



Ottawa, Monday, June 5, 1995

Review No.: RR-94-004

IN THE MATTER OF a review, under subsection 76(2) of the *Special Import Measures Act*, of the finding of material injury made by the Anti-dumping Tribunal on June 28, 1983, in Inquiry No. ADT-6-83, continued without amendment by the Canadian International Trade Tribunal on June 5, 1990, in Review No. RR-89-008, concerning:

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 subsection 76(2) of the *Special Import Measures Act*, has conducted a review of the finding of material injury made by the Anti-dumping Tribunal on June 28, 1983, in Inquiry No. ADT-6-83, continued without amendment by the Canadian International Trade Tribunal on June 5, 1990, in Review No. RR-89-008.

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

Lyle M. Russell

Lyle M. Russell
Presiding Member

Robert C. Coates, Q.C.

Robert C. Coates, Q.C.
Member

Desmond Hallissey

Desmond Hallissey
Member

Michel P. Granger

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Secretary



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Special Import Measures Act - Whether to rescind or continue, with or without amendment, the finding of material injury made by the Anti-dumping Tribunal on June 28, 1983, in Inquiry No. ADT-6-83, continued without amendment by the Canadian International Trade Tribunal on June 5, 1990, in Review No. RR-89-008.

Place of Hearing:	Ottawa, Ontario
Dates of Hearing:	April 18 and 19, 1995
Date of Order and Reasons:	June 5, 1995
Tribunal Members:	Lyle M. Russell, Presiding Member Robert C. Coates, Q.C., Member Desmond Hallissey, Member
Director of Research:	Marcel J.W. Brazeau
Research Manager:	Ken Campbell
Economist:	Ihn Ho Uhm
Statistical Officer:	Margaret Saumweber
Counsel for the Tribunal:	David M. Attwater
Registration and Distribution Officer:	Pierrette Hébert

Participants:

Ronald C. Cheng
Gregory O. Somers
for IPSCO Inc.
Sidbec-Dosco Inc.

Lawrence L. Herman
for Stelco Inc.
Stelpipe Ltd., A Subsidiary of Stelco Inc.

(Producers)

Witnesses:

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Civil & Municipal Project Sales
IPSCO Inc.

Glenn A. Gilmore
Trade Supervisor
IPSCO Inc.

H.J. (Hank) MacComb
President and General Manager
Comco Pipe & Supply Company

Mario Lalanne
General Manager, Pipe
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R.P. (Rick) Jaszek
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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: LYLE M. RUSSELL, Presiding Member
ROBERT C. COATES, Q.C., Member
DESMOND HALLISSEY, Member

STATEMENT OF REASONS

BACKGROUND

This is a review, under subsection 76(2) of the *Special Import Measures Act*¹ (SIMA), of the finding of material injury made by the Anti-dumping Tribunal (the ADT) on June 28, 1983, in Inquiry No. ADT-6-83, continued without amendment by the Canadian International Trade Tribunal (the Tribunal) on June 5, 1990, in Review No. RR-89-008, concerning 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 (Korea).

Pursuant to subsection 76(2) of SIMA, the Tribunal initiated a review of the finding and issued a notice of review² on December 15, 1994. This notice was forwarded to all known interested parties.

As part of this review, the Tribunal sent review questionnaires to domestic producers and importers of the subject goods. From the replies to these review questionnaires and other sources, the Tribunal's research staff prepared public and protected pre-hearing staff reports. In addition, the record of this review consists of all relevant documents, including the finding, the notice of review, public and confidential replies to the review questionnaires and the public and protected pre-hearing staff reports. All public exhibits were made available to interested parties, while protected exhibits were provided only to independent counsel who had filed a declaration and confidentiality undertaking with the Tribunal.

1. R.S.C. 1985, c. S-15.
2. Canada Gazette Part I, Vol. 128, No. 52, December 24, 1994, at 4773.

Public and *in camera* hearings were held in Ottawa, Ontario, on April 18 and 19, 1995.

