



Ottawa, August 22, 2008

RR-2008-001  
4258-122

## STATEMENT OF REASONS

Concerning a determination under paragraph 76.03 (7) (a) of the  
*Special Import Measures Act* regarding

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

## DECISION

On August 7, 2008, pursuant to paragraph 76.03(7)(a) of the *Special Import Measures Act*, the President of the Canada Border Services Agency determined that the expiry of the finding made by the Canadian International Trade Tribunal on December 23, 2003, in Inquiry No. NQ-2003-001, concerning certain structural tubing originating in or exported from the Republic of Korea, the Republic of South Africa and the Republic of Turkey was likely to result in the continuation or resumption of dumping of the goods into Canada.

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**SUMMARY**

[1] On April 9, 2008, the Canadian Trade International Tribunal (Tribunal) issued a Notice of Expiry Review of Finding with respect to its finding made on December 23, 2003, in Inquiry No. NQ-2003-001, on certain structural tubing, known as hollow structural sections (HSS), from the Republic of Korea (South Korea), the Republic of South Africa (South Africa) and the Republic of Turkey (Turkey). As a result, the Canada Border Services Agency (CBSA) initiated an investigation on April 10, 2008, to determine whether the expiry of the finding is likely to result in the continuation or resumption of dumping of the goods into Canada.

[2] The major Canadian producers of HSS, namely Atlas Tube Canada ULC, Novamerican Steel Canada Inc., and Welded Tube of Canada Partnership, provided information in support of their position that, if current anti-dumping measures against South Korea, South Africa and Turkey expire, the continuation or resumption of dumping of HSS from the Named Countries is likely.

[3] Five domestic producers (the three named above plus ArcelorMittal Tubular Products Canada Inc. and IPSCO Inc.) and one importer (Russel Metals Inc.) provided a response to the respective Expiry Review Questionnaire (ERQ). No exporters provided a response to the ERQ.

[4] Analysis of evidence on the record shows that anti-dumping measures have been imposed by a number of countries throughout the world on a variety of steel products from the Named Countries; anti-dumping measures have been imposed by Canada in respect of similar goods; exporters from the Named Countries have demonstrated an inability to compete in the Canadian market at non-dumped prices; there have been changes in international market conditions with respect to these goods; and, the performance of the exporters and foreign producers is being affected by rising costs.

[5] For the foregoing reasons, the President of the CBSA (President), having considered the relevant information on the record, determined on August 7, 2008, under paragraph 76.03(7)(a) of the *Special Import Measures Act* (SIMA) that the expiry of the finding made by the Tribunal on December 23, 2003, concerning HSS originating in or exported from South Korea, South Africa and Turkey was likely to result in the continuation or resumption of dumping of the goods into Canada.

**BACKGROUND**

[6] The original dumping investigation into HSS originating in or exported from South Korea, South Africa and Turkey was initiated by the Canada Customs and Revenue Agency (now the CBSA) on May 21, 2003, following a complaint made by Atlas Tube Inc., Copperweld Corporation and Welded Tube of Canada Ltd.

[7] On August 19, 2003, the Commissioner of Customs and Revenue (now the President of the CBSA) made a preliminary determination of dumping concerning the subject goods from the three countries. A final determination of dumping was made on November 17, 2003, and an injury finding was issued by the Tribunal on December 23, 2003.

[8] The CBSA completed its last reinvestigation to update the normal values and export prices of HSS on January 10, 2008. No exporters cooperated. As a result, all imports of subject goods are subject to anti-dumping duty equal to 89% of the declared export price in accordance with a ministerial specification.

[9] On February 19, 2008, the Tribunal issued a notice<sup>1</sup> concerning the upcoming expiry of its finding. Based on the available information and the representations submitted by the interested parties, the Tribunal decided that a review of the finding was warranted.

[10] On April 9, 2008, the Tribunal, pursuant to subsection 76.03(3) of SIMA, initiated an expiry review of its finding issued on December 23, 2003, in Inquiry No. NQ-2003-001, concerning HSS originating in or exported from South Korea, South Africa and Turkey. The finding is scheduled to expire on December 22, 2008.

[11] On April 10, 2008, the CBSA initiated an expiry review to determine whether the expiry of the finding is likely to result in the continuation or resumption of dumping of the goods from the Named Countries. The President was required to make a decision no later than August 7, 2008.

## **PRODUCT INFORMATION**

### **Product Definition**

[12] The goods subject to this expiry review are defined as:

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 (O.D.) for round products and up to and including 48.0 inches (1219.2 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 South Korea, the Republic of South Africa and the Republic of Turkey.

### **Additional Product Information**

[13] HSS is 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, barriers and outdoor lighting. The goods may also be applied to non-structural uses in manufactured products such as agricultural implements, trailers, racking and storage systems.

[14] HSS is not used for such things as automotive tubing for exhaust systems, bumpers and the like, which are typically made from tubing produced to specialized automotive specifications.

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<sup>1</sup> Exhibit 4: CITT – Notice of Expiry of Finding in Expiry No. LE-2007-003 concerning hollow structural sections originating in or exported from the Republic of Korea, the Republic of South Africa and the Republic of Turkey.

[15] Common to all welded HSS production is the transformation of hot-rolled steel sheet or strip into round, rectangular or square sections by a series of operations that include forming, welding and sizing. HSS is manufactured by moving hot-rolled steel sheet through a series of rolls into a round form. The rounded form is then welded, either by electrical-resistance welding or continuous welding and left in either a round shape or is cold formed into a square or rectangular shape.

### CLASSIFICATION OF IMPORTS

[16] HSS is normally classified under the following Harmonized System (HS) classification numbers:

7306.30.10.23	7306.30.10.33	7306.30.90.23
7306.30.90.33	7306.50.00.30	7306.61.90.12
7306.61.90.22		

[17] This listing of HS codes is for convenience of reference only. Refer to the product definition for authoritative details regarding the subject goods.

### PERIOD OF REVIEW

[18] The period of review (POR) for this expiry review investigation is January 1, 2005, to March 31, 2008. The CBSA also considered additional information placed on the administrative record up to the closing of the record date, which was May 29, 2008.

