



Ottawa, Friday, January 25, 1991

Review No.: RR-90-003

IN THE MATTER OF a review, under section 76 of the *Special Import Measures Act*, of the review finding made by the Canadian Import Tribunal on August 2, 1985, in Review No. R-7-85, continuing, without amendment, the finding of likelihood of material injury of the Anti-dumping Tribunal dated June 14, 1982, in Inquiry No. ADT-5-82, and of the findings of material injury made by the Canadian Import Tribunal on July 10, 1986, in Inquiry No. CIT-1-86, on February 20, 1987, in Inquiry No. CIT-6-86, and on December 31, 1987, in Inquiry No. CIT-10-87, concerning:

**DRYWALL SCREWS ORIGINATING IN OR
EXPORTED FROM JAPAN, SINGAPORE, TAIWAN, THE
REPUBLIC OF KOREA AND FRANCE**

ORDER

The Canadian International Trade Tribunal, under the provisions of section 76 of the *Special Import Measures Act*, has conducted a review of the review finding made by the Canadian Import Tribunal on August 2, 1985, in Review No. R-7-85, continuing, without amendment, the finding of likelihood of material injury of the Anti-dumping Tribunal dated June 14, 1982, in Inquiry No. ADT-5-82, and of the findings of material injury made by the Canadian Import Tribunal on July 10, 1986, in Inquiry No. CIT-1-86, on February 20, 1987, in Inquiry No. CIT-6-86, and on December 31, 1987, in Inquiry No. CIT-10-87.

Pursuant to subsection 76(4) of the *Special Import Measures Act*, the Canadian International Trade Tribunal hereby rescinds the above-mentioned findings and review finding.

Sidney A. Fraleigh
Sidney A. Fraleigh
Presiding Member

Robert J. Bertrand, Q.C.
Robert J. Bertrand, Q.C.
Member

Kathleen E. Macmillan
Kathleen E. Macmillan
Member

Robert J. Martin
Robert J. Martin
Secretary



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**DRYWALL SCREWS ORIGINATING IN OR
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Special Import Measures Act - Whether to rescind or continue, with or without amendment, the review finding dated August 2, 1985, continuing, without amendment, the finding in respect of drywall screws from Japan and Singapore, dated June 14, 1982; the finding dated July 10, 1986, respecting drywall screws from Taiwan; the finding dated February 20, 1987, concerning drywall screws from the Republic of Korea; and the finding dated December 31, 1987, respecting drywall screws from France.

DECISION: The Tribunal rescinds the above-mentioned findings and review finding. The Canadian International Trade Tribunal (the Tribunal) finds that it is unlikely that there would be a resumption of dumping from Singapore, Japan, Taiwan or France, or that there would be a resumption of subsidized imports from France. The Tribunal finds that there is a likelihood of a resumption of dumping from Korea as exporters seek to recover market share in a highly competitive market. However, the Tribunal considers that Korean drywall screw prices would not be the lowest in the marketplace. It finds that the major source of price pressure affecting the industry would continue to be low-priced imports from non-subject countries. Accordingly, the Tribunal concludes that a resumption of dumping from Korea would not be materially injurious to the production in Canada of drywall screws.

Place of Hearing: Ottawa, Ontario
Dates of Hearing: November 5 and 6, 1990
Date of Order and Reasons: January 25, 1991

Tribunal Members: Sidney A. Fraleigh, Presiding Member
Robert J. Bertrand, Q.C., Member
Kathleen E. Macmillan, Member

Director of Research: Peter Welsh
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Participants:

Peter Clark
for H. Paulin & Co. Limited

(Manufacturer)

Gordon B. Greenwood
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**DRYWALL SCREWS ORIGINATING IN OR
EXPORTED FROM JAPAN, SINGAPORE, TAIWAN, THE
REPUBLIC OF KOREA AND FRANCE**

TRIBUNAL: SIDNEY A. FRALEIGH, Presiding Member
ROBERT J. BERTRAND, Q.C., Member
KATHLEEN E. MACMILLAN, Member

STATEMENT OF REASONS

SUMMARY

This is a review under section 76 of the *Special Import Measures Act* (SIMA) of the above-mentioned review finding and findings of the Canadian Import Tribunal (the CIT) concerning drywall screws imported from Japan, Singapore, Taiwan, the Republic of Korea (Korea) and France.