IPSCO Inc. (IPSCO), Sidbec-Dosco Inc. (Sidbec-Dosco), Stelco Inc. (Stelco) and Stelpipe Ltd., A Subsidiary of Stelco Inc. (Stelpipe) were represented by counsel at the hearing, submitted evidence and made argument in support of continuing the finding. A witness for Comco Pipe & Supply Company (Comco), a pipe distributor, appeared at the request of the domestic industry. None of the Korean exporters nor their Canadian importers appeared at the hearing.

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 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. Carbon steel welded pipe is produced in mills using continuous weld (CW) and electric resistance weld (ERW) processes. Pipe produced using the CW process varies between a minimum of 0.405 in. and usually a maximum of 4.500 in. in outside diameter, while pipe produced using the ERW process has an outside diameter ranging from 2 to 24 in. In both processes, after the forming of the pipe, the product undergoes straightening and end processing, i.e. it is cropped, faced and reamed. CW and ERW pipes are interchangeable, although certain users prefer ERW to CW pipe.

Standard pipe is produced to the American Society for Testing and Materials (ASTM) specifications, which prescribe the composition and strength requirements. 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. The preponderant nominal sizes include 1 in., 2 in., 3 in., 4 in., 6 in. and 8 in. 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 and fencing pipe (ASTM A795).

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

DOMESTIC INDUSTRY

The domestic industry consists of four large producers: Stelco, Sidbec-Dosco, IPSCO and Bolton Steel Tube Co. Ltd. (Bolton). Camrose Pipe Company (Camrose), Prudential Steel Ltd. (Prudential) and Welded Tube of Canada Limited produce standard pipe in much smaller volumes than do the large producers. Stelco, Sidbec-Dosco and IPSCO, three companies supporting the continuation of the finding, represent in excess of 70 percent of domestic production and have mills in several Canadian locations.

Stelco produced and sold standard pipe under the "Stelco" brand until 1984. During that year, Stelco reorganized its tubular production facilities into a separate business unit, Stelco Pipe and Tube Company,

whose name was changed to Stelpipe in 1988. Stelpipe produces pipe in three mills located in Welland, Ontario. In addition, in early 1992, Stelco sold its Camrose, Alberta, mill while retaining a minority interest. In mid-1992, the company commissioned a new stretch reduction mill in Welland at an investment of \$70 million and closed its CW pipe mills at Page-Hersey-Works. Stelco produces the entire range of carbon steel welded pipe and markets it nationally.

Sidbec-Dosco, formerly owned by the province of Quebec, is a wholly owned subsidiary of Ispat Mexicana. The company has four production facilities in Canada, but produces carbon steel welded pipe only in its mill in Montréal, Quebec. The Montréal mill uses the CW process to produce pipe up to 4 in. in outside diameter. Sidbec-Dosco sources ERW pipe ranging from 2 to 6 in. in outside diameter from Tubes-Delta Inc., a related company. Sidbec-Dosco markets carbon steel welded pipe nationally.

IPSCO, a publicly traded company, commenced production of carbon steel welded pipe in Regina, Saskatchewan, in 1957. Since that time, the company has expanded with the acquisition of tubular production facilities in Edmonton, Red Deer and Calgary, Alberta. IPSCO produces standard pipe ranging from 2 to 16 in. in outside diameter using the ERW process. The company markets standard pipe nationally through a distributor network.

Bolton commenced production of standard pipe in two tube mills acquired from Canada Tube in 1981. In 1988, the company expanded production of standard pipe with the acquisition of two mills from Toro Steel Tube Co., Mississauga, Ontario. The majority of Bolton's production is sold as fencing pipe, with remaining production servicing specialized industrial and commercial applications.

SUMMARY OF THE 1983 FINDING

On June 28, 1983, the ADT found that the dumping of the subject goods from Korea had caused, was causing and was likely to cause material injury to the production in Canada of like goods, but that the dumping of the subject goods from the Republic of South Africa and Luxembourg had not caused, was not causing and was not likely to cause material injury to the production in Canada of like goods.