### CANADIAN INDUSTRY

[19] The Canadian industry for HSS is comprised of the following seven producers:

- Atlas Tube Canada ULC of Harrow, Ontario
- Novamerican Steel Canada Inc. of Ville Lasalle, Quebec
- Welded Tube of Canada Partnership of Concord, Ontario
- ArcelorMittal Tubular Products Canada Inc. of Woodstock, Ontario
- Atlantic Tube & Steel Inc. of Mississauga, Ontario
- IPSCO Inc. of Regina, Saskatchewan
- Quali-T-Tube Inc. of Bromont, Quebec

### Atlas Tube Canada ULC

[20] Atlas Tube Canada ULC (Atlas) was founded in 1984 and began producing HSS that same year. The company expanded in 1997 by adding an operation in Plymouth, Michigan, and again in 1999 with an expansion of its Harrow, Ontario, facility.

[21] In 2005, Atlas purchased the structural tubing business of MaverickTube Corp. and Copperweld Corporation. Today, Atlas has five state of the art manufacturing facilities

throughout Canada and the United States of America (US) producing in excess of 1.2 million tons of HSS annually, making it North America's largest manufacturer of HSS.

[22] On December 8, 2006, Atlas was purchased by John Maneely Company, a subsidiary of the Carlyle Group.

**Novamerican Steel Canada Inc.**

[23] Novamerican Steel Canada Inc. (Novamerican) was founded in 1979 when it was then known as Nova Steel Inc. Nova Steel Inc. first began producing structural tubing in LaSalle, Quebec, in 1986. In 1997, Canadian based Nova Steel and U.S.A. based American Steel and Aluminium Corporation merged to form Novamerican Steel Inc., a Canadian corporation.

[24] Today, Novamerican is a wholly owned, indirect subsidiary of Novamerican Steel Inc. and is involved in tube manufacturing, steel processing and distributing.

**Welded Tube of Canada Partnership**

[25] Welded Tube of Canada (Welded Tube) was founded in 1970 in Concord, Ontario. The company grew quickly and by 1981 Welded Tube was operating eleven tube mills in its two Concord plants. Coil slitting and a cut-to-length line were subsequently added.

**ArcelorMittal Tubular Products Canada Inc.**

[26] ArcelorMittal Tubular Products Canada Inc. (ArcelorMittal Canada) of Woodstock, Ontario, produces electric resistance welding (ERW) steel tubing, drawn over mandrel steel tubing, fabricated automotive components and HSS. The company was originally incorporated in 1905 and began producing square and rectangular HSS for the Canadian market in 2006.

**Atlantic Tube & Steel Inc.**

[27] Atlantic Tube and Steel Inc., a family-run business, was founded in 1977 and manufactures products for the automotive industry (exhaust system and muffler) as well as HSS.

**IPSCO Inc.**

[28] IPSCO Inc. (IPSCO) began producing tubular products in its pipe mill in Regina, Saskatchewan, in 1957. Since that time, the company has expanded its manufacturing capabilities through acquisition and plant construction both in Canada and the US. The company currently produces HSS in rounds and in square and rectangular form using the ERW process.

**Quali-T-Tube Inc.**

[29] Quali-T-Tube Inc., of Bromont, Quebec, manufactures mechanical tubing as well as HSS.

**CANADIAN MARKET**

[30] Detailed information regarding the volumes of sales from Canadian producers and from importers cannot be divulged for confidentiality reasons. Estimated Canadian Market Share percentages were calculated using the information in the Canadian producers' ERQ replies and the CBSA's internally generated Customs information.

**Estimated Canadian Market Share for HSS**

<b>Source</b>	<b>2005</b>	<b>2006</b>	<b>2007</b>	<b>2008 Jan. - Mar.</b>
Canadian Producers	66%	71%	70%	67%
Named Countries	0%	* %	* %	0%
U.S.A.	31%	23%	25%	32%
China	2%	4%	5%	1%
Other Countries	1%	2%	0%	0%
<b>Total Market</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>

\* Amounts less than 1 percent

[31] Based on the table above, from 2005 to 2007, the Estimated Canadian producers' market share of HSS ranged from a low of 66% in 2005 to a high of 71% in 2006. It should be noted that the figures for the Canadian market includes only five of the seven domestic producers as no data is available for Atlantic Tube & Steel Inc. and Quali-T-Tube Inc.

[32] There was an overall sales volume increase in the Canadian market between 2005 and 2006 that translated to a 5% increase in the percentage of the Canadian producers' market share. However, the Canadian producers' sales decreased between 2006 and 2007 and their market share decreased during this period by 1%.

[33] In the first three months of 2008, the Canadian producers' share of the market continued its decrease by 3% from the 2007 figures.

**ENFORCEMENT**

[34] During the POR, only subject goods originating in South Korea were shipped to Canada. The goods were exported to Canada from the US and the amount of anti-dumping duty was collected in accordance with the ministerial specification.

## PARTICIPANTS

[35] The Tribunal's notice concerning the expiry review and an ERQ were sent to the Canadian producers, importers and exporters of the subject goods.

[36] The ERQ requested information relevant to the consideration of the expiry review factors found under subsection 37.2(1) of the *Special Import Measures Regulations* (SIMR). Any persons or governments having an interest in this investigation were also invited to provide a submission regarding the effect the expiry of the Tribunal's finding would have on the continuation or resumption of dumping.

[37] Five of the seven producers of HSS in Canada participated in the expiry review by replying to the Canadian Producer ERQ.<sup>2</sup> The five Canadian producer participants are Atlas, Novamerican, Welded Tube, ArcelorMittal Canada, and IPSCO. In addition to participating in the expiry review by answering the Canadian Producer ERQ, three producers, Atlas, Novamerican and Welded Tube, which comprise the Canadian Coalition of Structural Tubing Producers (the Coalition), collectively filed a case brief stating that the dumping of subject goods would continue or resume should the Tribunal's finding expire.

[38] No exporters participated in the expiry review process.

[39] With regard to importers of subject goods, only one, Russel Metals, participated in the expiry review by providing a response to the Importer ERQ.<sup>3</sup> One other participant, M. Brashem Inc., replied to the Importer ERQ but imported non-subject goods. No subsequent case arguments or reply submissions were received from these importers.

