



Canadian International  
Trade Tribunal

Tribunal canadien du  
commerce extérieur

CANADIAN  
INTERNATIONAL  
TRADE TRIBUNAL

# Dumping and Subsidizing

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## ORDERS AND REASONS

Expiry Review No. RR-2013-001

Structural Tubing

*Orders and reasons issued  
Friday, December 20, 2013*

**TABLE OF CONTENTS**

ORDERS .....	i
STATEMENT OF REASONS .....	1
INTRODUCTION .....	1
PRODUCT .....	2
Product Definition .....	2
Product Information .....	2
LEGAL FRAMEWORK .....	2
LIKE GOODS AND CLASSES OF GOODS .....	3
DOMESTIC INDUSTRY .....	3
CUMULATION .....	4
LIKELIHOOD OF INJURY ANALYSIS .....	6
Changes in International and Domestic Market Conditions .....	6
Likely Volumes of Dumped Goods .....	10
Likely Prices of Dumped Goods and the Effects on the Prices of Like Goods .....	17
Likely Performance of the Domestic Industry and Likely Impact of the Dumped Goods on the Domestic Industry .....	21
Factors Other Than Dumping .....	22
CONCLUSION .....	23

IN THE MATTER OF an expiry review, pursuant to subsection 76.03(3) of the *Special Import Measures Act*, of the order made by the Canadian International Trade Tribunal on December 22, 2008, in Expiry Review No. RR-2008-001, concerning:

**THE DUMPING OF STRUCTURAL TUBING ORIGINATING IN OR  
EXPORTED FROM THE REPUBLIC OF KOREA, THE REPUBLIC OF SOUTH  
AFRICA AND THE REPUBLIC OF TURKEY**

**ORDERS**

On April 10, 2013, the Canadian International Trade Tribunal gave notice that, pursuant to subsection 76.03(3) of the *Special Import Measures Act*, it would initiate an expiry review of its order made on December 22, 2008, in Expiry Review No. RR-2008-001, continuing its finding made on December 23, 2003, in Inquiry No. NQ-2003-001, concerning the dumping of structural tubing known as hollow structural sections made of carbon and alloy steel, welded, in sizes up to and including 16.0 inches (406.4 mm) in outside diameter for round products and up to and including 48.0 inches (1,219.2 mm) in periphery for rectangular and square products, commonly but not exclusively made to ASTM A500, ASTM A513, CSA G.40.21-87-50W and comparable specifications, originating in or exported from the Republic of Korea, the Republic of South Africa and the Republic of Turkey.

Pursuant to paragraph 76.03(12)(b) of the *Special Import Measures Act*, the Canadian International Trade Tribunal hereby continues its order in respect of the aforementioned goods originating in or exported from the Republic of Korea and the Republic of Turkey.

Pursuant to subparagraph 76.03(12)(a)(ii) of the *Special Import Measures Act*, the Canadian International Trade Tribunal hereby rescinds its order in respect of the aforementioned goods originating in or exported from the Republic of South Africa.

Jason W. Downey  
Jason W. Downey  
Presiding Member

Stephen A. Leach  
Stephen A. Leach  
Member

Daniel Petit  
Daniel Petit  
Member

Dominique Laporte  
Dominique Laporte  
Secretary

Place of Hearing:	Ottawa, Ontario
Dates of Hearing:	October 28, 2013 to October 29, 2013
Tribunal Members:	Jason W. Downey, Presiding Member Stephen A. Leach, Member Daniel Petit, Member
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## STATEMENT OF REASONS

### INTRODUCTION

1. This is an expiry review, pursuant to subsection 76.03(3) of the *Special Import Measures Act*<sup>1</sup> of an order made by the Canadian International Trade Tribunal (the Tribunal) on December 22, 2008, in Expiry Review No. RR-2008-001, continuing its finding made on December 23, 2003, in Inquiry No. NQ-2003-001, concerning the dumping of structural tubing known as hollow structural sections (HSS) made of carbon and alloy steel, welded, in sizes up to and including 16.0 inches (406.4 mm) in outside diameter for round products and up to and including 48.0 inches (1,219.2 mm) in periphery for rectangular and square products, commonly but not exclusively made to ASTM A500, ASTM A513, CSA G.40.21-87-50W and comparable specifications, originating in or exported from the Republic of Korea (Korea) the Republic of South Africa (South Africa) and the Republic of Turkey (Turkey) (the subject goods). The order is scheduled to expire on December 21, 2013.

2. The Tribunal initiated this expiry review on April 10, 2013.<sup>2</sup> It notified the Canada Border Services Agency (CBSA) and sent letters to known domestic producers, importers, foreign producers and exporters requesting that they complete expiry review questionnaires. The Tribunal's period of review (POR) is from January 1, 2010, to March 31, 2013.

3. On April 11, 2013, the CBSA initiated its investigation to determine whether the expiry of the Tribunal's order was likely to result in the continuation or resumption of dumping.

4. On August 8, 2013, the CBSA determined, pursuant to paragraph 76.03(7)(a) of *SIMA*, that the expiry of the order was likely to result in the continuation or resumption of dumping of the subject goods.

5. Following the CBSA's determination, on August 9, 2013, the Tribunal commenced its part of the expiry review to determine, pursuant to subsection 76.03(10) of *SIMA*, whether the expiry of the order was likely to result in injury or retardation. As part of these proceedings, the Tribunal sent a *Short-form Importers' Questionnaire* to importers that had not completed the original *Expiry Review Questionnaire – Importer*.

6. The Tribunal held a public hearing in Ottawa, Ontario, on October 28 and 29, 2013.

7. Atlas Tube Canada ULC (Atlas Tube) and Welded Tube of Canada (Welded Tube) collectively filed written submissions, provided evidence and made arguments in support of the continuation of the order. They were represented by counsel and presented witnesses at the hearing.

8. Three distributors of HSS, Mr. David J. Halcrow, Vice-President, Purchasing, at Russel Metals, Mr. Lou A. Germano, President of Marmon/Keystone Canada Inc. and Mr. Daniel Bouchard, owner of Acier Bouchard were called as witnesses by Atlas Tube and Welded Tube. They provided witness statements and testimony in support of the continuation of the order.

9. Novamerican Steel Inc. and Nova Tube Inc. (Nova) collectively filed written submissions, provided evidence and made arguments in support of the continuation of the order. They were represented by counsel and presented a witness at the hearing.

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1. R.S.C., 1985, c. S-15 [*SIMA*].

2. C. Gaz. 2013.I.819.

10. The Turkish Steel Exporters' Association, Çelik İhracatçıları Birliği (ÇİB), filed a written submission, provided evidence and made arguments in opposition to the continuation of the order. ÇİB was represented by counsel but did not present a witness during the hearing.

11. The Tribunal received no requests for product exclusions.

## PRODUCT

### Product Definition

12. The product under review is structural tubing known as HSS made of carbon and alloy steel, welded, in sizes up to and including 16.0 inches (406.4 mm) in outside diameter for round products and up to and including 48.0 inches (1,219.2 mm) in periphery for rectangular and square products, commonly but not exclusively made to ASTM A500, ASTM A513, CSA G.40.21-87-50W and comparable specifications, originating in or exported from Korea, South Africa and Turkey.

### Product Information

13. HSS production involves the transformation of commercial grade hot-rolled sheet or strip into round, rectangular or square sections. The production process begins with the hot-rolled coil being slit into the appropriate width of strips for the production of tubes of a given circumference. Each strip is then passed through a series of rolls that gradually bend it into a round tube. This tube is electric resistance welded (ERW), and excess metal is removed from the weld on the outside surface of the tube. Upon request by the purchaser, excess metal is also removed from the weld on the inside surface. The tube is then cooled and processed through a set of sizing/shaping rolls in order to cold-form it into a round, square or rectangular section. Finally, tubes are cut to length, bundled and tagged.

14. HSS are used in general construction for structural elements in buildings and bridges, as protective structures on heavy equipment and for other purposes such as highway railings and barriers, and outdoor lighting. The subject goods may also be used in manufactured products, such as agricultural implements, trailers, and racking and storage systems.

15. HSS are not used for automotive tubing for exhaust systems, bumpers and the like, which are typically made from tubing produced to specialized automotive specifications.

## LEGAL FRAMEWORK

16. The Tribunal is required, pursuant to subsection 76.03(10) of *SIMA*, to determine whether the expiry of the order in respect of the subject goods is likely to result in injury or retardation.<sup>3</sup>

17. The Tribunal is also required, pursuant to subsection 76.03(12) of *SIMA*, to make an order either rescinding the order, if it determines that its expiry is unlikely to result in injury, or continuing the order, with or without amendment, if it determines that the expiry of the order is likely to result in injury.

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3. Subsection 2(1) of *SIMA* defines "injury" as "material injury to the domestic industry" and "retardation" as "material retardation of the establishment of a domestic industry" [emphasis added]. Given that there is currently an established domestic industry, the issue of whether the expiry of the order is likely to result in retardation does not arise in this expiry review.

18. Before proceeding with its analysis of the likelihood of injury, the Tribunal must first determine what constitutes “like goods”. Once that determination has been made, the Tribunal must determine what constitutes the “domestic industry”.

