



Ottawa, Friday, July 5, 1996

Review No.: RR-95-001

IN THE MATTER OF a review, under subsection 76(2) of the *Special Import Measures Act*, of the order made by the Canadian International Trade Tribunal on June 10, 1991, in Review No. RR-90-005, continuing, with amendment, the review finding made by the Canadian Import Tribunal on November 6, 1986, in Review No. R-7-86, continuing, with amendment, the finding made by the Canadian Import Tribunal on April 17, 1986, in Inquiry No. CIT-15-85, concerning:

**CERTAIN OIL AND GAS WELL CASING MADE OF CARBON STEEL
ORIGINATING IN OR EXPORTED FROM THE REPUBLIC OF KOREA
AND THE UNITED STATES OF AMERICA**

ORDER

The Canadian International Trade Tribunal, under the provisions of subsection 76(2) of the *Special Import Measures Act*, has conducted a review of its order made on June 10, 1991, in Review No. RR-90-005, continuing, with amendment, the review finding made by the Canadian Import Tribunal on November 6, 1986, in Review No. R-7-86, continuing, with amendment, the finding made by the Canadian Import Tribunal on April 17, 1986, in Inquiry No. CIT-15-85.

Pursuant to subsection 76(4) of the *Special Import Measures Act*, the Canadian International Trade Tribunal hereby continues its order made on June 10, 1991, in Review No. RR-90-005, without amendment.

Robert C. Coates, Q.C.

Robert C. Coates, Q.C.
Presiding Member

Anthony T. Eyton

Anthony T. Eyton
Member

Desmond Hallissey

Desmond Hallissey
Member

Michel P. Granger

Michel P. Granger
Secretary

Ottawa, Friday, July 5, 1996

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**CERTAIN OIL AND GAS WELL CASING MADE OF CARBON STEEL
ORIGINATING IN OR EXPORTED FROM THE REPUBLIC OF KOREA
AND THE UNITED STATES OF AMERICA**

Special Import Measures Act - Whether to rescind or continue, with or without amendment, the order made by the Canadian International Trade Tribunal on June 10, 1991, in Review No. RR-90-005, continuing, with amendment, the review finding made by the Canadian Import Tribunal on November 6, 1986, in Review No. R-7-86, continuing, with amendment, the finding made by the Canadian Import Tribunal on April 17, 1986, in Inquiry No. CIT-15-85.

Place of Hearing: Ottawa, Ontario
Dates of Hearing: April 22 and 23, 1996
Date of Order and Reasons: July 5, 1996

Tribunal Members: Robert C. Coates, Q.C., Presiding Member
Anthony T. Eyton, Member
Desmond Hallissey, Member

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Lead Researcher: W. Douglas Kemp

Economist/Statistical Officer: Marcie Doran

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Registration and Distribution Officer: Joël J. Joyal

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Gregory O. Somers
for IPSCO Inc.
Prudential Steel Ltd.
Algoma Steel Inc.

(Domestic Producers)

James A. D'Andrea
for Fedmet Tubulars,
A Division of Russel Metals Inc.

(Importer)

for Chris Hines
Alberta Tubular Products Ltd.
Paragon Industries, Inc.

(Importer/Exporter)

for Peter Clark
Chandra Gibbs
U.S. Steel,
a Unit of USX Corporation

(Exporter)

Witnesses:

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IPSCO Inc.

Barry Hodson
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Tubular Products
IPSCO Inc.

Bryce K. Nimmo
Manager
Marketing Support
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Carmen R. Fairman
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Prudential Steel Ltd.

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R.A. Clark
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T. Scott Evans
Vice-President of
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Bruce J. Stuart
President
Alberta Tubular Products Ltd.

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Ottawa, Friday, July 5, 1996

Review No.: RR-95-001

IN THE MATTER OF a review, under subsection 76(2) of the *Special Import Measures Act*, of the order made by the Canadian International Trade Tribunal on June 10, 1991, in Review No. RR-90-005, continuing, with amendment, the review finding made by the Canadian Import Tribunal on November 6, 1986, in Review No. R-7-86, continuing, with amendment, the finding made by the Canadian Import Tribunal on April 17, 1986, in Inquiry No. CIT-15-85, concerning:

**CERTAIN OIL AND GAS WELL CASING MADE OF CARBON STEEL
ORIGINATING IN OR EXPORTED FROM THE REPUBLIC OF KOREA
AND THE UNITED STATES OF AMERICA**

TRIBUNAL: ROBERT C. COATES, Q.C., Presiding Member
ANTHONY T. EYTON, 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 order made by the Canadian International Trade Tribunal (the Tribunal) on June 10, 1991, in Review No. RR-90-005, continuing, with amendment, the review finding made by the Canadian Import Tribunal (the CIT) on November 6, 1986, in Review No. R-7-86, continuing, with amendment, the finding made by the CIT on April 17, 1986, in Inquiry No. CIT-15-85, concerning certain oil and gas well casing made of carbon steel originating in or exported from the Republic of Korea (Korea) and the United States of America.

Pursuant to subsection 76(2) of SIMA, the Tribunal initiated a review of the order and issued a notice of review² on December 18, 1995, and a notice of change of date of public hearing on February 8, 1996.³ These notices were forwarded to all known interested parties.

As part of this review, the Tribunal sent questionnaires to the domestic manufacturers of oil and gas well casing and to selected importers and purchasers of these goods. From the replies to these questionnaires and other sources, the Tribunal's research staff prepared public and protected pre-hearing staff reports. As part of its research activities, the Tribunal's staff met with the domestic manufacturers and an importer in order to answer any questions pertaining to the questionnaires.

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1. R.S.C. 1985, c. S-15, as amended by S.C. 1994, c. 47.
 2. Canada Gazette Part I, Vol. 129, No. 52, December 30, 1995, at 4383.
 3. *Ibid.*, Vol. 130, No. 7, February 17, 1996, at 534.

The record of this review consists of all relevant documents, including the finding, the review finding in Review No. R-7-86, the order in Review No. RR-90-005, the notice of review, the notice of change of date of public hearing, the public and protected portions of replies to the questionnaires for the 1995 review, and the public and protected pre-hearing staff reports for the 1990 and 1995 reviews. 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.

Public and *in camera* sessions were held in Ottawa, Ontario, on April 22 and 23, 1996.

PRODUCT

The product under consideration is oil and gas well casing (casing) made of carbon steel, having an outside diameter ranging from 114.3 mm to 273.0 mm (4.50 in. to 10.75 in.) inclusive, seamless or welded, plain end or threaded and coupled, supplied to meet American Petroleum Institute specification 5A, grades H40, J55 and K55, or proprietary grades manufactured as substitutes for these specifications, originating in or exported from Korea and the United States.