## INFORMATION USED BY THE PRESIDENT

### Administrative Record

[40] The information used and considered by the President for purposes of this expiry review proceeding is contained on the administrative record. The administrative record includes the exhibits listed on the CBSA's Listing of Exhibits and Information. This is comprised of the Tribunal's administrative record at initiation of the expiry review, CBSA exhibits, and information submitted by interested persons, including information which they feel is relevant to the decision as to whether dumping is likely to continue or resume, absent the finding. This information may consist of excerpts from trade magazines and newspapers, orders and findings issued by authorities in Canada or of a country other than Canada, documents from international trade organizations such as the World Trade Organization (WTO), and responses to the ERQ submitted by Canadian producers, importers and exporters.

[41] For purposes of an expiry review investigation, the CBSA sets a date after which no "new" information may be placed on the administrative record. This is referred to as the "closing of the record date." For this expiry review, the administrative record closed on

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<sup>2</sup> Exhibit 6: CBSA/CITT - Expiry Review Questionnaire to Canadian producers.

<sup>3</sup> Exhibit 7: CBSA/CITT - Expiry Review Questionnaire to importers.



May 29, 2008. This allows participants time to prepare their case arguments and reply submissions based on the information that is on the administrative record as of the closing of the record date.

## PROCEDURAL ISSUES

[42] As previously noted, the closing of the record date for this expiry review was May 29, 2008. In accordance with the CBSA's *Expiry Review Guidelines*, the President will normally not consider any new information submitted by participants subsequent to the closing of the record date. However, in certain exceptional circumstances, it may be necessary to permit new information to be submitted. The President will consider the following factors in deciding whether to accept new information submitted after the closing of the record date:

- (a) the availability of the information prior to the closing of the record date;
- (b) the emergence of new or unforeseen issues;
- (c) the relevance and materiality of the information;
- (d) the opportunity for other participants to respond to the new information; and
- (e) whether the new information can reasonably be taken into consideration by the President in making the determination.

[43] Participants wishing to file new information after the closing of the record date, either separately or in case arguments or reply submissions, must identify this information so that the President can decide whether it will be included in the record for purposes of the determination.

[44] On July 9, 2008, the CBSA received a request from counsel for Canadian producers Atlas, Novamerican and Welded Tube, to file additional information on their behalf after the closing of the record. The CBSA received subsequent requests to file additional information after the closing of the record from the same counsel on July 16 and July 17, 2008. After due consideration, counsel was advised that, as the additional information was consistent with the information already on the record, it was not readily apparent that new or unforeseen issues had emerged and, therefore, the additional information would not be added to the record.

## POSITION OF THE PARTIES

### **Parties Contending that Continued or Resumed Dumping is Likely**

[45] Four out of the five Canadian producers that provided responses to the ERQs, Atlas, Novamerican, Welded Tube, and ArcelorMittal Canada, also provided opinions in their responses that the dumping into Canada of HSS from the Named Countries would continue or resume if the finding expires. Three of the Canadian producers, Atlas, Novamerican and Welded Tube, which comprise the Canadian Coalition of Structural Tubing Producers (the Coalition), also collectively filed a case brief.

### **Positions of the Canadian Producers**

[46] The Coalition points to a dumping investigation currently being conducted by the United States Department of Commerce (USDOC) on light-walled rectangular pipe and tube

from China, South Korea, Mexico and Turkey. This, according to the Coalition, indicates a pattern of dumping into North America of a closely related product by two of the Named Countries and a likelihood of renewed dumping of HSS should the current finding be allowed to expire.<sup>4</sup>

[47] The Coalition also refers to a series of dumping investigations and findings involving exports of carbon and alloy steel products from South Africa, South Korea and Turkey. The information, gleaned for the most part from the semi-annual country reports to the WTO Committee on Anti-dumping Practices, indicates a strategy by producers and exporters of steel products in the three Named Countries to dump products into other markets.<sup>5</sup>

[48] According to the Coalition, demand in the global steel markets has been strong in the last 18 months which has resulted in higher prices for these products. The HSS market is no exception. As a result, welded pipe and tube production has increased in many countries, including South Korea.<sup>6</sup> At the same time, there are indications of a slowdown in the U.S.A. economy, including the non-residential construction market.<sup>7</sup> Therefore, it is suggested that an over-supply of pipe and tube globally combined with a slowing in the North American economy means that HSS exporters from the Named Countries would have to price their product aggressively to make sales in Canada, and possibly revert to dumping.<sup>8</sup>

[49] Furthermore, a diversion of HSS from the U.S.A. market to the Canadian market may occur should the slowdown in the U.S.A. market continue. According to the Coalition, such a scenario may unfold whereby greater volumes of HSS from South Korea, South Africa and Turkey, normally destined for the U.S.A. market will be diverted elsewhere, including the Canadian market.<sup>9</sup>

[50] The Coalition points out that South Korea, Turkey and South Africa have significant steel-making capabilities and are major players in the global market.<sup>10</sup> With respect to each country, the Coalition identifies specific HSS producers that have shipped to Canada in the past and, given the export orientation of many of these companies, will resume dumping if the finding is not renewed.<sup>11</sup>

[51] In the U.S.A. dumping investigation of light-walled rectangular pipe and tube from a number of countries including South Korea and Turkey, the United States International Trade Commission (USITC) makes note of the ability of producers to increase production of light-walled rectangular pipe and tube by shifting production among different kinds of product made on common machinery.<sup>12</sup> The Coalition contends that this practice applies equally to HSS,

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<sup>4</sup> Exhibit 32: Case brief - Atlas Tube Inc., Novamerican Steel Inc., and Welded Tube of Canada Partnership, pp. 5 - 6.

<sup>5</sup> Ibid., pp. 27 - 29.

<sup>6</sup> Ibid., p. 6.

<sup>7</sup> Ibid., p. 8.

<sup>8</sup> Ibid., p. 9.

<sup>9</sup> Ibid., p. 30.

<sup>10</sup> Ibid., pp. 9-10.

<sup>11</sup> Ibid., pp. 11 - 17.

<sup>12</sup> Ibid., p. 32.

whereby foreign producers may shift production from non-HSS goods to HSS products and, thereby increase their HSS capacities.

