



Ottawa, Tuesday , June 5, 1990

Review No.: RR-89-008

IN THE MATTER OF a review under section 76 of the *Special Import Measures Act* of the finding of material injury of the Anti-dumping Tribunal dated June 28, 1983, respecting:

CARBON STEEL WELDED PIPE IN THE NOMINAL SIZE RANGE 12.7 mm TO 406.4 mm (1/2 in. TO 16 in.) INCLUSIVE, IN VARIOUS FORMS AND FINISHES, USUALLY SUPPLIED TO MEET ASTM A53, ASTM A120, ASTM A252, ASTM A589 OR AWWA C200-80 OR EQUIVALENT SPECIFICATIONS, INCLUDING WATER WELL CASING, PILING PIPE, SPRINKLER PIPE AND FENCING PIPE, BUT EXCLUDING OIL AND GAS LINE PIPE MADE TO API SPECIFICATIONS EXCLUSIVELY, ORIGINATING IN OR EXPORTED FROM THE REPUBLIC OF KOREA

ORDER

The Canadian International Trade Tribunal, under the provisions of section 76 of the *Special Import Measures Act*, has conducted a review of the finding of material injury dated June 28, 1983, made by the Anti-dumping Tribunal, respecting carbon steel welded pipe in the nominal size range 12.7 mm to 406.4 mm (1/2 in. to 16 in.) inclusive, in various forms and finishes, usually supplied to meet ASTM A53, ASTM A120, ASTM A252, ASTM A589 or AWWA C200-80 or equivalent specifications, including water well casing, piling pipe, sprinkler pipe and fencing pipe, but excluding oil and gas line pipe made to API specifications exclusively, originating in or exported from the Republic of Korea in Inquiry No. ADT-6-83.

Pursuant to subsection 76(4) of the *Special Import Measures Act*, the Canadian International Trade Tribunal hereby continues, without amendment, the above-mentioned finding of June 28, 1983, effective June 5, 1990.

W. Roy Hines
W. Roy Hines
Presiding Member

Arthur B. Trudeau
Arthur B. Trudeau
Member

Michèle C. Blouin
Michèle C. Blouin
Member

Robert J. Martin
Robert J. Martin
Secretary



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Special Import Measures Act - Whether to rescind or continue, with or without amendment, the Anti-dumping Tribunal's finding of June 28, 1983, relating to the above-mentioned goods.

DECISION: The Canadian International Trade Tribunal hereby continues, without amendment, the above-mentioned finding. There is a likelihood that dumping by the Republic of Korea will resume if the finding is rescinded, given the Republic of Korea's long-standing interest in the Canadian market and the depressed prices presently prevailing. This could cause material injury to the industry whose financial strength has not been restored since the initial finding.

Place of Hearing:

Ottawa, Ontario

Dates of Hearing:

March 27 and 28, 1990

Date of Order & Reasons:

June 5, 1990

Tribunal Members:

W. Roy Hines, Presiding Member

Arthur B. Trudeau, Member

Michèle C. Blouin, Member

Director of Research:

Selik Shainfarber

Research Officer:

Doug Allen

Statistical Officer:

Randy Kroeker

Registration and Distribution Clerk:

Molly C. Hay

Participants:

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Ronald Cheng
for IPSCO Inc.
Prudential Steel Ltd.
Sidbec-Dosco Inc. and
Stelco Inc.

(Manufacturers)

Donald J. Goodwin and
Richard H. Pragnell
for Korea Iron and Steel Association

(Exporter)

Witnesses:

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Sales Manager, Pipe
Stelpipe

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Director-Government Relations
Stelco Inc.

