



Ottawa, March 27, 2009

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STATEMENT OF REASONS

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

CERTAIN STAINLESS STEEL WIRE ORIGINATING IN OR EXPORTED FROM INDIA, THE REPUBLIC OF KOREA, SWITZERLAND AND THE UNITED STATES OF AMERICA

DECISION

On March 12, 2009, 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 July 30, 2004, in Inquiry No. NQ-2004-001, concerning certain stainless steel wire originating in or exported from the Republic of Korea and Switzerland was likely to result in the continuation or resumption of dumping of the goods into Canada. The President also determined that the expiry of the finding was likely to result in the continuation or resumption of dumping of certain stainless steel wire originating in or exported from the United States of America. Lastly, the President determined that the expiry of the finding was likely to result in the continuation or resumption of subsidizing of certain stainless steel wire originating in or exported from India.

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SUMMARY

[1] On November 12, 2008, the Canadian International Trade Tribunal (Tribunal) issued a Notice of Expiry Review of Findings with respect to its findings made on July 30, 2004, in Inquiry No. NQ-2004-001, concerning the dumping of cold drawn and annealed stainless steel round wire, up to and including 0.300 inches (7.62 mm) in maximum solid cross-sectional dimension, originating in or exported from the Republic of Korea, Switzerland, and the United States of America, excepting the excluded products described in the product definition section below, and the subsidizing of such product originating in or exported from India, excepting the excluded products described in the product definition section below. (The terms “certain stainless steel wire” and “subject goods” shall hereafter refer strictly to products subject to the finding, whereas “stainless steel wire” shall refer to subject and excluded wire combined. The countries identified shall collectively be referred to as “the Named Countries.”).

[2] As a result, on November 13, 2008, the Canada Border Services Agency (CBSA) commenced an investigation to determine whether the expiry of the findings is likely to result in the continuation or resumption of dumping or subsidizing of the goods.

[3] The sole Canadian producer of stainless steel wire, Central Wire Industries Ltd., provided a response to the Expiry Review Questionnaire (ERQ), as well as information in support of its position that, if the findings in place against the Named Countries were to expire, then continued or resumed dumping of the goods from the Republic of Korea (Korea), Switzerland and the United States of America (United States or U.S.) is likely and that continued subsidizing of such goods from India is likely.

[4] The CBSA also received responses to the ERQ from three importers: Sandvik Materials Technology Canada (Sandvik Canada); Larsen & Shaw Limited; and Commercial Spring and Tool. As well, responses were provided by two exporters from the United States: Sandvik Materials Technology USA (Sandvik US); and Euroweld Ltd.; and one exporter from India: Viraj Profiles Limited.

[5] Of the above respondents, only Sandvik Canada and Sandvik US (collectively known as Sandvik) provided information and argued in support of the position that the expiry of the finding against certain stainless steel wire originating in or exported from the United States is not likely to result in the continuation or resumption of dumping of these goods produced in the United States.

[6] Analysis of evidence on the record shows: continued dumping of subject goods into Canada while the findings were in place; apparent extensive production capacity for certain stainless steel wire in Korea, Switzerland and the United States; an inability on the part of exporters to compete in Canada at non-dumped prices; large volumes of imports of stainless steel wire that was excluded from the findings indicating interest in the Canadian market; the presence in Canada of low-priced imports of stainless steel wire from countries with which exporters from Korea, Switzerland and the United States likely would have to compete to secure sales; evidence of the imposition of anti-dumping measures by a country other than Canada in respect of similar

goods; and the recent downturn in the economy, expected to place downward pressure on pricing for stainless steel wire products.

[7] The Government of India (GOI) did not respond to the ERQ respecting subsidies. However, evidence on the CBSA record indicates: the continuing availability and applicability of actionable subsidy programs in India; a high volume of subsidized imports from India; substantial production capacity and propensity to export on the part of Indian producers; and the imposition of countervailing measures against India by other countries.

[8] For the foregoing reasons, the President of the CBSA (President), having considered the relevant information on the record, determined on March 12, 2009, under paragraph 76.03(7)(a) of the *Special Import Measures Act* (SIMA) that:

- (i) the expiry of the finding in respect of the dumping of certain stainless steel wire originating in or exported from Korea and Switzerland is likely to result in the continuation or resumption of dumping of the goods into Canada;
- (ii) the expiry of the finding in respect of the dumping of certain stainless steel wire originating in or exported from the United States is likely to result in the continuation or resumption of dumping of the goods into Canada; and
- (iii) the expiry of the finding in respect of the subsidizing of certain stainless steel wire originating in or exported from India is likely to result in the continuation or resumption of subsidizing of the goods into Canada.

BACKGROUND

[9] On September 23, 2008, the Tribunal issued a notice concerning the upcoming expiry of its findings.¹ Based on the available information and the representations submitted by the interested parties, the Tribunal decided that a review of the findings was warranted.

[10] On November 12, 2008, the Tribunal, pursuant to subsection 76.03(3) of SIMA, initiated an expiry review of its findings issued on July 30, 2004, in Inquiry No. NQ-2004-001, concerning certain stainless steel wire originating in or exported from India, Korea, Switzerland and the United States. The findings are scheduled to expire on July 29, 2009.

[11] On November 13, 2008, the CBSA commenced an investigation to determine whether the expiry of the findings is likely to result in the continuation or resumption of dumping of the goods from Korea, Switzerland and the United States and the continuation or resumption of subsidizing of the goods from India. The President was required to make determinations no later than March 12, 2009.

[12] The original dumping and subsidy investigations into certain stainless steel wire originating in or exported from Chinese Taipei, India, Korea, Switzerland and the United States

¹ Exhibit 5, Notice of Expiry of Findings concerning certain stainless steel wire originating in or exported from India, the Republic of Korea, Switzerland and the United States of America.

was initiated on November 21, 2003, following a complaint made by Central Wire Industries Ltd.

[13] On April 2, 2004, the President made a preliminary determination of dumping concerning the goods from Korea, Switzerland and the United States and a preliminary determination of subsidizing concerning the goods from India. On the same date, the investigation with respect to the dumping of certain stainless steel wire from Chinese Taipei and India was terminated.

[14] Final determinations of dumping and subsidizing were made on June 30, 2004,² followed by injury findings issued by the Tribunal on July 30, 2004.³

[15] Imports of the subject goods have been monitored since that time and anti-dumping and countervailing duties have been assessed where necessary.

[16] On March 22, 2005, as a result of a public interest inquiry, the Tribunal issued a recommendation to the Minister of Finance that the anti-dumping duty be reduced from 181% to 35% on importations of belting wire and wireline from the United States. On November 28, 2005, on the recommendation of the Minister of Finance, the Governor General in Council issued an anti-dumping duty remission order regarding these products.

[17] The CBSA has conducted two reinvestigations to update the normal values, export prices and amounts of subsidy of certain stainless steel wire. The first reinvestigation was concluded on February 27, 2006, while the second was concluded on October 8, 2008.⁴

PRODUCT INFORMATION

Product Definition

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

Cold drawn and annealed stainless steel round wire, up to and including 0.300 inches (7.62 mm) in maximum solid cross-sectional dimension, originating in or exported from India, the Republic of Korea, Switzerland, and the United States of America.

The following goods are excluded from the definition and are not subject to this expiry review.

- Nickel-coated stainless steel wire.
- Copper-coated stainless steel wire.

² Exhibit 1, Statement of Reasons concerning the making of a final determination with respect to the dumping of certain stainless steel wire originating in or exported from the Republic of Korea, Switzerland and the United States of America and the subsidizing of such product originating in or exported from India.