### LIKE GOODS AND CLASSES OF GOODS

19. In order for the Tribunal to determine whether the resumed or continued dumping of the subject goods is likely to cause material injury to the domestic producers of like goods, it must determine which domestically produced goods, if any, constitute like goods in relation to the subject goods. The Tribunal must also assess whether there is, within the subject goods and the like goods, more than one class of goods.<sup>4</sup>

20. Subsection 2(1) of *SIMA* defines “like goods”, in relation to any other goods, as follows:

- (a) goods that are identical in all respects to the other goods, or
- (b) in the absence of any goods described in paragraph (a), goods the uses and other characteristics of which closely resemble those of the other goods.

21. In deciding the issue of like goods when goods are not identical in all respects to the other goods, the Tribunal typically considers a number of factors, including the physical characteristics of the goods (such as composition and appearance) and their market characteristics (such as substitutability, pricing, distribution channels, end uses and whether the goods fulfill the same customer needs).<sup>5</sup>

22. In the original inquiry, the Tribunal found that domestically produced HSS constituted like goods in relation to the subject goods because it closely resembled the subject goods in terms of physical and market characteristics, could generally be substituted for them and competed directly with them in the Canadian market. Therefore, at that time, the Tribunal conducted its injury assessment on the basis of a single class of like goods.<sup>6</sup> In the previous expiry review, the Tribunal reached the same conclusion on like goods and classes of goods.<sup>7</sup>

23. In the current expiry review, all parties agreed that domestically produced HSS is identical in all respects to the subject goods and constitutes a single class of goods. The Tribunal heard no evidence or argument that warrants departing from its previous determinations. Accordingly, the Tribunal continues to be of the view that there is one class of goods in this expiry review and that domestically produced HSS are “like goods” in relation to the subject goods.

### DOMESTIC INDUSTRY

24. Subsection 2(1) of *SIMA* defines “domestic industry” as follows:

... the domestic producers as a whole of the like goods or those domestic producers whose collective production of the like goods constitutes a major proportion of the total domestic production of the like goods except that, where a domestic producer is related to an exporter or importer of dumped or subsidized goods, or is an importer of such goods, “domestic industry” may be interpreted as meaning the rest of those domestic producers.

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4. When the Tribunal determines that there is more than one class of goods, it must conduct a separate injury analysis and make a decision for each class that it identifies. See *Noury Chemical Corporation and Minerals & Chemicals Ltd. v. Pennwalt of Canada Ltd. and Anti-dumping Tribunal*, [1982] 2 F.C. 283 (F.C.).

5. See, for example, *Copper Pipe Fittings* (19 February 2007), NQ-2006-002 (CITT) at para. 48.

6. *Structural Tubing* (23 December 2003), NQ-2003-001 (CITT) at 7-8.

7. *Structural Tubing* (22 December 2008), RR-2008-001 (CITT) at para. 36.



25. The Tribunal must therefore determine whether there is a likelihood of injury to the domestic producers as a whole or those domestic producers whose production represents a major proportion of the total production of like goods.

26. There are seven domestic producers of HSS as defined in this expiry review: Atlantic Tube and Steel Inc. (Atlantic Tube and Steel), Atlas Tube, Bull Moose Tube Ltd. (Bull Moose Tube), Fati Steel Inc., Nova, Quali-T-Tube, Division of Quali-T-Groupe ULC, and Welded Tube.<sup>8</sup> Five of these producers provided responses to the Tribunal questionnaires.<sup>9</sup> Together, these companies accounted for nearly 100 percent of the total known domestic production of like goods during the POR<sup>10</sup> and, as such, constitute the “domestic industry” for the purposes of the Tribunal’s analysis of likelihood of injury.

27. Atlas Tube, Nova and Welded Tube, whose combined production was more than 90 percent of total known domestic production of like goods, filed submissions in support of the continuation of the Tribunal’s order and participated in the hearing. For the purposes of this statement of reasons, references made to submissions by the domestic producers or the domestic industry is a reference to those domestic producers that filed submissions and participated in the hearing.

## CUMULATION

28. In accordance with subsection 76.03(11) of *SIMA*, the Tribunal is required to make an assessment of the cumulative effect of the dumping of goods from more than one country if it is satisfied that such an assessment would be appropriate, taking into account the conditions of competition between the goods imported from any of the countries and the goods from any other of those countries, or like goods of domestic producers. If the Tribunal is not satisfied that such an assessment would be appropriate, then it must assess the effects of dumping for each country separately.

29. In considering the conditions of competition between goods, the Tribunal typically takes into account the following factors, as applicable: the degree to which the goods are interchangeable; the extent to which the goods are sold, or offered for sale, into the same geographical markets; the existence of common or similar channels of distribution for the goods; and differences in the timing, if any, of the availability of the goods. However, the Tribunal has stated that other factors may also be considered and that no single factor is necessarily determinative.<sup>11</sup>

30. In the context of expiry reviews, the Tribunal has stated that the effect of continued or resumed dumping and the assessment of conditions of competition must be looked at prospectively.<sup>12</sup> Indeed, the entire expiry review scheme of *SIMA* mandates an analysis of what is likely to happen in the future, if the order or finding is rescinded. Accordingly, when the Tribunal makes a prospective assessment of the conditions of competition in expiry reviews, its examination presupposes that competition will actually exist, i.e., if the order is rescinded, goods from competing producers will likely be present in the same market at the same time.<sup>13</sup>

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8. Evraz Inc. NA Canada (Evraz), which was identified as a potential domestic producer, indicated to the Tribunal that it no longer produces HSS, nor did it produce HSS during the POR. However, Evraz completed an importer’s questionnaire. ArcelorMittal Dofasco Inc. and Bolton Steel Tube Co. Ltd. were also identified as potential domestic producers, but they indicated to the Tribunal that they did not produce or import HSS during the POR. These three companies are therefore not part of the domestic industry for the purposes of this expiry review.

9. Atlantic Tube and Steel, Atlas Tube, Bull Moose Tube, Nova Steel and Welded Tube.

10. Exhibit RR-2013-001-06 (protected), Table 7, Vol. 2.1.

11. See, for example, *Laminate Flooring* (16 June 2005), NQ-2004-006 (CITT) at para. 80.

12. See *Certain Carbon Steel Welded Pipe* (24 July 2001), RR-2000-002 (CITT) at 6-7 [*Carbon Steel Welded Pipe*].

13. *Carbon Steel Welded Pipe* at 7.

31. In the present expiry review, ÇIB submitted that the subject goods from Turkey should not be cumulated, in the Tribunal's analysis, with the subject goods from Korea and those from South Africa. Specifically, ÇIB alleged that Korea has remained present in the Canadian market and has continued to be the object of dumping allegations (in relation to non-subject goods), which is contrasted by the absence of domestic sales of imports from Turkey during the POR and South Africa's apparent exit from the North American market.

32. ÇIB further argued that imports of the subject goods from Turkey would service different geographic markets; the subject goods from Turkey would typically land in Eastern Canada and the subject goods from Korea would typically land in Western Canada. While ÇIB conceded that the subject goods from Turkey are fungible with those from the other subject countries, it claimed that imports from Turkey are cost prohibitive due to transportation costs.<sup>14</sup>

33. In reply, the domestic producers submitted that, because ÇIB failed to present evidence that could alter the Tribunal's prior finding that the subject goods from Turkey are interchangeable, have similar end-use applications, and compete with the subject goods from the named countries and the like goods, it is appropriate that the subject goods from Turkey be cumulated, in the Tribunal's analysis, with the subject goods from Korea and those from South Africa. The domestic producers acknowledged that there is little evidence on the record directly related to South Africa; nevertheless, they submitted that the conditions of competition are the same for South Africa and relied on the fact that the South African welded pipe and tube sector still produces HSS.<sup>15</sup>

34. In the previous expiry review, the Tribunal decided to make a cumulative assessment of the subject goods from Korea, Turkey and South Africa on the basis of the evidence that they were fungible with each other and the like goods, competed directly in various geographical markets, and were marketed or sold through substantially the same distribution channels.

35. The Tribunal heard no argument, and there was no evidence, that would lead it to conclude that, if the order is rescinded, these conditions of competition would change in the next 12 to 18 months. Indeed, the parties agreed that the subject goods are highly fungible with each other and the like goods.

36. Contrary to ÇIB's argument, the Tribunal is not persuaded that this is a regional market case. Once the subject goods from Turkey enter Canada, they will likely compete with each other and the like goods. Furthermore, there is no evidence on the record that the subject goods could not be shipped from a Canadian port of entry to elsewhere in Canada. In fact, the Tribunal heard testimony from a witness for a domestic distributor of HSS, allegedly the largest in Canada, that its business would be impacted by imports coming into Eastern Canada, as well as those coming into Western Canada.<sup>16</sup>

37. Therefore, the Tribunal is of the view that the conditions of competition between the subject goods and the like goods are likely to be the same in the future as they were in the past.