The subject goods are drywall screws. These screws are used mainly in the construction industry to fasten gypsum wallboard to steel or wood studs. They are also used for a variety of do-it-yourself (DIY) applications.

The Canadian International Trade Tribunal (the Tribunal) considers the domestic industry to consist now of H. Paulin & Co. Limited (Paulin) and Marcor Manufacturing (Marcor). Another manufacturer, Grabber Industrial Products Central Ltd. (Grabber), did not provide the Tribunal with any information pertaining to its operations and is not considered as part of the industry for the purposes of the review.

There has been a considerable change in the market for drywall screws since the findings. The industry experienced a continually declining market share, with only one firm, Paulin, producing drywall screws over the entire period. Until 1989, imports from the subject countries accounted for most of the market. Since then, low-priced imports from non-subject countries have posted significant gains, mainly at the expense of imports from subject countries. These low-priced imports combined with some aggressive pricing on the part of new domestic entrants, particularly Grabber, have intensified price competition in the market. For the most part, these lower prices in combination with the general economic downturn, have had a negative impact on the domestic industry.

Today, declining sales have forced some firms out of the market. Paulin, the major producer still in the market, is reporting poor financial performance, reduced production and a general decline in the number of people employed in the production of drywall screws.

In the absence of evidence, the Tribunal is not convinced that Singapore, Japan, Taiwan or France is likely to supply the domestic market with dumped or subsidized drywall screws if the findings are rescinded. It finds, however, that there is a likelihood of a resumption of dumping of drywall screws from Korea. Evidence on the pricing of drywall screws in the Canadian and US markets, however, persuaded the Tribunal that Korean drywall screws would not be the lowest priced in the domestic marketplace. Other low-priced imports would continue to be the major source of price pressure on the industry. On these grounds, the Tribunal finds that Korean screws dumped in Canada are unlikely to be materially injurious to the production in Canada of drywall screws.

BACKGROUND

In Notice of Expiry (LE-90-001) dated April 2, 1990, the Tribunal gave notice that the review finding in Review No. R-7-85, continuing, without amendment, the finding in Inquiry No. ADT-5-82 was scheduled to expire on August 1, 1990. The Tribunal requested interested parties supporting or opposing the continuation of the review finding to make representations addressing issues relating to: changes in the supply of, and demand for, the subject goods, including changes in the level and sources of imports; the vulnerability of the industry in terms of the potential volume of dumped imports; their effects on prices; and their impact on factors such as production, sales, market shares and profits. The Tribunal also requested that representations deal with the propensity to dump, in Canada and elsewhere, by exporters in the named countries.

On July 30, 1990, on the basis of available information and representations made, the Tribunal decided, pursuant to section 76 of SIMA, to initiate a review covering the subject review finding as well as the three other findings concerning drywall screws. A notice of review was forwarded to all known interested parties and was published in Part I of the August 11, 1990, edition of the Canada Gazette.

The Tribunal sent questionnaires to known manufacturers and importers of the subject goods. From the replies to these questionnaires and other sources, the Tribunal research staff prepared public and protected pre-hearing staff reports. The Tribunal members visited the facilities of Paulin, in Milton, Ontario, on October 24, 1990, to view the manufacturing process. Tribunal staff visited Paulin's other drywall screw manufacturing facilities in Scarborough, Ontario.

The record of this review consists of all relevant documents, including the four findings and the review finding, the notice of expiry, the notice of review, replies to the questionnaires, the staff reports prepared for the review, and all evidence and testimony given during public and *in camera* sessions held in Ottawa, Ontario, on November 5 and 6, 1990. All public exhibits were made available to interested parties, while protected exhibits were provided to independent counsel who had given undertakings respecting the non-disclosure of confidential information.

Paulin was represented by counsel at the hearing, submitted evidence and made argument in support of a continuation of the findings.

Bailey Metal Products Limited (Bailey) was represented by counsel at the hearing, and submitted evidence and made argument in support of rescinding the findings.

Sungrim Industrial Co. Ltd. (Sungrim), New Korea Ind. Co., Ltd. (New Korea) and Koram Steel Co. Ltd. (Koram), three Korean exporters of drywall screws, made a submission supporting a rescission of the finding against Korea, but did not appear at the hearing.

SUMMARY OF FINDINGS AND REVIEW FINDING

There are four findings of material injury to the production of drywall screws in Canada.

