

**CERTAIN STEEL GOODS**

**GC-2018-001-E3**

**NOVEMBER 10, 2020**



**FOREWORD**

On May 9, 2019, by the *Order Referring to the Canadian International Trade Tribunal, for Inquiry into and Reporting on, the Matter of the Exclusion of Certain Steel Goods from the Order Imposing a Surtax on the Importation of Certain Steel Goods*, the Canadian International Trade Tribunal was directed by Her Excellency the Governor in Council, on the recommendation of the Minister of Finance, to conduct periodic inquiries regarding exclusion requests concerning certain heavy plate and stainless steel wire which are subject to safeguard measures enacted in the *Order Imposing a Surtax on the Importation of Certain Steel Goods*.

The present report of the Tribunal is in respect of the third inquiry conducted in response to the *Order Referring to the Canadian International Trade Tribunal, for Inquiry into and Reporting on, the Matter of the Exclusion of Certain Steel Goods from the Order Imposing a Surtax on the Importation of Certain Steel Goods*.

Peter Burn

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Peter Burn  
Presiding Member

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Cheryl Beckett  
Cheryl Beckett  
Member

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Randolph W. Heggart  
Randolph W. Heggart  
Member



**EXECUTIVE SUMMARY**

On May 9, 2019, by the *Order Referring to the Canadian International Trade Tribunal, for Inquiry into and Reporting on, the Matter of the Exclusion of Certain Steel Goods from the Order Imposing a Surtax on the Importation of Certain Steel Goods*, the Canadian International Trade Tribunal was directed by Her Excellency the Governor in Council, on the recommendation of the Minister of Finance, to conduct periodic inquiries regarding exclusion requests concerning certain heavy plate and stainless steel wire which are subject to safeguard measures enacted in the *Order Imposing a Surtax on the Importation of Certain Steel Goods*. This was the Tribunal's third inquiry conducted in response to the *Order Referring to the Canadian International Trade Tribunal, for Inquiry into and Reporting on, the Matter of the Exclusion of Certain Steel Goods from the Order Imposing a Surtax on the Importation of Certain Steel Goods*.

The Tribunal was required to submit to the Governor in Council, within 60 days of the commencement of this inquiry, i.e. by November 10, 2020, a report including the Tribunal's determination, reasons and any recommendations in respect of exclusion requests made concerning the above-mentioned steel goods.

The Tribunal received a request for exclusion from one company. The Tribunal recommends that the request be denied.



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## PART I

## INTRODUCTION

[1] On October 10, 2018, the Governor in Council adopted the *Order Imposing a Surtax on the Importation of Certain Steel Goods*,<sup>1</sup> thereby imposing a temporary surtax on the importation of certain classes of steel products that were alleged to have been imported into Canada in increased quantities and to have caused or threatened to cause serious injury to domestic producers of like or directly competitive goods.

[2] On the same day, the Tribunal was directed by the *Order Referring to the Canadian International Trade Tribunal, for Inquiry into and Reporting on, the Matter of the Importation of Certain Steel Goods*,<sup>2</sup> to conduct a safeguard inquiry concerning the importation into Canada of certain steel goods subject to the *Surtax Order*. The classes of goods subject to the inquiry were (1) heavy plate, (2) concrete reinforcing bar, (3) energy tubular products, (4) hot-rolled sheet, (5) pre-painted steel, (6) stainless steel wire, and (7) wire rod.

[3] On April 3, 2019, the Tribunal published its report in response to the *Safeguard Inquiry Order*. The Tribunal's determinations and recommendations were as follows:

- Heavy plate from the subject countries (other than goods originating in Korea, Panama, Peru, Colombia and Honduras) was being imported in such increased quantities and under such conditions as to be a principal cause of a threat of serious injury to the domestic industry. The Tribunal therefore recommended a remedy in the form of a tariff rate quota (TRQ) on imports of heavy plate from subject countries, other than goods originating in Korea, Panama, Peru, Colombia, Honduras, or countries whose goods are eligible for *General Preferential Tariff* (GPT) treatment.
- Stainless steel wire imported from the subject countries (other than goods originating in Korea, Panama, Peru, Colombia and Honduras) was being imported in such increased quantities and under such conditions as to be a principal cause of a threat of serious injury to the domestic industry. Therefore, the Tribunal recommended a remedy in the form of a TRQ on imports of stainless steel wire from subject countries, other than goods originating in Korea, Panama, Peru, Colombia, Honduras, or countries whose goods are eligible for GPT treatment.
- The Tribunal did not recommend remedies with respect to the other five classes of goods.