[52] The Coalition contends that, like primary steel production, the production of subject goods is capital intensive in nature. That being the case, the argument is put forward that the economics of tubing production dictates that plant loading and production levels are maintained at high levels even in situations where local and global demand has declined.<sup>13</sup>

[53] The argument is made by the Coalition that import prices in the Canadian market converge to the lowest level, that being the price of Chinese HSS imports. Using import permit data for HSS from the Department of Foreign Affairs and International Trade, the Coalition points out that the average price of Chinese imports was \$769/tonne in 2007 and \$823/tonne in the period January 1 - May 31, 2008. In contrast, the average price of HSS imports from the United States was \$1,048/tonne and \$1,023 respectively for the same time periods.<sup>14</sup> The Coalition submits that South Korean exporters will sell at whatever prices are necessary to compete with Chinese HSS and, in order to regain market share, will return to selling HSS at dumped prices.<sup>15</sup>

[54] Another factor in determining the likelihood of dumping, according to the Coalition, is the impact of the steep increase in price for hot-rolled steel sheet, the primary raw material used to produce HSS. According to evidence on the record, hot-rolled sheet prices increased in world markets from \$500-600/tonne in mid-2006 to \$850-950/tonne in March 2008.<sup>16</sup> While most steel producers and fabricators have been successful in passing on this increase in costs to their customers, there is uncertainty as to how long they will be able to continue to do so. A slowdown in the U.S.A. economy could have serious consequences in the Canadian HSS market, especially if prices fall in the face of decreased demand. Under this situation of high input costs and falling HSS prices, the likelihood of dumping would increase for the Named Countries, especially if they have to compete with low-priced Chinese offerings.<sup>17</sup>

[55] Prior to the closing of the record, the Coalition provided the CBSA with a number of HSS price offers from trading companies.<sup>18</sup> With respect to one offer, the Coalition contends that, although the price offers make no mention of the origin of the goods, the prices offered suggest a likely dumped price and are almost certainly of Asian origin.<sup>19</sup>

[56] The Coalition points out that many large Canadian-based importers that were active in the market during the original dumping investigation in 2003 are still active in the market today. These channels of importation and distribution coupled with the large production capabilities of the foreign mills reinforce the conclusion that dumped imports from the Named Countries would again flood into Canada should the finding be allowed to expire.<sup>20</sup>

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<sup>13</sup> Ibid., pp. 17 - 18.

<sup>14</sup> Ibid., p. 19.

<sup>15</sup> Ibid., p. 20.

<sup>16</sup> Ibid., p. 22.

<sup>17</sup> Ibid., p. 24.

<sup>18</sup> Exhibit 29: Additional materials submitted by Cassels Brock on behalf of Atlas Tube Inc., Novamerican Steel Inc. and Welded Tube of Canada.

<sup>19</sup> Exhibit 32: Case brief - Atlas Tube Inc., Novamerican Steel Inc., and Welded Tube of Canada Partnership, p. 24.

<sup>20</sup> Ibid., pp. 25 - 26.

[57] The Coalition submits that importers would shift their current sources of HSS supply to the three Named Countries if the finding is not maintained.<sup>21</sup> The existence of the same importers and trading companies in Canada, as were present prior to the original dumping investigation, suggests established distribution channels for renewed dumping into the Canadian market.

[58] Terms such as “rapid penetration” and “surges” were used by the Tribunal in its original inquiry when addressing the volume of dumped product entering Canada. At their peak, subject goods represented over 30% of domestic shipments. According to the Coalition, import penetration of dumped goods of this magnitude may be repeated if the finding were allowed to expire.<sup>22</sup>

[59] The Coalition compares the extent of dumping which occurred in the original HSS dumping investigation in Canada with the extent of dumping found in the current investigation in the United States involving light-walled rectangular pipe and tube from China, South Korea, Mexico and Turkey. This, according to the Coalition, points to a likelihood of substantial price undercutting and significant dumping margins if the current finding lapses.<sup>23</sup>

[60] In its response to the ERQ, ArcelorMittal Tubular Products Canada Inc. states that there are large HSS producers in the Named Countries with high levels of unused capacity which have the potential to ship large volumes of HSS to North America. ArcelorMittal Canada also refers to the anti-dumping investigation in the United States concerning light-walled rectangular pipe and tube from South Korea and Turkey. The company states that the dumping of these goods into the U.S.A. is indicative of a propensity of these countries to target North America with dumped product. Without the finding in place, ArcelorMittal contends that there would be no floor price disciplining these exporters and they will once again sell HSS into Canada at dumped prices.<sup>24</sup>

### **Parties Contending that Continued or Resumed Dumping is Not Likely**

[61] No parties participating in the expiry review expressed opinions or submitted arguments contending that continued or resumed dumping is not likely if the finding expires.

### **CONSIDERATION AND ANALYSIS**

[62] In deciding whether the expiry of the order is likely to result in the continuation or resumption of dumping, the President considered factors specifically identified in paragraphs (a) to (i) of subsection 37.2(1) of the SIMR, as well as any other factors relevant in the circumstances in rendering a determination pursuant to paragraph 76.03(7)(a) of SIMA.

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<sup>21</sup> Ibid., p. 27.

<sup>22</sup> Ibid., p. 29.

<sup>23</sup> Ibid., pp. 30 - 31.

<sup>24</sup> Exhibit 16: Response to expiry review questionnaire by ArcelorMittal Tubular Products Canada Inc.

[63] Guided by the factors in the aforementioned SIMR and based on the documentation submitted by the various participants and consideration of the information on the administrative record, the ensuing list represents a summary of the analysis conducted in this review:

- Anti-dumping measures have been imposed by a number of other countries on similar steel products from the Named Countries;
- Anti-dumping measures have been imposed by Canada in respect of similar goods;
- Exporters from the Named Countries have demonstrated an inability to compete in the Canadian market at non-dumped prices;
- There have been changes in international market conditions; and
- The performance of the exporters and foreign producers is being affected by rising costs.

[64] Before presenting a country by country analysis on the issue of the likelihood of continued or resumed dumping, there are certain issues that relate to the goods on a broader scale: the commodity nature of HSS and the impact of China.

### **Commodity Nature of HSS**

[65] HSS is typically produced to a national or international standard. In Canada, the standard specification is CSA G.40.21-87-50W. HSS producers in all countries of the world will apply to national or international standard bodies to have their product certified to these standards. As such, HSS produced to a given specification in a country should be physically interchangeable with HSS produced to the same specification in another country. The fact that HSS can be made to the same standards all over the world means that the product also shares the same channels of distribution and the same potential customers. Due to the commodity nature of HSS, the product competes in markets largely on the basis of price.