The complaint was filed by IPSCO, Stelco, Sidbec-Dosco and Prudential. All four firms participated in the hearing, as well as Olympia Tubes Limited, an importer, the Korea Steel Pipe Association for the Korean exporters, TradeARBED Canada Inc., an agent, and Crane Supply, Division of Crane Canada Inc., a distributor.

The ADT, in its consideration of material injury, noted that the producers had developed and maintained an important presence in the Canadian marketplace, but that the western producers had been focusing on production of oil country tubular products, permitting imports of the subject pipe to be significantly more important in the western Canadian market. During 1982, the market for carbon steel welded pipe decreased, but the market for oil country tubular goods collapsed, and the domestic producers turned to the production of carbon steel welded pipe as a means of maintaining production activity.

During 1981 and 1982, all imports of Korean pipe occurred in Western Canada. These imports increased substantially. Imports of the subject goods from the Republic of South Africa and Luxembourg increased only marginally and occurred only in Eastern Canada. It was noted that the volume of dumped

Korean imports during the first quarter of 1982 represented two thirds of total imports in 1982. Further, the drop in Korean imports in 1982 coincided with IPSCO's new pricing policy introduced in March 1982.

IPSCO's discounts resulted in a major realignment of market shares among the domestic producers in both the east and the west. The net result of IPSCO's pricing policy was that the other domestic producers assumed all of the volume losses, allowing IPSCO to escape loss of market share. Because the other producers did not alter their prices, they suffered from the dumping in the form of loss of market share, while IPSCO suffered from the dumping in the form of price suppression.

The ADT was not convinced that injury had occurred through the presence of dumped imports from the Republic of South Africa and Luxembourg in Eastern Canada, and injury from these imports was not claimed in Western Canada.

SUMMARY OF THE 1990 ORDER

In an order dated June 5, 1990, the Tribunal continued the 1983 finding without amendment. The four producers that participated in the original inquiry presented evidence in support of continuing the finding. These companies had combined sales of carbon steel welded pipe of \$90 million in 1989 and accounted for approximately 80 percent of the total Canadian market of about \$110 million.

On the question of the likelihood of resumed dumping, the Tribunal noted that, for most of the 10 years prior to the review, Korea was the single most important source of imports of the subject goods into Canada, averaging around 60 percent of total imports over the period from 1986 to 1988. The Tribunal also noted that Korea's export capacity was substantially larger than the total Canadian market for carbon steel welded pipe. In view of this, the Tribunal had little doubt that significant amounts of this export capacity would seek outlet in the Canadian market in the future, as had been the case in the past. Furthermore, there was a high probability that these Korean exports would be dumped, if there were no anti-dumping duties in place, because of the intensely competitive conditions and depressed prices that were prevailing in the Canadian market.

In examining the domestic industry's vulnerability to resumed dumping, the Tribunal noted that, since the 1983 finding, the domestic industry had experienced some short-lived periods of modest recovery, particularly in 1988. However, the evidence indicated that these periods of modest recovery had not been adequate to restore the domestic industry's health and financial stability, especially in light of the industry downturn that appeared to have started in the latter half of 1988 and showed no signs of abating. In these circumstances, if dumping had resumed, the domestic industry would likely have suffered material injury and, accordingly, the finding was continued.

OTHER FINDINGS

There are two other extant findings covering imports of carbon steel welded pipe. With minor exceptions, the two findings cover the same goods which are the subject of this review, but concern different countries.

In Inquiry No. NQ-90-005,³ the Tribunal found that the dumping in Canada of certain carbon steel welded pipe originating in or exported from Argentina, India, Romania, Taiwan, Thailand and Venezuela had caused, was causing and was likely to cause material injury to the production in Canada of like goods.

In Inquiry No. NQ-91-003,⁴ the Tribunal found that the dumping in Canada of certain carbon steel welded pipe originating in or exported from Brazil had caused, was causing and was likely to cause material injury to the production in Canada of like goods; and that the dumping of certain carbon steel welded pipe originating in or exported from Luxembourg, Poland, Turkey and Yugoslavia had caused, but was not causing and was not likely to cause material injury to the production in Canada of like goods.