³ Exhibit 2, Tribunal Findings of Injury and Statement of Reasons regarding certain stainless steel wire originating in or exported from India, the Republic of Korea, Switzerland and the United States of America.

⁴ Exhibit 3, Notice of Conclusion of Reinvestigation of the normal values, export prices and amounts of subsidy of certain stainless steel wire, October 8, 2008.

- Stainless steel wire for use in the manufacture of springs, per ASTM A313, matte finish, lubricant coated (all types), in all grades and in all diameters.
- Stainless steel wire in diameters of 0.032 inches (0.813 mm) and smaller.
- Stainless steel lashing wire.
- Type 27-7MO (trade name) stainless steel wire, also identified as UNS S31277, or equivalent.
- Types 302 and 430 stainless steel cold-heading wire for use in the manufacture of semi-tubular solid rivets.
- Types 308LHS, 309LHS, 387, 409CB and 430LCB stainless steel welding wire packaged in fibre-drum bulk packs, drum packs or barrel packs, known as "Tech Paks" or equivalent, in sizes of 250 lbs. (113.4 kg) or greater, for use in long-run welding applications.
- Type 439 titanium stabilized, solid stainless steel welding wire packaged in 500-lb. (226.8-kg) drums.
- Type A-286 stainless steel cold-heading wire, also identified as AISI No. 660, UNS K66286 DIN-1.4980, with the following composition: 0.08% max. carbon, 2.00% max. manganese, 1.00% max. silicon, 0.025% max. phosphorous, 0.025% max. sulfur, 13.50/16.00% chromium, 24.00/27.00% nickel, 1.00/1.50% molybdenum, 0.50% max. copper, 1.00% max. cobalt, 0.35% max. aluminum, 1.90/2.35% max. titanium, 0.10/0.50% vanadium and 0.003/0.010% boron.
- Type A286/A286SF stainless steel cold-heading wire.
- Type XM-19 stainless steel wire, also identified as UNS S20910.

Additional Product Information

[19] Stainless steel is defined as alloy steel containing, by weight, 1.2 per cent or less of carbon and 10.5 per cent or more of chromium, with or without other elements.

[20] Stainless steel wire can be produced in a variety of sizes and in a variety of product grades. The production process is essentially the cold drawing of stainless steel wire rod of a specified alloy composition through one or more dies. As the wire is drawn to smaller diameters, annealing operations are performed to process it to its finished size and specification.

[21] The wire may be treated to provide special surface conditions or appearance, including matte and diamond finishes. In addition, coatings may be applied to serve as lubricants in subsequent processing or manufacturing operations.

[22] Categories of stainless steel wire include cold-heading and forming wire, fine wire, belting wire, spring wire, welding wire and lashing wire. Certain categories of stainless steel wire, such as spring wire and lashing wire, are not subject to anti-dumping and countervailing duties and, as such, are not subject to this expiry review.

CLASSIFICATION OF IMPORTS

[23] Certain stainless steel wire is normally imported into Canada under the following Harmonized System (HS) classification numbers*:

7223.00.11.00	7223.00.19.00	7223.00.20.00
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* Note: These HS codes include both subject and non-subject goods. Refer to the product definition for authoritative details regarding the subject goods.

PERIOD OF REVIEW

[24] The period of review (POR) for this expiry review investigation is January 1, 2006 to September 30, 2008. The President also considered additional information placed on the administrative record up to the closing of the record, which was January 2, 2009.

CANADIAN INDUSTRY

[25] The Canadian industry for certain stainless steel wire is comprised of only one producer, Central Wire Industries Ltd. (Central Wire), of Perth, Ontario.

[26] Central Wire employs approximately 130 people in Canada at its production facilities in Perth and Erin, Ontario.

[27] Central Wire was founded in 1955 as a specialty wire manufacturer. Since that time, the company has undergone several changes in ownership and has expanded its operations in both Canada and the United States. In 1989, the company acquired a plant in Dumas, Arkansas, and in 1998, it acquired another plant in Lancaster, South Carolina. In 2002, the company expanded in Canada by acquiring the wire drawing facility of the then only other stainless steel wire producer in Canada, Greening Donald Co. Ltd., of Erin, Ontario. The company's last expansion was in 2005 when it acquired Techalloy Company Inc., the leading manufacturer of stainless steel wire in the United States. With its two manufacturing facilities in Canada and five manufacturing facilities in the United States, Central Wire is the largest redrawer of stainless steel wire in North America.

CANADIAN MARKET

[28] Detailed information regarding the volume of sales from the Canadian producer and from importers cannot be divulged for confidentiality reasons.⁵

[29] The Canadian producer's sales of certain stainless steel wire, which decreased from 2006 to 2007, appeared to be rebounding in 2008. The sales from the Named Countries increased from 2006 to 2007 and appeared to continue to do so in 2008 while the sales from other countries increased from 2006 to 2007 but seemed to lose ground in 2008.

[30] In terms of market share, the Canadian producer saw its share of the market for certain stainless steel wire decrease from 2006 to 2007, but recover in the first nine months of 2008. The market share held by the Named Countries has been steadily increasing from 2006 to 2008 while the market share of other countries, which increased from 2006 to 2007, has lost ground in 2008.

ENFORCEMENT

[31] The CBSA's enforcement statistics show that certain stainless steel wire originating in the Named Countries was imported into Canada during the POR.⁶ Imports into Canada from these countries totalled 531,644 kg in 2006, 710,404 kg in 2007 and 551,227 kg in the first nine months of 2008 (or 734,969 kg on an annualized basis).

[32] The CBSA collected \$642,930 in anti-dumping and countervailing duty in 2006, \$752,230 in 2007, and \$260,400 in the first nine months of 2008. During the POR, the CBSA collected \$79,697 in countervailing duty with respect to imports from India. In terms of anti-dumping duty, the CBSA collected \$11,882 with respect to imports originating in Korea, \$47,488 with respect to imports from Switzerland, and \$1,516,493 with respect to imports from the United States.

PARTICIPANTS

[33] Expiry Review Questionnaires (ERQs) were sent to the Canadian producer, exporters and importers of the subject goods along with the Tribunal's notice concerning the expiry review. The Government of India also received the Tribunal's notice concerning the expiry review as well as an ERQ relating to subsidy.

[34] The ERQs requested information relevant to the consideration of the expiry review factors found under section 37.2 of the *Special Import Measures Regulations* (SIMR). Any persons, or governments having an interest in this expiry review investigation also were invited to

⁵ Exhibit 16, Response to Canadian Producer Questionnaire - Central Wire Industries Ltd., Appendices 2i) and 2ii) and Exhibit 26, Finalized import statistics and enforcement statistics for the period of review of January 1, 2006 to September 30, 2008.

⁶ Exhibit 27, Finalized import statistics and enforcement statistics for the period of review of January 1, 2006 to September 30, 2008.

provide a submission regarding the effect the expiry of the Tribunal's findings would have on the continuation or resumption of dumping or subsidizing.

[35] Central Wire was the only producer of certain stainless steel wire in Canada during the POR. In addition to participating in the expiry review by answering the Canadian Producer ERQ, Central Wire filed a case brief and a reply submission stating that the dumping or subsidizing of subject goods would continue or resume should the Tribunal's findings expire.

[36] Two exporters from the United States, Sandvik US and Euroweld Ltd., and one exporter from India, Viraj Profiles Limited, participated in the expiry review investigation by providing a response to the Exporter ERQ. Of these respondents, only Sandvik filed a case brief in support of its position that the expiry of the finding with respect to certain stainless steel wire originating in or exported from the United States of America would not result in the continuation or resumption of dumping of these goods produced in the United States. Sandvik also argued in its case brief that the dumping of U.S. produced welding wire is unlikely to continue or resume upon the expiry of the finding.