### **Impact of China**

[66] Recent developments and trends in the Chinese steel market have had a significant impact in the global steel market. In fact, the remarkable rise in world steel output in recent years is mainly attributable to increased economic activity in China and the corresponding rise in steel production in that country. China is now the largest steel-producing country in the world and is recognized as a net steel exporter. China's steel exports have grown to such an extent in recent years that the country now is facing global criticism and trade actions from many countries. The Government of China has reacted to this by introducing a number of measures to rein in steel-making capacity and exports.

[67] The impact of Chinese steel-making capability can be seen in the Canadian HSS market. Prior to the Tribunal's finding on December 23, 2003, imports of HSS from the Named Countries totalled 43,000 tonnes and represented a market share of nine percent.<sup>25</sup> By 2007, the market share previously held by the three Named Countries had been replaced in large part by imports from one country, China.<sup>26</sup>

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<sup>25</sup> Exhibit 2: Findings and Statement of Reasons regarding hollow structural sections originating in or exported from the Republic of Korea, South Africa and Turkey, p. 13.

<sup>26</sup> Exhibit 25: Imports statistics and enforcement statistics for the period of review of January 1, 2005

[68] The Canadian HSS market is dominated by Canadian producers and imports from the United States. The third largest player in the Canadian market, and clearly the price leader, is China.

[69] In the period 2005 to 2007, the average price for Chinese origin HSS was 38% lower than the average price for the Canadian and American origin HSS.<sup>27</sup>

### **Likelihood of Continued or Resumed Dumping**

[70] The following analysis of the likelihood of continued or resumed dumping begins with South Korea, followed by South Africa and Turkey.

#### **South Korea**

[71] Anti-dumping measures have been imposed by a number of other countries on a variety of steel products from South Korea.<sup>28</sup>

[72] The anti-dumping measures in place in such countries as the U.S.A. against circular welded steel pipe from South Korea indicate that North American producers continue to require protection against dumped tubular products from this country. As recently as April 2008, three U.S.A. pipe producers filed an anti-dumping and countervailing duty petition with the USDOC against imports of welded line pipe from China and South Korea.<sup>29</sup>

[73] In August 2007, the USITC made a preliminary determination of injury with respect to light-walled rectangular pipe and tube from China, Korea, Mexico, and Turkey.<sup>30</sup> The USDOC issued a preliminary determination of sales at less than fair value against light-walled rectangular pipe and tube from the Republic of Korea on January 23, 2008.<sup>31</sup> According to the determination, the upper range of light-walled rectangular pipe and tube, in terms of wall thickness, may be considered as HSS.<sup>32</sup> Light-walled rectangular pipe and tube are manufactured to meet ASTM specification A-513 or, less frequently, A-500, whereas HSS is manufactured to meet ASTM specification A-500 or, less frequently, A-513.

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to March 31, 2008.

<sup>27</sup> Exhibit 25: Imports statistics and enforcement statistics for the period of review of January 1, 2005 to March 31, 2008.

<sup>28</sup> Exhibit 32: Case brief - Atlas Tube Inc., Novamerican Steel Inc., and Welded Tube of Canada Partnership, pp. 28 - 29.

<sup>29</sup> Exhibit 28: Additional materials submitted by Cassels Brock on behalf of Atlas Tube Inc., Novamerican Steel Inc. and Welded Tube of Canada.

<sup>30</sup> Exhibit 28: United States International Trade Commission - Investigation Nos. 701-TA-449 and 731-TA-1118-1121 (Preliminary) Light-Walled Rectangular Pipe and Tube from China, Korea, Mexico, and Turkey (August 2007).

<sup>31</sup> Exhibit 9: Public version of CITT's administrative record, Expiry Review Submissions filed by Atlas Tube Inc., Novamerican Steel Inc. and Welded Tube of Canada, tab 4.

<sup>32</sup> Exhibit 28: United States International Trade Commission - Investigation Nos. 701-TA-449 and 731-TA-1118-1121 (Preliminary) Light-Walled Rectangular Pipe and Tube from China, Korea, Mexico, and Turkey (August 2007).

[74] It should be noted that some of the companies that were identified as producers or exporters in the CBSA's original dumping investigation are also identified by the USDOC in its dumping investigation of light-walled rectangular pipe and tube.

[75] Therefore, not only are there anti-dumping actions against a broad range of steel products from two of the Named Countries but there is recent evidence, by way of the U.S.A. investigations, of dumping activity on a closely related product by some of the same players from South Korea as were involved in the CBSA's original dumping investigation of HSS.

[76] During the POR, there were minimal imports from South Korea. The goods in question originated in South Korea but were exported from the U.S.A. As no exporters had normal values established for their goods, the subject goods were assessed anti-dumping duty equal to 89% of the declared export price in accordance with a ministerial specification.

[77] In the Statement of Reasons for the finding of injury issued on January 7, 2004, the Tribunal states that, from 2000 to mid-2002, the Canadian HSS market was supplied predominantly by the domestic mills with offshore imports holding a one percent share of the market. However, from mid-2002 to mid-2003 the situation changed dramatically. During that period, 43,000 tonnes of subject goods entered Canada and the market share held by the Named Countries surged from one percent to nine percent.<sup>33</sup>

[78] This dramatic shift in exports to Canada, from one percent in early 2000 to nine percent just prior to the Tribunal's finding of injury and virtually nil after the finding would indicate that South Korean exporters cannot compete in the Canadian HSS market at non-dumped prices.

[79] While exporters from the Named Countries, including South Korea, have been absent from the Canadian market since the time of the Tribunal's finding in December 2003, the void left by the Named Countries is being increasingly filled by imports from China. The fact that a new player like China could enter the market and compete with Canadian producers without having established distribution channels or established reputations as to quality and dependability while exporters from South Korea, who had established contacts and reputations abandoned the market, would indicate that exporters from this country could not compete at non-dumped prices.