POSITION OF DOMESTIC INDUSTRY

IPSCO and Sidbec-Dosco

In preliminary comments, counsel for IPSCO and Sidbec-Dosco noted that all of the evidence submitted by the domestic industry stands “uncontroverted,” as the Korean exporters and their Canadian importers chose not to appear at the hearing. Counsel claimed that all domestic producers are vulnerable to resumed dumping in different ways depending on their geographical location, differing cost structures and other factors bearing on their operations. In counsel’s view, the same conditions that existed at the time of the 1990 review continue to exist today and, therefore, the finding should be continued without amendment.

In addressing the domestic industry’s vulnerability to resumed dumping, counsel for IPSCO and Sidbec-Dosco argued that all domestic producers have been subjected to ongoing price pressures caused by a succession of dumping by several countries dating back to the early 1980s. Counsel added that this pressure has increased with the appearance of imports from the Philippines, the Republic of South Africa, Turkey and, more recently, Mexico and the People’s Republic of China. Counsel noted the commodity nature of standard pipe where price is paramount in purchasing decisions and product is completely substitutable, whether it is produced domestically or imported. Counsel suggested that price pressures also increased because importers often sell “off the docks,” offering pipe in very small quantities, but at discount prices.

Counsel for IPSCO and Sidbec-Dosco claimed that recent events have enhanced their clients’ competitive positions. Counsel noted, for example, that IPSCO closed one of its pipe mills in order to reduce costs, and Sidbec-Dosco changed ownership to the private sector, which should enhance the company’s prospects. However, counsel argued that high production volumes are necessary to keep production costs in line, but the domestic industry has been operating with significant underutilization of production capacity. Counsel also argued that prospects of future growth in market demand and prices and the advantage of currently favourable currency values are factors that cannot be relied upon in the coming year.

3. *Certain Carbon Steel Welded Pipe Originating in or Exported from Argentina, India, Romania, Taiwan, Thailand and Venezuela*, Canadian International Trade Tribunal, Finding, July 26, 1991, Statement of Reasons, August 12, 1991.

4. *Certain Carbon Steel Welded Pipe Originating in or Exported from Brazil, Luxembourg, Poland, Turkey and Yugoslavia*, Canadian International Trade Tribunal, Finding, January 23, 1992, Statement of Reasons, February 7, 1992.

With respect to the likelihood of resumed dumping if the finding is rescinded, counsel for IPSCO and Sidbec-Dosco noted that the Department of National Revenue (Revenue Canada) assessed anti-dumping duties on Korean imports in each year of the review period and that the assessments were not negligible. Moreover, counsel submitted that Revenue Canada's recent normal value review indicates that Korean pipe exports may be undervalued because they do not appear to reflect current input costs.

Counsel for IPSCO and Sidbec-Dosco cited Korean attempts to circumvent the injury findings in both Canada and the United States as clear evidence of a propensity to dump. In addition, counsel argued that the dumping of a wide range of other steel products in Canada by the same exporters, as well as the dumping of standard pipe in the United States, and the ongoing U.S. investigation into the dumping of oil country tubular goods by Korea lend support to allegations of a propensity to dump by the Korean exporters. In counsel's view, the evidence indicates significant underutilization of Korean production capacity and large Korean inventories. Given the need to export, and in view of the Korean activity in the North American markets, counsel argued that the Korean exporters represent a clear threat to the domestic industry if the finding is rescinded.

Stelco and Stelpipe

In argument, counsel for Stelco and Stelpipe listed several factors which warrant continuation of the finding. Among those factors is the enormous production capacity of the Korean producers, a capacity which outstrips Korean domestic demand and results in a constant need to export in order to maintain production levels and cash flow. Counsel claimed that the Koreans have maintained a steady presence in the Canadian market since the last review and have targeted the North American market as a whole during this period. Moreover, counsel noted that, in spite of the finding, Korean pipe continues to be dumped and, since the last review, the same exporters have been found to be injuriously dumping standard pipe in the United States.