38. However, in order to determine if making an assessment of the cumulative effect of the dumping of HSS from Korea, Turkey and South Africa is justified, the Tribunal must also be persuaded that goods from each of these countries will likely be present in the Canadian market if the order is rescinded.<sup>17</sup>

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14. Exhibit RR-2013-001-E-01 at 7-8, Vol. 13.

15. *Transcript of Public Hearing*, Vol. 2, 29 October 2013, at 233-34.

16. *Ibid.*, Vol. 1, 28 October 2013, at 87.

17. See, for example, *Bicycles* (7 December 2012), RR-2011-002 (CITT) at 8; *Carbon Steel Welded Pipe* at 7.

39. There was no evidence before the Tribunal indicating that, if the order is rescinded, the subject goods from Korea and Turkey will not be present in the Canadian market.<sup>18</sup> As explained below in the section titled “Likely Volumes of Dumped Goods”, the Tribunal is of the view that, if the order is rescinded, the subject goods from these two countries will likely be present in the Canadian market. Accordingly, the Tribunal considers it appropriate to assess the likely effect of resumed dumping and renewed shipments from Korea and Turkey on a cumulative basis in the analysis that follows.

40. However, the Tribunal is not satisfied that it is appropriate to include the subject goods from South Africa in assessing the cumulative effect of the dumped goods. The evidence clearly shows that South African welded pipe and tube products, including HSS, were virtually absent from the Canadian market during the POR and that minimal volumes relative to Korea and Turkey were shipped to the U.S. market during the same period.<sup>19</sup>

41. For reasons that are elaborated below in the section titled “Likely Volumes of Dumped Goods”, the Tribunal is of the view that, if the order is rescinded, it is unlikely that HSS produced in South Africa will be present in the Canadian market in the next 12 to 18 months. Accordingly, the Tribunal will conduct a cumulative assessment of the likely effect of the dumped goods from Korea and Turkey, and a separate assessment of the likely effect of the dumped goods from South Africa.

## LIKELIHOOD OF INJURY ANALYSIS

42. In making its assessment of likelihood of injury, the Tribunal has consistently taken the view that the focus should be on circumstances that can reasonably be expected to exist in the near to medium term. Subsection 37.2(2) of the *Special Import Measures Regulations*<sup>20</sup> lists the factors that the Tribunal may consider. The factors that the Tribunal considers relevant in this expiry review are discussed in detail below.

43. As indicated above, the Tribunal has conducted a separate analysis of the likelihood of injury for Korea and Turkey together and separately for South Africa. However, the following assessment of changes in international and Canadian market conditions is relevant to both analyses.

### Changes in International and Domestic Market Conditions

44. In order to assess the likely volumes and prices of the subject goods and their impact on the domestic industry if the order is rescinded, the Tribunal will first consider changes in international and domestic market conditions.<sup>21</sup>

45. It is generally recognized that the market for steel is a global market. Since the last expiry review in 2008, there have been some significant changes in the international and domestic steel markets.

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18. Indeed, ÇIB submitted that, in the absence of an order, Turkish exports of HSS into Canada “will remain low”, which, in the Tribunal’s view, clearly indicates that the subject goods are expected to be present in the Canadian market. Exhibit RR-2013-001-E-01 at 10, Vol. 13.

19. Exhibit RR-2013-001-06 (protected), Tables 8, 53, Vol. 2.1; *Transcript of Public Hearing*, Vol. 1, 28 October 2013, at 82; *ibid.*, Vol. 2, 29 October 2013, at 169.

20. S.O.R./84-927 [*Regulations*].

21. See paragraph 37.2(2)(j) of the *Regulations*.

### International Market Conditions

46. The previous expiry review was held "...during one of the most serious global financial and economic crisis experienced in recent times."<sup>22</sup> The latter part of 2008 was exceptional in terms of the volatility experienced. The speed and depth of the decline in price and demand experienced in the latter part of 2008 were far greater than those observed during previous business cycles. In contrast, this expiry review is five years after the 2008 global financial and economic crisis, and the global economy is recovering.

47. According to the Bank of Canada's *Monetary Policy Report*, issued on October 23, 2013, the global economy is forecast to grow modestly in 2013. Overall, the global economy is forecast to grow by 2.8 percent in 2013, 3.4 percent in 2014 and 3.6 percent in 2015.<sup>23</sup>

48. A review of major global economies indicates that the U.S. economy is softer than expected but growth rates are forecast to accelerate through 2014 and 2015. In October 2013, the Bank of Canada's projected growth rates for the United States were as follows: for 2013, 1.5 percent; for 2014, 2.5 percent; and for 2015, 3.3 percent. Recovery in Europe has been slow, with 2013 continuing to show negative growth rates. However, improvements are projected looking forward to 2014 and 2015. China's growth rates are expected to decline marginally in 2014 and 2015 and are still much lower than in previous years.<sup>24</sup> China is the largest contributor to global overcapacity in steel products, and a cooling of the Chinese economy could release large volumes onto the world markets.<sup>25</sup>

49. Despite continued weakness in the global economy, reports relevant to the current period of review indicate that the steel sector shows signs of recovery. For instance, at its July 2013 meeting, an OECD Steel Committee (the Committee) reports that world steel production and demand growth slowed in 2011 while steelmaking capacity continued to grow out of line with demand. The Committee concluded that, although significant challenges still lay ahead, the long-term prospects were more favourable.<sup>26</sup> In particular, the Committee stated that, primarily due to excess capacity, the steel industry's economic performance had declined significantly since the global financial crisis. The Committee noted that global steel market demand had recently enjoyed a brief uptick, with an increase of 2.3 percent of global steel production compared to the first quarter of 2012. Its short-term market outlook points to modest growth of 3 to 4 percent in the second and third quarters of 2013.<sup>27</sup>

50. According to an Ernst & Young report, excess capacity will remain the most significant issue in the steel sector, and growth in global steel demand is not expected to improve significantly in 2013.<sup>28</sup> An article published in *Industry Week*, dated May 21, 2013, indicated that global steel output had increased by 1.2 percent in April 2013 compared to April 2012.<sup>29</sup>

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22. *Structural Tubing* (22 December 2008), RR-2008-001 (CITT) at para. 52.

23. Exhibit RR-2013-001-A-12 at 1, Vol. 11B.

24. *Ibid.*

25. Exhibit RR-2013-001-A-01 at paras. 33-35, 89, 90, Vol. 11.

26. Exhibit RR-2013-001-31.10, Vol. 1A at 16.22; Exhibit RR-2013-001-A-01A at 79-80, Vol. 11.

27. Exhibit RR-2013-001-31.10, Vol. 1A at 16.22; Exhibit RR-2013-001-A-01A at 79-80, Vol. 11; Exhibit RR-2013-001-15.01, Vol. 3 at 175-76; Exhibit RR-2013-001-15.01A, Vol. 3A at 30.

28. Exhibit RR-2013-001-15.01, Vol. 3 at 175-76.

29. Exhibit RR-2013-001-15.01A, Vol. 3A at 30.

51. An article published on July 25, 2013, on moneycontrol.com referred to a *Reuters* report indicating that steel producers in the Asian region experienced reduced demand and depressed prices due to China's cooling economy and the European debt crisis.<sup>30</sup>

Market Conditions in the Subject Countries

52. Korea's estimated GDP growth rate before the global financial crisis was 4 to 5 percent.<sup>31</sup> Since 2010, the Korean economy has experienced a period of slow down, with an actual GDP growth rate of 2.3 percent in the second quarter of 2013.<sup>32</sup> As a result, the demand for steel products, including the subject goods, decreased in the Korean market.

53. *Steel Business Briefing* reported in August 2013 that Korean construction orders reached a new 11-year low that month and that Korea's demand for steel is expected to fall by 4 percent in 2013, to 51.95 million tonnes.<sup>33</sup>

54. According to a *Bloomberg* report published in August 2013, Korea is experiencing its worst property market slowdown since 2004, and Turkish government policies to stimulate the housing market have been unsuccessful.<sup>34</sup>

55. In September 2013, *Steel Business Briefing* reported that, up until September 2013, Turkish domestic demand for steel and steel exports was low but that welded pipe prices remained stable, as recovery in demand was expected and hot-rolled coil prices were relatively steady.<sup>35</sup> Demand in Turkey suffered due to fluctuating exchange rates and the Syrian crisis. Turkish steel pipe exports reached 1.23 million tonnes in the first eight months of 2013, up by 4.1 percent year over year.<sup>36</sup>

56. In July 2013, *Steel Orbis* reported that, according to the Turkish Statistical Institute, confidence in the Turkish construction sector had fallen.<sup>37</sup> However, the Turkish construction industry, which accounts for about half of the country's total steel consumption, is expected to recover in 2013.<sup>38</sup>

57. On August 1, 2013, *Reuters* reported that the South African economy is forecast to grow at a slower rate, which will affect demand for steel. In September 2013, *BDlive* reported that South African steel makers are still contending with poor demand in key domestic construction and engineering markets. The report noted that South Africa is struggling to lift its GDP growth rates to levels attained by other emerging markets.<sup>39</sup>

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30. Exhibit RR-2013-001-A-01A at 102, Vol. 11A.

31. *Ibid.* at 107.

32. *Ibid.* at 116.