Casing falls in a category of products commonly referred to as oil country tubular goods (OCTG), which include drill pipe, casing and tubing. These goods are used to drill wells and to convey the oil and gas products to the surface. Casing is used to protect the walls of the bored hole from collapsing, both during drilling and after the well has been completed. Casing must be able to withstand outside pressure and internal yield pressures within the well. Also, it must have sufficient joint strength to hold its own weight and must be equipped with threads sufficiently tight to contain the well pressure where lengths are joined. Various factors limit the total amount of open hole that can be drilled at any one time, and it is necessary to set more than one string of casing concentrically for certain portions of the well depth.

Casing may be either electric resistance welded (ERW) or seamless. IPSCO Inc. (IPSCO) and Prudential Steel Ltd. (Prudential) manufacture ERW casing, and Algoma Steel Inc. (Algoma) produces seamless casing. ERW casing is manufactured by passing flat-rolled steel (skelp) through a series of rolls that form it into a cylindrical shape. The skelp edges are heated to a high temperature by electrical resistance and pressed together to form a closed tube. The weld is then heat-treated to create a molecular structure that is identical to that of the parent metal. Seamless casing is produced by first forming a central cavity in a solid steel billet. Subsequent rolling or extrusion operations shape and size the billet into a tubular product with the desired diameter and wall thickness. Seamless and ERW casing may then be threaded, at one end, and have a thread protector installed. A coupling is placed on the other end. Throughout the production process, the casing is subjected to quality control tests to ensure that it meets the desired specifications.

Within the product range, the H40 and J55 grades of casing are normally made using the ERW process, and the K55 grade of casing, which has a higher tensile strength than the J55 grade, is generally seamless, although IPSCO offers a welded product to compete with this specification. These three grades of casing are generally used in shallow wells measuring less than 1,600 m in depth. Domestically, these wells are most often found in Western Canada.

In these wells, surface casing, usually ERW grade H40, is used in the upper 10 percent of the depth. At lower depths, grades J55 and K55, ERW or seamless, are usually used. In "sweet" environments (where there are relatively low percentages of sulfur), ERW grade J55 is generally used, whereas in "sour"

environments (where corrosive conditions exist because of higher sulfur content), the stronger seamless grade K55 is generally used.

Casing is sold primarily through distributors of oilfield supplies, although some is sold directly to end users. Most major distributors of oilfield supplies also supply other products relating to the drilling trade, such as tubing, pump jacks, drill pipe and pumping equipment.

DOMESTIC INDUSTRY

There are three producers of casing in Canada: Algoma, IPSCO and Prudential. Algoma was incorporated on June 1, 1992, under the Ontario *Business Corporations Act*.⁴ It acquired all of the assets and some of the liabilities of The Algoma Steel Corporation, Limited. Algoma is 32 percent employee-owned, with the remaining shares held by other investors.

Algoma is a vertically integrated primary iron and steel producer with a capacity to manufacture and process approximately 2.3 million tons of raw steel annually. In terms of finished goods, this amounts to about 2.0 million tons. Algoma operates a major steel works in Sault Ste. Marie, Ontario, and an iron ore mine and auxiliary facility in Wawa, Ontario. Through a subsidiary, Algoma has an equity interest in an iron ore mine and pelletizing facility in the United States.

Algoma manufactures a wide range of steel products that are primarily destined for the construction, transportation and energy industries. These products include flat-rolled sheet and plate, structural shapes, seamless tubular products and various semi-finished products.

Algoma's tube division commenced operations in 1971 with the lease/purchase of the facility from Mannesmann Pipe. Together, Mannesmann Pipe and Algoma developed expertise in the manufacture of casing, especially in high-strength materials.

IPSCO was incorporated in 1956 as Prairie Pipe Manufacturing Co. Ltd. and commenced operations in Regina, Saskatchewan, in 1957, with the completion of construction of an ERW pipe mill. In 1959, IPSCO acquired the assets of Interprovincial Steel Corp. Ltd. and, in 1960, it commenced production of its own flat-rolled steel. Since then, it has expanded its tubular manufacturing capabilities through acquisition and construction in both Canada and the United States. IPSCO is currently constructing a flat-rolled steel manufacturing facility in the United States.

IPSCO is made up of three operating divisions, the Fabricated Products Division, the Steel Division and the Tubular Products Division, the last being responsible for the manufacture and sale of casing. IPSCO's products include hot-rolled sheet and plate, hollow structural sections, line pipe, standard pipe, piling pipe, OCTG tubing, water well casing and OCTG casing, which includes oil and gas well casing.

IPSCO began producing casing at its Regina plant in the early 1960s, but the majority of its production of casing is now carried out in Calgary, Alberta. It has other facilities capable of producing casing in Edmonton, Red Deer and Calgary, Alberta.

4. R.S.O. 1990, c. B.16.

Prudential was incorporated in 1966 in the province of Alberta. In 1973, it was sold to Dofasco Inc. of Hamilton, Ontario. In 1975, it constructed a mill to produce OCTG. In 1979, it built threading facilities to thread casing and tubing and upsetting facilities where tubing is heated and expanded prior to threading. These facilities were replaced in 1985. In 1994, Dofasco Inc. sold its holdings in Prudential. In 1995, Prudential completed the construction of its no. 3 mill and upgraded its no. 2 mill.

SUMMARY OF THE INQUIRY AND REVIEWS

Inquiry No. CIT-15-85

On April 17, 1986, the CIT found that the dumping of casing from Argentina, the Federal Republic of Germany, Korea and the United States had not caused, was not causing, but was likely to cause material injury to the production in Canada of like goods. In its reasons for this decision, the CIT noted that oil prices had reached historically high levels in the early 1980s and were expected to continue to rise. At about the same time, extensive drilling activity in the United States and Canada, combined with increased demand for other pipe and tube products, led to near-capacity levels of production. This production was supplemented by some imports, the majority of which were from Japan.

Overall, the size of the market for casing increased during that period. Volumes declined somewhat in 1982, but rose thereafter, peaking in 1985 at a level some 65 percent higher than that reached in 1981. At about that time, world oil prices began to soften, and price competition intensified. The CIT was persuaded that this price competition was largely the result of intra-industry competition rather than competition with low-priced imports.