[37] Three importers, Sandvik Canada, Larsen & Shaw Limited, and Commercial Spring and Tool participated in the expiry review by providing a response to the Importer ERQ. Other than Sandvik Canada, who filed a case brief and reply submission in conjunction with Sandvik US, no case briefs or reply submissions were received from the other importers.

[38] As stated earlier, the Government of India did not respond to the ERQ nor did it submit a case brief.

INFORMATION USED BY THE PRESIDENT

Administrative Record

[39] 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 comprises 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 the expiry of the findings is likely to result in continued or resumed dumping or subsidizing. 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, and responses to the ERQs submitted by the Canadian producer, importers and exporters.

[40] 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," and is set to allow 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. For the CBSA's expiry review investigation, the administrative record closed on January 2, 2009.

PROCEDURAL ISSUES

[41] The closing of the record date for this expiry review was January 2, 2009. In accordance with the CBSA's *Guidelines on the Conduct of Expiry Review Investigations under the Special Import Measures Act*, 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.

[42] Participants wishing to file new information after the closing of the record date, either separately or in case briefs 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.

[43] With respect to this expiry review investigation, there were no procedural issues.

POSITION OF THE PARTIES

Parties Contending that Continued or Resumed Dumping or Subsidizing is Likely

[44] The sole Canadian producer, Central Wire, provided a response to the Canadian Producer ERQ, filed supplemental documents and presented arguments that the dumping of certain stainless steel wire originating in or exported from Korea, Switzerland and the United States and the subsidizing of certain stainless steel wire originating in or exported from India is likely to continue or resume upon expiry of the findings.

Position of the Canadian Producer

[45] Central Wire presents several arguments in its case brief in support of the position that the expiry of the findings is likely to result in continued or resumed dumping of certain stainless steel wire from Korea, Switzerland and the United States and continued subsidizing of certain stainless steel wire from India.

[46] Central Wire points out that, according to the CBSA's enforcement data, all imports of subject goods from Korea, Switzerland and the United States have been dumped during the POR.⁷ Further, since no Korean or Swiss producer participated in the CBSA's most recent

⁷ Exhibit 43, Case brief - Central Wire Industries Ltd., pp. 8-9.

reinvestigation of normal values, these producers must consider that they cannot sell competitively into Canada at normal values.⁸

[47] Central Wire also points out that the data on the administrative record indicates that subject goods from India continue to be subsidized and continue to be imported into the Canadian market in large volumes.⁹

[48] Central Wire submits that the production capacities of certain stainless steel wire producers in India, Korea, Switzerland and the United States are several times greater than the size of the entire Canadian market for certain stainless steel wire. It also submits that stainless steel wire producers in these countries depend on export sales in order to maintain capacity utilization, especially so in the case of India.¹⁰

[49] According to Central Wire, demand for certain stainless steel wire in the Canadian market decreased in 2008 and will continue to be very weak in 2009. At the same time, there are substantial volumes of very low-priced imports in the market both from countries such as India and from non-subject countries such as China and Taiwan (Chinese Taipei).¹¹ This has resulted in increased price competition and downward pressure on pricing.¹²

[50] Central Wire contends that global factors have affected the current market for stainless steel wire. The dramatic fall in the price of nickel in the latter part of 2008 from its high in 2007 has caused a downward effect on the price of stainless steel wire. The drop in stainless steel pricing started a chain of events whereby purchasers of stainless steel products had to write down the value of their inventories and then delayed future purchases as prices were expected to continue falling.¹³

[51] Central Wire points out that there has been an increase in the number of stainless steel producers around the world in the past few years, particularly outside North America. As a result of a global oversupply, a large number of producers have focused their attention on the North American markets, contributing to depressed prices for stainless steel wire, including the subject goods.¹⁴

[52] Central Wire refers to a number of articles in trade journals, as well as responses to the ERQs, which point to weakening worldwide demand for stainless steel products, including stainless steel wire.¹⁵ It is argued that the current economic crisis facing the world's economy, including recessions in the United States, the United Kingdom and certain European countries, is having and will continue to have a significant impact on pricing and demand for the subject goods.¹⁶

⁸ Ibid., p. 9.

⁹ Ibid., p. 9.

¹⁰ Ibid., pp. 9-17 & p. 37.

¹¹ Ibid., p. 18.

¹² Ibid., p. 2.

¹³ Ibid., pp. 19-20.

¹⁴ Ibid., pp. 20-21.

¹⁵ Ibid., pp. 21-23.

¹⁶ Ibid., pp. 19 & 23-24.

[53] Referring to the CBSA's import statistics, Central Wire asserts that, if the findings were to expire, producers in Korea, Switzerland and the United States would have to compete in Canada with low-priced imports from India, China and Taiwan (Chinese Taipei). As proof, Central Wire provides an example of a price offer from a Chinese exporter of stainless steel wire at an extremely low price.¹⁷

[54] Central Wire contends that Korean and Swiss exporters are likely to continue or resume dumping of subject goods to Canada if the finding is rescinded because imports of subject goods from Korea and Switzerland have nearly disappeared from the Canadian market, indicating an inability to compete at undumped prices.¹⁸

[55] Central Wire asserts that Korean and U.S. producers have maintained a significant presence in the Canadian market for non-subject stainless steel wire, at prices lower than that for subject stainless steel wire, which would indicate that imports of subject goods from these countries would increase in volume and at much lower prices if the findings were rescinded.¹⁹

[56] The argument is put forward that Indian, Korean and Swiss exporters have sold substantial volumes of stainless steel wire into the United States during the POR, but have sold disproportionately low volumes of stainless steel wire into Canada, suggesting the findings have restrained Indian, Korean and Swiss exports to Canada and that, if the findings were rescinded, exports of subject goods to Canada from these countries would increase substantially.²⁰

[57] Central Wire notes that producers of stainless steel wire have the ability to produce both subject and non-subject wire on the same equipment. Given that there have been large volumes of non-subject wire imported into Canada from Korea and the United States, Central Wire expects producers in those countries to switch back to selling large volumes of low-priced subject wire to Canada if the findings are rescinded.²¹

[58] Central Wire refers to dumping and subsidy findings currently in place in Canada concerning goods from India and Korea. As well, reference is made to dumping and subsidy findings in other countries in the world against stainless steel or steel-related products from India, Korea and the United States.²²

¹⁷ Ibid., pp. 25-26.

¹⁸ Ibid., pp. 27 & 32.

¹⁹ Ibid., pp. 28-29 & 35-36.

²⁰ Ibid., pp. 29-31, 32-33 & 40.

²¹ Ibid., p. 41.

²² Ibid., pp. 41-44.

Parties Contending that Continued or Resumed Dumping is Not Likely

[59] Sandvik, an exporter of subject goods in the United States, provided a response to the Exporter ERQ, filed supplemental documents and presented arguments that the dumping of certain stainless steel wire originating in or exported from the United States is not likely to continue or resume upon expiry of the finding.

Position of the Exporter

[60] Sandvik presents several arguments in its case brief in support of the position that the expiry of the findings is not likely to result in continued or resumed dumping of certain stainless steel wire from the United States. Alternatively, Sandvik argues that, with respect to welding wire produced in the United States, the expiry of the finding is not likely to result in continued or resumed dumping of these goods from the United States.