33. *Ibid.* at 98, 101.

34. *Ibid.* at 105-107.

35. *Ibid.* at 129.

36. *Ibid.*

37. *Ibid.* at 134-35.

38. Exhibit RR-2013-001-E-01 at para. 45, Vol. 13; Exhibit RR-2013-001-12.12, Vol. 1.4 at 79.

39. Exhibit RR-2013-001-A-01A at 162-63, Vol. 11A.

### Domestic Market Conditions

58. The Canadian economy, in general, is projected to slow slightly in 2013 compared to 2012. In its *Monetary Policy Report* dated October 2013, the Bank of Canada reported that Canada's GDP is expected to be 1.6 percent in 2013, down from 1.7 percent in 2012. According to the Bank of Canada, as well as a TD economic forecast dated October 2013, Canada's GDP is expected to improve, with growth forecast to be about 2.4 percent in 2014 and 2.5 percent in 2015, and demand is expected to increase modestly over the next 12 to 18 months.<sup>40</sup>

59. Non-residential building construction, the major driver for demand of HSS, increased from 2010 to 2012, albeit modestly, then decreased by 2 percent during the first six months of 2013.<sup>41</sup> The Tribunal heard testimony that industry participants are feeling the negative effects of the decrease in non-residential construction.<sup>42</sup> Non-residential building permits, on a seasonally adjusted basis, were down by 25 percent from August 2012 to August 2013.<sup>43</sup>

60. Housing starts is another indicator monitored by industry participants for potential changes in the demand for HSS. The RBC *Economic and Financial Outlook* for Canada, dated June 2013, reported that housing starts are forecast to decrease from 215,000 units in 2012 to 180,000 units in 2013, and then to 174,000 units in 2014.<sup>44</sup>

61. Witnesses testified that domestic demand for HSS has recovered since 2008, but has not returned to pre-recession levels.<sup>45</sup> However, evidence on the record, specifically for the subject goods and the like goods, indicates that this was not the case. The market volumes were 452,948 tonnes in 2007 and 459,487 tonnes in 2012, a 1.4 percent increase.<sup>46</sup> In each year of the POR, except for a 3 percent decrease from January to June 2013, compared to the same period in 2012, the total apparent Canadian market increased.<sup>47</sup>

62. Although not specifically tracking HSS, a report by the Metals Service Center Institute indicates that monthly shipment volumes for the broader category of carbon pipe and tubing up to September 2013 were well below those of 2012. Year-over-year monthly shipments were down by 10.4 percent to 15.5 percent over those of 2012 on a seasonally adjusted basis.<sup>48</sup>

63. In the previous expiry review, domestic production held approximately 80 percent of the market, imports from the United States held the vast majority of the balance, and imports from other non-subject countries only accounted for a minor share.<sup>49</sup> During the POR, domestic producers held approximately 74 percent of the market, imports from the United States held the vast majority of the balance, and imports from other non-subject countries only accounted for a minor share.<sup>50</sup>

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40. Exhibit RR-2013-001-A-12 at 18, Vol. 11B; Exhibit RR-2013-001-E-03 at 1, 15, Vol. 13.

41. Exhibit RR-2013-001-A-01A at 8, 11, 14, 44, Vol. 11A; Exhibit RR-2013-001-E-03 at 16, Vol. 13; *Transcript of Public Hearing*, Vol. 1, 28 October 2013, at 35-36.

42. *Ibid.*

43. *Ibid.* at 77-78; Exhibit RR-2013-001-A-11 at para. 42, Vol. 11B and Attachment B at 4.

44. Exhibit RR-2013-001-A-01A at 42, 44, Vol. 11.

45. *Ibid.* at 12, 35-36, 107.

46. Exhibit RR-2008-001-11, Table 10, Vol. 1.3; Exhibit RR-2013-001-05, Table 16, Vol. 1.1.

47. *Ibid.*

48. Exhibit RR-2013-001-A-02 (protected) at 3, Vol. 12.

49. Exhibit RR-2008-001-11 (protected), Table 13, Vol. 2.3.

50. Exhibit RR-2013-001-06 (protected), Table 18, Vol. 2.1.

64. The sources of domestic supply of HSS have also changed since the previous expiry review. Three of the producers of HSS that were present in the market during the previous expiry review no longer produce HSS.<sup>51</sup>

65. Finally, the sources of HSS imports have changed since the original inquiry. At that time, imports of the subject goods held a 9 percent share of the domestic market.<sup>52</sup> Not surprisingly, since the finding, imports of the subject goods have been virtually absent from the Canadian market. During the previous expiry review and the current expiry review, imports from non-NAFTA countries never reached more than 4 percent of the market.<sup>53</sup> Recently, imports of HSS from non-subject countries, such as India and Japan, have increased.<sup>54</sup>

### **Likely Volumes of Dumped Goods**

66. Paragraph 37.2(2)(a) of the *Regulations* directs the Tribunal to consider the likely volume of the dumped goods if the order is rescinded, and, in particular, whether there is likely to be a significant increase in the volume of imports of the dumped goods, either in absolute terms or relative to the production or consumption of like goods.

67. The Tribunal's assessment of the likely volumes of dumped imports encompasses the likely performance of the foreign industry, the potential for foreign producers to produce goods in facilities that are currently used to produce other goods, evidence of the imposition of anti-dumping and/or countervailing measures in other jurisdictions, and whether measures adopted by other jurisdictions are likely to cause a diversion of the subject goods to Canada.<sup>55</sup>

68. The Tribunal will first consider the likely volumes of dumped goods from Korea and Turkey.

#### Likely Volumes of Dumped Goods from Korea and Turkey

69. The domestic producers submitted that the following factors support their position that, if the order is rescinded, it is likely that significant volumes of HSS will be exported to Canada from Korea, Turkey and South Africa. However, as noted below, the domestic producers' submissions and witnesses' testimonies focused on Korea and Turkey.

70. First, production capacity and unused capacity in the named countries are many times larger than the total Canadian HSS market. In this respect, the domestic producers submitted that total capacity of welded pipe and tube in Korea and Turkey was about 15 million tonnes.<sup>56</sup>

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51. Evraz, ArcelorMittal Tubular Products Canada Inc. and Bolton Steel Tube Co. Ltd.

52. *Structural Tubing* (23 December 2003), NQ-2003-001 (CITT) at 13.

53. Exhibit RR-2008-001-11 (protected), Table 13, Vol. 2.3; Exhibit RR-2013-001-05, Table 18, Vol. 1.1; *Transcript of Public Hearing*, Vol. 1, 28 October 2013, at 88.

54. *Ibid.* at 67-68, 114-15, 126, 128; *ibid.*, Vol. 2, 29 October 2013, at 154; Exhibit RR-2013-001-C-03, tab 2 at 2, Vol. 11B.

55. Paragraphs 37.2(2)(d), (f), (h) and (i) of the *Regulations*.

56. Exhibit RR-2013-001-A-04 (protected) at para. 15, Vol. 12; *Transcript of Public Hearing*, Vol. 1, 28 October 2013, at 17, 70.

71. Second, producers of pipe and tube products in the subject countries have a strong focus and dependence on export markets and have a relatively strong presence and commercial interest in the North American market. Total exports of pipe and tube products from Turkey and Korea amounted to 1.6 million tonnes in 2012.<sup>57</sup>

72. Third, the excess capacity situation and dependence on export markets are made worse, as there continues to be relatively weak domestic demand for HSS in the subject countries, and residual effects of the global recession are still being felt by certain major regional economies, such as China and the European Union, traditional markets for the subject countries. Furthermore, despite declining demand, foreign producers have not reduced their capacity.

73. Fourth, the domestic producers argued that, given the economic conditions facing the exporters in the subject countries and the production imperative of the steel business, foreign steel producers that seek to optimize plant operations are compelled to search out new markets for their products in order to absorb excess supply, especially when there is insufficient local demand to keep mills running at optimal capacity.<sup>58</sup> In this respect, they argued that Canada's geographic location and open economy make it a desirable market. Moreover, they submitted that trading companies and importers in Canada solicit clients through e-mails, have access to distribution channels already in place to sell dumped product and operate largely in the spot market without concern for the long-term health of the Canadian industry.<sup>59</sup>

74. Finally, the domestic producers noted that there are three important U.S. cases against Turkey and Korea that are very relevant to this expiry review: *Light-Walled Rectangular Pipe and Tube from Turkey*,<sup>60</sup> *Light-Walled Rectangular Pipe and Tube from China, Korea and Mexico*,<sup>61</sup> and *Certain Circular Welded Pipe and Tube from Brazil, India, Korea, Mexico, Taiwan, Thailand, and Turkey*.<sup>62</sup> In their view, given that these trade measures are on products very similar to HSS, it is likely that the subject goods will be diverted to Canada if the order is rescinded.

