. 2A at 32.

73. The Tribunal is also optimistic with regard to demand in Canada over the near to medium term. One reason for this is, as noted above, the prediction of an increase in non-residential building activity for 2005 over 2004, while, for 2006, the forecast is for non-residential activity to stay at nearly the same level as in 2005.[75] Another reason is that the oil and gas industry is expected to be thriving,[76] which means that both Stelpipe and IPSCO will probably only wish to roll standard pipe as a "fill in", i.e. when demand for related tubular goods is low.[77]

74. Even if the non-residential market and the oil and gas industries do not stay as strong into the medium term, the result may simply be that the market avoids shortages and returns to a balanced demand and supply situation. Demand was such in 2004 that there were shortages of certain sizes of standard pipe at certain times of the year[78] when Stelpipe and IPSCO were only rolling standard pipe as a "fill in". Accordingly, it appears to the Tribunal that there may well be a shortage of standard pipe in the Canadian market in 2005 and beyond if demand is not reduced, especially in the higher diameter sizes (i.e. 10 in. and above). According to the witness from Emco, IPSCO does not make standard pipe in diameters from 2 to 8 in., choosing rather to produce it at sister plants in the United States, and its production of larger diameter pipe is sporadic and restricted to the 10 to 16 in. diameter range.[79] The examination of IPSCO'S protected data on production by type of product and diameter provides the exact extent of IPSCO's production in Canada and does not contradict Emco's testimony.[80] When this is combined with the fact that Mittal does not appear to make standard pipe above 6 in.,[81] the Tribunal is led to conclude that, if demand for standard pipe in the next 18 to 24 months remains strong as expected, there may well be a part of the demand that the domestic industry chooses not to supply or cannot supply.

75. Furthermore, to the extent that there has been a shift by the domestic industry away from producing standard pipe to producing other higher value-added goods on the same production equipment, any negative effect caused by continued or resumed dumping from Korea would be lessened. In the case of Mittal, which only makes standard pipe, this shift would likely provide opportunities to gain standard pipe orders that would otherwise be filled by the other domestic producers.

76. As discussed above, the Tribunal does not consider it likely that significant volumes of Korean standard pipe would enter Canada if the order were rescinded. However, even if Korean standard pipe were to enter Canada in high volumes and at low prices, these imports would, for the most part, land in and be restricted to the B.C. market, where the domestic industry has little, if any, presence.[82] While there have apparently been two shipments of standard pipe to the east coast of the southern United States, the vast preponderance of imports from Asia into Canada land on the West Coast. In this regard, the evidence obtained from the CBSA shows that virtually all shipments of standard pipe from Korea since 2001 were cleared in the province of British Columbia, with the exception of only four shipments that were cleared in Ontario, Quebec and/or the Atlantic provinces. At least one of these eastern shipments came from a

75. Tribunal Exhibit RR-2004-003-05F, Administrative Record, Vol. 1A at 104-107.
76. *Transcript of Public Hearing*, Vol. 1, 12 April 2005, at 120-21, 136.
77. *Transcript of Public Hearing*,Vol.1, 12 April 2005, at 150-51, 184-85; *Transcript of Public Hearing*, Vol. 2, 13 April 2005, at 246-50.
78. *Transcript of Public Hearing*, Vol.1, 12 April 2005, at 138; *Transcript of Public Hearing*, Vol. 2, 13 April 2005, at 240-41.
79. *Transcript of Public Hearing*, Vol. 2, 13 April 2005, at 246-50.
80. Manufacturer's Exhibit C-05 (protected) at 3, Administrative Record, Vol. 12.
81. Tribunal Exhibit RR-2004-003-13.02, Administrative Record, Vol. 3A at 7.
82. *Protected Pre-hearing Staff Report*, Tribunal Exhibit RR-2004-003-06 (protected), Administrative Record, Vol. 2A at 38.

U.S. supplier rather than directly from Korea.[83] Imports of standard pipe that land in British Columbia make their way to the Manitoba border to some extent, but very few, if any, get beyond that point. Thus, imports from Korea that land in British Columbia would have little or no presence in the Eastern Canada market where the domestic industry sells the preponderance of its goods.

77. Further, the prices of future dumped imports from Korea in the B.C. market would not likely have an injurious effect on sales in Eastern Canada because the price of imports in the B.C. market does not appear to affect the domestic industry's prices for standard pipe in Ontario and Quebec. Prices in these provinces remained approximately CAN$400 higher per metric tonne than prices in British Columbia in 2004.[84] But even if the low prices of imports in the B.C. market did exercise a significant influence on prices in Ontario and Quebec, it is the Tribunal's view that imports from Korea would not make a significant contribution to this effect, because, as discussed above, they would not be among the lowest-priced imports. Even if Korea wanted to gain market share (despite its apparent lack of interest in the Canadian market for standard pipe, as discussed above), it would not necessarily have to lower its prices to the Chinese level to compete. It could do so by competing with the imports from the United States and other higher-priced imports, to the extent that they participate in the B.C. market.