[80] Due to the lack of imports into the Canadian market from the Named Countries, the CBSA had little reason to conduct reinvestigations of the normal values and export prices of these goods. In fact, in the CBSA's only reinvestigation of subject goods, which concluded on January 10, 2008, no exporters from South Korea chose to cooperate.<sup>34</sup>

[81] Exporters in South Korea chose not to cooperate in both the original dumping investigation of HSS in 2003 and the reinvestigation concluded in January 2008. South Korean exporters also have chosen not to participate in the CBSA's current expiry review with respect to

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<sup>33</sup> Exhibit 2: Findings and Statement of Reasons regarding hollow structural sections originating in or exported from the Republic of Korea, South Africa and Turkey, p. 13.

<sup>34</sup> Exhibit 3: Customs Notice as it will be published regarding the conclusion of a reinvestigation of the normal values and export prices of hollow structural sections originating in or exported from the Republic of Korea, South Africa and Turkey.

these goods. This would indicate that, rather than participating and receiving normal values, South Korean exporters would rather find alternate export markets than compete in the Canadian market at non-dumped prices.

[82] The following comment appeared in the November 2007 issue of Metal Bulletin Research :

“In South Korea, the hollow sections and small diameter tubes and pipes market is significantly weaker. It has also not been a good year for the domestic construction sector despite large increases in the price of residential housing in the country. The South Korean government has sought to cool the industry down by putting caps on house prices, making construction companies reveal costs and increasing tax audits in speculative zones.

The result has been that a lot of construction project (sic) have been put on hold due to a lack of profitability in the sector. Demand for steel from the construction sector has therefore been low.”

[83] Metal Bulletin Research articles since November 2007 revealed no further comment about the state of the HSS market in South Korea.

[84] The decline in the HSS market in South Korea is all the more relevant given that, according to the Steel Statistical Yearbook 2007 published by the International Iron and Steel Institute, the country ranked third overall in the world in the production of welded tubes in 2006<sup>35</sup> and the fact that the country’s inventory of welded pipe grew by 17% from 2006 to 2007.<sup>36</sup>

[85] Information on the record shows South Korea to be a net exporter of pipe and tube products.<sup>37</sup> Faced with reduced demand domestically and growing inventories of welded pipe, exporters in South Korea would likely resume exporting the subject goods into Canada should the finding be allowed to expire.

[86] Based on evidence on the record in respect of: anti-dumping measures currently in place in other countries concerning similar South Korean steel products; the inability of HSS producers in South Korea to compete in Canada at non-dumped prices; and the recent state of the HSS market in South Korea, the President determined that the expiry of the order is likely to result in the continuation or resumption of dumping into Canada of certain structural tubing originating in or exported from South Korea.

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<sup>35</sup> Exhibit 29: Additional materials submitted by Cassels Brock on behalf of Atlas Tube Inc., Novamerican Steel Inc. and Welded Tube of Canada (Steel Statistical Yearbook 2007, p. 6).

<sup>36</sup> Exhibit 29: Additional materials submitted by Cassels Brock on behalf of Atlas Tube Inc., Novamerican Steel Inc. and Welded Tube of Canada (Metal Bulletin Research, Welded Steel Tube and Pipe Monthly, April 2008, p. 7).

<sup>37</sup> Ibid.



## South Africa

[87] Evidence on the record shows that many countries have anti-dumping measures in place on a number of steel products from South Africa.<sup>38</sup> Examples include such products as hot-rolled steel (Canada and Argentina), cold-rolled steel (Argentina), and galvanized flat-rolled steel (Argentina).

[88] In Canada, in an expiry review in 2006 of hot-rolled steel sheet from a number of countries including South Africa, the CBSA found that, with respect to South Africa, there was a likelihood of continued or resumed dumping of these goods. In addition, the Tribunal determined that the expiry of the finding was likely to result in injury or retardation and, therefore, continued its finding with respect to these goods.

[89] During the POR, there were no imports of HSS from South Africa into Canada even though one South African exporter had normal values for its products during the greater part of the POR and had the opportunity to sell to Canadian importers at non-dumped prices. The normal values were issued to the exporter as a result of the company's participation in the original HSS dumping investigation in 2003.<sup>39</sup>

[90] In the CBSA's only reinvestigation of the normal values and export prices of the subject goods, which concluded on January 10, 2008, no exporters from South Africa chose to cooperate.<sup>40</sup> As such, all HSS imports from South Africa are subject to anti-dumping duty equal to 89% of the declared export price in accordance with a ministerial specification.

[91] As mentioned earlier in this report, the Tribunal stated in its Statement of Reasons of January 7, 2004, that from 2000 to mid-2002, offshore imports held only a one percent share of the Canadian HSS market but that from mid-2002 to mid-2003, just prior to the HSS dumping investigation, the market share held by the Named Countries surged to nine percent.<sup>41</sup> This shift in exports to Canada from the Named Countries, from one percent to nine percent to virtually nil after the Tribunal's finding would indicate that exporters in South Africa cannot compete in the Canadian market at non-dumped prices.

[92] In the reinvestigation concluded in January 2008 and in the current expiry review with respect to these goods, no South African exporters chose to participate. This would indicate that, rather than participating and receiving normal values, South African exporters would rather find alternate export markets than compete in the Canadian market at non-dumped prices.

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<sup>38</sup> Exhibit 32: Case brief - Atlas Tube Inc., Novamerican Steel Inc., and Welded Tube of Canada Partnership, pp. 28 - 29.

<sup>39</sup> Exhibit 1: Statement of Reasons concerning the final determination of dumping under section 41(1)(a) of the Special Import Measures Act with respect to hollow structural sections originating in or exported from the Republic of Korea, South Africa and Turkey.

<sup>40</sup> Exhibit 3: Customs Notice as it will be published regarding the conclusion of a reinvestigation of the normal values and export prices of hollow structural sections originating in or exported from the Republic of Korea, South Africa and Turkey.

<sup>41</sup> Exhibit 2: Findings and Statement of Reasons regarding hollow structural sections originating in or exported from the Republic of Korea, South Africa and Turkey, p. 13.