Counsel for Stelco and Stelpipe argued that standard pipe is a commodity product that is sold on the basis of the lowest price. As such, a relatively small volume of dumped product can negatively affect prices in a local market such as Vancouver, British Columbia, and can affect prices in Canada as a whole. Counsel submitted that importers operate with little investment, selling pipe "off the docks" at prices which undercut the domestic industry's published prices.

Counsel for Stelco and Stelpipe suggested that Korean producers are not recovering the full costs of production in their current pricing. Current import prices of Korean pipe, it was alleged, are lower now than at the time of the last review. In counsel's view, a rescission of the finding would destabilize the fragile domestic pipe market and jeopardize recent price gains made by the domestic industry.

Counsel for Stelco and Stelpipe argued that the domestic market factors are the same today as they were at the time of the 1990 review. The major change since 1990 has been a finding of dumping in the United States against the same Korean exporters. In addition, the evidence suggests that these exporters have been attempting to circumvent the findings in both Canada and the United States by importing API line pipe which is subsequently resold as standard pipe.

Finally, counsel for Stelco and Stelpipe argued that the domestic industry continues to be vulnerable to resumed dumping. Although the domestic industry has been slowly recovering from the effects of the recession, prices remain below 1990 levels. Counsel submitted that the domestic industry has incurred net

losses on sales of carbon steel welded pipe throughout the review period, even though the finding has allowed the domestic industry to slowly raise prices in an attempt to restore profitability. With respect to Stelpipe, counsel noted that the company has invested enormous amounts of capital in order to modernize its production facilities. This investment, it was argued, would be put at risk if the finding were rescinded.

ECONOMIC INDICATORS

Key economic indicators for the 1991-94 review period are shown in the following table.

KEY ECONOMIC INDICATORS				
	1991	1992	1993	1994
Production (tonnes)	123,687	127,457	158,474	150,465
Imports (tonnes)				
Korea	3,572	3,449	5,077	4,004
Other Countries	41,490	37,690	36,166	40,879
Market (tonnes)				
Sales from Domestic Production	105,540	98,416	114,271	110,414
Sales from Korean Imports	3,572	3,449	5,077	4,004
Sales from Other Imports	<u>41,490</u>	<u>37,690</u>	<u>36,166</u>	<u>40,879</u>
Total Market	150,602	139,555	155,514	155,297
Industry Net Sales¹ (\$000)	66,251	53,304	60,854	65,220
Industry Net Profit (loss)¹ (%)	(7)	(18)	(18)	(12)
Industry Employment	253	286	320	268

Note:
 1. Excludes export sales.
 Source: Tribunal review questionnaires and Statistics Canada import information.

Market demand for carbon steel welded pipe is cyclical in nature and is largely dependent upon industrial and commercial construction activity. Between 1991 and 1994, the market for carbon steel welded pipe was flat, falling to a low of roughly 140,000 tonnes in 1992. Demand increased somewhat in the 1993-94 period, but still remained below the volume of sales achieved in the pre-1989 period.

Domestic production increased by about 30,000 tonnes in 1993 over the 1991 and 1992 levels, before falling by 8,000 tonnes in 1994. Improved industry production levels in the latter two years of the review period were largely attributable to gains achieved in exports to the U.S. market. Domestic industry sales were stagnant between 1991 and 1994, while the domestic industry's market share remained fairly constant, ranging from a low of 70 percent in 1991 to a high of 75 percent in 1993.

Over the four-year period, total imports fell from 45,000 tonnes in 1991 to 41,000 tonnes in 1992 and 1993, before returning to the 1991 level in 1994. Korean imports maintained a steady presence during the period, accounting for approximately 10 percent annually of all imports. Imports from the countries

covered by the 1991 finding (Argentina, India, Romania, Taiwan, Thailand and Venezuela) and the 1992 finding (Brazil) have been displaced by imports from the Philippines and the United States. Philippine pipe accounted for 18 percent of all imports in 1994, up from 3 percent in 1991. Imports from the United States, the single largest source of imported pipe, accounted for more than 50 percent of all imports over the review period. In 1994, significant volumes of pipe were also imported from a number of new sources, most notably, Turkey, the Republic of South Africa and Russia.