[4] On May 9, 2019, the Governor in Council, on the recommendation of the Minister of Finance, adopted the *Order Amending the Order Imposing a Surtax on the Importation of Certain Steel Goods (Final Safeguards)*,<sup>3</sup> thereby implementing the recommendations of the Tribunal to impose final safeguard measures with respect to heavy plate and stainless steel wire.<sup>4</sup>

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<sup>1</sup> SOR/2018-206 [*Surtax Order*].

<sup>2</sup> P.C. 2018-1275 [*Safeguard Inquiry Order*].

<sup>3</sup> SOR/2019-127.

<sup>4</sup> The provisional measures regarding the other classes of goods expired on April 29, 2019.

[5] Also on May 9, 2019, the Tribunal was directed under the terms of the *Order Referring to the Canadian International Trade Tribunal, for Inquiry into and Reporting on, the Matter of the Exclusion of Certain Steel Goods from the Order Imposing a Surtax on the Importation of Certain Steel Goods*<sup>5</sup> to conduct periodic inquiries regarding exclusion requests concerning heavy plate and stainless steel wire products which are subject to the *Surtax Order*, with each inquiry set to commence six months after the Tribunal has submitted its report for the previous inquiry. Subject countries are all countries except the United States, Mexico, Chile, Israel, Korea, Colombia, Honduras, Panama, Peru and all countries benefitting from the GPT (as listed in Appendix B to the Tribunal's Notice of Commencement of Exclusions Inquiry).

[6] The present report of the Tribunal is in respect of the third inquiry conducted in response to the *Exclusions Inquiry Order*.

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<sup>5</sup> P.C. 2019-0476 [*Exclusions Inquiry Order*].

## LEGAL FRAMEWORK

[7] The purpose of this inquiry is to determine whether certain heavy plate and stainless steel wire products for which exclusion requests were submitted should be excluded from the safeguard measures imposed by the *Surtax Order*. The details of the legal framework under which the inquiry is conducted were described in the Tribunal's report in GC-2018-001-E1 and are adopted for the purposes of the current report.

## PART II

### EXCLUSION REQUESTS AND RECOMMENDATIONS

[8] The Tribunal received a request for exclusion from one company in this inquiry. The request is briefly discussed below.

#### Heavy plate

[9] There were no requests regarding heavy plate. The Tribunal therefore does not recommend that any exclusions regarding heavy plate be granted.

#### Stainless steel wire

[10] The *Surtax Order* defined “stainless steel wire” as follows:

Cold drawn and cold drawn and annealed, stainless steel round wire, up to 0.256 inches (6.50 mm) in maximum solid cross-sectional dimension; and cold drawn, and cold drawn and annealed, stainless steel cold-rolled profile wire, up to 0.031 square inches (0.787 sq. mm) in maximum solid cross-sectional area.

[11] An exclusion was implemented by the *Order Amending the Order Imposing a Surtax on the Importation of Certain Steel Goods (Exclusions)*<sup>6</sup> as a result of the Tribunal’s recommendations in GC-2018-001-E1. Thus, the “stainless steel wire” class of goods excludes “439 copper-coated TiCu stainless steel wire in diameters of 0.030 inch to 0.187 inch”.

#### Request by Industrial Process Products Ltd.

[12] Industrial Process Products Ltd. (IPP), an importer, purchaser and end user of stainless steel wire, filed an exclusion request for stainless steel fine wire, in diameters of 0.011" (0.28 mm) and 0.006" (0.15 mm), and wound onto new DIN 200 spools.