Japan and Singapore

The first finding, Inquiry No. ADT-5-82, related to the likelihood of material injury caused by dumped imports of drywall screws from Japan and Singapore. The industry, represented by B & R Fastening Industries (B & R), ITW Canada Inc. (ITW) and Manufer Inc. (Manufer), had maintained that dumped imports of drywall screws had caused material injury to the domestic production of these screws.

On the basis of the evidence, the Anti-dumping Tribunal (the ADT) concluded that severe price competition among importers had significantly increased import share, but that product quality was also a major consideration. The ADT concluded that quality problems had contributed significantly to the industry's poor performance. It did not find a causal relationship between dumped imports and the injury suffered by the industry. However, the ADT had little doubt that continued dumping would be materially injurious in the future. The continued presence of dumped screws in the market would represent a serious obstacle to successful market penetration by B & R and Manufer, and would continue to cause losses to the other Canadian drywall screw producers.

The CIT reviewed and continued the finding in 1985, in Review No. R-7-85. It found that a rescission of the finding would likely result in a resumption of injurious dumping. B & R and Manufer had been replaced by Paulin and Soviq Inc. as domestic producers. The CIT concluded that Japan would renew dumping as it tried to compete with Taiwan, which had captured a 20-percent market share.

Taiwan

In 1986, in Inquiry No. CIT-1-86, the CIT found that the low price of screws imported from Taiwan enabled importers to capture a significant share of the market at the industry's expense. As well, the price suppression caused by the dumped prices was reflected in a severe drop in the industry's gross margins and increasing financial losses. The CIT found the dumping of drywall screws from Taiwan to be materially injurious. During the inquiry, the complainant submitted that screws were also being dumped from Korea. On comparing prices of Korean imports with dumped prices of the Taiwanese screws, the CIT was persuaded that there was a reasonable indication of injurious dumping of drywall screws from Korea. It therefore directed the Deputy Minister to cause an investigation to be initiated.

Korea

On February 20, 1987, in Inquiry No. CIT-6-86, the CIT found that the dumping of drywall screws from Korea was materially injurious. Counsel for the complainant submitted that there was also evidence of dumping from France, China, Hong Kong, Sri Lanka and the Benelux countries. The CIT found a reasonable indication of injurious dumping and subsidizing of drywall screws from France and directed the Deputy Minister to cause an investigation to be initiated.

France

On December 31, 1987, in Inquiry No. CIT-10-87, the CIT found that the dumping and subsidizing of screws from France was materially injurious to the production in Canada of drywall screws. In its decision, the CIT noted that the dumping and subsidizing of French drywall screws permitted importers to offer lower prices in the marketplace, thus preventing the industry from selling at a price level that would allow a satisfactory return.

THE PRODUCT

The goods under review are drywall screws originating in or exported from Japan, Singapore, Taiwan, Korea and France. Drywall screws are used mainly in the construction industry to fasten gypsum wallboard to steel or wood studs. They are also used by consumers for fastening floorboards, stairs and plywood, and for other DIY applications.

Drywall screws come in various lengths, the most common being 1 in., 1 1/4 in., and 1 5/8 in. Common diameters are 3.5 mm (#6), 3.8 mm (#7) and 4.2 mm (#8). They have flat heads with a Phillips drive and may have ordinary or self-drilling tips.

Manufacturing involves several distinct steps on different machines. The first machine cuts cold-drawn carbon steel wire to length and punches a Phillips head (header) to form a screw blank. Another machine threads and points the blanks (threader). For self-drilling screws, the point is also forged (pointing machinery). With different dies, each machine can be used to produce other types of fasteners such as wood and metal screws. The formed screws are passed through a heat-treating furnace to give them the desired hardness. They are then washed and plated with phosphate or zinc. Heat treatment and phosphate coating are often done by outside firms.

Apparently, because of process licensing considerations, it is more efficient to contract out the phosphate treatment.

The manufacturing process is fairly automatic. Minimal labour input is required in the form of quality control and transporting output from each stage of production to the next. However, a skilled labour force is required for the installation and maintenance of the dies and machines.

THE INDUSTRY

From 1982 to 1990, several firms have produced drywall screws in Canada, but subsequently left the market.