[61] Sandvik argues that the performance of the U.S. market has been very good. It makes reference to its response to the Exporter ERQ, wherein the company states that it believes that prices in Canada, the United States and elsewhere for stainless steel wire products are at the highest levels seen in the past eight years and that, in the United States, sales of welding products have been at historical highs with prices increasing year-on-year by roughly 6%.²³

[62] As further evidence of a strong U.S. market, Sandvik makes reference to its level of capacity utilization during the POR, its increased level of production of certain stainless steel wire during this period, and its increased sales.²⁴ Sandvik states that certain stainless steel wire business in the United States has been profitable.²⁵

[63] As an example of strong prices for certain stainless steel wire, Sandvik points to a particular product, ER308L, whose price rose over the POR. Sandvik estimates that all certain stainless steel wire prices in the United States and Canada rose, on average, in the same range during the POR.²⁶

[64] Sandvik projects that global demand for the subject goods will contract but that performance following the expiry of the findings on July 30, 2009 is expected to be relatively strong. It asserts that strong performance of the U.S. market, including high prices, sales and profits and capacity utilization, is a low incentive to dump.²⁷

[65] Sandvik contends that U.S. exporters, such as itself, are unlikely to resume dumping because the market segment in which U.S. welding wire products compete are not subject to the same price pressure as the lowest priced welding wire segments. For example, many of Sandvik's Canadian customers cannot be supplied by Canadian production or by production

²³ Exhibit 41, Case brief - Sandvik Inc., p. 6.

²⁴ Ibid, pp. 6 & 7.

²⁵ Ibid, p. 7.

²⁶ Ibid, p. 8.

²⁷ Ibid, pp. 3 & 8.

from countries such as India, Korea or China.²⁸ As a consequence, there is less competitive pressure faced by Sandvik Canada and the incentive to dump is lower.

[66] Sandvik states that certain stainless steel wire represents only a portion of its total U.S. sales and that the proportion would be similar for other major producers of subject goods in the United States. Any pressure on certain stainless steel wire demand or pricing would affect only a small part of Sandvik's U.S. business, and other U.S. producers, resulting in little or no pressure to dump.²⁹

[67] Sandvik points out that imports of stainless steel wire into the United States represent a substantial proportion of the U.S. market. Despite the fact that the U.S. market is accustomed to very high import competition, U.S. exporters are not driven to sell even non-subject products into Canada. As such, upon expiry of the finding, there should be no added imperative to export to Canada.³⁰

[68] Sandvik makes reference to an article in a trade publication which indicates that, to the extent there is any price decline for certain stainless steel wire associated with any economic downturn, there is no basis for expecting any production or capacity surplus in the United States upon expiry of the finding.³¹

[69] Sandvik points out that Central Wire's subsidiary in the United States, formerly known as Techalloy Co. Inc., did not reply to the exporter questionnaire, even though, being a major U.S. manufacturer of stainless steel wire, it was well placed to provide information about market conditions in the United States. As such, Sandvik suggests that the President should refuse to make assumptions or to draw inferences favourable to Central Wire and should instead draw inferences adverse to Central Wire in all respects upon which the missing information could have a bearing on the President's determination.³²

[70] Sandvik makes reference to import data indicating that imports of stainless steel wire into Canada declined by more than one-third in 2008. If imports from non-subject countries such as China, Chinese Taipei and Germany are declining, there is no reason to believe that imports of certain stainless steel wire from subject countries would increase upon expiry of the duties.³³

[71] Sandvik points out that the period preceding the imposition of duties on certain stainless steel wire in 2004 was a difficult one. As an example, overall U.S. capacity utilization was estimated by the Tribunal to be only 48%, 50% and 46% respectively for the years 2001 to 2003. As for the current economic downturn in the United States, Sandvik states that the industries that use stainless steel wire, such as the oil, gas, petrochemical and infrastructure industries, are the precise type of industries that will benefit from any U.S. government stimulus packages.³⁴

²⁸ Ibid, pp. 8 & 9.

²⁹ Ibid, p. 9.

³⁰ Ibid, pp. 9 & 10.

³¹ Ibid, p. 10.

³² Ibid, pp. 11 & 12.

³³ Ibid, p. 13.

³⁴ Ibid, pp. 13 & 14.

[72] With respect to stainless steel welding wire, Sandvik submits that there are only three potential exporters of this good in the United States including itself and, based on evidence on the record indicating that Sandvik is not likely to dump, the President should determine that continued or renewed dumping of welding wire from the United States is not likely. Sandvik contends that there is nothing in SIMA that prevents the President from making such a determination for only a subset of subject goods from a given country.³⁵

[73] Sandvik states that there are no anti-dumping measures against U.S. exporters of stainless steel wire anywhere in the world, demonstrating an absence of a propensity to dump and establishing that there is no risk of U.S. exports of stainless steel wire being diverted to Canada due to anti-dumping measures elsewhere.³⁶

[74] Sandvik points out that, prior to the findings, the average C\$/US\$ exchange rates for 2002 and 2003 were 1.57 and 1.40 respectively. In contrast, the average C\$/US\$ exchange rates during 2006, 2007 and 2008 were 1.13, 1.07 and 1.07 respectively. As such, there is a significantly lower incentive for any U.S. exporter to discount the U.S. price of goods to compete in Canada.³⁷

[75] Sandvik refers to the CBSA's import and enforcement statistics and makes note of the low level of subject goods imported into Canada from the United States during the POR. It also notes that, although SIMA duties were paid on these imports, these goods were assessed according to the rates established in the Ministerial specification. This being the case, there is no evidence on the record to indicate that these subject goods were imported into Canada at dumped prices.³⁸

[76] Sandvik points to a number of expiry review decisions by the President in past cases and, in particular, the expiry review factors considered by the President in those cases. Sandvik argues that the factors the President finds when determining that continued or resumed dumping is likely are not present in this case as regards certain stainless steel wire from the United States, and the factors that a continuation or resumption of dumping is not likely are present.³⁹

[77] Sandvik notes that, unlike some other steel products, the production of stainless steel wire is not capital-intensive and, as a result, producers do not have the same incentive to dump to recuperate high fixed costs.⁴⁰

³⁵ Ibid, p. 15.

³⁶ Ibid, p. 16.

³⁷ Ibid, p. 17.

³⁸ Ibid, p. 18.

³⁹ Ibid, pp. 18-30.

⁴⁰ Ibid, pp. 22 & 23.

CONSIDERATION AND ANALYSIS

[78] In determining whether the expiry of the findings is likely to result in the continuation or resumption of dumping or subsidizing, the President may consider any factor identified in subsection 37.2(1) of the SIMR.

[79] The CBSA received limited co-operation from interested parties with regard to this expiry review investigation. Similarly, the CBSA found limited information in business or industry publications regarding stainless steel wire in the Named Countries. Although a number of the major exporters of stainless steel wire are large, publicly-traded enterprises with published annual reports, these sources provided virtually no information respecting stainless steel wire as this product constituted such a small proportion of the companies' overall production and sales.

[80] As a result, the CBSA relied on the submissions that were provided by the interested parties in this expiry review investigation, as well as public and proprietary information obtained from various government and industry Web sites, as well as the Metal Bulletin.⁴¹

[81] Based on the aforementioned SIMR and the documentation on the administrative record, the following list represents a summary of the factors considered most relevant to the analysis with respect to the likelihood of continued or resumed dumping:

- continued dumping of subject goods into Canada while the findings were in place;
- apparent extensive production capacity in Korea, Switzerland and the United States;
- inability to compete in Canada at non-dumped prices;
- large volumes of imports of stainless steel wire from Korea, Switzerland and the United States that were excluded from the findings;
- the presence in Canada of low-priced imports of stainless steel wire from countries with which exporters from Korea, Switzerland and the United States likely would have to compete to secure sales;
- evidence of the imposition of anti-dumping measures by a country other than Canada in respect of similar goods;
- recent downturn in the economy, expected to place downward pressure on pricing for stainless steel wire products.