The CIT found that the industry's excess capacity, in conjunction with collapsing world oil prices, the phasing out of exploration incentives and falling demand, created abnormal economic conditions. Exacerbating these conditions, U.S. restrictions on imports of casing suggested to the CIT that casing excluded from the United States might be diverted to the Canadian market. Given these facts, the CIT found that the dumping was likely to cause material injury to the domestic production of like goods.

Review No. R-7-86

On November 6, 1986, pursuant to a request from the domestic industry, the CIT excluded from the injury finding casing manufactured in Canada and subsequently exported to the United States for threading and/or coupling before being imported by the manufacturer.

Review No. RR-90-005

On June 10, 1991, the Tribunal concluded that, should the finding be rescinded, the dumping of casing from the United States and Korea was likely to resume and that the dumping was likely to materially injure the domestic production of casing. With respect to casing imported from Argentina and the Federal Republic of Germany, the Tribunal rescinded the finding.

The evidence obtained in the review indicated that, in a disorderly U.S. market for casing, prices were as much as 20 percent lower than the average domestic selling prices for casing in Canada, after adjusting for exchange, duty, transportation and handling costs. In some instances, these prices were found to

be too low for major U.S. producers to even cover their costs. Given these facts, the Tribunal was of the opinion that, if the finding were rescinded, U.S. exporters would likely dump their excess inventories in Canada, which would materially injure domestic production.

The evidence pertaining to exports of Korean casing demonstrated that the average prices for this casing exported to the United States were as much as 24 percent lower than the average prices for casing exported to Canada. The Tribunal was persuaded that the finding had created this price differential and that, although imports of Korean casing had, in fact, decreased, they would have likely increased if the finding had been rescinded. The Tribunal realized that the export market was the only outlet for Korean casing, insofar as Korea had considerable production capacity but little or no demand. On these grounds, the Tribunal was of the opinion that Korean casing would return to the Canadian market at the first opportunity, likely at dumped prices. The Tribunal believed that such dumping would disrupt the domestic market and cause material injury to the domestic industry.

POSITION OF PARTIES

Domestic Industry

The industry's position is that, in the absence of anti-dumping duties, U.S. and Korean exporters of casing to Canada will resume dumping and that domestic production is vulnerable to such resumed dumping. In their opening comments, counsel for the domestic producers submitted that, in coming to a conclusion on the industry's vulnerability to a resumption of dumping, it is not necessary for the Tribunal to find that all domestic producers are uniformly vulnerable. Counsel pointed out that, in situations where there are several producers, it is unlikely that dumping will affect them all in a uniform fashion and that, even if the Tribunal found only one of several producers to be vulnerable to dumping, this would be sufficient to find that the industry, as a whole, was vulnerable.

With reference to their aid to argument, counsel for the domestic producers submitted that, in their view, the numbers demonstrated considerable price competition between domestic casing and casing imported from the United States at normal values. In the absence of normal values, they argued, prices would fall below the floor price set by normal values into unfair competition.

Counsel for the domestic producers also referred to the issue of competition between ERW casing and seamless casing, submitting that, because casing purchases are usually application-based, seamless casing does not normally compete with ERW casing. To the extent that there may be some competition between the two products, counsel submitted that this additional layer of competition would contribute to the likelihood of resumed dumping and the vulnerability of the domestic producers to such resumed dumping.

Turning to the proposition that falling skelp prices in the United States may lower the cost of producing casing in the United States, which, in turn, may mean that U.S. producers may no longer be found to be dumping casing in Canada, counsel for the domestic producers submitted that any speculation on the effect of falling skelp prices in the United States and on the effect of the falling skelp prices on the question of dumping in Canada is not relevant to the issues at hand and is not within the Tribunal's mandate to review.

Likelihood of Resumed Dumping

In the industry's view, exporters in the United States and Korea would resume dumping, if the finding were rescinded. Counsel for the domestic producers pointed out that a slowdown in well drilling activity in the United States had already contributed to an increase in exports to Canada from those producers with normal values. Counsel added that, even if the U.S. producers were supplying all U.S. demand, 10 percent of the unused capacity would still be enough to supply the entire Canadian market. Counsel submitted that, if the finding were rescinded, record tonnages of U.S. imports would enter Canada, as more U.S. producers would seek an outlet for their casing.

In addition to the potential for huge amounts of casing emanating from unutilized capacity in the United States, a witness for the industry noted that OCTG inventory levels in the United States reached 1.7 million tons in November 1995,⁵ a volume which exceeded projected U.S. consumption in 1995 and which is more than five times the size of the entire Canadian market for casing.⁶

In this context of significant production, substantial excess capacity and burgeoning inventories in the United States, counsel for the domestic producers spoke of the declining prices for the subject goods and, at best, a level demand for casing in the United States. Counsel added that, of the many U.S. producers that supply the U.S. market for casing, many are only marginally profitable or are operating at a loss. According to the testimony of a number of witnesses, the combination of these factors has led to volatile market conditions which, the industry expects, would be exported to Canada, if the finding were rescinded.

Counsel for the domestic producers also pointed out that there is evidence that U.S. steel producers have dumped other steel products in Canada and have injured the domestic production of those products.⁷ Counsel also alleged that U.S. producers of casing have dumped non-subject high-strength casing and non-subject line pipe, which has permitted U.S. exporters to engage in a form of "package pricing" whereby they have combined sales of low-priced, high-strength casing and/or line pipe with sales of the subject low-strength casing priced at normal values. The net effect of such sales is that the average price for the total "package" is low.⁸

Counsel for the domestic producers added that strategic alliances, or other commercial arrangements between some of the players in the market for casing, are beginning, for reasons of geographic or commercial convenience, to control the price and supply of casing. Counsel submitted that such alliances inevitably have an impact on price. At the same time, they added that the finding is the only safeguard against the use of unfair pricing as a commercial tool in negotiating and establishing such supplier-user alliances.

As for Korea, counsel for the domestic producers referred to the evidence of overcapacity of production of casing in that country,⁹ adding that the United States International Trade Commission (USITC) recently found that dumped imports of OCTG from Argentina, Italy, Japan, Korea and Mexico were

5. Manufacturer's Exhibit C-2, Attachment 2, Administrative Record, Vol. 9.

6. Manufacturer's Exhibit A-2 at 5, Administrative Record, Vol. 9.

7. Manufacturer's Exhibit A-1 at 11, Administrative Record, Vol. 9.

8. Manufacturer's Exhibit C-2 at 7, Administrative Record, Vol. 9.

9. Manufacturer's Exhibit A-2 at 10, Administrative Record, Vol. 9.

materially injuring, or threatening to materially injure producers of casing and tubing in the United States.¹⁰ According to counsel, the USITC's finding provides evidence of the propensity of Korean producers to dump casing in other countries. Moreover, the finding limits the size of the world market available to Korean casing and provides an additional reason for Korean exporters to dump in Canada if the finding is rescinded.