<u>Manufacturer (x)</u>	<u>1982</u>	<u>1985</u>	<u>1987</u>	<u>1989</u>	<u>1990</u>
B & R	x	-	-	-	-
Manufer	x	-	-	-	-
ITW	x	x	x	-	-
Stelco	x	-	-	-	-
Paulin	x	x	x	x	x
Soviq Inc.	-	x	x	-	-
Robertson Whitehouse	-	-	-	-	-
Rolmax	-	-	x	-	-
Grabber	-	-	-	x	x
Great Lakes	-	-	-	x	-
Marcor	-	-	-	-	x

By 1985, Paulin, a small producer in 1982 had become the main domestic manufacturer. In 1990, there were two other manufacturers with Paulin: Marcor of Toronto, a small operation set up to produce drywall screws for the Ontario market; and Grabber, located in Richmond, British Columbia.

Paulin was established in 1920 as a privately owned company to manufacture industrial fasteners and related products. It went public in 1972. It has four manufacturing divisions located in Scarborough (2), Milton and Mississauga, and six distribution warehouses in Vancouver, Edmonton, Winnipeg, Scarborough, Montréal and Moncton. It manufactures a complete line of screw products, which includes all types of fasteners and related products used by the automotive, plumbing, hardware and construction sectors and other industries. Drywall screws complete the range of products that Paulin sells through its distribution network. Fasteners other than drywall screws account for most of Paulin's sales.

Marcor is a small manufacturer of drywall screws furnishing the building supply, hardware and contractor markets in southern Ontario.

Until 1987, Grabber imported drywall screws from Yao Seiby Co. Ltd. (Yao) in Japan. Grabber and Yao then formed a joint-venture, importing blanks from Yao and manufacturing drywall screws on Grabber's premises in Richmond, British Columbia. Grabber refused to respond to the Tribunal's questionnaire and did not respond to any of the Tribunal's subsequent requests for information. On the basis of Statistics Canada data on imports of drywall screw blanks, the Tribunal determined that Grabber was a

significant manufacturer of drywall screws. Testimony at the hearing confirmed that Grabber was a significant supplier of drywall screws in Western and Central Canada. However, Grabber showed no interest in the outcome of the review and provided no data on its sales and financial performance.

For the purpose of the review, the Tribunal considers that the domestic industry now consists of Paulin and Marcor, which account for a major proportion of the domestic production of drywall screws.

POSITION OF PARTIES

Domestic Industry

Counsel for Paulin and a written submission from Marcor maintained that the findings should be continued with respect to Japan, Taiwan, Korea and France. Paulin recognized that there were no longer any drywall screw manufacturing facilities in Singapore and was not opposed to a rescission of the finding with respect to that country.

Both firms were convinced that a rescission of the findings would lead to a resumption of dumping. Counsel argued that the subject countries would reduce their prices below normal values to compete in the Canadian market and recover lost market share. Such dumping would be materially injurious to the domestic industry.

Counsel argued that the record shows a substantial gap between the normal values applied to the subject goods imported into Canada and the price of screws imported into the United States from the same countries, confirming that the market is driven by the price of imports. The record also demonstrates that the trend in Canadian prices is continuing downward in conjunction with the softening of the construction market and an already over-saturated supply situation worldwide with even more capacity coming on-stream. All of this makes the likelihood of renewed dumping from many of the subject countries a certainty.

Counsel submitted that the evidence is clear that, with a rescission, imports of dumped drywall screws from Korea and Taiwan would again enter the country at prices that would fall suddenly and dramatically, by between 10 and 25 percent. Similarly, despite the appreciation of the yen, counsel for Paulin noted that dumping is continuing from Japan. Counsel maintained that dumping from Japan would resume, particularly if the findings are maintained against other countries where the evidence of a resumption of dumping is much more clear.

With respect to the likelihood of renewed dumped and subsidized imports from France, counsel noted the substantial capacity of the French manufacturer of drywall screws and the probability that the quality of its drywall screws had improved in the last few years. Given increased capacity and improved quality, counsel submitted that there is a potential for importers to shift to France.

Counsel submitted that the industry is particularly vulnerable to renewed dumping. Paulin's deteriorating financial performance clearly demonstrates the effect that dumped prices in the marketplace have had, and are having, on its performance. Referring to the evidence, Paulin noted that Bailey predicted an immediate drop in the price it would pay

for Korean drywall screws following a rescission and a consequent increase in its share of the market. Such dumping would result in an immediate and significant decline in the price of all drywall screws. This, Paulin submitted, would significantly reduce its margins and force it to cease all production of drywall screws.