On a consolidated basis, domestic industry sales declined by \$13 million in 1992 and, although sales increased in the ensuing two years, they were still \$1 million below the 1991 level in 1994. With the exception of 1991, combined domestic industry sales failed to generate a gross profit, as costs outstripped revenues. At the net income level, the domestic industry incurred significant losses throughout the review period, ranging from a low of 7 percent to a high of 18 percent of net sales. With lower market demand, industry capacity utilization rates remained at very low levels over the four years and, in 1994, industry employment declined sharply from the 1993 peak of 320 production employees.

REASONS FOR DECISION

In deciding whether to continue, with or without amendment, or rescind the ADT's finding, the Tribunal will consider two questions. Before the Tribunal continues the finding, it must be satisfied first that, in the absence of the injury finding, dumping by Korea is likely to resume and, second, that such resumed dumping is likely to cause material injury to the production in Canada of like goods.

Likelihood of Resumed Dumping

Evidence adduced during the course of this review indicates that, although a number of new factors have arisen in Canada, as well as in other pipe markets, since the Tribunal's 1990 review, much has remained unchanged. Having weighed the evidence in this case, the Tribunal is of the view that a rescission of the finding would lead to the resumed dumping of carbon steel welded pipe by Korea.

In arriving at this conclusion, the Tribunal places considerable weight on the past actions of the Korean exporters in the North American marketplace. Korean steel producers, including a number of the producers of the subject goods in this review, have a long history of dumping in both Canada and the United States. Injury findings on a diverse range of steel products have been made in both countries over the past couple of decades,⁵ many of which continue in force today. More importantly, however, the evidence shows that the same exporters that have been found to be dumping standard pipe in Canada were also found to be injuriously dumping the same goods in the United States as recently as late 1992.⁶ The Tribunal also notes that, on February 2, 1995, the U.S. Department of Commerce issued a preliminary determination of dumping on oil country tubular goods originating in Korea,⁷ a related class of goods which is produced in the same mills as standard pipe.

5. Manufacturer's Exhibit A-1, Administrative Record, Vol. 7; and Manufacturer's Exhibit C-9 (single copy), Administrative Record, Vol. 7A.

6. Manufacturer's Exhibit C-9 (single copy), Administrative Record, Vol. 7A.

7. Manufacturer's Exhibit C-10, Annex K, Administrative Record, Vol. 7A.

This history of dumping, in the Tribunal's opinion, suggests a propensity to dump by Korea. However, a number of other factors reinforce this opinion. First, although the United States⁸ and, more recently, the Philippines have displaced Korea as the major foreign source of supply for carbon steel welded pipe, the Korean imports have maintained a continuing presence in the Canadian market. Import data⁹ indicate that, throughout the 1991-94 period, Korean imports represented roughly 10 percent of all imports, with the largest volumes imported in the latter two years of the period. Moreover, the evidence shows that imports of Philippine pipe are transacted by the same importers that previously relied on Korean pipe to satisfy their requirements. In the Tribunal's view, a rescission of the finding would entice importers to return to their traditional source of supply, i.e. Korea.

Second, the evidence shows that a substantial volume of Korean pipe is available for export. Although a greater percentage of Korean production appears to be consumed domestically today than was the case in 1990, and there is no evidence that the Korean industry's unused capacity or level of inventories is higher than normal, the evidence does show that the volume of Korean pipe available for export to Canada is large compared to the size of the Canadian market. For example, the Korean industry normally carries inventories equal to about 5 percent of its production. At an estimated 55,000 tonnes in 1993,¹⁰ Korean inventories could have supplied about 35 percent of the Canadian market. It is also clear from the evidence that the Korean producers rely on western North America as a major export destination, which assists them in maintaining high capacity utilization rates. Given the large production capacity of the Korean pipe industry and the continuing presence of Korean pipe in the Canadian market, the Tribunal has no doubt that a rescission of the finding would lead to a significant increase in Korean pipe imports into Western Canada. In the Tribunal's view, a resumption of dumping, even in small volumes and margins, would quickly destabilize the fragile Canadian market and eliminate any recent price gains made by the domestic industry.