[13] IPP explained that it uses this type of wire with its high speed knitting machines as part of the manufacturing process for producing mesh pads that are used primarily in the oil and gas sector as filters to remove liquids from gas streams.<sup>7</sup> It further explained that the quality of the wire and the spools is critical as the wire must be able to come off the spools at high speed and not break or snag during the knitting process.

[14] IPP submitted that it has, in the past, ordered this type of wire from Central Wire Industries Ltd. (CWI), the sole domestic producer of stainless steel wire, but that the product was unusable as it was not able to come off the spools fast enough without breaking. It added that it was granted a similar exclusion by the Tribunal in 2004 in Inquiry No. NQ-2004-001.<sup>8</sup>

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<sup>6</sup> SOR/2019-313.

<sup>7</sup> Exhibit GC-2018-001-E3-05.01 at 3.

<sup>8</sup> *Certain Stainless Steel Wire* (30 July 2004), NQ-2004-001 (CITT) [SSW]. In this injury inquiry conducted pursuant to section 42 of the *Special Import Measures Act*, the Tribunal found that the dumping of certain stainless steel wire from Korea, Switzerland and the United States, and the subsidizing of the same product from India caused injury to the domestic industry. However, the Tribunal excluded a number of products from its injury findings, including stainless steel wire in diameters of 0.032 inches (0.813 mm) and smaller (i.e. stainless steel fine wire), which encompassed the products covered by IPP’s request for exclusion in that inquiry, which are identical to the products covered by its request in the present proceedings.

[15] CWI opposed IPP's exclusion request in its entirety. It submitted that it actively produces and sells goods that are identical in all respects to the products for which IPP requested an exclusion and that the granting of such an exclusion would cause financial harm to CWI and seriously weaken the benefits which it is currently deriving from the imposition of the safeguard measures. It added that the production and sale of "fine wire" (i.e. wire in diameters of 0.032 inches or smaller) represents a significant element of CWI's business in Canada and that, if the exclusion is granted, customers of other diameters of fine wire could switch to the purchase of the two diameters specified in the exclusion request in order to access low-priced imported fine wire.

[16] CWI noted that it provided IPP with a quote for the wire subject to the exclusion request in January 2020, but that it was not accepted by IPP due to price. On the issue of quality, it submitted that it has no record of IPP ever having made a quality complaint and that, in fact, it produces itself a product very similar to IPP's mesh pads in its Houston, Texas, production facility using fine wire produced in Perth, Ontario, without issue.

[17] With respect to IPP's reference to "DIN 200" spools, CWI submitted that it is able to accommodate any wire packaging requests its customers have, including clean and new DIN 200 spools. As for the exclusion granted by the Tribunal in *SSW*, it submitted that it has no relevance to the present proceeding.

[18] In reply to CWI's response, IPP submitted that the fine wire it had purchased in the past from CWI had a number of quality issues that prevented it from being used in its manufacturing process. It stated that IPP presented these problems and provided actual samples of the problematic CWI product in 2004 during the Tribunal's hearing in *SSW*. It also emphasized that its purchasing decisions are based on the need for high quality wire rather than on price.

[19] IPP submitted that it has purchased different non-mission-critical items from CWI in the last few years but that there were issues with quantities delivered and time to shipment, which it stated creates doubt about being able to trust and use CWI for anything that is mission-critical, like fine wire.

[20] Finally, IPP submitted that, since CWI manufactures mesh pads in the United States, it is a direct competitor and IPP would therefore be at a great competitive disadvantage if it were forced to purchase its fine wire from CWI.