Counsel rejected the argument that Paulin's sales would be isolated from price developments in other parts of the drywall screw market. There are, in fact, two sectors in the drywall screw market, the large contractor/applicator market and the smaller DIY/hardware market. Paulin sells the majority of its product to the smaller sector, while the major importers deal largely in the contractor/applicator sector. However, the lack of barriers to entry into the DIY/hardware market permits only one price level, the lowest one. Because of this one-tiered price structure, Paulin maintained that its Precision Fastener Division, in Milton, would leave the market if its production was not protected against dumped imports.

Counsel also argued that the fact that Paulin's production accounted for a small part of the Canadian market could not deprive it from protection from injurious dumping. Under the former *Anti-dumping Act*, an industry was required to supply more than 10 percent of the market for it to be eligible for protection from injurious dumping; there is no such threshold under SIMA.

Importers/Exporters

Counsel for the importers and exporters, as well as written submissions by importers, called for a rescission of the findings. It was argued that there would not be a resumption of dumping or subsidized imports should the findings be rescinded. Moreover, it was submitted that the domestic industry's financial performance would not be made worse in the absence of the findings.

Counsel submitted that the appreciation in the value of the yen has made Japanese drywall screw imports uncompetitive and therefore unlikely to be imported in any significant volume should the finding be rescinded. With respect to potential imports of drywall screws from France, counsel cited testimony that Yuko's production is now consumed almost entirely in Europe, and it is not likely that any of the firm's drywall screw production would be exported to Canada. This position is consistent with statements by the French manufacturer that it has no intentions of resuming exports of drywall screws to Canada, regardless of the Tribunal's finding in this review.

Counsel submitted that, throughout the period reviewed, Canadian drywall screw manufacturers have never been able to satisfy the requirements of the market, and imports have always met most market demand. The industry has remained marginal, at best, and much of what industry there is, has little or no concern about import competition. Paulin is the only firm that has remained in the drywall screw business since the first finding. All other firms have dropped out after short periods in the market.

Bailey submitted that Paulin is not a true player in the market for drywall screws. While it does supply some DIY and hardware accounts, it has no knowledge of the main domestic market or of any of the competitive factors therein. In fact, Paulin supplies mainly the DIY/hardware market for drywall screws.

Counsel noted that much of Paulin's poor financial performance was self-inflicted. One of Paulin's major accounts switched to another supplier because of what it alleged were quality problems. Regardless of the outcome of the review, this account is lost to Paulin until and unless it corrects the problems as perceived by that particular account.

Counsel noted that the review did not generate much interest among the other members of the present industry. He specifically noted the absence of Great Lakes and Marcor at the hearing and the total lack of interest displayed by Grabber. Although Marcor and Great Lakes are not seen as major players, Grabber is a significant domestic producer, supplying a broader market than Paulin. Counsel submitted that Grabber is very price-competitive in the marketplace and its activities must not be downplayed when examining the competitiveness and vulnerability of the industry.

A witness from Bailey testified that, since the findings were put in place, the world market for drywall screws has changed dramatically. World capacity has grown rapidly in comparison to demand, and prices are falling. Domestically, falling demand has been accompanied by growing, aggressive intra-industry competition from Canadian-based manufacturers, particularly Grabber, and mounting low-priced competition from mainland China, Thailand and the United States. Bailey considers that this state of affairs will continue, at least through 1991, despite the current findings.

Tenpro, another importer, submitted that there has been very little Canadian production in recent years. It suggested that the rulings have not benefited the Canadian industry and, after eight years, there is still no Canadian industry manufacturing drywall screws. It submits that the Tribunal should let the marketplace dictate the price to allow the consumer to buy at the lowest possible level.

Sungrim, New Korea and Koram, three Korean firms, which export drywall screws to Canada, submitted that, since the findings of material injury, the Canadian industry has undergone significant change. Now there appears to be only limited Canadian production of drywall screws, in specific sizes and types, which does not fully supply the demand in Canada. Due to this limited production of drywall screws in Canada and the lack of dumping of this product from Korea, the finding relating to Korea should be removed. The firms submitted that there is no propensity for Korean exporters to dump their product into the Canadian marketplace as confirmed by the Department of National Revenue's annual reviews.

ECONOMIC INDICATORS

The Tribunal examined production, import levels and price trends in the drywall screw market from 1983 to the first half of 1990. It also reviewed changes in the industry structure and its financial performance. This review covered all firms that have supplied the market, except for Grabber, which did not provide production, sales or financial data.