Michael A. McQuade
Accounting Supervisor
Page-Hersey Works
Stelpipe

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Ottawa, Tuesday, June 5, 1990

Review No.: RR-89-008

IN THE MATTER OF a review under section 76 of the *Special Import Measures Act* of the finding of material injury of the Anti-dumping Tribunal dated June 28, 1983, respecting:

CARBON STEEL WELDED PIPE IN THE NOMINAL SIZE RANGE 12.7 mm TO 406.4 mm (1/2 in. TO 16 in.) INCLUSIVE, IN VARIOUS FORMS AND FINISHES, USUALLY SUPPLIED TO MEET ASTM A53, ASTM A120, ASTM A252, ASTM A589 OR AWWA C200-80 OR EQUIVALENT SPECIFICATIONS, INCLUDING WATER WELL CASING, PILING PIPE, SPRINKLER PIPE AND FENCING PIPE, BUT EXCLUDING OIL AND GAS LINE PIPE MADE TO API SPECIFICATIONS EXCLUSIVELY, ORIGINATING IN OR EXPORTED FROM THE REPUBLIC OF KOREA

TRIBUNAL: W. ROY HINES, Presiding Member
ARTHUR B. TRUDEAU, Member
MICHÈLE C. BLOUIN, Member

STATEMENT OF REASONS

SUMMARY

This is a review, under section 76 of the *Special Import Measures Act* (SIMA), by the Canadian International Trade Tribunal (the Tribunal) of the finding of material injury made by the Anti-dumping Tribunal on June 28, 1983, respecting certain carbon steel welded pipe.

The Tribunal finds that a resumption of dumping by the Republic of Korea would likely cause material injury to domestic production. Overall, the market conditions which have prevailed since the time of the initial finding have prevented the industry from operating at profitable levels, despite steps taken to rationalize the production and marketing of the subject goods. While there have been some short-lived periods of modest recovery, particularly in 1988, the evidence indicates that these periods have not been adequate to restore the industry's health and financial stability, especially in light of the industry downturn which started in the latter half of 1988, and which currently shows no sign of abating.

With respect to the propensity to dump, the Tribunal notes that the Republic of Korea has a strong interest and well-established presence in the domestic market for the subject goods. Indeed, for most of the past 10 years, the Republic of Korea has been the single most important source of imports for these goods, averaging around 60 percent of total imports over the period 1986 to 1988. The Tribunal also notes that the Republic of Korea's potential export capacity in the subject goods is substantially larger than the total Canadian carbon pipe market. In view of the foregoing, the Tribunal has little doubt that significant amounts of this export capacity could seek outlets in the Canadian market in the future, as has been the case in the past. Furthermore, there is a high probability that these Korean exports would be dumped if there were no anti-dumping duties in place, because of the intense competitive conditions and depressed prices which presently prevail in the Canadian market.

The Tribunal, accordingly, orders that the 1983 finding be continued without amendment.

BACKGROUND

This is a review, pursuant to section 76 of SIMA, of the finding of material injury made by the Anti-dumping Tribunal on June 28, 1983 (ADT-6-83), concerning certain carbon steel welded pipe described as follows:

carbon steel welded pipe in the nominal size range 12.7 mm to 406.4 mm (½ in. to 16 in.) inclusive, in various forms and finishes, usually supplied to meet ASTM A53, ASTM A120, ASTM A252, ASTM A589 or AWWA C200-80 or equivalent specifications, including water well casing, piling pipe, sprinkler pipe and fencing pipe, but excluding oil and gas line pipe made to API specifications exclusively, originating in or exported from the Republic of Korea.

To initiate the review, the Tribunal issued a notice of review on November 20, 1989. This notice was forwarded to all known interested parties and was published in Part I of the December 2, 1989, edition of the Canada Gazette.

As part of this review, the Tribunal sent detailed questionnaires to known manufacturers and importers of the subject goods. From the replies to these questionnaires and other sources, the Tribunal's research staff prepared public and protected pre-hearing staff reports relative to the review. The record of this review consists of all relevant documents, including the original finding, the Notice of Review, and public and confidential sections of replies to questionnaires. All public exhibits were made available to interested parties and protected exhibits, to independent counsel only.

A hearing, consisting of both public and *in camera* sessions, was held in Ottawa, Ontario, on March 27 and 28, 1990.

Stelco Inc. (Stelco), IPSCO Inc. (IPSCO), Sidbec-Dosco Inc. (Sidbec-Dosco) and Prudential Steel Ltd. (Prudential), domestic manufacturers of the subject goods, were represented by counsel at the hearing, submitted evidence and made argument in support of continuing the finding.

The Korea Iron and Steel Association, on behalf of the Korean exporters of the subject goods, was represented by counsel at the hearing, submitted evidence and made argument in support of rescinding the finding.