[82] With respect to the subsidy aspect of this expiry review investigation, the CBSA relied primarily on information received during its recent reinvestigation of the amounts of subsidy for Indian exporters of certain stainless steel wire, concluded on October 8, 2008,⁴² and on publicly available information available through Government of India (GOI) Web sites and the media in India⁴³ as the GOI did not respond to the ERQ or provide any updated information on subsidies.

⁴¹ Exhibit 33.

⁴² Exhibit 3.

⁴³ Exhibit S14, Tabs 7-11.

[83] Based on the aforementioned SIMR and the documentation on the administrative record, the following list represents summary of the factors considered most relevant to the analysis with respect to the likelihood of continued or resumed subsidizing:

- continued availability of subsidy programs for stainless steel wire exporters;
- the volume of subsidized goods;
- the performance and likely future performance of exporters in India in respect of production capacity and exports; and
- imposition of countervailing measures by authorities other than Canada in respect of similar goods from India.

[84] Before presenting a country by country analysis of the likelihood of continued or resumed dumping and likelihood of continued or resumed subsidizing, this report will address certain issues that relate to the goods on a broader scale. These are: the commodity nature of stainless steel wire and the market conditions for stainless steel wire.

Commodity Nature of Stainless Steel Wire

[85] Stainless steel wire is largely produced and sold for further manufacture. As such, it is produced in varying formats depending on the requirements of the end-user. For example, cold-heading wire is widely used in the fastener industry, whereas forming wire is used for the production of racks and grills. A wide array of grades are used in the manufacture of continuous wire conveyor belts.

[86] Generally speaking, stainless steel wire produced to a given specification by a producer in a given country is physically interchangeable with wire produced to the same specification in any other country. This is also true in the case of welding wire, which is sold as a finished product and is made to much more exacting specifications, since such specifications are standardized by the American Welding Society.

[87] As such, stainless steel wire products compete amongst themselves regardless of origin and share the same channels of distribution and the same potential customers. This characteristic means that they must compete in a market where price is a major factor affecting customer purchasing decisions.

[88] It should also be noted that producers can manufacture both wire subject to the findings and wire that has been excluded from the findings on the same equipment, and could easily return to producing subject stainless steel wire if market conditions render it more favourable to do so.

Recent and Likely Future Market Developments

[89] The second half of 2008 saw an abrupt downturn in economic conditions around the world, with indicators showing the onset of a global recession leading to lower prices in all steel related sectors.⁴⁴ The Canadian economy also slowed in the 4th Quarter of 2008, with a 12.5% annual decline in the Raw Materials Price Index in October 2008.⁴⁵

[90] According to independent confidential sources, the market for stainless steels in particular is projected to contract in 2009 by a significant margin.⁴⁶ Both Central Wire⁴⁷ and Sandvik⁴⁸ have also stated that they expect reduced demand for certain stainless steel wire in 2009. Their projection is supported by the statements of certain importers, who have indicated that they will be reducing their inventories in anticipation of a further price drop for certain stainless steel wire brought on by the sharp fall in nickel prices, a raw material for certain stainless steel wire.⁴⁹

[91] The CBSA has confidential evidence on the record indicating a steady decline in the price of stainless steel wire in Southeast Asia from July 2007 to June 2008,⁵⁰ even before the downturn in the global economy. As well, pressure to lower prices for certain stainless steel wire in Canada is expected to be exacerbated by the large presence of low-priced imports from countries not subject to the dumping finding,⁵¹ where evidence exists of increased capacity to produce certain stainless steel wire.⁵² Exporters in Korea, Switzerland and the United States would need to compete with these in order to secure sales in Canada.

Likelihood of Continued or Resumed Dumping

[92] The following is an analysis by country of the likelihood of continued or resumed dumping.

Korea

[93] No exporters from Korea provided a response to the ERQ or filed case briefs or reply submissions for the President to consider in making a determination. In the absence of information from any stainless steel wire exporters from Korea, the CBSA's analysis relied on various market sources and independent trade reports.

[94] In the CBSA's original dumping investigation, no exporters from Korea provided information and in two subsequent reinvestigations conducted by the CBSA in 2006 and 2008, no Korean exporters participated.

⁴⁴ Exhibit 33, Tab 1: Metal Bulletin Research, World Economics Monthly - October 2008.

⁴⁵ Exhibit 34, Tab 1: Information on the Global Economic Situation from Various Publications, p. 1.

⁴⁶ Exhibit 16, Response to Canadian Producer Questionnaire - Central Wire Industries Ltd., p. 325.

⁴⁷ Exhibit 17, Response to Canadian Producer Questionnaire - Central Wire Industries Ltd., p. 11.

⁴⁸ Exhibit 41, Case brief - Sandvik Inc., p. 8.

⁴⁹ Exhibit 23, Response to expiry review questionnaire by Larsen & Shaw, p.19.

⁵⁰ Exhibit 33, Tab 6: Listing of Stainless Steel Wire Prices for Taiwanese company from July 2007 to June 2008.

⁵¹ Exhibit 27, Finalized import statistics and enforcement statistics for the period of review.

⁵² Exhibit 17, Response to Canadian Producer Questionnaire - Central Wire Industries Ltd., pp. 12-13.

[95] Based on evidence on the record, there are at least six producers of stainless steel wire in Korea.⁵³ This compares with one producer in all of Canada. One manufacturer, KOS Limited, with six plants in Korea, describes itself as “the largest manufacturer of stainless steel wire and wire rope combined in the world.”⁵⁴ Another large stainless steel wire producer, SeAH Metal Co., Ltd., with three plants in Korea, lists its production capacity at 12,000 ton/year (10.89 million kilograms/year).⁵⁵ Based on confidential information on the record, the estimated Canadian market for stainless steel wire is less than the amount that this one Korean company, SeAH, is capable of producing.⁵⁶

[96] One particular producer of stainless steel wire, B2K Co., Ltd., states the following on its website: “Pretty much we are aware that there are too many manufacturers of wires & cables in stainless steel & non-ferrous metals not only in Korea, but in the World.”⁵⁷

[97] Although there is no evidence on the record regarding the total production capacity of Korean producers of certain stainless steel wire, there is evidence regarding Korean imports of stainless steel wire into the United States. In 2006 and 2007, Korean exporters shipped approximately 8.5 and 7.9 million kilograms respectively of stainless steel wire into the United States.⁵⁸ Based on confidential information on the record, these quantities are greater than the estimated Canadian market for stainless steel wire.⁵⁹

[98] In terms of the likely future performance of Korean exporters, it is noted that, not only do Korean exporters have a significant presence in the U.S. market, as illustrated above, but they also have a considerable presence in the Canadian market with respect to non-subject wire. In 2006, 2007 and the first nine months of 2008, Korean imports of non-subject stainless steel wire into Canada totalled 141,567 kg, 113,147 kg and 80,136 kg respectively.⁶⁰

[99] The figures above relating to Korean imports of non-subject goods into Canada contrast sharply with Korean imports of subject goods into Canada during the same period. According to the CBSA’s enforcement statistics, imports of certain stainless steel wire originating in Korea amounted to 61 kg in 2006, 637 kg in 2007 and 1 kg in the first nine months of 2008.⁶¹ This clearly illustrates that, while Korean exporters have maintained a presence in the Canadian

⁵³ Exhibit 17, Response to Canadian Producer Questionnaire - Central Wire Industries Ltd., Attachments A24-12 to A24-15 and Exhibit 34, Information on the Global Economic Situation from Various Publications, Miscellaneous Information on Producers in Subject Countries.

⁵⁴ Exhibit 17, Response to Canadian Producer Questionnaire - Central Wire Industries Ltd., Attachment A24-12.