Third, counsel for the domestic industry alleged that Korean exporters and Canadian importers of the subject goods have been attempting to circumvent the finding by describing the subject goods as other goods at the time of entry into Canada.¹¹ The Tribunal recognizes the difficulty in bringing forward hard evidence to support these allegations. However, the evidence shows that, on at least two occasions, Revenue Canada advised importers that all API line pipe which is being used in standard pipe applications and which originates in Korea is subject to anti-dumping duties at a rate of 19 percent. The Tribunal also notes that, following similar allegations by the U.S. producers, the U.S. Department of Commerce ruled that Korean line pipe used in standard pipe applications is within the scope of its anti-dumping order.¹²

Finally, data provided by Revenue Canada¹³ reveal that, in spite of the finding, Korean pipe continues to be dumped in Canada. The amount of anti-dumping duties assessed is not large in relation to the

8. Witnesses testified that U.S. imports are specialized types of pipe that are not readily available from Canadian production and which sell at substantially higher prices than do imports from other sources. Transcript of Argument, April 19, 1995, at 29.

9. Public Pre-Hearing Staff Report, March 10, 1995, Tribunal Exhibit RR-94-004-5, Administrative Record, Vol. 1 at 115.

10. *Certain Circular, Welded, Non-Alloy Steel Pipes and Tubes from Brazil, the Republic of Korea, Mexico, Romania, Taiwan, and Venezuela*, U.S. International Trade Commission, USITC Publication 2564, October 1992 at I-42, Manufacturer's Exhibit C-9 (single copy), Administrative Record, Vol. 7A.

11. Manufacturer's Exhibit C-1, Administrative Record, Vol. 7.

12. Manufacturer's Exhibit C-10, Annex L, Administrative Record, Vol. 7A.

13. Tribunal Exhibit RR-94-004-4, Administrative Record, Vol. 1 at 97.

value of imports from Korea. However, the assessments show year-over-year increases such that the amount assessed in 1994, expressed as a percentage of the value for duty of the goods, was some three times larger than it was in 1990.

For all of the foregoing reasons, the Tribunal concludes that, in the absence of the injury finding, there is a likelihood of resumed dumping of the subject goods by Korea.

Likelihood of Material Injury

Evidence adduced during the course of this review leads the Tribunal to conclude that, if the dumping of Korean standard pipe resumed, domestic production of like goods would be materially injured. The Tribunal reaches this conclusion on the basis of domestic market conditions, marketing practices of importers and the market and financial performance of the domestic industry.

As noted by counsel for the domestic industry, since the 1983 finding, the industry has only had short-lived periods of recovery. Market data in this review show that total pipe demand was considerably less during the 1991-94 period than in the peak year of 1988.¹⁴ The recessionary conditions of the early 1990s have had a significant dampening effect on industrial and commercial construction, the major users of standard pipe. Although the figures for 1993 and 1994 seem to indicate the beginning of an upward trend, demand in those years was still below the levels attained in 1989 and 1990. Evidence submitted by witnesses for the domestic industry indicates that the market may continue to show moderate growth in 1995, but future growth prospects are questionable at best.

Given weak demand, competition between suppliers for market share continues to be intense. As a whole, the domestic producers' market share was in the 70 to 75 percent range over the 1991-94 period,¹⁵ down from the 80 percent range at the time of the last review. While the 1990 review continued the finding against Korea, the domestic industry was again faced with competition from dumped imports from a host of new countries. Although material injury findings issued in 1991 and again in 1992 may have alleviated market pressures, it is clear that the domestic industry has had little respite from unfair trading practices throughout the early 1990s. Import data indicate that intense competition continues, as importers have now switched sourcing to a number of new suppliers, including the Philippines, Turkey and the Republic of South Africa.