Counsel for the domestic producers submitted that Korean exporters have a history of unfairly trading steel products and, with respect to this particular case, have not cooperated with the Department of National Revenue (Revenue Canada) in obtaining normal values for casing. They added that Korean exporters have also attempted to circumvent findings relating to imports of standard pipe in both Canada and the United States. Counsel interpreted this as another indication of the likelihood that Korean exporters would resume the dumping of casing in Canada if the finding were rescinded.

Likelihood of Material Injury Should Dumping Resume

Counsel for the domestic producers submitted that the domestic industry remains vulnerable to a resumption of dumping of casing from the United States or Korea. Counsel referred to the Tribunal's order concerning carbon steel pipe from Korea,¹¹ wherein it concluded that IPSCO was vulnerable to renewed dumping. Counsel observed that the same factors present in the carbon steel pipe case are present in the current case. Consequently, they submitted, the finding should be continued until market conditions and the benefits of the decision in Review No. RR-94-004 lead to increased financial performance for IPSCO.

Counsel for the domestic producers listed several other factors which support the conclusion that the industry is vulnerable to resumed dumping. Counsel noted the drop in the domestic demand for casing in 1995 and the industry's poorer financial performance in 1995 and the first quarter of 1996. They explained that, since the cost of producing casing is highly sensitive to changes in production volume, the industry requires a high utilization of capacity to maintain, or lower, its costs in the face of increased input costs and to enhance its financial position.

Counsel for the domestic producers added that the domestic capacity to produce casing is sufficient to supply the entire market, but is currently significantly underutilized. In an effort to increase their ability to compete in today's market, the domestic producers have made investments to lower their costs and to reduce their overcapacity. To this end, counsel submitted that the domestic industry has demonstrated a willingness to be price-competitive and to supply domestic demand.

With respect to the size of the market available to the domestic producers of casing, counsel for the domestic producers submitted that the industry's export opportunities for casing are limited. The finding by the USITC against imports of Canadian casing has effectively closed the U.S. market, while competition in overseas markets is limited due to the distances involved and the significant degree of offshore competition.

10. Manufacturer's Exhibit A-1 at 10, Administrative Record, Vol. 9.

11. *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*, Review No. RR-94-004, Order and Statement of Reasons, June 5, 1995.

Importers

Two importers, Fedmet Tubulars, A Division of Russel Metals Inc. (Fedmet) and Alberta Tubular Products Ltd. (Alberta Tubular), with their U.S. suppliers, Maverick Tube Corporation (Maverick) and Paragon Industries, Inc. (Paragon) respectively, were represented at the hearing. These firms all submitted that the finding should be continued.

Fedmet (Maverick)

In requesting that the finding be continued, counsel for Fedmet specifically noted that, in doing so, the firm is not supporting the domestic producers of casing. According to counsel, Fedmet's goal is to support a system that ensures fair competition, with no dumping in the marketplace. Counsel submitted that only without dumping can there be true competition.

According to counsel for Fedmet, there is a very real likelihood of resumed dumping if the finding is rescinded, given the overcapacity in the United States, coupled with huge inventories and declining, or flat, consumption. Further, over one half of the casing inventory in the United States is controlled by brokers, distributors and traders, with 20 percent of the residual being held by oil companies, and these inventory holders are not concerned with normal values or dumping, but instead are concerned only with converting excess inventory into cash. When consumption is flat, or in decline, and prices for oil, gas and steel are declining, the need for these parties to sell off inventory becomes more intense.

It is Fedmet's position that the U.S. market is, thus, more volatile than the Canadian market. Should the finding be rescinded, Fedmet submitted, these volatile market conditions in the United States will be imported into Canada.

Finally, counsel for Fedmet addressed the requests for exclusion from the finding made by Paragon and Alberta Tubular. Counsel submitted that the requests were not adequately demonstrated, nor were they exceptional. Counsel indicated that the mere fact that a party wishes to avoid the costs associated with Revenue Canada's annual normal value reviews cannot itself form a reason for an exclusion. If it did, counsel submitted, then all importers should be excluded from normal value reviews.

Alberta Tubular (Paragon)

Counsel for Alberta Tubular and Paragon submitted that both firms are seeking an exclusion from the finding to eliminate the burden of complying with Revenue Canada's annual review process. Counsel submitted that Paragon has not dumped the subject goods, nor is Alberta Tubular interested in pushing down the market price for the casing that it sells. For these reasons, counsel submitted that Alberta Tubular and Paragon should be excluded from the finding.

Exporters

U.S. Steel, a Unit of USX Corporation

U.S. Steel, a Unit of USX Corporation (U.S. Steel), an exporter of casing in the United States, made a submission through its counsel. The submission stated that the finding should be rescinded. Although the

finding has been in place for 10 years, U.S. casing remains an important factor in the Canadian market. Moreover, because prices for ERW casing are much lower in the U.S. market than in the Canadian market, it is unlikely that ERW casing will be dumped in Canada if the finding is rescinded.

The submission maintained that price competition in the market for casing is driven by producers of ERW casing which have benefited from the expanded production of low-cost/low-priced skelp, supplies of which are expected to increase. According to the submission, the demand for seamless casing is not large enough for Algoma, the sole domestic producer of seamless casing, to operate as an efficient economic unit. Moreover, seamless casing cannot realistically compete with ERW casing in the market. Finally, the submission argued that, since prices are set by ERW casing and there is substantial competition in ERW casing from Canadian mills, there is no risk of injury to domestic production from imports of seamless casing.

In argument, counsel for U.S. Steel submitted that the industry's performance peaked in 1994, when well drilling activity was at a record high. Counsel went on to indicate that, although there has been a marginal downturn in well drilling in Canada, it remains at levels that are still better than average.

Counsel for U.S. Steel submitted that, of the three domestic manufacturers, only Algoma remains vulnerable to resumed dumping, since its costs of producing seamless casing are high, relative to the prices at which casing is sold, and these prices are set by the less expensive ERW casing. Counsel expect U.S. prices to continue to decline in tandem with falling demand in the United States. As demand and prices fall in the United States, normal values will also decline, thus reducing the likelihood that casing will be dumped.

Counsel for U.S. Steel added that the price for skelp, the basic raw material used in producing casing, is a major factor influencing the cost of producing casing. Referring to the evidence, counsel added that the price for skelp in the North American market is expected to drop, and, hence, the cost of producing casing will also drop.