⁵⁵ Exhibit 17, Response to Canadian Producer Questionnaire - Central Wire Industries Ltd., Attachment A24-13.

⁵⁶ Exhibit 16, Response to Canadian Producer Questionnaire - Central Wire Industries Ltd., Attachment A21-1.

⁵⁷ Exhibit 34, Information on the Global Economic Situation from Various Publications, Miscellaneous Information on Producers in Subject Countries.

⁵⁸ Exhibit 17, Response to Canadian Producer Questionnaire - Central Wire Industries Ltd., Attachment A25-1.

⁵⁹ Exhibit 16, Response to Canadian Producer Questionnaire - Central Wire Industries Ltd., Attachment A21-1.

⁶⁰ Exhibit 27, Finalized import statistics and enforcement statistics for the period of review of January 1, 2006 to September 30, 2008 and Exhibit 17, Response to Canadian Producer Questionnaire - Central Wire Industries Ltd., Attachment A21-1. Note: the figure for 2008 was for the first ten months of the year so it was reduced by 10% to arrive at a figure for the first 9 months of 2008.

⁶¹ Exhibit 27, Finalized import statistics and enforcement statistics for the period of review of January 1, 2006 to September 30, 2008.

market with respect to non-subject stainless steel wire, they have all but abandoned the Canadian market with respect to subject stainless steel wire.

[100] During the CBSA's original dumping investigation, Korean imports of subject goods into Canada amounted to 163,893 kilograms during the period October 1, 2002 to September 30, 2003.⁶² This figure, while slightly greater than the figures for 2006 and 2007 for imports of non-subject stainless steel wire, would suggest that Korean exporters have, since the imposition of anti-dumping duties, simply changed their product mix and now are exporting non-subject goods to Canada almost exclusively. This indicates an inability to compete in Canada at non-dumped prices.

[101] During the POR, the price leaders in the Canadian market were imports from China, Chinese Taipei, and India. In 2006, the average price per kilogram for imports of certain stainless steel wire from these countries was \$3.81, \$5.23 and \$4.52 respectively (prices in Canadian dollars). In 2007, the prices were \$7.23, \$6.79 and \$4.88 respectively, while in the first nine months of 2008, the prices were \$6.13, \$7.41 and \$ 4.70 respectively.⁶³ In comparison, the average import prices of subject goods from Korea in 2006, 2007 and the first nine months of 2008 of \$8.94, \$9.44 and \$5.91 respectively were considerably higher (it should be noted that the 2008 price represents 1 kg and may not be representative). This indicates that, if the finding were rescinded, Korean exporters would have to lower their prices significantly to compete with imports from the afore-mentioned countries.

[102] While the prices for Korean subject goods were higher than prices of the same goods from China, Chinese Taipei and India, this was not the case with respect to Korean imports of non-subject goods. In fact, for non-subject stainless steel wire, Korean exporters had the second lowest price in the Canadian market in 2006 (\$4.52), the third lowest price in 2007 (\$6.27), and the fifth lowest price in the first 10 months of 2008 (\$6.48).⁶⁴ The selling behaviour exhibited by Korean exporters with respect to their sales of non-subject wire into Canada is indicative of their likely selling behaviour with respect to sales of subject stainless steel wire if the finding were rescinded.

[103] Evidence on the record indicates that Korea was the second largest exporter of stainless steel wire into the United States in 2006 and 2007. In terms of unit pricing, out of the 15 largest exporters to the United States, Korea's average selling price ranked sixth lowest in 2006 and seventh lowest in 2007.⁶⁵ This clearly indicates that, while Korean exporters have maintained a significant interest in the North American market with respect to non-subject stainless steel wire through competitive pricing, it has not been able to maintain the same presence in Canada's stainless steel wire market with respect to subject goods.

⁶² Exhibit 1, Statement of Reasons concerning the making of a final determination with respect to the dumping of certain stainless steel wire originating in or exported from the Republic of Korea, Switzerland and the United States of America and the subsidizing of such product originating in or exported from India.

⁶³ Exhibit 27, Finalized import statistics and enforcement statistics for the period of review of January 1, 2006 to September 30, 2008.

⁶⁴ Exhibit 17, Response to Canadian Producer Questionnaire - Central Wire Industries Ltd., Attachment A21-1.

⁶⁵ Exhibit 17, Response to Canadian Producer Questionnaire - Central Wire Industries Ltd., Attachment A25-1.

[104] Anti-dumping measures have been imposed by the United States in respect of stainless steel wire rod from Korea.⁶⁶ Wire rod is the principal input material used to produce stainless steel wire. The evidence of this anti-dumping action by the United States indicates that North American producers require protection against dumped similar products from Korea.

[105] Given that stainless steel wire is a commodity product sensitive to price fluctuations and given that Canada, along with the rest of the world, is in the midst of a global economic crisis, it is not unreasonable to assume that the price of stainless steel wire will continue to be increasingly competitive in the near future. Korean exporters, who have lost virtually all of their market share in Canada held prior to the findings, would have to compete with low-priced imports from countries such as China, Chinese Taipei and India upon expiry of the finding. Although Korean exporters have shown that they are competitive in the Canadian market with respect to non-subject stainless steel wire, no Korean exporter has ever requested normal values to enable them to compete in the Canadian market with respect to subject stainless steel wire. As such, there is no evidence on the record that points to the ability of Korean exporters to compete in Canada at non-dumped prices should the finding expire.

[106] Based on evidence on the record in respect of: continued dumping of subject goods into Canada while the finding was in place; the substantial production capacity of Korean exporters; the inability of Korean exporters to compete in Canada at non-dumped prices; the continued presence in Canada of low-priced, non-subject wire from Korea; the evidence of significant volumes of low-priced exports of Korean stainless steel wire in the U.S. market; the presence in Canada of low-priced imports of stainless steel wire from other countries with which exporters from Korea likely would have to compete to secure sales in Canada; and evidence of the imposition of anti-dumping measures by a country other than Canada in respect of similar goods, the President determined that the expiry of the finding is likely to result in the continuation or resumption of dumping into Canada of certain stainless steel wire originating in or exported from the Republic of Korea.

Switzerland

[107] No exporters in Switzerland provided a response to the ERQ nor did any exporter file a case brief or reply submission for the President to consider in making a determination. In the absence of information from any stainless steel wire exporters in Switzerland, the CBSA's analysis relied on various market sources and independent trade reports.

[108] In the original dumping investigation, no exporters in Switzerland submitted a complete response to the CBSA's questionnaire nor did any exporters in Switzerland participate in subsequent reinvestigations conducted by the CBSA in 2006 and 2008.

[109] During the POR, the majority of certain stainless steel wire imported into Canada that was of Swiss origin was shipped to Canada through the United States. Despite the fact that there were multiple exporters of these goods, based on evidence on the record, there is but one producer of stainless steel wire in Switzerland, namely Novametal SA. Although there is no evidence regarding Novametal's total production capacity of certain stainless steel wire, there is

⁶⁶ Exhibit 13, at pp. 15-16 of the Central Wire Submission in LE-2008-002.

evidence regarding Swiss imports of stainless steel wire into the United States. In 2006 and 2007, Swiss imports of stainless steel wire into the United States totalled 921,983 and 792,880 kilograms respectively, making it the eighth largest exporting country to the United States in those two years.⁶⁷ Based on confidential information on the record regarding the size of the Canadian stainless steel wire market, the quantity of Swiss exports to the United States would be considered sizeable in comparison.⁶⁸

[110] In terms of the likely future performance of Swiss exporters, it is noted that, while Swiss exporters have a significant presence in the U.S. stainless steel wire market as illustrated by the import figures listed above, Swiss-origin stainless steel wire has dwindled to insignificant amounts in Canada.⁶⁹

[111] It is noted that, during the CBSA's original dumping investigation, Swiss imports of subject goods into Canada amounted to 133,400 kilograms during the period October 1, 2002 to September 30, 2003, and represented over 4% of total imports into Canada.⁷⁰ The fact that Swiss exporters shipped sizeable amounts of stainless steel wire to Canada prior to the findings but have shipped insignificant amounts to Canada subsequent to the findings while continuing to ship large amounts to the United States where there are no anti-dumping measures in place, indicates that exporters in Switzerland cannot compete in the Canadian market at non-dumped prices.