THE PRODUCT

The product under consideration in this review comprises certain carbon steel welded pipe. This product, also identified as standard pipe, is generally intended for use in the conveyance of steam, water and air, usually in plumbing and heating applications.

The size of pipe described in the 1983 finding by the Anti-dumping Tribunal is expressed in nominal terms and covers sizes from 12.7 mm to 406.4 mm (½ in. to 16 in.). Within each nominal size, the pipe may be described as lightweight, standard, heavyweight or extra heavyweight, depending on its wall thickness.

The largest proportion of the pipe is produced to ASTM (American Society for Testing Materials) A53 and A120 specifications. The most stringent specification is A53. Such pipe is suitable for all welding, coiling, bending, flanging and other forming operations which may be involved in its application to a particular use. Specifications such as A120, A252, A589 and AWWA (American Water Works Association) C200-80 are less stringent than A53, permitting downgrading of pipe on occasion. These products are manufactured by continuous weld (CW) and electric resistance weld (ERW) processes, which are, to all intents and purposes, interchangeable in their applications.

Carbon steel welded pipe is sold by domestic producers to major distributors, which have branches across Canada that purchase according to their individual needs autonomously. The branch offices purchase either from domestic producers or import agencies or import directly. There are also numerous small direct importers in the marketplace, particularly importing from the United States.

THE DOMESTIC INDUSTRY

The domestic industry currently, as well as at the time of the original inquiries, consists of three large producers, Stelco, IPSCO and Sidbec-Dosco, and two smaller producers, Prudential and Canadian Phoenix Steel Products. There are also a few much smaller companies located predominantly in eastern Canada. The three large producers along with Prudential represent in excess of 90 percent of domestic production and have plants located across Canada.

In 1984, Stelco, the largest domestic producer, created from its existing facilities a separate business unit, Stelco Pipe and Tube Company, to produce and market pipe, tube and related products. In 1988, Stelco Pipe and Tube Company formally changed its name to Stelpipe, A Unit of Stelco Inc. Stelpipe manufactures pipe and tubular products on eight mills in two Canadian locations. Four of these mills produce the subject goods. They are located in Welland, Ontario, and Camrose, Alberta. Stelpipe also utilizes facilities at Adtec Pipe and Tube in Weston, Ontario, for production of the subject goods. Stelpipe's product line includes both CW and ERW products and covers the entire size range of the subject goods. The products are sold throughout Canada.

IPSCO commenced operations in 1957 upon completion of an ERW pipe mill in Regina. The company has since acquired its own steel manufacturing facilities and has expanded its pipe-making capabilities through the construction of new plants and acquisition of others. IPSCO currently operates nine pipe mills in four locations in Canada; five of these mills are capable of producing the subject goods. The mills are located in Regina, Edmonton, Red Deer and Calgary. All production is by the ERW process. The range of the subject goods produced is from 2 3/8 in. to 16 in. OD (outside diameter). IPSCO markets its pipe throughout Canada.

Sidbec-Dosco is a wholly owned subsidiary of Sidbec Inc., which is a corporation owned ultimately by the Province of Quebec. It has facilities in four Canadian locations, but the subject goods are produced only in Montréal. Sidbec Inc.'s Montréal facility produces pipe by the CW process in the size range 1/2 in. to 4 1/2 in. OD. Since 1987, in a joint venture with Nova Steel, called Delta Tube, Sidbec Inc. has been supplying the subject goods in the nominal size range 2 in. to 6 in. OD produced by the ERW process at a facility located in Montréal. Sidbec-Dosco pipe products are marketed throughout Canada.

Prudential is a much smaller producer than the aforementioned firms. The company was founded in 1966 as a manufacturer of ERW pipe for the western Canadian market. In 1974, it became a wholly owned subsidiary of Dofasco Inc. In December 1989, Dofasco Inc. announced plans to merge Prudential with the Pipe and Tube Division of Algoma Steel, which Dofasco acquired in 1988. The merger will be completed in 1990. Prudential's production facility is located in Calgary. It produces pipe in sizes between 2 3/8 in. and 10 3/4 in. OD. Its products are generally marketed in western Canada.