The Tribunal heard testimony that the market and the industry have been changing constantly. The domestic industry has been unable to get a major market share and, in fact, lost ground throughout most of the period. Imports have been, and continue to be, the major source of supply for the domestic market.

Until 1987, the subject countries, notably Korea, accounted for most of the drywall screws sold in the market. In 1988, the United States, China and, later, Thailand began

to capture growing market share, with virtually all gains by non-subject imports being at the expense of the subject countries. The domestic industry's market share remained relatively constant at somewhat less than 10 percent.

The market for drywall screws peaked in 1987-88, at 3.8 billion screws, then fell off by 25 percent, to about 2.9 billion in 1989. Original estimates of sales for 1990 suggested some recovery in demand, but the continuing economic downturn and poor attendant prospects for major construction projects have made such a recovery unlikely. At the same time, new import sources, as well as the aggressive behaviour of Grabber, contributed to a fall in market prices. For the most part, Paulin has not been able to respond to these low prices.

Although the industry was protected from dumped and subsidized imports for much of the period, it continued to experience a net loss of firms. There were several new entrants into the market, but their production was generally short-lived. Paulin was the only firm to continue manufacturing drywall screws throughout the period. There are now three domestic manufacturers: Paulin, Grabber and Marcor. With firms leaving the industry and recent declines in Paulin's production, employment levels have decreased over the period.

The financial performance of Paulin, which accounted for most domestic production during this period, was a function of both the declining market and declining prices. As sales fell, particularly in 1989, and imports from non-subject countries exerted downward pressure on prices in the market, Paulin's gross and net margins declined sharply, and the firm moved into a net loss position. A factor in this decline in net profits was a relatively large corporate interest expense allocated to drywall screw production. Paulin's performance was also adversely affected by the loss of a major account.

REASONS FOR DECISION

Under the provisions of Article 9 of the GATT Anti-Dumping Code, an anti-dumping duty shall remain in force only as long as, and to the extent necessary to counteract dumping that is causing injury.

In reviewing an extant order or finding, the Tribunal must decide if the importation of dumped or subsidized goods is likely to resume in the event of a rescission, and, if so, whether the dumped or subsidized imports are likely to cause material injury to the production in Canada of like goods.

LIKELIHOOD OF RENEWED DUMPING/LIKELIHOOD OF SUBSIDIZED IMPORTS

In determining if there is a likelihood of a resumption of dumping and/or a likelihood of subsidized imports, the Tribunal considered evidence concerning such key factors as import patterns and trends, pricing and marketing patterns, capacity and utilization of capacity in the subject countries and other countries, and drywall screw exports by the subject countries to the United States.

In this case, without evidence to the contrary, the Tribunal is persuaded that it was unlikely that there would be a resumption of dumping from Japan, Singapore, Taiwan or France, or that there was a likelihood of subsidized imports from France. The Tribunal finds, however, that there is a likelihood of a resumption of dumping from Korea.

The Tribunal heard evidence from both the domestic industry and importers that the plant producing drywall screws in Singapore had been closed. On the basis of this information, the Tribunal concludes there is no likelihood of a resumption of dumping of drywall screws from Singapore.

Counsel for Paulin argued that some Japanese firms remained active in the market and that there had been some dumping of drywall screws in Canada from Japan. However, import statistics and Revenue Canada enforcement statistics displayed a steady decline in the volume of imports and, particularly, of dumped imports, of drywall screws from Japan since the finding. The consistent decline of Japanese imports, in general, and the insignificant level of dumped imports, in particular, indicate a reduced interest by Japanese exporters in the Canadian market. This suggests to the Tribunal that there is no likelihood of a resumption of dumping of drywall screws from Japan. Furthermore, testimony by importers suggested that the appreciation of the yen makes it unlikely that Japanese drywall screws could compete with low-priced screws imported from a growing number of non-subject countries, or even with low-priced screws supplied by certain domestic manufacturers, notably Grabber. Without some indication that Japanese exporters are poised to resume exporting dumped drywall screws to Canada, the Tribunal is not convinced that there is a likelihood of a resumption of dumping from Japan.