Finally, counsel for U.S. Steel argued that, if the Tribunal finds that there is a likelihood of resumed dumping on the grounds of an inventory overhang held by distributors in the United States, the Tribunal should exclude, from the finding, casing manufactured and exported to Canada by U.S. Steel and USS Kobe.

Korea

No Korean exporters participated in this review; however, the Embassy of the Republic of Korea did make a written submission to the Tribunal in which it pointed out that, since 1992, exports of casing from Korea to Canada have been negligible. The submission noted that the domestic producers which were injured by imports of casing from Korea have had 10 years to recover. If, after this time, it was submitted, the industry continues to suffer, it may be due to factors other than dumped imports.¹²

12. Public submission by the Embassy of the Republic of Korea, Tribunal Exhibit RR-95-001-25.1, Administrative Record, Vol. 1 at 229-30.

ECONOMIC INDICATORS

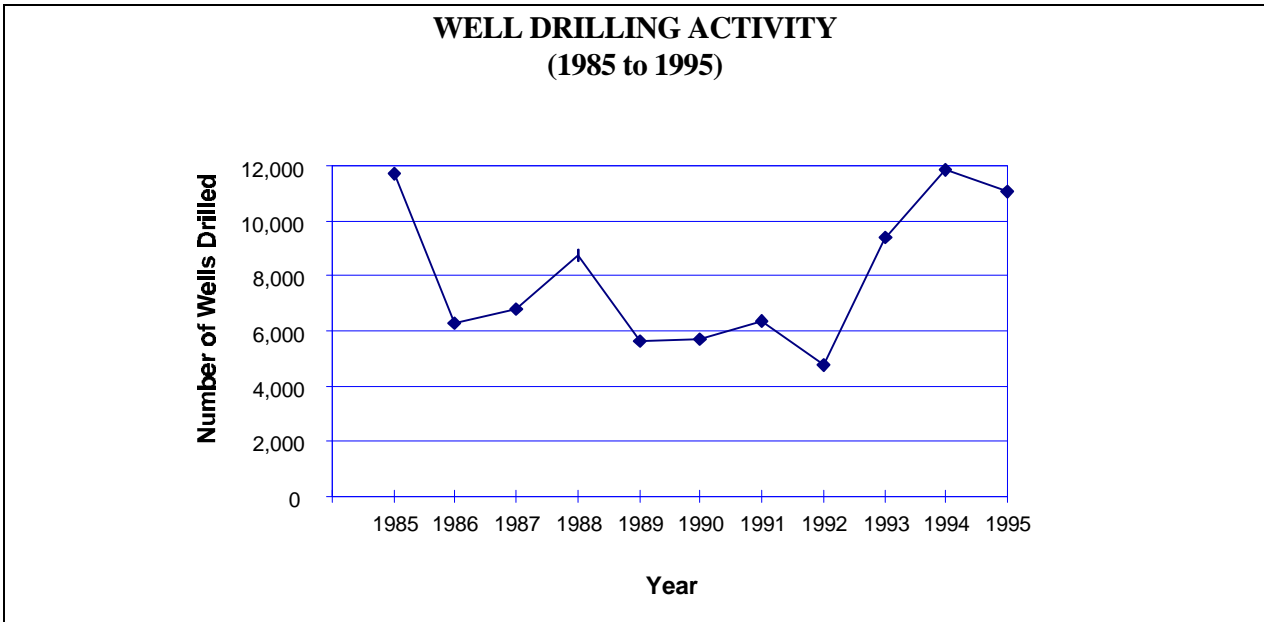
The demand for casing and, hence, the general performance of the market for casing are closely related to the number of oil and gas wells that are drilled. In the past decade, an average of slightly more than 8,000 wells were drilled each year. Peak activity occurred in 1985 and again in 1994 and 1995,¹³ with over 11,000 wells drilled in each of those years. For 1996, the Canadian Association of Oilwell Drilling Contractors forecast that 11,276 wells would be drilled. The domestic industry forecast that about 10,500 wells would be drilled in 1996.¹⁴ The lowest level of drilling activity occurred in 1992, when less than 5,000 wells were drilled.

Table 1

WELL DRILLING ACTIVITY
(1985 to 1995)

1985	1986	1987	1988	1989	1990	1991	1992	1993	1994	1995
11,720	6,275	6,808	8,775	5,639	5,675	6,388	4,771	9,396	11,871	11,062

Source: Canadian Association of Oilwell Drilling Contractors.



13. Canadian Association of Oilwell Drilling Contractors, Revised Forecast – 1996, March 15, 1996, Tribunal Exhibit RR-95-001-39, Administrative Record, Vol. 1A at 56-59.

14. Transcript of Public Hearing, Vol. 1, April 22, 1996, at 26.

Following the trend set by well drilling activity, both the volume and the value of the market rose to record highs in 1994, receding marginally in 1995. During this period, unit sales values peaked in 1991 and 1995.

Overall, the industry accounted for the majority of the market throughout the review period. During the five years from 1991 to 1995, the industry's share of the market varied only slightly, peaking in 1992, when the value of the market reached its lowest level in the past decade, and falling to its lowest point in the period, in 1994, when the volume of the market peaked at over 311,000 tonnes.

As reflected in the drop in well drilling activity in 1992, that year was a particularly slow year in the market for casing. The volumes of both imports and domestic production reached their lowest levels in 1992, before returning to record highs in 1994 and 1995.¹⁵ The industry's utilization rates also rose significantly in those record years, in conjunction with major increases in production and reductions to the industry's capacity.

During this period, the average unit sales value of domestically produced casing tended to be lower than the average unit sales value of casing imported from the United States at, or above, normal values.¹⁶ This fact was supported by evidence entered by counsel for the domestic producers.¹⁷ In an aid to argument, counsel demonstrated that, for three specific grades and sizes of casing, the prices for U.S. casing imported into Canada at normal values currently either approach or surpass the prices for similar grades and sizes of casing sold in Canada by the domestic manufacturers.

15. In the pre-hearing staff report, 1994 was the last full year for which data were available. Data for 1995 were constructed by adjusting full-year 1994 data by the percentage increase or decrease found in 10-month 1995 data when compared to 10-month 1994 data.