SUMMARY OF JUNE 28, 1983, FINDING

The 1983 anti-dumping injury finding was a culmination of events beginning with a complaint filed by Stelco, IPSCO, Sidbec-Dosco and Prudential. The firms took the position that the marketing of dumped imports forced distributors to use imported products in order to maintain their competitive position in the Canadian market. The business lost by domestic producers affected plant loadings and caused material injury to the industry in the form of loss of market share, lost sales, severe price erosion and suppression, reduced employment, underutilization of capacity, loss of profits and deferral or cancellation of plans for capital expansion.

The Korea Iron and Steel Association, on behalf of the Korean exporters, held that imports of the Korean product had not entered the eastern market and therefore could not be causing injury in that part of Canada. In the western market, it was pointed out that there was only one major producer, IPSCO, which, in the past, had ignored the market for the subject goods in favor of production of oil country tubular products. This left a void in the marketplace which the Korean imports filled. When the market for the oil country tubular products turned down in 1981-82, IPSCO moved to obtain a portion of the standard pipe market through discounting, thus inflicting its own injury.

In its consideration of material injury, the Anti-dumping Tribunal noted that, during 1982, the Canadian market for the subject goods decreased significantly compared to the previous year. The market for oil country tubular products also collapsed, turning IPSCO's attention to the subject goods as a means of maintaining production. In March

1982, IPSCO began implementing price discounts to take market shares away from low-priced sales of dumped Korean pipe which were prevalent in western Canada. This resulted in a major realignment of market shares among the domestic producers, both in the east and the west, and the other domestic producers, who had not reduced prices, assumed large volume losses. Although IPSCO gained market share, it did so at prices suppressed by dumped Korean goods.

Accordingly, the Anti-dumping Tribunal found past, present and future injury against the Republic of Korea. Imports from South Africa and Luxembourg, which were also investigated, were found not to have caused material injury on *de minimis* grounds.

POSITION OF PARTIES

THE INDUSTRY

Counsel for the industry submitted that the Tribunal's decision in this case should turn on how the industry, as a whole, had done over the past two years and how it was likely to do in the immediate future. In this context, they noted that 1988 was not as good a year for the industry as might at first appear. It was only the first half of the year that was strong for the industry. The second half of the year showed a steep decline in volume of total sales although import volumes increased marginally. The overall market decline which occurred in the second half of 1988, therefore, was absorbed by the domestic industry, resulting in an eight-point loss of market share, from 80 percent to 72 percent over the two periods.

Counsel noted further that the market decline which had begun in the second half of 1988 continued through 1989. However, the industry recovered the eight points of lost market share by implementing a series of price discounts. This cost the industry considerably, as reflected in poor industry consolidated financial results for 1989. Moreover, the difficulties encountered over the past year and a half showed no signs of abating in the immediate future. According to counsel, it was clear from the foregoing that the domestic industry was vulnerable to a resumption of dumping by the Republic of Korea.

Turning to the propensity of the Republic of Korea to dump, counsel noted that, up until the second half of 1988, the Republic of Korea had held close to a 50-percent share of total import volume. As market conditions deteriorated in the second half of 1988, the Republic of Korea's share of total imports fell to 17 percent and then to 13 percent for all of 1989. Brazil, another important source of imports during this period, recorded declines in market share that followed the same pattern as the Republic of Korea. The reason for these declines, according to counsel, was that both the Republic of Korea and Brazil were progressively being priced out of the Canadian market (ironically, after having contributed substantially to the conditions which resulted in the price discounting). While imports from other sources could follow the market down, the Republic of Korea could not because it was subject to the normal values established by Revenue Canada, and Brazil could not because it had accepted a price undertaking in 1988, following investigation by Revenue Canada.

In the opinion of counsel, the conclusion to be drawn from the above was that the Republic of Korea's current decreased presence in the Canadian market was only temporary. The Republic of Korea had a strong interest in the Canadian market and would return to reclaim a significant share of the market, by whatever means, if the finding were rescinded. As further support for this view, counsel noted that the Republic of Korea was currently shipping considerable volumes of the subject goods to the US west coast market at prices considerably lower than prevailing Canadian prices. It was only reasonable to conclude that the Republic of Korea would make these lower US prices available in Canada if the finding were rescinded.