[112] As mentioned previously, the price leaders in the Canadian market during the POR were imports from China, Chinese Taipei, and India. In 2006, the average price per kilogram for imports of certain stainless steel wire from these countries was \$3.81, \$5.23 and \$4.52 respectively (prices in Canadian dollars). In 2007, the prices were \$7.23, \$6.79 and \$4.88 respectively, while in the first nine months of 2008 the prices were \$6.13, \$7.41 and \$4.70 respectively.⁷¹ In comparison, the average import prices of subject goods from Switzerland in 2006, 2007, and the first nine months of 2008 of \$8.35, \$11.59 and \$18.26 were considerably higher (it should be noted that the 2008 price represents 38 kg and may not be representative). This indicates that, if the finding was rescinded, Swiss exporters would have to lower their prices significantly to compete with imports from the afore-mentioned countries.

[113] Commodity products, such as stainless steel wire, are sensitive to price. In view of the fact that Canada and the rest of the world are facing a global economic crisis, it is reasonable to expect that the price of stainless steel wire will be increasingly competitive in the near future. Swiss exporters, who have lost virtually all of their market share in Canada held prior to the findings, would have to compete with low-priced imports from countries such as China, Chinese

⁶⁷ Exhibit 17, Response to Canadian Producer Questionnaire - Central Wire Industries Ltd., Attachment A25-1.

⁶⁸ Exhibit 16, Response to Canadian Producer Questionnaire - Central Wire Industries Ltd., Attachment A21-1.

⁶⁹ Exhibit 27, Finalized import statistics and enforcement statistics for the period of review of January 1, 2006 to September 30, 2008 and Exhibit 17, Response to Canadian Producer Questionnaire - Central Wire Industries Ltd., Attachment A21-1.

⁷⁰ Exhibit 1, Statement of Reasons concerning the making of a final determination with respect to the dumping of certain stainless steel wire originating in or exported from the Republic of Korea, Switzerland and the United States of America and the subsidizing of such product originating in or exported from India.

⁷¹ Exhibit 27, Finalized import statistics and enforcement statistics for the period of review of January 1, 2006 to September 30, 2008.

Taipei and India upon expiry of the finding. As no Swiss exporter has ever requested normal values from the CBSA, there is no evidence on the record that points to the ability of Swiss exporters to compete in Canada at non-dumped prices should the finding expire.

[114] Based on evidence on the record in respect of: the substantial production capacity of Swiss exporters; the inability of Swiss exporters to compete in Canada at non-dumped prices; the evidence of significant volumes of Swiss stainless steel wire in the U.S. market combined with insignificant volumes in the Canadian market; and the presence in Canada of low-priced imports of stainless steel wire from other countries with which exporters from Switzerland likely would have to compete to secure sales in Canada, the President determined that the expiry of the finding is likely to result in the continuation or resumption of dumping into Canada of certain stainless steel wire originating in or exported from Switzerland.

United States

[115] The CBSA received a response to the Exporter ERQ from two exporters in the United States, Sandvik and Euroweld Ltd. As well, Sandvik submitted a case brief and a reply submission for the President to consider in making a determination.

[116] Sandvik participated in the CBSA's original dumping investigation in 2003/2004 and the reinvestigation conducted in 2008. Euroweld participated in the CBSA reinvestigations in 2006 and 2008. No other exporters in the United States participated in the CBSA's latest reinvestigation in 2008.⁷²

[117] Based on evidence on the record, there are approximately twelve producers of stainless steel wire in the United States although there is little public information about their production capacities. With respect to the two respondents to the Exporter ERQ, it should be noted that Euroweld is a reseller or distributor of welding consumables and not a producer. The other respondent, Sandvik, is a producer and provided confidential information with respect to its plant capacity for certain stainless steel wire.⁷³ Based on confidential information on the record regarding the size of the Canadian stainless steel wire market, the production capacity of this one U.S. producer would be considered sizeable in comparison.⁷⁴

[118] In terms of the likely future performance of U.S. exporters, it is noted that they have a considerable presence in the Canadian market with respect to non-subject wire. In 2006, 2007 and the first nine months of 2008, imports of non-subject stainless steel wire into Canada from the United States totalled 434,863 kg, 518,702 kg and 386,841 kg respectively.⁷⁵

⁷² Exhibit 3, Notice of Conclusion of Reinvestigation of the normal values, export prices and amounts of subsidy of certain stainless steel wire, October 8, 2008.

⁷³ Exhibit 20, Response to expiry review questionnaire by Sandvik Materials Technology USA, Appendix 1.

⁷⁴ Exhibit 16, Response to Canadian Producer Questionnaire - Central Wire Industries Ltd., Attachment A21-1.

⁷⁵ Exhibit 27, Finalized import statistics and enforcement statistics for the period of review of January 1, 2006 to September 30, 2008 and Exhibit 17, Response to Canadian Producer Questionnaire - Central Wire Industries Ltd., Attachment A21-1. Note: the figure for 2008 was for the first ten months of the year so it was reduced by 10% to arrive at a figure for the first 9 months of 2008.

[119] The figures above relating to U.S. imports of non-subject goods into Canada during the POR contrast markedly with U.S. imports of subject goods into Canada during the same period. According to the CBSA's enforcement statistics, imports of certain stainless steel wire originating in the United States amounted to 44,573 kg in 2006, 42,581 kg in 2007 and 23,533 kg in the first nine months of 2008.⁷⁶ This clearly illustrates that, while U.S. exporters have maintained a presence in the Canadian market with respect to non-subject stainless steel wire, they have greatly decreased their participation in the Canadian market with respect to subject stainless steel wire.

[120] During the CBSA's original dumping investigation, U.S. imports of subject goods into Canada during the period of October 1, 2002 to September 30, 2003 represented over 64% of total imports into Canada.⁷⁷ However, after the Tribunal findings, U.S. imports of subject goods into Canada had dropped off dramatically and represented just 2% of total imports into Canada during the POR.⁷⁸ Of the four countries subject to the findings, the decline in imports of subject goods with respect to the United States was the most pronounced.

[121] The decline in shipments of subject goods from the United States is borne out by the following statement in Sandvik's case brief: "The lack of participation by U.S. exporters in the Canadian market during the POR reflects the fact that Sandvik, Lincoln Electric and ESAB have been in a position to export product to Canada from other countries during the POR, and this without complaint from Central Wire."⁷⁹ Based on this statement, it would appear that some U.S. exporters of certain stainless steel wire have chosen to sell to Canada from related companies in other countries rather than from their U.S. operations. This, coupled with the fact that very few U.S. exporters have applied for normal values, indicates that U.S. exporters could not compete in the Canadian market at non-dumped prices.

[122] There is confidential evidence on the record regarding the normal values issued to U.S. exporters at the conclusion of the last reinvestigation.⁸⁰ As well, there is confidential evidence on the record regarding the Canadian producer's selling price of certain stainless steel wire products to its major customers in Canada.⁸¹ Although not indicative of all U.S. pricing, a comparison of the normal values issued indicates that, to compete with Central Wire's domestic selling prices, the U.S. goods would have to be sold into Canada at prices below the established normal values.