75. ÇIB, the only party opposing the continuation of the order, submitted that, since the previous order, Turkish exporters have been effectively absent from the Canadian market and that exports to Canada will remain low if the order is rescinded.<sup>63</sup>

76. ÇIB argued that, during the POR, Turkish producers of structural tubing experienced a steady growth in output and demand and that their production was captured entirely by sales to Turkey's traditional markets. According to ÇIB, the demand for steel in Turkey's construction sector, which accounts for about half of the country's steel production, will limit the availability of materials for new markets.<sup>64</sup>

77. ÇIB submitted that Turkish exports to Canada have dramatically dropped, while exports to other markets are increasing. Turkey's proximity to markets in need of goods for reconstruction has been a significant factor. On this basis, ÇIB claimed that any Turkish exports of HSS to Canada would be in exceptionally low volumes and would not cause injury.<sup>65</sup>

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57. Exhibit RR-2013-001-A-01 at para. 4, Vol. 11; Exhibit RR-2013-001-05, Tables 50, 56, Vol. 1.1.

58. Exhibit RR-2013-001-A-01 at 28, Vol. 11.

59. *Ibid.* at 5.

60. May 2008, Investigation No. 731-TA-1121 (Final), U.S. International Trade Commission.

61. July 2008, Investigation Nos. 701-TA-449 and 731-TA-1118-1120 (Final), U.S. International Trade Commission.

62. June 2012, Investigation Nos. 701-TA-253 and 731-TA-132, 252, 271, 273, 532-534 and 536 (Third Review), U.S. International Trade Commission.

63. Exhibit RR-2013-001-E-01 at paras. 38, 40, Vol. 13.

64. *Ibid.* at paras. 41-45.

65. *Ibid.* at para. 46.



78. Finally, ÇIB argued that the very absence of low-priced HSS from offshore sources in the Canadian market illustrates that there are inherent barriers to trade in terms of introducing HSS from offshore sources into the Canadian market.

#### Tribunal's Analysis

79. The likely volume of the subject goods available for export markets is primarily driven by production capacity relative to domestic demand. In this respect, conditions in steel markets in the subject countries, as well as around the world, are relevant in evaluating the likelihood of import volumes from the cumulated countries.

80. According to the documentary evidence and witness testimony, the global steel market is experiencing substantial excess supply, and there is nothing to indicate that this will change in the near term.<sup>66</sup>

81. Comprehensive data specific to the subject goods were not readily available. However, the Tribunal heard testimony about domestic and foreign mills producing various ERW products (i.e. standard pipe, piling pipe and other kinds of ERW products) which can be easily converted to produce HSS at a fairly low cost.<sup>67</sup> The Tribunal finds that data with respect to production capacity and exports of ERW products, although not specifically dealing with HSS, are useful to facilitate the estimation of the likely volumes of dumped HSS from Korea and Turkey. In this respect, the evidence indicates that the aggregate production capacity, excess capacity and exports of producers of ERW products in Korea and Turkey are very large.

82. According to the evidence, activity in local and regional construction markets, which generate much of the demand for pipe and tube products, including HSS, can vary from country to country and region to region.

83. For example, the Tribunal heard that the “China factor” is relevant to Korea, in that a cooling of the Chinese economy has resulted in declining demand for Korean steel. The evidence indicates that Korean exports of pipe and tube products to China, its largest export market, declined from 2011 to 2012, and in the first six months of 2013. Korean exports to China decreased by 23 percent from 2011 to 2012, and by a further 11 percent from January to June 2013.<sup>68</sup> As a result, the Tribunal finds that Korea will likely direct these volumes to other markets, particularly as its own economy is slowing.<sup>69</sup>

84. Evidence from one Turkish producer, MMZ Onur Boru Profil Uretim San. Ve Tic. A.S., which responded to the Tribunal's questionnaire, shows that it alone produced 1.1 million tonnes of HSS in 2012 and that its capacity utilization rate for HSS in 2012 was 74 percent.<sup>70</sup> This means that its excess capacity alone is roughly the same size as the total Canadian market in 2012.

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66. Exhibit RR-2013-001-A-01 at 79-80, Vol. 11A.

67. Exhibit RR-2013-001-A-03 at paras. 15-17, Vol. 11B; *Transcript of Public Hearing*, Vol. 1, 28 October 2013, at 34, 47, 64.

68. Exhibit RR-2013-001-05, Table 50, Vol. 1.1.

69. Exhibit RR-2013-001-A-01A at 98, 101, Vol. 11A.

70. Exhibit RR-2013-001-21.03, Vol. 5.1 at 48-49.

85. The export orientation of Korean and Turkish producers of pipe and tube products is a key factor in this case. The evidence clearly indicates that producers in these countries are export oriented and that they export substantial volumes of pipe and tube to many countries around the world. International Steel Statistics Bureau (ISSB) data show that Korea and Turkey exported 1.65 million tonnes of pipe and tube products in 2012.<sup>71</sup>

86. The most compelling evidence supporting the likelihood that certain volumes of dumped HSS will enter the Canadian market if the order is rescinded is that pipe and tube producers in Korea and Turkey have a clear and sustained commercial interest in the North American market.

87. ISSB data indicate that, in 2012, the United States was Korea's largest export market for pipe and tube products, with a volume of 178,185 tonnes, a number which has doubled since 2010.

88. Data for 2012 show that the United States was Turkey's third largest export market, with exports of 8,189 tonnes of welded pipe and tube.

89. ISSB data at the six-digit HS code level (a broader category including the subject goods and non-subject goods) indicate that the volume of various pipe and tube products exported from Korea and Turkey to Canada was 6,154 tonnes and 10,777 tonnes, respectively, in 2012.<sup>72</sup>

90. The Tribunal finds that the ongoing presence in the U.S. and Canadian steel markets of similar non-subject pipe and tube products demonstrates that Korea and Turkey have maintained commercial relationships with traders and have well established distribution networks which could facilitate the importation of the subject goods into Canada if the order is rescinded.

#### Witness Testimony

91. The Tribunal heard testimony from Mr. Halcrow and Mr. Ryan Taberner, Vice-President at Nova Steel Inc., which painted two potentially different pictures of the likely volumes of HSS exported from Korea and Turkey to Canada.

92. Mr. Halcrow testified that, because HSS is a low-value product with thin margins, there is a "risk-mitigation premium"<sup>73</sup> that importers are ready to pay for HSS produced in North America. If Canadian purchasers buy HSS from offshore sources, they risk the market price going down during the three-month period that it takes for offshore product to reach a Canadian port. In addition, in comparison to other steel products, HSS has higher freight costs because it is more fragile and is typically too long for shipment by container.<sup>74</sup>

93. Mr. Halcrow testified that Russel Metals is the largest distributor of HSS in Canada and would not import offshore HSS at volumes of less than 5,000 to 10,000 tonnes per shipment because it would be financially unviable.<sup>75</sup>

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71. Exhibit RR-2013-001-05, Tables 50, 56, Vol. 1.1.

72. *Ibid.*

73. *Unitized Wall Modules* (12 November 2013), NQ-2013-002 (CITT) at para. 76.

74. *Transcript of Public Hearing*, Vol. 1, 28 October 2013, at 95-96, 135-36, 140-41.

75. Exhibit RR-2013-001-A-01 at 140-41, Vol. 11.

94. Mr. Halcrow also testified that volumes of 5,000 to 10,000 tonnes per shipment would be too risky due the risk-mitigation premium discussed above. Therefore, even if the order is rescinded, Russel Metals would not import such volumes from offshore sources.<sup>76</sup>

95. As such, Mr. Halcrow's evidence could be interpreted to suggest that offshore HSS is unlikely to enter the Canadian market.

96. Mr. Taberner agreed with Mr. Halcrow's testimony to the extent that, on a per shipment basis, the import volumes of HSS will not start at 5,000 to 10,000 tonnes but rather at smaller volumes, to test the Canadian market before potentially larger volumes of the subject goods enter the Canadian market. Mr. Taberner added, as an example, that producers in Turkey have the ability to ship product to Canada quickly because the required infrastructure is already in place and their distributors are currently selling similar Turkish products.<sup>77</sup>

97. Mr. Taberner invited a comparison of the likely import volumes of the subject goods to imports of standard pipe into Canada from offshore sources. He stated that shipments of 200 to 400 tonnes of Turkish standard pipe enter the Canadian market each month.<sup>78</sup> According to Mr. Taberner's testimony, HSS can be produced on the same equipment as standard pipe. Therefore, it would be relatively easy to add certain volumes of HSS to the shipments of standard pipe already coming in, especially since both types of product are sold to the same customers and distributors.<sup>79</sup>

98. Additional support for Mr. Taberner's testimony came from Mr. Germano who testified that even relatively small volumes of about 5,000 tonnes entering the Canadian market would be a signal of a larger "wave" of goods to come.<sup>80</sup>

99. The Tribunal finds that Mr. Halcrow's testimony on the likely volumes of the subject goods is limited to Russel Metals and is not indicative of what other importers and trading companies are likely to do.

100. Import permit data of the Department of Foreign Affairs, Trade and Development show that, in the first nine months of 2013, the following volumes of HSS did enter the Canadian market from offshore sources: China with 586 tonnes at CAN\$1,272 per tonne; India with 3,282 tonnes at CAN\$748 per tonne; Japan with 1,739 tonnes at CAN\$790 per tonne; and Mexico with 788 tonnes at CAN\$849 per tonne.<sup>81</sup>

101. These data clearly indicate that importers and trading companies have imported smaller volumes of HSS into the Canadian market and support Mr. Taberner's testimony that the subject goods will start at relatively small volumes to test the market, and then increase.