IMPORTERS/EXPORTERS

Counsel representing the Korea Iron and Steel Association submitted that the domestic industry had failed to substantiate its claim of vulnerability to renewed dumping and that a case for high propensity to dump by the Republic of Korea had not been made.

In terms of vulnerability, the evidence did not show that the industry was doing too badly. Revised figures submitted by domestic producers showed that profits were being made in both 1988 and 1989. This suggested that price discounting may have been limited to certain customers and products and was not widespread enough to seriously affect the industry's bottom line. Moreover, the price reductions which had occurred reflected, in counsel's view, an overreaction by the industry to occasional offerings of low-priced imports. In this connection, they referred to evidence by Tribunal witnesses which indicated that domestic distributors had a certain preference and desire to source domestically and were prepared to pay a premium for Canadian-produced goods.

Counsel added that any problems experienced in the recent past by the domestic industry were not caused by Korean imports. They were attributable to factors such as: the overall drop-off in the volume of the domestic market; low-priced import competition from countries other than the Republic of Korea; the poor export performance of domestic producers; and the costs associated with too much industry capacity for the size of the domestic market. However, these problems could not be too severe if the industry was prepared to invest major capital amounts in new plants and equipment, as was indicated during the hearing.

As far as propensity to dump was concerned, counsel contended that, since the 1983 finding, the Republic of Korea had maintained its share of the Canadian market by being a reliable supplier of quality product. They stated that no evidence had been submitted which proved that the Republic of Korea would resume dumping if the finding were rescinded. It was not in the Republic of Korea's interest, nor was it the Republic of Korea's intention, to be a disruptive force in the Canadian market.

Finally, counsel submitted that, should the Tribunal decide to continue the finding, galvanized pipe from the Republic of Korea should be excluded. In support of this request, they drew attention to the statement made by an industry witness that galvanized pipe products from the Republic of Korea are not price-competitive with galvanized domestic products.

CONSIDERATION OF EVIDENCE

The market for carbon steel welded pipe is cyclical, rising and falling in broad correlation with general economic cycles. It is particularly sensitive to swings in industrial/commercial construction activity. In the 1983 finding, the Anti-dumping Tribunal noted that the market for the subject goods had peaked in 1981, at 253,000 tonnes, capping a three-year period of strong sales commencing in 1979. However, by 1982, economic conditions had changed significantly for the worst as construction activity declined sharply and the demand for pipe fell 42 percent, to 147,000 tonnes, from the levels achieved in 1981. This downturn was exacerbated by the virtual collapse, at that time, of the market for oil country tubular products which were produced on the same mills as the subject goods. The net effect was to intensify competition in the already shrinking market for the subject goods.

This market decline continued through 1983, falling to a volume that represented less than half the volume achieved in 1981. After a modest upturn in 1984, the decline continued through to 1986, at which point it reached a low of 120,000 tonnes, the low point for the 10-year period reviewed in this case.

The improved economy in 1987 finally began to pull the market for the subject goods out of its downspin. By 1988, volumes had recovered to about 170,000 tonnes. This recovery began to lose strength in the second half of 1988 and subsequently reversed itself in 1989, with volume falling sharply to 138,000 tonnes. Further declines are anticipated in 1990.

The market share of domestic producers has fluctuated between 75 and 87 percent since the early 1980s, averaging around 80 percent since the 1983 finding. The Republic of Korea's share of total imports has fluctuated enormously since 1983, going from a 1983 low of 7 percent of total imports to a 1986 high of 83 percent, before falling back in 1989 to 13 percent.

In general, since 1982, lower market volumes have meant low production levels and capacity utilization rates for the domestic industry. Capacity utilization rates from 1982 to date have been about half what they were in the buoyant 1979-81 period. As noted above, production levels increased in 1987 and 1988, with industry consolidated net revenue growing by 25 percent and then 13 percent in 1987 and 1988 respectively. Nevertheless, the industry achieved profitability only in 1988. This period of profitability, which was preceded by losses in 1986 and 1987, was short-lived. Industry sales revenue declined in 1989 by 24 percent and the industry operated at marginal profitability. These sales revenue declines appear to have continued into the first quarter of 1990.