[93] Evidence on the record shows the South African steel industry to be in a unique situation. Competition is limited because there are only two major producers of primary steel products in the country and high ocean freight costs have served to deter imports. According to the South African government, at least one producer of primary steel products, ArcelorMittal South Africa, has taken advantage of the situation by charging its customers high prices. The trade publication Metal Bulletin (Sept. 6, 2007) reports that ArcelorMittal South Africa (AMSA) was fined 691.8 million rand (\$US 95.5 million) by the South African Competition Tribunal for charging excessive prices for its flat steel products in South Africa.<sup>42</sup>

[94] To compensate against charging higher prices, AMSA would issue rebates to domestic customers who produced and exported finished goods so that these customers would not be at a disadvantage when competing with other exporters around the world. As a consequence, HSS producers in South Africa who purchased hot-rolled sheet (the primary raw material for producing HSS) from AMSA would be inclined to sell their structural tubing at a higher price in the South African market (where no rebate was given) than in the more competitive international market, thereby creating a dumping situation.

[95] Various Metal Bulletin articles also state that South Africa's department of trade and industry is launching a study into setting up more integrated steel capacity in the country to promote keener competition.<sup>43</sup> This would indicate that the South African government remains concerned about competition in the steel industry in the long term.

[96] In a Metal Bulletin article on February 1, 2008, AMSA states that it will raise its domestic steel prices to match international prices.<sup>44</sup> In later articles in Metal Bulletin, the company states that its selling prices are lower than international prices.<sup>45</sup> This represents a turnaround in terms of pricing for the company which was previously charged a fine by the government for excessive pricing.

[97] Taking all of these articles into consideration, there is still an indication that, despite the recent lowering of steel prices in South Africa by AMSA in the last two months of the POR, the scenario of higher domestic prices and lower international prices for hot-rolled steel sheet may resurface given the lack of competition in the country. This lack of competition and possible reversion to past pricing practices has convinced the South African government to forge ahead with plans to encourage more steel-making capacity in the country.

[98] The level of price competition in the hot-rolled steel sheet sector in South Africa during the greater part of the POR indicates a situation whereby HSS producers in that country would be purchasing their raw material at higher prices than those on the international market and, therefore, would be inclined to sell their HSS domestically at higher prices than on international markets.

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<sup>42</sup> Exhibit 27: Various Metal Bulletin articles regarding the steel industry in South Africa, "ArcelorMittal SA fined \$95.5 million for excessive pricing" (September 6, 2007).

<sup>43</sup> Exhibit 27: Various Metal Bulletin articles regarding the steel industry in South Africa.

<sup>44</sup> Exhibit 27: Various Metal Bulletin articles regarding the steel industry in South Africa, "Amsa targets 10-12% price rise in March" (February 1, 2008).

<sup>45</sup> Exhibit 27: Various Metal Bulletin articles regarding the steel industry in South Africa.

[99] Based on evidence on the record in respect of: anti-dumping measures currently in place in other countries concerning a range of South African steel products; anti-dumping measures have been imposed by Canada in respect of similar goods; the inability of HSS producers in South Africa to compete in Canada at non-dumped prices; and the impact on the competitiveness of South African exporters by the relatively high cost of hot-rolled steel sheet in South Africa during the greater part of the POR, the President determined that the expiry of the order is likely to result in the continuation or resumption of dumping into Canada of certain structural tubing originating in or exported from South Africa.

## Turkey

[100] Anti-dumping measures imposed by a number of countries are in effect with respect to a range of steel products from Turkey.<sup>46</sup> Examples of anti-dumping measures against Turkish tubular products include welded pipes and tubes (European Union) and welded carbon steel pipe (U.S.A.).

[101] As recently as August 2007, the USITC made a preliminary determination of injury with respect to light-walled rectangular pipe and tube from China, Korea, Mexico, and Turkey.<sup>47</sup> The USDOC issued a final determination of sales at less than fair value against light-walled rectangular pipe and tube from the Republic of Turkey on April 7, 2008.<sup>48</sup> According to the determination, the upper range of light-walled rectangular pipe and tube, in terms of wall thickness, may be considered as HSS.<sup>49</sup> As mentioned earlier in this report, light-walled rectangular pipe and tube are manufactured to meet ASTM specification A-513 or, less frequently, A-500, whereas HSS is manufactured to meet ASTM specification A-500 or, less frequently, A-513.

[102] Some of the companies that were identified as producers or exporters in the CBSA's original dumping investigation are also identified by the USDOC in its dumping investigation of light-walled rectangular pipe and tube.

[103] Therefore, not only are there anti-dumping actions against a broad range of steel products from Turkey but there is recent evidence, by way of the U.S.A. investigation, of dumping activity on a closely related product by some of the same players from Turkey as were involved in the CBSA's original dumping investigation of HSS.

[104] There were no imports of HSS from Turkey into Canada during the POR despite the fact that two Turkish exporters had normal values for their products during the greater part of the POR and had the opportunity to sell to Canadian importers at non-dumped prices. The normal

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<sup>46</sup> Exhibit 32: Case brief - Atlas Tube Inc., Novamerican Steel Inc., and Welded Tube of Canada Partnership, pp. 28 - 29.

<sup>47</sup> Exhibit 28: United States International Trade Commission - Investigation Nos. 701-TA-449 and 731-TA-1118-1121 (Preliminary) Light-Walled Rectangular Pipe and Tube from China, Korea, Mexico, and Turkey (August 2007).

<sup>48</sup> Exhibit 29: Additional materials submitted by Cassels Brock on behalf of Atlas Tube Inc., Novamerican Steel Inc. and Welded Tube of Canada.

<sup>49</sup> Exhibit 28: United States International Trade Commission - Investigation Nos. 701-TA-449 and 731-TA-1118-1121 (Preliminary) Light-Walled Rectangular Pipe and Tube from China, Korea, Mexico, and Turkey (August 2007).

values were issued to the exporters as a result of their participation in the original HSS dumping investigation in 2003.<sup>50</sup>

[105] No exporters from Turkey participated in the CBSA's reinvestigation of the normal values and export prices of the subject goods, which concluded on January 10, 2008.<sup>51</sup> Likewise, no Turkish exporters chose to participate in the current expiry review. As such, all HSS imports from Turkey are subject to anti-dumping duty equal to 89% of the declared export price in accordance with a ministerial specification.

[106] In the Statement of Reasons issued on January 7, 2004, the Tribunal states that, from mid-2002 to mid-2003, 43,000 tonnes of subject goods entered Canada and the market share held by the Named Countries, including Turkey, surged from one percent to nine percent.<sup>52</sup> After the Tribunal's finding of injury, imports from the Named Countries, including Turkey, dropped to virtually nil.