16. Tribunal Exhibit RR-95-001-6C (protected), Administrative Record, Vol. 2 at 150.

17. Manufacturers' Exhibits A-6, B-6 and C-4 (protected), Administrative Record, Vol. 10.

Table 2					
SUMMARY OF STATISTICAL DATA					
	1991	1992	1993	1994	1995 (Projected)
Apparent Market					
Volume (tonnes)	101,645	119,621	257,332	311,545	268,029
Value (\$000)	98,476	98,059	221,101	289,570	265,541
Index Values (1991 = 100)					
Apparent Market					
Volume (tonnes)	100	118	253	307	264
Value (\$000)	100	100	225	294	270
Total Production (tonnes)	100	82	201	216	225
Apparent Imports					
Volume (tonnes) - subject	100	83	265	441	288
Volume (tonnes) - non-subject	100	0	0	104	343
Market Share - Volume					
Sales from Domestic Production	100	104	101	96	98
Sales from Imports	100	70	92	129	114
Gross Margin					
(As a percentage of net sales)	100	31	88	88	100
Net Income Before Taxes					
(As a percentage of net sales)	100	(63)	98	109	102
Production Capacity (tonnes)	100	100	97	94	98
Capacity Utilization (tonnes)	100	82	201	216	225
Employment					
Person-Hours (000)	100	81	159	186	178
<hr/> Source: <u>Public Pre-Hearing Staff Report</u> , March 13, 1996, Tribunal Exhibit RR-95-001-5, Administrative Record, Vol. 1 at 128.					

REASONS FOR DECISION

Section 76 of SIMA provides that, on completion of a review, the Tribunal shall rescind or continue an order or finding, with or without amendment. In making its decision in this matter, the Tribunal must deal with two fundamental questions. It must first determine whether there is a likelihood of resumed dumping of casing from the United States and Korea, if the order is rescinded. If the Tribunal finds that there is a likelihood of resumed dumping of casing from these two countries, it must then determine whether such dumping is likely to cause material injury to the domestic casing industry.

In addressing these questions, the Tribunal was mindful of the fact that a finding or order has now been in place for 10 years and that continuing the order would, absent an interim review, extend anti-dumping protection to the industry until the year 2001. The Tribunal recognizes that the evidence must be particularly compelling to warrant a continuation of the order.

United States

The Tribunal notes that, in reviews of orders or findings under the provisions of SIMA, the industry and the importers and exporters generally hold opposing views with respect to the basic issues. In this review, however, two U.S. exporters, Maverick and Paragon, and the two Canadian companies to which they supply their casing, Fedmet and Alberta Tubular respectively, supported the industry's position that the order should be continued with respect to imports from the United States.

One importer emphasized, however, that, in supporting a continuation of the order, it was not supporting the industry, but rather a system that prevents dumping.¹⁸ The only party to make a submission supporting a rescission of the order was U.S. Steel. Should the order be continued, both Paragon and U.S. Steel requested that they be excluded from the order. These requests will be discussed later.

The witnesses for the industry, officers of Fedmet and of Alberta Tubular, representatives of Maverick and of Paragon and the Tribunal's witness from PanCanadian Petroleum Limited all described, more or less, the same situation in the U.S. market for casing. They characterized it as being a market in which demand has been declining for many years and which is now stable, at best. In fact, the evidence pertaining to drilling activity in the United States¹⁹ clearly shows that the number of wells drilled each year has dropped steadily and significantly from a peak reached in 1981. The rate of decline in drilling during this period was so steep, in fact, that, by 1995, the number of oil and gas wells drilled in the United States had fallen to about 46 percent of the number of wells drilled in 1986.

The evidence suggests that the U.S. industry reacted to the declining demand for casing in the United States by reducing its capacity. There are currently 11 plants²⁰ in the United States that manufacture casing. These plants currently have a total capacity to produce about 4.7 million tons of OCTG,²¹ which

18. Transcript of Public Hearing, Vol. 2, April 23, 1996, at 153.

19. Tribunal Exhibit RR-95-001-37, Administrative Record, Vol. 1A at 52-55.

20. Manufacturer's Exhibit A-2, Attachment 2, Administrative Record, Vol. 9.

21. OCTG includes a range of products that is broader than oil and gas well casing. The Tribunal considers that trends in OCTG production are indicative of trends in the capacity to manufacture oil and gas well casing.

represents a drop of 36 percent from a capacity level of about 7.4 million tons in 1986.²² In addition to significantly lowering the absolute capacity to produce casing in the United States, there was some indication that some U.S. producers of casing are absorbing some of the residual unutilized capacity by making other products on the same equipment.²³

The evidence suggests that the reduction in capacity for producing casing in the United States has not kept pace with the declining demand, and the remaining capacity levels will represent the status quo for the next five or six years.²⁴ At this level, the OCTG market in the United States will call upon about one third of U.S. capacity to produce this product, leaving about 3 million tons of unutilized capacity.²⁵

The Tribunal notes that, to a large extent, production levels in the United States are directly related to the necessity for producers of casing to optimize their respective mill loadings to achieve maximum coverage of overhead.²⁶ The Tribunal heard evidence that, even if there was no imported casing in the U.S. market, the considerable volume of production of casing necessary to meet the requirements for optimal mill loading would necessarily encourage exports.^{27,28}

It is also clear to the Tribunal that the substantial volume of unsold casing in the U.S. market²⁹ will exacerbate the potential for dumping caused by the considerable amount of unused capacity in the United States. The Executive Vice-President of Paragon, the exclusive exporter of casing to Alberta Tubular, estimated that the volume of the inventory overhang is currently about twice as large as it should be.³⁰ In the United States, the greater part of this excess casing inventory is held by distributors, brokers, traders and supply houses.³¹

The Tribunal heard that, at the distributor level, when inventories become surplus to an end-user's requirements due to the cancellation of a drilling program, inventory holders normally sell off casing at the best price, in order to liquidate their holdings, even if such liquidation includes dumping.³² In the Tribunal's opinion, such liquidation is likely to include dumping.

In the U.S. market for casing, the forces of excess capacity combined with a significant volume of inventory held mostly at the distributor level have put considerable pressure on the price structure. One witness for the industry suggested that U.S. manufacturers of casing no longer have an interest in profitability on their sales in the U.S. market³³ and, in some cases, are selling at a loss. He suggested that this

22. Importer's Exhibit D-1 at 3, Administrative Record, Vol. 11.

23. Transcript of Public Hearing, Vol. 2, April 23, 1996, at 171-72.

24. Transcript of Public Hearing, Vol. 2, April 23, 1996, at 171.

25. Transcript of Public Hearing, Vol. 2, April 23, 1996, at 9.

26. Manufacturer's Exhibit C-2 at 5, Administrative Record, Vol. 9.

27. Transcript of Public Hearing, Vol. 1, April 22, 1996, at 9.

28. Transcript of Public Hearing, Vol. 1, April 22, 1996, at 90.

29. Manufacturer's Exhibit C-2 at 4-5, Administrative Record, Vol. 9; and Transcript of Public Hearing, Vol. 2, April 23, 1996, at 157.