REASONS FOR DECISION

In deciding whether to continue (with or without amendment) or to rescind the finding of the Anti-dumping Tribunal dated June 28, 1983, the Tribunal, in the first instance, must form a judgment on how likely it is that the Republic of Korea will engage in dumping in the absence of a finding. If the evidence suggests a high propensity to dump on the part of the Republic of Korea, then the Tribunal must consider further whether such dumping is likely to be materially injurious to domestic

production. Such a likelihood could arise where the evidence indicates that the domestic industry is in a weakened state and is thus highly vulnerable to an adverse development, such as renewed dumping.

PROPENSITY TO DUMP BY THE REPUBLIC OF KOREA

After considering the evidence in this case, the Tribunal has come to the conclusion that, if the finding were rescinded, there would be a real likelihood of renewed dumping by the Republic of Korea. The evidence shows that the Republic of Korea has a strong interest and well-established presence in the Canadian market for the subject goods. For most of the past 10 years, the Republic of Korea has been the single most important source of imports for these goods. At times, the Republic of Korea's share of total imports has been overwhelming, reaching a high of 83 percent in 1986 and averaging around 60 percent over the period 1986 to 1988. Obviously, the existence of the 1983 anti-dumping finding has not dampened the Republic of Korea's interest in the Canadian market. However, the finding has apparently imposed discipline on the pricing of Korean imports, since Revenue Canada data indicate only marginal dumping duties collected on the subject goods from the Republic of Korea after 1983.

The Tribunal notes that there has been a marked decline in imports from the Republic of Korea in recent quarters. This decline repeats a similar decline which occurred around the time of the anti-dumping proceedings against the Republic of Korea in 1983. The reason advanced by industry counsel for the current decline is that the Republic of Korea cannot presently compete effectively in the Canadian market at the normal values stipulated by Revenue Canada. This is a plausible explanation. Whatever the specific reason, however, there is no evidence to suggest to the Tribunal that the Republic of Korea's long-standing interest in the Canadian market for the subject goods has changed fundamentally or that the current decline represents anything more than a temporary situation. This conclusion is generally reinforced by evidence which shows that Korean shipments of like goods to the United States have entered and continue to enter the US west coast market at volumes and prices which establish the Republic of Korea as the dominant supplier to that region.

The Tribunal notes further that Korean production of the subject goods appears to be export-oriented. Unrebutted evidence adduced by counsel for the industry indicates that Korean capacity to produce the subject goods exceeds Korean domestic demand by a considerable factor. Indeed, this potential export capacity is much greater than the total Canadian market for the subject goods. The Tribunal has little doubt that significant amounts of this Korean capacity could seek outlet in the Canadian market in the future as has been the case in the past.

Given conditions in the Canadian market, it seems evident that the Republic of Korea would have to price aggressively if it wished to displace low-priced imports and domestic production in order to recapture its traditional market share and pre-eminence among imports. In this connection, the Tribunal notes that, currently, average Korean prices in the United States are below average Canadian prices for the subject goods despite the highly competitive conditions in the Canadian market. This means that if the Republic of Korea, unrestrained by an anti-dumping finding, were to apply a single pricing scheme for its North American shipments based on its prevailing US prices, Canadian prices would decline further from present depressed levels.

On the basis of the foregoing considerations, the Tribunal concludes that, without the restrictions imposed by an anti-dumping finding, there is a high probability that dumping by the Republic of Korea will recur.

VULNERABILITY OF THE INDUSTRY

On the basis of the evidence submitted in this case, the Tribunal also concludes that, if dumping by the Republic of Korea were to resume, the effect would be materially injurious to domestic production of the subject goods. Since the 1983 finding, the industry has had some short-lived periods of modest recovery, particularly in 1988. However, the evidence indicates to the Tribunal that these periods of recovery have not been adequate to restore the industry's health and financial stability, especially in light of the industry downturn which appears to have started in the latter half of 1988, and which currently shows no sign of abating.

The Tribunal notes that the Canadian market for the subject goods appears to be smaller today than it was at the beginning of the 1980s. Witnesses testified that the apparent decline may be due to a number of factors, including product substitution (i.e., the use of plastics and copper instead of steel pipe) and changes in building methods (i.e., the decreased use of hot water heating systems in commercial construction). Counsel for the industry suggested that the foregoing factors might account for about a 10-percent decline in the absolute size of the market from the high volumes attained in the 1979-81 period.