102. On the basis of foregoing analysis, considering both general and country-specific evidence and the uncontested testimony of the witnesses, the Tribunal finds that, should the order be rescinded, the likely cumulative volume of imports of dumped goods from Korea and Turkey will be in the range of 400 to

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76. *Transcript of Public Hearing*, Vol. 1, 28 October 2013, at 116, 146.

77. *Ibid.*, Vol. 2, 29 October 2013, at 160-61.

78. *Ibid.* at 161.

79. *Ibid.* at 156-58.

80. *Ibid.* at 110.

81. Exhibit RR-2013-001-C-03, tab 2 at 2, Vol. 11B.

800 tonnes each month, or approximately 9,600 tonnes per year.<sup>82</sup> This would represent a significant increase in dumped goods from these countries in absolute terms. Furthermore, the Tribunal finds that 9,600 tonnes per year would represent approximately 2 percent of the domestic market, a significant increase relative to the production and consumption of like goods, and this volume would likely become increasingly significant over the next 12 to 18 months.

#### Likely Volumes of Dumped Goods from South Africa

103. In this expiry review, witnesses for the domestic industry testified that the presence of South African steel products, including the subject goods, is no longer being felt in the North American market. In addition to the absence of the subject goods from South Africa in the Canadian market during the POR, Mr. David Seeger and Mr. Taberner both testified that they had no specific examples of offers of South African HSS in the U.S. market.<sup>83</sup> According to Mr. Seeger, any tonnage of South African HSS shipped to the United States has not been of a significant nature.<sup>84</sup>

104. The documentary evidence for the subject goods from South Africa was scarce in these proceedings, particularly in relation to production volumes, production capacity and capacity utilization.<sup>85</sup> When asked by the Tribunal about the dearth of evidence submitted by the domestic industry in relation to the subject goods from South Africa, Atlas Tube, Welded Tube and Nova submitted that these domestic producers are principally concerned with what they see as a real significant, imminent threat of renewed injury from imports from Korea and Turkey, and less concerned with imports from South Africa.<sup>86</sup>

105. Several commentators refer to the South African tube and pipe market as having surplus capacity, which may be linked to import competition from the Far East displacing domestic sales.<sup>87</sup> However, a preponderance of the evidence on the record indicates that South African exports of HSS to the North American market are unlikely at present and in the near future, due to substantial changes in South Africa's welded tube and pipe industry and marketplace since the previous expiry review. These changes include production shortages and non-competitiveness issues in the South African pipe and tube market, as well as a lack of interest in exporting to North America.

106. For example, in an article published in March 2013, the Southern African Institute of Steel Construction stated that a record level of 1 million tonnes of steel products imported in 2012 was not due to slackening domestic demand, as import prices were not lower than those of domestically produced steel. Rather, the lower demand could be attributed to the fact that the domestic steel industry's production has been erratic and far below potential.<sup>88</sup>

107. Other evidence indicates that, during the POR, the South African steel industry grappled with technical problems at the larger local mills, followed by mining and transport strikes and the continued threat of labour unrest.<sup>89</sup> There are also reports that ArcelorMittal SA (AMSA), the largest steel producer in

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82. On the basis of Mr. Taberner's testimony that shipments of 200 to 400 tonnes of Turkish standard pipe enter the Canadian market each month, the Tribunal is of the view that it is likely that similar volumes of HSS from Korea and Turkey will enter the Canadian market.

83. *Transcript of Public Hearing*, Vol. 1, 28 October 2013, at 82; *ibid.*, Vol. 2, 29 October 2013, at 169.

84. *Ibid.*, Vol. 1, 28 October 2013, at 82.

85. No South African exporters of the subject goods participated in the Tribunal's current expiry review proceedings.

86. *Transcript of Public Hearing*, Vol. 2, 29 October 2013, at 233, 234, 237.

87. Exhibit RR-2013-001-A-01A at 167, 169, Vol. 11; Exhibit RR-2013-001-12.12, Vol. 1.4 at 81, 84.

88. Exhibit RR-2013-001-A-01A at 170, Vol. 11.

89. *Ibid.* at 162, 167.

South Africa, which sells 90 percent of its steel domestically, saw its earnings plunge from R5.7 billion in 2007 to a loss of R518 million in 2012, notwithstanding preferential input prices for iron ore.<sup>90</sup> In the first half of 2013, AMSA's steel sales dropped by 16 percent, and liquid steel production declined by 9 percent, due to a fire at one of its operations.<sup>91</sup>

108. Some observers regard the disruption of domestic supply as a short-term issue and contend that there is still a glut of steel capacity in South Africa<sup>92</sup>. There are also reports that the South African Government has plans for an export-oriented steel industry and the possibility of state intervention.<sup>93</sup> However, other industry commentators have indicated that South Africa's steel industry is no longer as globally competitive. In particular, a news article dated April 2013, in which the CEO of AMSA was interviewed, described the domestic market conditions, such as relatively low electricity and labour rates, that previously made South Africa one of the world's cheapest steel producers as having "completely changed" over the last five years.<sup>94</sup> The Association of Steel Tube and Pipe Manufacturers of South Africa has also stated that it is becoming more difficult to export commodity steel tube and pipe from South Africa and that, in order to boost exports, the industry requires a "radical change" towards value-added products.<sup>95</sup>

109. In light of the above, the Tribunal finds that there is very little evidence before it supporting the allegation by the domestic producers and as found by the CBSA in its reasons<sup>96</sup> that South Africa's welded tube and pipe industry currently has sufficient production capacity and an export interest in the North American market that would likely lead to increased exports to the Canadian market in the next 12 to 18 months, if the order is rescinded.

110. The apparent lack of interest of South African producers of pipe and tube products in exporting to the North American market is starkly contrasted by the strong evidence that their counterparts in Korea and Turkey are export-oriented, with a clear and sustained commercial interest in the North American market. Atlas Tube and Welded Tube submitted that Korea and Turkey are the "big players" globally, in light of their significant production capacity, excess capacity and a demonstrated interest in exporting.<sup>97</sup> In this regard, Nova agreed that Turkey and Korea, in particular, could be distinguished from South Africa because of their export orientation, which increases the likelihood that significant volumes from those countries would come to Canada if the order is rescinded.<sup>98</sup>

111. The above distinction between the likely volumes from South Africa and the likely volumes from Turkey and Korea is supported by the export data for welded pipe and tube products at the six-digit HS code level. These data clearly show that the volume of South African exports of welded pipe and tube to the

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90. Exhibit RR-2013-001-15.01A, Vol. 3A at 22.

91. Exhibit RR-2013-001-A-01A at 163, Vol. 11.

92. *Ibid.* at 167, 169.

93. *Ibid.* at 162, 168-69, 170-71.

94. Exhibit RR-2013-001-15.01A, Vol. 3A at 22.

95. Exhibit RR-2013-001-12.12, Vol. 1.4 at 84.

96. With respect to the evidence from the CBSA's expiry review investigation, the Tribunal is not bound by all the facts and opinions upon which the CBSA's determination is based and can give them the weight that it finds appropriate in conducting its own assessment of factors, such as the likely volume of dumped goods, which go to the core of the Tribunal's mandate in the context of an expiry review. See, for example, *Certain Flat Hot-rolled Carbon and Alloy Steel Sheet Products* (30 June 2004), RR-2003-002 (CITT) at paras. 68-69.

97. *Transcript of Public Hearing*, Vol. 2, 29 October 2013, at 206, 240-41.

98. *Transcript of Public Hearing*, Vol. 1, 28 October 2013, at 70; *Transcript of Public Hearing*, Vol. 2, 29 October 2013, at 239, 242.

United States during the POR were relatively low, with 3,958 tonnes in 2010, 990 tonnes in 2011, and 8,189 tonnes in 2012.<sup>99</sup> In contrast, as discussed above, the volume from Korea and Turkey at that level was 178,185 tonnes and 191,179 tonnes, respectively, in 2012.<sup>100</sup>

112. Similarly, the absence of imports from South Africa of welded pipe and tube at the six-digit HS code level to Canada in 2012 is contrasted by the 6,154 tonnes and 10,777 tonnes from Korea and Turkey respectively. This represents a notable change from the previous expiry review, during which the volume of HSS from South Africa exported to Canada was 1,250 tonnes in 2005, 2,099 tonnes in 2006 and 74 tonnes in 2007. Even then, the volumes of South African HSS were significantly lower than the volumes imported from either Turkey or Korea.<sup>101</sup>

113. The Tribunal is therefore not satisfied that South African producers of HSS currently have the production capacity, excess capacity and interest to increase exports to the North American market, which, along with the virtual absence of South African steel products in North America as a whole over the POR, suggests that imports from South Africa are unlikely to appear in the Canadian market in the next 12 to 18 months.

114. In summary, the Tribunal is of the view that, if the order is rescinded, imports of the subject goods from South Africa are not likely to reappear in the Canadian market in the next 12 to 18 months. Accordingly, the Tribunal finds that it is not likely that the resumed dumping of the subject goods from South Africa will result in injury to the domestic industry.