This continuing competition from imports has prevented the domestic industry from raising prices to fully cover increased raw material costs. Standard pipe is essentially a commodity product available from a large number of exporting countries. Purchasing decisions are, in the main, based on the best available price, as product quality and availability do not appear to be major constraints in meeting supply. Importers have, therefore, continued to search out the lowest-cost product. The evidence of the witness for Comco,¹⁶ a full-line distributor of domestic and imported pipe, indicates that the practice of "off-the-dock" sales by importers, which was identified in the last review, continues today. This practice allows domestic customers to purchase small volumes at attractive prices normally associated with sales in larger quantities. The witness

14. Public Pre-Hearing Staff Report, revised March 28, 1995, Tribunal Exhibit RR-94-004-5A, Administrative Record, Vol. 1 at 154.

15. Public Pre-Hearing Staff Report, March 10, 1995, Tribunal Exhibit RR-94-004-5, Administrative Record, Vol. 1 at 116.

16. Manufacturer's Exhibit A-4, Administrative Record, Vol. 7.

for Comco stated that his company would have no choice but to resume purchasing Korean pipe if, as a result of a rescission of the finding, Korean prices became more attractive.

It is clear from the domestic producers' financial data that they continue to be highly vulnerable to price suppression. In line with the market trends discussed above, combined domestic industry sales declined sharply in 1992 and, although sales increased in the ensuing two years, their dollar value was still lower than in 1991, the year in which the Tribunal found dumping against six countries. Aggregate data for Stelpipe, Sidbec-Dosco and IPSCO show substantial losses throughout the review period, ranging from a low of 7 percent to a high of 18 percent. Some of the losses were related to start-up problems at Stelpipe's new stretch reduction mill in Welland, but the evidence shows that the financial results of Sidbec-Dosco and IPSCO were also less than satisfactory. All three companies still have considerable excess capacity, and their financial performance will remain weak unless there is a strong upsurge in demand or some of the existing facilities are closed.

The Tribunal notes that the domestic industry has had a growing dependence on its export sales to the United States. Without such sales, capacity utilization of production facilities, which was at very low levels throughout the review period, may have placed the operations of some mills in jeopardy. Favourable exchange rates have, no doubt, assisted the domestic industry's export performance, but current rates are not a reliable indicator of future prospects. Indeed, export sales¹⁷ were lower in 1994 than in 1993, and witnesses for the domestic industry were not optimistic that the U.S. market would offer enhanced opportunities in the near future.

The Tribunal also notes the continuing efforts of the domestic producers to rationalize production in order to remain competitive. As previously noted, in 1992, Stelpipe commissioned a state-of-the-art stretch reduction mill at a substantial investment. While there appear to have been a number of start-up problems related to this mill, witnesses for Stelpipe are confident that the mill will soon begin to show profits as long as they are competing on a level playing field. Similarly, IPSCO made significant investments in its Red Deer mill and sold a Regina mill in order to improve its cost structure and efficiency. Sidbec-Dosco also made significant investments in the past year to improve the efficiency of its Montréal mill.

The evidence clearly indicates that the Canadian market has continued to be fragile since the 1990 review. In spite of the domestic industry's ongoing efforts to improve its competitive position, the Tribunal concludes that it remains highly vulnerable to resumed dumping.

17. Protected Pre-Hearing Staff Report, March 10, 1995, Tribunal Exhibit RR-94-004-6 (protected), Administrative Record, Vol. 2 at 12.

CONCLUSION

For the foregoing reasons, the Tribunal concludes that Canadian production of carbon steel welded pipe is likely to be materially injured by resumed dumping by Korea, which is likely to arise from a rescission of the finding. Therefore, the finding is continued without amendment.

Lyle M. Russell
Lyle M. Russell
Presiding Member

Robert C. Coates, Q.C.
Robert C. Coates, Q.C.
Member

Desmond Hallissey
Desmond Hallissey
Member