With respect to Taiwan, there was testimony and argument that the price of Taiwanese drywall screws would fall in the absence of a finding. However, import statistics and Revenue Canada's enforcement data clearly demonstrated that both the volume of drywall screw imports from Taiwan and the volume of those imports that were dumped have fallen considerably since 1987, and by 1989, Taiwan had almost no market presence. This evidence does not provide the Tribunal with any reason to believe that there are any tendencies for Taiwanese exporters to dump drywall screws. Without such evidence, the Tribunal finds there is no likelihood of a resumption of dumping of drywall screws from Taiwan.

The Tribunal was presented with no convincing evidence that there would be a resumption of dumped or subsidized imports into Canada from France. The testimony of a former importer of French drywall screws was that most French production is currently consumed in Europe. This is consistent with submissions by the French exporter and the French government. Given the absence of dumped or subsidized imports from France since the finding and no indication of plans of exporting drywall screws to Canada, the Tribunal finds no reason to conclude there would be a resumption of dumping or subsidized imports from France.

Evidence before the Tribunal and submissions by Korean exporters confirmed that there have been almost no dumped imports of Korean drywall screws since the finding was put in place. Korean exporters submitted, moreover, that they would not dump in Canada if the finding were rescinded. However, the Tribunal is not convinced that Korean exporters would refrain from dumping drywall screws in Canada. The Korean product has a good reputation in the trade and is serviced by an infrastructure of importers that successfully exploit this reputation. Until 1989, Korean exporters were successful in maintaining, and even expanding, their share of the Canadian market for drywall screws at prices at, or above, normal values. Since then, with the decline in prices for drywall screws in Canada, Korean exporters have lost a significant share of their market to non-subject countries and to domestic production by Grabber. The Tribunal heard testimony from a large Canadian importer of drywall screws that, until

recently, had sourced virtually exclusively from a major Korean manufacturer. According to this evidence, the importer is now unable to meet competition in the Canadian market with Korean screws. The witness indicated that the firm was attempting to obtain lower priced screws of acceptable quality from other sources in an attempt to regain lost market share.

Should the finding be rescinded, this importer testified that there would be an immediate reduction, in the price of Korean screws, to levels below established normal values. In this regard, testimony on market conditions in the United States suggested that Korean exporters are selling drywall screws at prices below normal values in Canada. The Tribunal concludes from this testimony that there is a strong likelihood that if the finding were rescinded, Korean exporters, pressed by importers, would reduce their prices below normal values.

LIKELIHOOD OF MATERIAL INJURY

In considering whether the domestic industry would be materially injured by the sale of Korean drywall screws into the domestic market at prices below the established normal values, the Tribunal addressed the possible magnitude and impact of these imports, and the effect they would have on the Canadian market. It also considered whether the presence of dumped Korean imports was likely to be materially injurious to Paulin, whose financial performance has been particularly weak in the last year and whose sales have declined, even with the protection of dumping and countervailing duties.

In reaching a conclusion, the Tribunal considered evidence on pricing and the activities of Korean exporters in the Canadian and US drywall screw markets, the structure of the market in terms of other domestic producers and non-subject countries, and the degree to which the market for drywall screws is segmented.

It is difficult for the Tribunal to assess the possible magnitude of Korean imports and the impact of these imports on the market. A key consideration is the extent to which Korea would seek to meet prices in the Canadian market. The Tribunal heard evidence that prices have fallen significantly in the market due to a large drop in demand and the availability of low prices from both domestic producers and non-subject countries. The evidence was conclusive that this market is price driven and importers will gravitate to the source of the lowest price, taking account of quality concerns and existing business relationships. At normal values now in place, Korean imports have become much less competitive in the Canadian market. The Tribunal believes that, to compete, Korean producers would be under pressure from importers to reduce their prices in the absence of a finding.

To maintain the finding against Korea, the Tribunal would have to be satisfied that there would be a causal link between dumped imports and injury to the domestic industry. More specifically, the Tribunal recognizes that Paulin is facing difficulties and is in a weak state, but it must also consider whether a resumption of dumped imports from Korea would further weaken Paulin's position in a material way.

Many factors lie at the root of the Paulin's weak state. In recent months, sharp declines in domestic demand have intensified competition. Allegations of quality problems - real or otherwise - have compounded Paulin's difficulties in maintaining

customers. Besides the very soft market for drywall screws, the most serious factor in explaining Paulin's current difficulties, however, is competition from low-priced sources, both domestic and imported.