#### **Likely Prices of Dumped Goods and the Effects on the Prices of Like Goods**

115. The Tribunal may consider whether, if the order is rescinded, the dumping of the subject goods is likely to significantly undercut the prices of the like goods, depress those prices or suppress them by preventing increases in those prices that would likely have otherwise occurred.<sup>102</sup>

116. The domestic producers submitted that HSS is a commodity product and that buying decisions are largely made on the basis of the lowest price; therefore, the lowest price offers at any given time in the market bring the market price down. For this reason, low-priced HSS exported to Canada from China and other low-cost sources, such as India, are a real threat to the domestic industry because the subject goods entering Canada will have to lower their prices to compete with these other low-cost imports.<sup>103</sup>

117. The domestic producers submitted that, if the order is rescinded, imports of the subject goods will undercut, depress and suppress the price of like goods, especially in light of how the Internet and e-mails have radically altered how offers and solicitations are made and the speed and ease with which deals are negotiated—a phenomenon that has increased even since the last expiry review.

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99. Exhibit RR-2013-001-05, Table 53, Vol. 1.1.

100. Exhibit RR-2013-001-05, Tables 50, 56, Vol. 1.1.

101. Exhibit RR-2013-001-05, Tables 50, 54, 56, Vol. 1.1.; Exhibit RR-2008-001-11 (protected), Tables 53, 55, 57, Vol. 2.3.

102. Paragraph 37.2(2)(b) of the *Regulations*.

103. *Transcript of Public Hearing*, Vol. 1, 28 October 2013, at 92.

118. ÇIB argued that Turkish prices are competitive with those of similar goods sold by producers in non-subject countries on world markets. Furthermore, some similar goods are already present in the Canadian market and have not caused disruption.<sup>104</sup> ÇIB further argued that there is nothing in the evidence to suggest that Turkish producers are likely to make a significant effort to sell the subject goods at a discount or undercut average Canadian prices over the next 12 or 18 months.

#### Tribunal's Analysis

119. In the last expiry review, the Tribunal concluded that "... HSS is a commodity product and that price is the primary factor driving the purchasing decision."<sup>105</sup> The Tribunal continues to be of this view and considers that the subject goods from Korea and Turkey would compete in the Canadian market with the like goods and other imported HSS largely on the basis of price.

120. The documentary evidence and witness statements, filed on behalf of the domestic industry, regarding price undercutting and price suppression centered on an examination of a number of e-mail messages describing offers of Turkish and Korean HSS shipped to Houston, Texas.

121. For example, there was an offer for HSS from Turkey, duty paid into the port of Houston, with a delivery date of November 2013, at a price of US\$844 per tonne. Another offer was for HSS from Turkey, FOB Houston, with a delivery date of September 2013, and a price of US\$792 per tonne.<sup>106</sup>

122. The domestic industry submitted that the Houston quotes should be compared to the current Canadian market price because they are representative of the prices that would be offered in the Canadian market, if the order is rescinded, all other factors, such as shipping costs, being relatively similar.

123. However, at the hearing, witnesses testified that, since the beginning of August 2013, hot-rolled coil costs have increased, which has driven a large increase in the market price of HSS.<sup>107</sup>

124. As a result, the documentary evidence and witness statements submitted by the domestic industry with regard to the market price of HSS were of limited relevance, particularly as the Turkish offers of HSS shipped to the port of Houston were made before the price increases for hot-rolled coil that occurred in the second half of 2013.

125. In the analysis that follows, the Tribunal has primarily relied on witness testimony to determine the Canadian market price of HSS and the likely price of the subject goods.

#### Price Undercutting

126. Witnesses testified that current Canadian market price for HSS is approximately CAN\$990 per tonne, as recent increases in hot-rolled coil costs have driven up the domestic price of HSS from about CAN\$888 per tonne in the first six months of 2013 to CAN\$990 per tonne in October 2013.<sup>108</sup>

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104. *Ibid.*, Vol. 2, 29 October 2013, at 216-18; Exhibit RR-2013-001-05, Table 58, Vol. 1.1.

105. *Structural Tubing* (22 December 2008), RR-2008-001 (CITT) at para. 92.

106. US\$792 = CAN\$817, using the average conversion factor for August 2013 of 0.9607.

107. During the hearing, witnesses testified that the current market price was about CAN\$990 per tonne. *Transcript of Public Hearing*, Vol. 1, 28 October 2013, at 14, 36, 90, 102; *ibid.*, Vol. 2, 29 October 2013, at 164-68.

108. *Transcript of Public Hearing*, Vol. 1, 28 October 2013, at 14-15, 36, 80, 90, 102.

127. Witnesses testified that the likely price of the subject goods will be approximately CAN\$900 per tonne.<sup>109</sup>

128. In order to determine if the testimony on the likely price of the subject goods was reasonable, the Tribunal examined the evidence on the record relating to the current domestic price for hot-rolled coil and the offers of HSS from Turkey and Korea shipped to Houston.<sup>110</sup>

129. An analysis of the responses to the Tribunal's questionnaires by the domestic producers shows that their average cost of hot-rolled coil in the first six months of 2013 was approximately CAN\$676 per tonne,<sup>111</sup> whereas, according to testimony, at the end of October 2013, the price of hot-rolled coil had reached about CAN\$730 per tonne.<sup>112</sup> This represents a CAN\$54 per tonne increase compared to the first six months of 2013.

130. The Tribunal next considered the average price of the offers of HSS from Turkey and Korea shipped to Houston. These prices were converted to Canadian dollars, and the recent price increase of hot-rolled coil as noted above was added to this average price. This analysis supports the testimonies of Mr. Halcrow and Mr. Taberner that the likely price of the subject goods will be approximately CAN\$900 per tonne.

131. On the basis of this analysis, the Tribunal finds that the dumped goods from Korea and Turkey will likely undercut the domestic price of the like goods.

#### Price Depression

132. In examining likely price depression, the question is how much the domestic producers will likely have to lower prices of like goods in order to keep purchasers from switching to the dumped imports.

133. During the hearing, Mr. Halcrow explained that, because of the risk-mitigation premium, a distributor looks for a price differential of CAN\$60 to CAN\$80 per tonne between domestic and import offers.<sup>113</sup> Mr. Daniel Bouchard and Mr. Germano agreed that, if they were to buy large quantities of offshore HSS, they would also look for a price spread of at least CAN\$80 per tonne.<sup>114</sup>

134. Given the likely price of CAN\$900 per tonne for the subject goods, the Tribunal determined that the domestic producers would likely lower their price of HSS to prevent purchasers from switching from the like goods to the subject goods, while covering their increased cost for hot-rolled coil. The likely depressed

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109. *Transcript of Public Hearing*, Vol. 1, 28 October 2013, at 91-92; *Transcript of Public Hearing*, Vol. 2, 29 October 2013, at 160; Exhibit RR-2013-001-A-04 (protected) at 21, Vol. 12.

110. Given the scarcity of evidence on the record with regard to hot-rolled coil prices in the subject countries, the Tribunal relied on witness testimony indicating that hot-rolled coil prices had increased for both domestic and foreign producers of HSS. *Transcript of Public Hearing*, Vol. 1, 28 October 2013, at 15. Submissions by the domestic producers indicated that hot-rolled coil is a global commodity and that prices around the world tend to follow the same general movements. Exhibit RR-2013-001-A-01 at para. 144, Vol. 11.

111. The domestic producers reported that the cost of hot-rolled coil equals 100 percent of the cost of direct materials used. Therefore, on the basis of the industry's consolidated statement of cost of goods manufactured, the estimated weighted average cost of hot-rolled coil for the domestic producers, during the first six months of 2013, was CAN\$676 per tonne. Exhibit RR-2013-001-05, Table 37, Vol. 1.1; Exhibit RR-2013-001-06 (protected), Table 39, Vol. 2.1.

112. *Transcript of Public Hearing*, Vol. 1, 28 October 2013, at 15.

113. *Ibid.* at 145-46.

114. *Ibid.* at 133-34.



selling price is estimated at CAN\$942 per tonne, based on the previous price of domestic HSS of CAN\$888 per tonne,<sup>115</sup> plus the CAN\$54 per tonne increase, as estimated above, in the cost of hot-rolled coil for domestic producers.

135. The Tribunal finds that price depression up to CAN\$48 per tonne is a reasonable estimate of the likely price depression, given the objective of steel producers to cover their costs of production,<sup>116</sup> the risk-mitigation premium of CAN\$60 to CAN\$80 per tonne that purchasers will pay for like goods and the testimony of purchasers of like goods that they will continue to support the domestic industry as long as its pricing is reasonable in relation to input and conversion costs.<sup>117</sup>

136. On the basis of this analysis, the Tribunal finds that the domestic producers will likely have to lower their current domestic prices by up to CAN\$48 per tonne in an attempt to keep purchasers from switching to the dumped goods.