[107] While exporters from the Named Countries, including Turkey, have left the Canadian market since the Tribunal's finding in December 2003, other exporters from non-Named Countries, most notably China, have stepped in to fill the void. This demonstrates that there is room in the Canadian HSS market for competition but the fact that exporters from Named Countries like Turkey have left the market would indicate that these companies could not compete at non-dumped prices.

[108] The chart below shows prices in the major HSS markets in the world for the period April 2007 to March 2008.<sup>53</sup> As the North American steel market is integrated, the average price for HSS in the U.S.A. market would be comparable to that found in the Canadian market.

HSS Prices (\$US/Tonne)												
	04/07	05/07	06/07	07/07	08/07	09/07	10/07	11/07	12/07	01/08	02/08	03/08
EU	947	937	941	951	958	973	991	1,027	1,042	1,103	1,139	1,296
USA	893	910	910	880	860	860	893	860	904	950	1,015	1,100
Turkey	650	675	650	650	670	670	670	670	680	740	750	925
Asia Region	550	555	555	580	600	620	640	660	670	700	770	830

\* Source: Metal Bulletin Research

EU and U.S.A. prices are domestic ex-mill prices. Turkey and Asia region prices are f.o.b. export prices.

<sup>50</sup> Exhibit 1: Statement of Reasons concerning the final determination of dumping under section 41(1)(a) of the *Special Import Measures Act* with respect to hollow structural sections originating in or exported from the Republic of Korea, South Africa and Turkey.

<sup>51</sup> Exhibit 3: Customs Notice as it will be published regarding the conclusion of a reinvestigation of the normal values and export prices of hollow structural sections originating in or exported from the Republic of Korea, South Africa and Turkey.

<sup>52</sup> Exhibit 2: Findings and Statement of Reasons regarding hollow structural sections originating in or exported from the Republic of Korea, South Africa and Turkey, p. 13.

<sup>53</sup> Exhibit 29: Additional materials submitted by Cassels Brock on behalf of Atlas Tube Inc., Novamerican Steel Inc. and Welded Tube of Canada (Metal Bulletin Research, Welded Steel Tube and Pipe Monthly).

[109] In the above chart, the average price for HSS in the EU and in the U.S.A. is shown to be at a premium when compared to the prices in Turkey and the Asia region. Also noteworthy is the fact that, with the exception of February 2008, the average price for HSS in the Asia region is consistently lower than that for Turkey.

[110] Over the twelve month period, the average price for HSS from Turkey was \$US700/tonne while the average price for HSS from the Asian region was \$US644/tonne. This would indicate that, should the finding be allowed to expire and should Turkish exporters wish to compete again in the Canadian market with HSS being offered by Asian exporters, the Turkish exporters would have to offer the subject goods at a significant discount.

[111] This analysis is contrasted with the following statement in the trade publication Metal Bulletin Research (March 2008) regarding Turkish prices in the U.S.A. market:

“With the surge in CIS and domestic HR coil prices, Turkish tubular prices have jumped by an even greater amount than US prices. They are now on offer for \$960-1,000/ton on a cif Gulf basis i.e. virtually in line with domestics.”<sup>54</sup>

[112] The statement above shows that Turkish HSS producers are facing higher substrate costs from suppliers in the CIS and domestic suppliers. Faced with higher input costs, Turkish HSS exports are now being offered at par with North American HSS. With Turkish exporters facing stiff competition not only from the low-priced Chinese offerings in the North American market but also from the North American producers themselves, it is likely they will have to greatly discount their product or lose the market altogether. By greatly discounting their product at a time when hot-rolled coil prices are surging, the Turkish exporters risk the danger of dumping by selling below total costs.

[113] Based on evidence on the record in respect of: anti-dumping measures currently in place in other countries concerning Turkish steel products, including similar goods; the inability of HSS producers in Turkey to compete in Canada at non-dumped prices; and steadily increasing export prices for Turkish HSS (caused by increasing cost of raw materials) which will decrease the competitiveness of Turkish producers in the Canadian market, the President determined that the expiry of the order is likely to result in the continuation or resumption of dumping into Canada of certain structural tubing originating in or exported from Turkey.

## CONCLUSION

[114] For the purpose of making a determination in this expiry review investigation, the CBSA conducted its analysis within the scope of the factors contained in subsection 37.2(1) of the SIMR. Based on the foregoing consideration of pertinent factors and analysis of evidence on the record, on August 7, 2008, pursuant to paragraph 76.03(7)(a) of SIMA, the President of the CBSA determined that the expiry of the finding made by the Tribunal on December 23, 2003, in Inquiry No. NQ-2003-001 concerning certain structural tubing originating in or exported from

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<sup>54</sup> Exhibit 29: Additional materials submitted by Cassels Brock on behalf of Atlas Tube Inc., Novamerican Steel Inc. and Welded Tube of Canada (Metal Bulletin Research, Welded Steel Tube and Pipe Monthly, March 2008, p. 3).

the Republic of Korea, the Republic of South Africa and the Republic of Turkey was likely to result in the continuation or resumption of dumping of the goods into Canada.

## FUTURE ACTION

[115] On August 8, 2008, the Tribunal commenced its inquiry to determine whether the expiry of the finding is likely to result in injury or retardation with respect to goods from South Korea, South Africa and Turkey. The Tribunal will make its decision by December 22, 2008.

[116] If the Tribunal determines that the expiry of the finding with respect to goods from South Korea, South Africa and Turkey is likely to result in injury or retardation, the finding will be continued in respect of those goods, with or without amendment. If this is the case, the CBSA will continue to levy anti-dumping duties on dumped importations of HSS.

[117] If the Tribunal determines that the expiry of the finding with respect to the goods from South Korea, South Africa and Turkey is unlikely to result in injury or retardation, the finding will be rescinded in respect of those goods. Anti-dumping duties would no longer be levied on importations of HSS beginning on the date the finding is rescinded.

## INFORMATION

[118] For further information, please contact the officers listed below:



**Mail:** SIMA Registry and Disclosure Unit  
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Anti-dumping and Countervailing Program  
100 Metcalfe Street, 11th floor  
Ottawa, Ontario, K1A 0L8  
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**Email:** [simaregistry@cbsa-asfc.gc.ca](mailto:simaregistry@cbsa-asfc.gc.ca)

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M.R. Jordan  
Director General  
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