The Tribunal can not predict the duration of the current soft market for drywall screws. It is the Tribunal's view, however, that low-priced competition will continue to be a major cause of weakness in the domestic industry, regardless of whether the finding against Korea remains in place. Evidence presented at the hearing indicated that, in the absence of a finding, Korean screws would be priced somewhere in the middle of the domestic price spectrum, just as they are in the US market, where no findings are in place. In the United States, for example, they are priced higher than screws from Taiwan and China, and lower than screws from Japan and screws manufactured in the United States. The evidence also showed that recent losses in domestic market share by Korea roughly corresponded to gains by low-priced exports from the United States and China as well as domestic sales by Grabber. This suggested to the Tribunal that a continuation of the finding might well cause even greater price reductions in the Canadian market.

On balance, the Tribunal is of the view that price levels will continue to be driven by imports from non-subject countries as well as certain domestic suppliers. Evidence suggests that, without a finding, Korean drywall screws would regain some of the market they had lost, based mainly on the quality of Korean screws and their existing distributor network, although their price will not be the lowest in the market. Consequently, the Tribunal concludes that although Korean imports might contribute to price competition in the Canadian market, other low-priced imports will continue to be the major source of price pressure for the domestic industry. The Tribunal thus concludes that a resumption of dumping of Korean screws is not likely to be materially injurious to Paulin. Furthermore, it notes that the attempt by the major importer of Korean product to maintain market share in Canada has led it to non-subject sources for screws that are priced below the prices to which Korean screws can be expected to drop, if the finding is removed. Although some of these sources supply an inferior product compared to that which is available from the United States, Korea and other sources, price pressures arising from these low-priced imports could spill over to other areas of the market, including the DIY market segment supplied by Paulin.

The Tribunal notes that circumstances can arise in the review of a finding under section 76 of SIMA, just as they can and do arise in an original inquiry under section 42 of SIMA, where the evidence does not support the existence of a causal link between the dumping or anticipated dumping and material injury suffered, or likely to be suffered, by the domestic industry. In this case, the Tribunal finds that the necessary causal link has not been established. The evidence indicates that the domestic industry's difficulties in the recent past are caused by factors other than dumping and that this will, in all likelihood, continue to be the case if the findings are rescinded.

CONCLUSION

The Tribunal considered evidence and testimony regarding the likelihood of dumping from the subject countries and the likelihood of subsidized imports from France if the findings were rescinded. In the absence of evidence to the contrary, the Tribunal was persuaded that it was unlikely that there would be a resumption of dumping of

drywall screws from Japan, Singapore, Taiwan and France or that there was a likelihood of subsidized imports from France. The Tribunal found, however, that there was a likelihood of a resumption of dumping from Korea.

In the case of Korea, evidence showed that Korean exports had lost a significant share of the market for drywall screws, particularly to imports from the United States, China, Thailand and to Grabber, a domestic manufacturer. The Tribunal heard testimony that, if the finding were rescinded, the price of Korean screws would decline toward levels they maintained in the US market. In particular, Korean exporters would be pressed by Canadian importers to sell at prices lower than normal values. From this testimony, the Tribunal concluded that, if the finding were rescinded, there would be a resumption of dumping from Korea.

A key consideration was the impact of a resumption of imports of dumped Korean drywall screws would have on the domestic industry and, in particular, whether it would further weaken Paulin's position in a material way. The Tribunal had found that the domestic industry, consisting essentially of Paulin, had demonstrated particularly weak performance, largely because of a declining market, lower prices in the market stemming from low-priced non-subject imports and the loss of a major account because of alleged quality problems - real or otherwise.

In reaching its finding, the Tribunal considered evidence of the prices of drywall screws in the Canadian and US markets. This evidence suggested that, without a finding, Korean drywall screws would regain some of the market they had lost, based mainly on the quality of the screws and their existing distributor network, despite the fact that their price would not be the lowest in the market. Consequently, the Tribunal concludes that although Korean imports might contribute to price competition in the Canadian market, other low-priced imports would continue to be the major source of price pressure on the domestic industry. The price level at which Korean drywall screws will compete in the marketplace is not likely to depress the industry's prices nor is it likely to contribute, materially, to the injury being suffered by the industry.

Therefore, the Tribunal rescinds the review finding and findings respecting drywall screws originating in or exported from Japan, Singapore, Taiwan, Korea and France.

Sidney A. Fraleigh
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Presiding Member

Robert J. Bertrand, Q.C.
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Kathleen E. Macmillan
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