30. Transcript of Public Hearing, Vol. 2, April 23, 1996, at 178.

31. Transcript of Public Hearing, Vol. 2, April 23, 1996, at 154.

32. *Ibid.*

33. Transcript of Public Hearing, Vol. 2, April 23, 1996, at 26-27.

“chaotic” situation would be exported to Canada if the order were rescinded. The Executive Vice-President of Paragon echoed these comments, suggesting that some U.S. producers are even selling their casing below the cost of production.³⁴

During the hearing, the industry entered three exhibits showing Algoma’s, IPSCO’s and Prudential’s actual selling prices, to their distributors, for several grades and sizes of casing.³⁵ In a confidential aid to argument, counsel for the domestic producers compared these prices with the prices for the same grades and sizes of casing imported into Canada from the United States at normal values.

This evidence demonstrates to the Tribunal that the current delivered price for fairly traded casing purchased in the United States can be as high as, or higher than, the prices for equivalent types of casing sold in Canada by the domestic manufacturers. The inference that the Tribunal drew from this exercise was that, in order for imports to compete with domestic casing, casing exported from the United States would, in all likelihood, have to be dumped.

Having heard evidence on overcapacity in the U.S. market, the need to have efficient production levels, the substantial volume of unsold casing in the U.S. market, sales below cost, liquidation prices and the price for fairly traded U.S. casing in the Canadian market, the Tribunal concludes that, in the absence of anti-dumping duties, exporters in the United States are likely to resume the dumping of casing in Canada.

Since 1990, in the absence of price competition in the marketplace from dumped casing, the industry, on average, has managed to maintain reasonable margins. There has been some variability in profitability within the industry, with Algoma being, on average, less profitable, while IPSCO and Prudential have been more profitable. However, reasonable financial performance today does not, in and of itself, preclude the industry from being injured in the face of dumped imports. The Tribunal is persuaded, in fact, that, when 10 percent of the underutilized capacity in the United States would be more than enough to supply the entire Canadian market, competition from dumped imports would put extreme pressure on the industry’s profitability.

The Tribunal believes that the industry would likely react to dumped prices in one of two ways. It could either lower its prices to maintain its share of the market or reduce or eliminate the production of that casing where it is not price-competitive. Both alternatives have their costs.

Should the industry choose to compete, its unit sales prices will drop, as market forces drive Canadian prices down to levels of the U.S. competition, which, the evidence suggests, will be at prices which are dumped and possibly below the cost of production. In coming to this conclusion, the Tribunal takes note of evidence pertaining to prices at which fairly traded U.S. casing could land in Canada. The Tribunal is also guided by evidence that certain U.S. producers are selling casing in the U.S. market at prices below cost,³⁶ as well as by evidence of the practice of U.S. distributors liquidating inventories at low prices.³⁷ Should the

34. Transcript of Public Hearing, Vol. 2, April 23, 1996, at 178-79; and Transcript of In Camera Session, Vol. 2, April 23, 1996, at 168-69.

35. Manufacturers’ Exhibits A-6, B-6 and C-4 (protected), Administrative Record, Vol. 10.

36. Transcript of Public Hearing, Vol. 1, April 22, 1996, at 26-27.

37. Transcript of Public Hearing, Vol. 2, April 23, 1996, at 154.

industry choose to compete on the basis of price, the likely price declines, in the face of resumed dumping, and the net effect on the industry's financial performance will clearly be significant.

The Tribunal is of the view that the other option open to the industry, of cutting back on production in the face of dumped price competition, will have a significant long-lasting negative impact on the industry. The fixed costs in a casing mill are high, and only by maximizing its utilization of capacity can the industry expect to keep unit costs under reasonable control to ensure profitability. In fact, the Tribunal heard considerable evidence to the effect that, even in these times of considerable demand, manufacturers of casing in Canada³⁸ are considering the viability of producing products in addition to casing in their mills, in attempts to boost the utilization of the mills. It is clear to the Tribunal that a reduction in the utilization of the already underutilized domestic casing mills, in reaction to dumped imports, will have a significant negative effect on the industry's profitability.

On these grounds, the Tribunal is of the opinion that, should the order be rescinded, exporters in the United States are likely to resume the dumping of casing in Canada and that the dumped imports are likely to materially injure the domestic industry.

Korea

The firms producing OCTG in Korea have an estimated production capacity of 2.1 million tons,³⁹ about 15 percent of which would be more than sufficient to satisfy all Canadian demand for casing. Unlike Canada or the United States, Korea has few exploratory or developmental oil or gas wells,⁴⁰ and it must export virtually all of its OCTG. However, despite this excessive capacity to produce casing, essentially all of which must be destined for the export market, no Korean casing has been exported to Canada since 1989.

In contrast, since 1989, Korean casing has had a growing presence in the U.S. market. In fact, the volume of casing imported from Korea grew significantly in the United States until 1995, the year in which the USITC found that dumped imports of OCTG from Korea, and other countries, were injurious to the OCTG industry in the United States.⁴¹

The Tribunal realizes that the economics of casing production demand that Korean manufacturers of casing keep their mills loaded. However, given the effective loss of the United States, a major customer base, the Tribunal is persuaded that, if the order is rescinded, this pressure to keep their mills loaded makes it inevitable that Korean producers will look to Canada to absorb at least a portion of their production of casing.

The propensity of the Korean exporters to dump is supported by the U.S. finding on the injurious dumping of casing from Korea and other countries. Further evidence on the propensity to dump is given in the Tribunal's decision in Review No. RR-94-004, which continued an order on the injurious dumping in Canada of standard pipe from Korea.⁴² Evidence in that review indicated that Korean exporters and Canadian importers of standard pipe have attempted to circumvent the order relating to standard pipe by

38. Manufacturer's Exhibit C-3 (protected) at 13, Administrative Record, Vol. 10.

39. Manufacturer's Exhibit A-2, Attachment 3, Administrative Record, Vol. 9.

40. Manufacturer's Exhibit A-1 at 11, Administrative Record, Vol. 9.

41. Manufacturer's Exhibit A-5, Administrative Record, Vol. 9.

42. *Supra* note 11.

describing standard pipe imports as line pipe at the time of entry into Canada. The evidence also showed that, on at least two occasions, Revenue Canada has advised importers that all line pipe that is being used in standard pipe applications and which originates in Korea is subject to anti-dumping duties.⁴³

Furthermore, the Tribunal considers that it is reasonable to infer from Korean activities in the United States and Canada that the order had the effect of keeping Korean casing out of the Canadian marketplace over the last five years. If Korean producers were not so constrained, they would likely lower their prices to undersell their competition in Canada, just as they did in the United States. In the Tribunal's view, such price reductions could only be achieved by dumping.