#### Price Suppression

137. The domestic producers submitted that the domestic price of HSS has increased, but not sufficiently to cover the increase in the cost of hot-rolled coil.<sup>118</sup> Mr. Seeger testified that the market price for hot-rolled coil had risen by about CAN\$100 per tonne, to CAN\$730 per tonne, in the last six months. He stated that it was difficult to pass the increase on to customers.<sup>119</sup> Mr. R. S. Mandel stated that Welded Tube had been able to pass on some of the increases in the cost of hot-rolled coil, but not the full amount, and that Welded Tube had suffered price erosion throughout 2013 as a result.<sup>120</sup> Mr. Bouchard agreed with the prices quoted by the other witnesses.<sup>121</sup>

138. However, the Tribunal examined the actual hot-rolled coil prices for the domestic producers for the first six months of 2013<sup>122</sup> and compared them to the current price of hot-rolled coil of CAN\$730 per tonne, and observed that hot-rolled coil prices have increased by about CAN\$54 per tonne, while the domestic price of HSS has increased by about CAN\$90 per tonne. On the basis of this analysis, the Tribunal finds that, to date, the domestic producers have not suffered price suppression.

139. Mr. Halcrow stated that it would be foolish to buy from offshore sources for a CAN\$20 to CAN\$30 difference.<sup>123</sup> Finally, Mr. Halcrow stated that Russel Metals would continue to support the domestic industry as long as its pricing was reasonable in relation to input and conversion costs.<sup>124</sup> Therefore, the Tribunal finds it unlikely that the domestic producers will suffer price suppression over the next 12 to 18 months.

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115. Exhibit RR-2013-001-06 (protected), Table 34, Vol. 2.1.

116. Domestic producers indicated that the cost of hot-rolled coil is close to 100 percent of input costs.

117. *Transcript of Public Hearing*, Vol. 1, 28 October 2013, at 135.

118. Exhibit RR-2013-001-A-01 at paras. 144-47, Vol. 11.

119. *Transcript of Public Hearing*, Vol. 1, 28 October 2013, at 14-15.

120. *Ibid.* at 37.

121. *Ibid.* at 102.

122. Exhibit RR-2013-001-06 (protected), Table 39, Vol. 2.1.

123. *Transcript of Public Hearing*, Vol. 1, 28 October 2013, at 133.

124. *Ibid.* at 135.

### **Likely Performance of the Domestic Industry and Likely Impact of the Dumped Goods on the Domestic Industry**

140. The Tribunal will next turn to an assessment of the likely impact of the above volumes and prices on the domestic industry if the order is rescinded, taking into consideration the likely performance of the domestic industry.<sup>125</sup>

141. The domestic producers submitted that, if the order is rescinded, the renewed dumping of the subject goods will have an immediate negative impact on prices, revenues, gross margins, profits, investments, sales, market share, employment and capacity utilization.<sup>126</sup>

142. ÇIB argued that the order has been in place for 10 years, during which time the Canadian industry has grown and solidified, and that the expiry of the order will not result in injury. ÇIB noted that, during the POR, the domestic industry performed very well financially, its production volume grew, its market share ranged between 74 and 77 percent, and the domestic producers were committed to new investment projects and expansions. ÇIB argued that this evidence strongly suggests that the expiry of the order is unlikely to result in injury to the domestic industry.

#### Tribunal's Analysis

143. Overall, the domestic industry performed well during the first three years of the POR: the production, sales and market share of the like goods have increased, capacity utilization is stable and employment levels have increased modestly.

144. From 2010 to 2012, the domestic industry's total net sales value and net sales value on a dollar-per-tonne basis increased by 24 percent and 5.4 percent respectively. Over the same time period, its consolidated gross margin increased by 22 percent and its gross margin on a dollar-per-tonne basis increased by 4 percent, while its cost of goods sold as a percent of net sales value remained relatively stable at 82 percent.

145. Unfortunately, due to the slowing of the main economic driver for HSS in the Canadian market, namely, the non-residential construction sector, these financial gains did not continue over the first half of 2013 compared to 2012. The total net sales value and net sales value on a dollar-per-tonne basis decreased by 15 percent and 10 percent respectively. As a result, the industry's consolidated gross margin decreased by 33 percent in the first six months of 2013 compared to the same period in 2012, and over the same period, the gross margin on a dollar-per-tonne basis decreased by 28 percent.

146. Looking forward, the evidence indicates that construction activity and housing starts are expected to remain soft. As previously noted, forecasts indicate that building permits and housing starts will be down in 2013 and 2014.<sup>127</sup> Mr. Mandel testified that the HSS market today is at best sluggish. He noted that there is a dearth of non-residential construction and that, given that much of the HSS is used in that sector, the domestic industry feels the ill effects. In addition, in certain regions, there has been a fairly significant exodus of manufacturers that use HSS in some of their applications. As a result, Mr. Mandel noted that this has had a very significant negative impact on the industry at large.<sup>128</sup>

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125. See paragraphs 37.2(2)(c), (e) and (g) of the *Regulations*.

126. Exhibit RR-2013-001-A-01 at paras. 158-62, Vol. 11; Exhibit RR-2013-001-A-03 at paras. 6-7, Vol. 11B; Exhibit RR-2013-001-B-03 at paras. 10-15, 28-41, Vol. 11B.

127. Exhibit RR-2013-001-E-03 at 16, Vol. 13.

128. *Transcript of Public Hearing*, Vol. 1, 28 October 2013, at 35-36.

147. The Tribunal accepts the argument of the domestic producers that, in the “real market”, which includes opportunistic traders, small volumes of dumped goods entering the market on a regular basis will have a reverberating negative impact, depressing and eroding domestic prices.

148. On the basis of the uncontested testimonies of Mr. Taberner and Mr. Germano, the Tribunal also accepts the argument of the domestic producers that foreign exporters test the market with small volumes of dumped goods, which signals a wave of larger shipments to follow.<sup>129</sup> Consequently, the domestic producers will have to lower their prices to some extent or potentially lose orders.<sup>130</sup>

149. The Tribunal finds that the likely cumulative volume of dumped goods from Korea and Turkey of 9,600 tonnes in the first year will have an impact on production, sales volume and market share. Not surprisingly, dumped HSS from Korea and Turkey have been absent from the Canadian market. However, the Tribunal finds that, if the order is rescinded, dumped HSS from these two countries will capture approximately 2 percent of the Canadian market in the first year, and larger shares in subsequent years.<sup>131</sup>

150. The Tribunal has determined, on the basis of the evidence on the record, that, if the order is rescinded, the likely price of the dumped goods would be approximately CAN\$900 per tonne. The Tribunal has also determined that the domestic producers would likely have to lower their current prices from CAN\$990 per tonne to about CAN\$942 per tonne, a CAN\$48 per tonne decrease, in an attempt to keep purchasers from switching from the like goods to the dumped goods from Korea and Turkey. This would likely result in a decrease of up to 27 percent in their consolidated gross margin on a dollar-per-tonne basis.

151. In summary, on the basis of the above analysis of the likely impact of the dumped goods on the domestic industry, the Tribunal finds that, if the order is rescinded for Korea and Turkey, the likely price depression and price undercutting will have a negative impact on the domestic industry’s sales volume and market share, and a significant negative impact on its gross margins, which, in turn, will have a negative effect on the domestic industry’s return on investments, cash flow and employment levels.

### **Factors Other Than Dumping**

152. Pursuant to paragraph 37.2(2)(k) of the *Regulations*, the Tribunal may consider any other factors that are relevant in the circumstances. Accordingly, the Tribunal reviewed certain factors unrelated to dumping that could adversely affect the domestic industry.

153. The Tribunal did not receive submissions concerning other factors.

154. The Tribunal notes, however, that there may be a number of factors that affect the industry’s performance that have little to do with dumping. These include shifts in the main drivers for the demand of HSS, particularly construction activity and the cost of hot-rolled coil, the major input cost for HSS.

155. The Tribunal recognizes that the domestic industry has other challenges. However, it does not consider that any injury resulting from these challenges has any bearing on the potential injury attributable to the likely volumes and prices of dumped goods from Korea and Turkey that will enter the Canadian market if the finding is rescinded.

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129. *Ibid.* at 109-10; *ibid.*, Vol. 2, 29 October 2013, at 202-203.

130. Exhibit RR-2013-001-A-01 at 5, Vol. 11; *Transcript of Public Hearing*, Vol. 1, 28 October 2013, at 32, 176, 193-94.

131. Dumped HSS held 9 percent of the Canadian market at the time of the original inquiry. *Structural Tubing* (23 December 2003), NQ-2003-001 (CIIT) at 13.

**CONCLUSION**

156. On the basis of the foregoing analysis, and pursuant to paragraph 76.03(12)(b) of *SIMA*, the Tribunal hereby continues its order in respect of structural tubing originating in or exported from Korea and Turkey.

157. On the basis of the foregoing analysis, and pursuant to subparagraph 76.03(12)(a)(ii) of *SIMA*, the Tribunal hereby rescinds its order in respect of structural tubing originating in or exported from South Africa.

Jason W. Downey

Jason W. Downey  
Presiding Member

Stephen A. Leach

Stephen A. Leach  
Member

Daniel Petit

Daniel Petit  
Member