On top of the "structural" market decline noted above, the industry has had to contend, in the post-1982 period, with substantial market declines largely associated with recessionary cycles experienced by the construction industry, the single most important customer for the subject goods. These market declines were so steep that in certain years, such as 1986, market volumes were less than half what they were five years earlier. The downturn currently under way has reduced market volume in 1989 to a level that is only slightly above the depressed 1986 level.

Overall, the market conditions which have prevailed in the post-1982 period have given rise to intense competitive pressures. Although the industry has more or less managed to sustain market share, in the 80-percent range, given the lower market volumes generally available, this has meant substantially reduced production and employment, as well as high levels of idle capacity compared to the pre-1982 period.

Moreover, in order to maintain market share, the domestic industry has had to discount prices, deeply and frequently, to retain traditional customers. Witnesses during the hearing testified that, over the past several years, there has been an increasing proliferation of distributors (narrow-line distributors) which scour the globe for the cheapest source of steel pipe and which import large quantities in limited size ranges for domestic sales. The subject goods are like commodities (i.e., widely available imports that are of generally acceptable quality, wherever they are sourced), and they are readily substituted for domestically produced goods. Thus, price is, effectively, the distinguishing feature.

Longer established distributors (full-line distributors), the major customers of the domestic industry, have had to lower their prices to retain their own customers against the competition of these import-based, narrow-line distributors. In turn, these full-line distributors have gone to the industry, their traditional suppliers, to request price concessions which the industry has had little choice but to grant. Witnesses testified further that significant price discounting had been a prevalent characteristic of the market conditions which prevailed in 1989 and which prevail today in conjunction with the current market downturn.

The foregoing conditions have had an adverse effect on the overall profitability of the industry. In 1986, and again in 1987, the industry suffered substantial losses. Although the industry returned to profitability, as a whole, in 1988, the rebound has been short-lived, as the marginal profits realized in 1989 indicate. Even the net profits achieved in 1988 appear modest, suggesting ongoing price competition and thin operating margins under the then more buoyant market conditions.

The Tribunal notes that export sales have all but disappeared since 1986 for a significant proportion of the industry. As reasons for this, witnesses pointed to factors such as exchange rate movements and certain trade measures taken by the US industry against Canadian pipe and tube imports. Whatever the reasons, it is evident that this situation weakens the domestic industry further.

The generally difficult conditions encountered by the industry, in the post-1982 period, have elicited a variety of industry responses. These include closing sales offices and cutting a variety of other expenses, as well as shutting down capacity, abandoning product lines and moving out of entire regions to focus marketing efforts in areas of relative competitive strength. A witness for a major industry participant also testified that formal approval was imminent for a major capital investment in state-of-the-art technology which could substantially enhance company cost competitiveness when it is scheduled to come on stream within the next two years.

The Tribunal also notes that, to defend its market, the industry filed complaints with Revenue Canada in 1988 relating to the prices of imports originating in several countries including Brazil, Yugoslavia and Luxembourg. These complaints resulted in the aforementioned three countries accepting price undertakings which could remain in effect until 1991.

Notwithstanding the steps taken by the industry to improve its situation, the weight of the evidence leads the Tribunal to the conclusion that, at present, the industry remains highly vulnerable to any recurrence of dumping.

REQUEST FOR EXCLUSION

Counsel representing Korean interests stated that galvanized pipe should be excluded from the finding (if it is continued) because the Republic of Korea could not currently supply this product at competitive prices in the Canadian market. The Tribunal considers that exclusions cannot be granted on the basis of transitory market conditions such as changing relative prices. The request for exclusion is therefore rejected.

CONCLUSION

The Tribunal finds that there is a high probability of renewed dumping by the Republic of Korea which would be materially injurious to domestic production of the subject goods in light of the industry's current state of health and economic vulnerability. The Tribunal, therefore, hereby orders that the said finding be continued, without amendment.

W. Roy Hines
W. Roy Hines
Presiding Member

Arthur B. Trudeau
Arthur B. Trudeau
Member

Michèle C. Blouin
Michèle C. Blouin
Member