[21] Paragraph 3(b) of the *Exclusions Inquiry Order* provides that, in conducting an inquiry, the Tribunal is to determine "if there is at least one domestic source of supply" for the goods covered by the exclusion request or "if there is a firm and commercially viable plan to produce those goods domestically." The evidence on the record of this inquiry clearly shows that there is a domestic source of supply for the fine wire that is the subject of IPP's exclusion request. Indeed, in his statement of evidence, Mr. Doug Ross, General Manager of Operations at CWI's Perth, Ontario, plant, provided CWI's annual shipments of fine wire, in diameters of 0.006 and 0.011 inches, from 2017 to 2020.<sup>9</sup> These amounts are not insignificant. Moreover, in order to substantiate his statements, Mr. Ross provided a number

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<sup>9</sup> Exhibit GC-2018-001-E3-10.01A (protected) at para. 17.

of invoices showing sales of fine wire in these diameters in recent years, as well as one invoice specifying the use of a DIN 200 spool.<sup>10</sup>

[22] In the Tribunal's view, the above provides a sufficient basis to recommend that IPP's exclusion request be denied. The Tribunal notes that this is also consistent with its recommendation in the first exclusions inquiry conducted in 2019 that an exclusion request for fine wire in diameters of 0.006 to 0.0286 inches used for brading, kitting and weaving be denied on the basis of evidence indicating that CWI produced and sold identical products in Canada.<sup>11</sup>

[23] With regard to IPP's claims about the quality of CWI's fine wire and other issues it faced when purchasing other products from CWI, the Tribunal has previously stated that such issues are not relevant considerations in these exclusion inquiries.<sup>12</sup> Even if the Tribunal were to consider quality as a relevant factor, it notes that, in this case, IPP's claims appear to date back to 2004 or earlier.<sup>13</sup> IPP has not submitted any evidence indicating that these claimed quality issues are still present today. Further, the fact that CWI utilizes fine wire produced in its Perth, Ontario, facility to produce, in the United States, mesh pads similar to those of IPP<sup>14</sup> suggests to the Tribunal that there are likely no issues with the quality of its fine wire.<sup>15</sup>

[24] As for the Tribunal's granting of an exclusion for stainless steel wire in diameters of 0.032 inches (0.813 mm) and smaller in SSW, it must be noted that it was granted on the basis that the domestic industry was found to not have suffered price suppression in its sales of fine wire during the period of investigation and not on the basis of product quality issues or a lack of domestic production.<sup>16</sup>

[25] In light of the foregoing, the Tribunal recommends that IPP's exclusion request be denied.

[26] Although IPP has not obtained the result that it was seeking in this exclusions inquiry, the Tribunal notes that the safeguard measures imposed by the *Surtax Order* do not apply to imports of stainless steel wire from a number of countries, including the United States, Mexico and Korea. Additionally, importers can access available quantities of TRQs—and thus avoid the imposition of a surtax on imports from countries to which the safeguard measures apply—by filing an import permit application with Global Affairs Canada.<sup>17</sup>

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<sup>10</sup> *Ibid.* at Confidential Attachments 3-5, 7-10.

<sup>11</sup> See *Certain Steel Goods* (15 July 2019), GC-2018-001-E1 (CITT) at paras. 88-92.

<sup>12</sup> *Ibid.* at paras. 86, 95 and 101.

<sup>13</sup> Exhibit GC-2018-001-E3-13.01 at paras. 9-10.

<sup>14</sup> See Exhibit GC-2018-001-E3-05.01 at 9-12; Exhibit GC-2018-001-E3-09.01A at Public Attachment 6.

<sup>15</sup> While IPP claims that CWI is a direct competitor, it provided no evidence that they are competing in the same geographical markets. In fact, prior to the current exclusions inquiry, IPP was unaware that CWI produced mesh pads similar to its own (see Exhibit GC-2018-001-E3-13.01 at 1).

<sup>16</sup> See SSW at para. 97.

<sup>17</sup> See <https://www.international.gc.ca/trade-commerce/controls-controles/steel-acier/index.aspx?lang=eng> for more details.

**APPENDIX I****LIST OF PARTICIPANTS****Domestic Producers**

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**APPENDIX II**

**ADMINISTRATIVE TRIBUNALS SUPPORT SERVICE OF CANADA STAFF  
INVOLVED IN THE INQUIRY**

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Sara Pelletier, Senior Registrar Officer