78. Furthermore, demand in the B.C. market for standard pipe is expected to remain strong in the near to medium term. According to the testimony, the B.C. market, at this time, appears to be in the upper range of its demand range of 10,000 to 25,000 metric tonnes.[85] Furthermore, the Tribunal heard testimony that the construction for the upcoming Olympics and increased demand in the resource commodities sectors are fuelling demand for standard pipe.[86]

79. While the prices of standard pipe in British Columbia do not affect those in Ontario and Quebec, where the vast majority of domestic standard pipe is sold, and, therefore, are also unlikely to affect prices in the Atlantic region, where a small portion of domestic product is sold, there may be some impact in the Prairies, where the price of domestic standard pipe only rose by 18 percent as compared to 34 percent in Ontario and Quebec in 2004.[87] However, the Prairies account for only slightly more of the domestic industry's sales in percentage terms than the Atlantic region. The combination of this lack of effect of imports landed in British Columbia on the prices in the Canadian market and the fact that Korean product is unlikely to be among the lowest-priced imports leads the Tribunal to conclude that the likely prices of dumped imports from Korea are unlikely to have a significant negative impact on the domestic industry.

80. Further, the Tribunal is not persuaded that, if the order is rescinded, planned future development and investment by the domestic industry will be suspended to a significant extent.[88] In this regard, the Tribunal notes that most of the investments in plant equipment in the case of Stelpipe and IPSCO can also be used for other tubular products.

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83. Tribunal Exhibit RR-2004-003-11.03B (protected), Administrative Record, Vol. 2.2 at 44.2-44.7.
84. Average unit regional prices were derived from the producers' volumes and values of their regional sales, in response to Part A—Appendix 3 of the Canadian Producer Expiry Review Questionnaire.
85. *Transcript of Public Hearing*, Vol. 1, 12 April 2005, at 112.
86. *Ibid.* at 112, 177.
87. Average unit regional prices were derived from the producers' volumes and values of their regional sales, in response to Part A—Appendix 3 of the Canadian Producer Expiry Review Questionnaire.
88. Paragraph 37.2(2)(*g*) of the *Regulations.*

81. To sum up, the Tribunal considers that, in the near to medium term, if the order is rescinded, there will be little impact on the domestic industry. The Tribunal foresees favourable demand for standard pipe in Canada as a whole, based on the forecast for non-residential building in 2005 and 2006, as well as high demand in the oil and gas sector. The domestic industry has just experienced a record year in terms of its financial performance, with forecasts pointing to similar results for at least the next year. To the extent that the Korean exporters do increase their dumped exports of standard pipe to Canada, that volume would be mainly restricted to the B.C. market, a market where demand is expected to remain strong, where the domestic industry has little, if any, presence and which appears to have no influence on pricing of standard pipe in Eastern Canada. It is also the Tribunal's view that Korean exporters are unlikely to sell dumped standard pipe to the Canadian market at price levels matching the low price of Chinese offerings, but rather will choose to sell at price levels closer to those of the domestic industry or of higher-priced imports. Therefore, the Tribunal concludes that it is unlikely that the resumed or continued dumping of the subject goods will cause injury to the domestic industry in the near to medium term.

Other Factors

82. With regard to other factors that may be relevant in the circumstances, there was some testimony that the CW process used by certain domestic producers serviced only a small proportion of the market for standard pipe in Canada and that imports were produced using only the ERW process. However, the Tribunal accepts the evidence from the domestic producers that they do indeed produce standard pipe using both processes, hence this is not a factor that needs to be considered concerning any potential future injury.

83. The Tribunal also examined the price of HRB in Canada. It went from CAN$921 per metric tonne in September 2004 to CAN$766 per metric tonne in December 2004, coming back up slightly in February 2005 to CAN$801 per metric tonne, as the result of changes to scrap prices.[89] Any decrease in the price for standard pipe as a result of passing decreased costs on to customers is not a factor relating to dumping. Furthermore, it is not the absolute cost that is important, but the gross margin. Mittal, which uses technology based to a large extent on iron ore, has been incurring higher costs, as the price of this material has risen significantly. Mittal's testimony suggested that, as a result, it would be at a disadvantage vis-à-vis its competitors that consume less iron ore and more scrap. However, the data on the record indicate that, over the period of review, Mittal was able to increase the spread between costs and selling prices for standard pipe. Furthermore, any injury caused to Mittal as a result of increased costs not shared by its domestic competitors would not be attributable to the continuation or resumption of dumping.

84. Finally, the Tribunal notes that a portion of the domestic producers' production of standard pipe is exported to the United States.[90] In 2004, the financial returns on export sales for some producers were lower than the return on domestic sales and to the varying degrees to which the domestic industry relies on exports, the decreased performance of exports could be significant to overall product line performance, e.g. in the likely absorption of certain costs on domestic sales of standard pipe. However, to the extent that this is the case, it would not be a potential source of injury that is attributable to the continuation or resumption of dumping.[91]

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89. *Pre-hearing Staff Report*, revised 7 April 2005, Tribunal Exhibit RR-2004-003-05, Administrative Record, Vol. 1A at 102.
90. *Protected Pre-hearing Staff Report*, Tribunal Exhibit RR-2004-003-06 (protected), Administrative Record, Vol. 2A at 62-64.
91. See the principle enunciated in *Iodinated Contrast Media* (8 January 2003), CDA-USA-2000-1904-02.

CONCLUSION

85. In light of the foregoing, the Tribunal finds that it is unlikely that the resumed or continued dumping of the subject goods will cause injury to the domestic industry in the near to medium term.

86. Therefore, pursuant to subparagraph 76.03(12)(*a*)(ii) of *SIMA*, the Tribunal rescinds its order in respect of carbon steel welded pipe originating in or exported from Korea.

Patricia M. Close
Patricia M. Close
Presiding Member

Zdenek Kvarda
Zdenek Kvarda
Member

Ellen Fry
Ellen Fry
Member