For these reasons, the Tribunal is convinced that there is a likelihood that Korean exporters will resume the dumping of casing in Canada should the order be rescinded.

The Tribunal is also convinced that a resumption of dumping by Korea will likely lead to material injury to the domestic industry. In this regard, the Tribunal notes that Korean exporters have the capacity to ship casing to Canada in considerable volumes. To reestablish themselves in the Canadian market, the Tribunal is of the view that the Korean exporters would have to offer the subject goods at prices which are below the prevailing prices of domestic producers. In the commodity market for casing,⁴⁴ even modest price undercutting can have a significant impact on revenues and profits. Further, the Tribunal is of the view that, if the order were rescinded, the domestic industry would likely be faced with the same dilemma with respect to dumped Korean imports as it would with dumped U.S. imports; it could reduce its prices to retain market share, or it could reduce or eliminate production in those segments of the market where it could not compete. For the reasons stated above, the Tribunal is of the view that there is a likelihood of material injury in either scenario.

Two other themes addressed during the hearing dealt with the effect that falling skelp prices might have on the price for domestic and imported casing and the impact that competition between ERW and seamless casing might have on the market for casing. The Tribunal realizes that these factors may well have an effect on the market for casing, but, in the Tribunal's view, they will not, in and of themselves, contribute to either the likelihood that casing will be dumped in Canada should the order be rescinded or the likelihood that such dumping will materially injure the domestic industry.

The first issue involves the impact of different skelp prices. The Tribunal is aware that major shifts in the price for skelp can have a considerable impact on the cost of producing casing. However, the evidence pertaining to skelp prices, particularly as it affects casing, suggests that the price for skelp produced in different mills, or in different countries for that matter, tends to move in similar directions.⁴⁵

On this basis, the Tribunal considers that the price for skelp in Canada, and elsewhere in the world, will, in the long run, exhibit similar trends. Consequently, the Tribunal does not consider it likely that any changes in the price for skelp in the United States or Korea vis-à-vis the price for skelp in Canada will create such circumstances that will increase, or decrease, the likelihood that the dumping of casing by either of these countries will resume.

43. *Ibid.*

44. Transcript of Public Hearing, Vol. 2, April 23, 1996, at 107.

45. Transcript of Public Hearing, Vol. 1, April 22, 1996, at 62.

The second issue, and one which was dealt with at length during the hearing, involves the degree of real or potential competition in the market between ERW and seamless casing. During this review, the Tribunal heard evidence that the price for K grade seamless casing is now virtually the same as the price for J grade ERW casing.⁴⁶ As well, the Tribunal saw evidence of some growth in the seamless segment of the market for casing, relative to the size of the ERW segment. It has also heard that certain purchasers of casing have chosen to switch from using seamless casing, in certain types of well environment, to using ERW casing.⁴⁷

In the Tribunal's opinion, this evidence supports the conclusion that there is competition between ERW and seamless casing. However, this competition in no way diminishes, and may increase, the injury that would be caused should dumping resume.

REQUESTS FOR EXCLUSION

Alberta Tubular, an importer, and Paragon, the U.S. exporter from which Alberta Tubular imports its casing, supported a continuation of the order, but requested an exclusion from it. In support of the exclusion, counsel for Alberta Tubular and Paragon argued that Paragon has not exported casing to Alberta Tubular at dumped prices and that Revenue Canada's annual reviews of the order has placed an unnecessary administrative burden on the two firms.

Counsel for U.S. Steel submitted that the order should be rescinded. However, counsel argued that, if the order were continued for reasons of the inventory overhang of casing held by distributors in the United States, the Tribunal should exclude, from the order, the subject goods manufactured and exported to Canada by U.S. Steel and USS Kobe.

The Tribunal's discretion to grant exclusions has been recognized by the courts.⁴⁸ The Tribunal has consistently maintained that exclusions will only be granted on an exceptional basis. In this case, the Tribunal sees no exceptional circumstances relating to the firms' casing or its export to and import into Canada that might differentiate it from any other casing that is subject to anti-dumping duties. The Tribunal notes that all of the requests related to goods which the domestic industry currently produces and which compete with, and are directly substitutable for, domestically produced goods. In the Tribunal's view, it is not surprising that, since the order was made, Paragon has not exported the subject goods to Canada at dumped prices. If it were to export dumped goods to Canada, before those goods could be "released," among other things, anti-dumping duties equal to the margin of dumping would have to be paid. In other words, the landed cost of the goods would, in effect, be adjusted upwards to reflect the difference between the import price and the applicable normal value. The Tribunal, also, does not find Paragon's "administrative burden" argument to be compelling. The Tribunal notes that all persons exporting the subject goods to Canada face a similar administrative burden. Moreover, the Tribunal notes that its decision on the likelihood of resumed dumping was made on factors additional to the fact of the inventory overhang held by the distributors in the United States. Accordingly, the Tribunal is not prepared to accept the requests for exclusion made in this case.

46. Transcript of In Camera Session, Vol. 1, April 22, 1996, at 42.

47. Tribunal Exhibits RR-95-001-24.6 and 24.10 (protected), Administrative Record, Vol. 6.2 at 59 and 93.

48. *Hitachi Limited v. The Anti-dumping Tribunal*, [1979] 1 S.C.R. 93; and *Sacilor Aciéries v. The Anti-dumping Tribunal* (1985), 9 C.E.R. 210 (F.C.A.), Court File No. A-1806-83, June 27, 1985.

CONCLUSION

For the foregoing reasons, the Tribunal concludes that, if the order were rescinded with respect to exports of casing from the United States, it is likely that dumping would resume and that such dumping would likely materially injure the producers of casing in Canada.

The Tribunal also concludes that, if the order were rescinded with respect to exports of casing from Korea, it is likely that dumping would resume and that such dumping would likely materially injure the producers of casing in Canada.

Accordingly, the Tribunal continues its order made on June 10, 1991, in Review No. RR-90-005, without amendment.

The Tribunal also concludes that the requests for exclusion are not warranted.

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

Anthony T. Eyton
Anthony T. Eyton
Member

Desmond Hallissey
Desmond Hallissey
Member