⁷⁶ Exhibit 27, Finalized import statistics and enforcement statistics for the period of review of January 1, 2006 to September 30, 2008.

⁷⁷ Exhibit 1, Statement of Reasons concerning the making of a final determination with respect to the dumping of certain stainless steel wire originating in or exported from the Republic of Korea, Switzerland and the United States of America and the subsidizing of such product originating in or exported from India.

⁷⁸ Exhibit 27, Finalized import statistics and enforcement statistics for the period of review of January 1, 2006 to September 30, 2008.

⁷⁹ Exhibit 41, Case brief - Sandvik Inc., p. 4.

⁸⁰ Exhibit 4, Exporter and importer ruling letters issued at the conclusion of the reinvestigation of normal values, export prices and amounts of subsidy of certain stainless steel wire originating in or exported from India, the Republic of Korea, Switzerland and the United States of America.

⁸¹ Exhibit 16, Response to Canadian Producer Questionnaire - Central Wire Industries Ltd., Attachment A7.

[123] As mentioned earlier, the lowest prices in the Canadian market during the POR belonged to imports from China, Chinese Taipei, and India. In 2006, the price per kilogram for imports of certain stainless steel wire from these countries was \$3.81, \$5.23 and \$4.52, respectively (prices in Canadian dollars). In 2007, the prices were \$7.23, \$6.79 and \$4.88, respectively, while in the first nine months of 2008 the prices were \$6.13, \$7.41 and \$4.70, respectively.⁸² In comparison, the average import prices of subject goods from the United States during this same period of \$8.03, \$10.96 and \$9.55 were much higher. This would indicate that, if the finding were rescinded, U.S. exporters would have to lower their prices significantly to compete with imports from the afore-mentioned countries.

[124] The global economic crisis is affecting the prices of many commodity products around the world, including stainless steel wire. U.S. exporters, who have lost the great majority of their market share in Canada, would have to compete with low-priced offerings from countries such as China, Chinese Taipei and India upon expiry of the findings. As few U.S. exporters have requested normal values from the CBSA, and as some U.S. exporters have simply chosen to serve Canadian clients from other non-subject countries, there is little evidence on the record that points to the ability of U.S. exporters to compete in Canada at non-dumped prices should the findings expire.

[125] Sandvik argues in its case brief and petitions the President of the CBSA to determine that, with respect to welding wire from the United States, the expiry of the finding is not likely to result in continued or resumed dumping of these particular goods. After consideration, the President made a single determination covering all certain stainless steel wire originating in or exported from the United States, as summarized below.

[126] Based on evidence on the record in respect of: the substantial production capacity of U.S. exporters; the inability of U.S. exporters to compete in Canada at non-dumped prices; the considerable presence of imports into Canada of non-subject stainless steel wire as compared to the low presence of subject wire; the selling of certain stainless steel wire by U.S. exporters to their domestic customers at prices higher than those to customers in Canada; and the presence in Canada of low-priced imports of stainless steel wire from other countries with which exporters from the United States likely would have to compete to secure sales in Canada, the President determined that the expiry of the finding is likely to result in the continuation or resumption of dumping into Canada of certain stainless steel wire originating in or exported from the United States of America.

Likelihood of Continued or Resumed Subsidizing

India

[127] In its analysis of the likelihood of continued or resumed subsidizing of certain stainless steel wire from India, the CBSA found that all four programs determined to have conferred actionable benefits to exporters of certain stainless steel wire during the original investigation,

⁸² Exhibit 27, Finalized import statistics and enforcement statistics for the period of review of January 1, 2006 to September 30, 2008.

were still granted to exporters at the time of the last reinvestigation concluded on October 8, 2008. These were:

- (a) Duty Entitlement Pass Book (DEPB) Scheme
- (b) Export Promotion Capital Goods (EPCG) Scheme
- (c) Pre-shipment Export Financial Assistance
- (d) Post-shipment Export Financial Assistance⁸³

[128] The GOI's Duty Entitlement Pass Book (DEPB) Scheme is an Indian duty exemption program, which has conferred benefits to exporters of certain stainless steel wire that the CBSA has deemed to be actionable subsidies.⁸⁴ Information released by the GOI confirmed that the DEPB Scheme is still in effect.⁸⁵ Originally scheduled to expire on September 30, 2005, the DEPB Scheme has been continuously extended since that time.⁸⁶

[129] The GOI's Export Promotion Capital Goods (EPCG) Scheme allows exporters of stainless steel wire to import capital equipment and components at reduced or nil rates of import duty, benefits that the CBSA has deemed to be actionable subsidies.⁸⁷ Information released by the GOI indicated that the EPCG Scheme remains in effect and was expanded in 2008.⁸⁸ Furthermore, since benefits under the EPCG Scheme are for the importation of capital equipment that is amortized, any resulting benefits will continue to remain on the accounts of the exporters for the life of the imported equipment, even in the event the subsidy program itself is discontinued.

[130] Under the GOI's Pre-shipment Export Financial Assistance program, also known as the Export Packing Credit, Indian banks are directed to extend pre-shipment working capital loans to exporters at ceiling rates set by the Reserve Bank of India (RBI), India's central bank. Since the interest paid on Pre-shipment Export Financial Assistance loans is lower than the interest that is payable for comparable commercial loans respecting domestic sales, benefits received under this program are deemed to constitute actionable subsidies.⁸⁹ Information received by the CBSA during the latest reinvestigation has confirmed that the Pre-shipment Export Financial Assistance program remains in effect.⁹⁰

[131] Under the GOI's Post-shipment Export Financial Assistance program, Indian banks are directed to also extend loans to exporters at ceiling rates set by the RBI for the period from the shipment of the exported goods until the date of realization of export proceeds. Since the interest paid on Post-shipment Export Financial Assistance loans is also lower than the interest on comparable commercial loans for domestic sales, benefits received under this program are deemed to constitute actionable subsidies.⁹¹ Information received by the CBSA during the latest

⁸³ Exhibit 1, Final Determination Statement of Reasons, p. 20.

⁸⁴ Exhibit 1, Final Determination Statement of Reasons, p. 17.

⁸⁵ Exhibit S14, Tab 8, Outline of Updates to Indian Foreign Trade Policy, p. 3.

⁸⁶ Exhibit S14, Tab 8, Excerpts from Indian Press on Export Promotion Programs, p. 48.

⁸⁷ Exhibit 1, Final Determination Statement of Reasons, p. 18.

⁸⁸ Exhibit S14, Tab 8, Outline of Updates to Indian Foreign Trade Policy, p. 3.

⁸⁹ Exhibit 1, Final Determination Statement of Reasons, p. 19.

⁹⁰ Exhibit 4.

⁹¹ Exhibit 1, Final Determination Statement of Reasons, p. 19.

reinvestigation has confirmed that the Post-shipment Export Financial Assistance program remains in effect.⁹²

[132] The GOI was invited to provide an update regarding the current status and plans respecting the foregoing programs, but as previously stated, the GOI did not respond to the ERQ. Therefore, based on the results of the latest reinvestigation and publicly available documents, the CBSA has concluded that the programs listed above will likely remain in place in the near future.

[133] Furthermore, the results of the latest reinvestigation have indicated an enhanced eligibility on the part of stainless steel wire exporters to receive benefits through programs involving sales tax refunds, income tax exemptions and import duty exemptions. The exporters did not avail themselves of these benefits during the original investigation.

[134] The CBSA has found no evidence indicating that such benefits are to be discontinued and has, therefore, concluded that these additional programs are also likely to remain in effect for the foreseeable future.

[135] In addition, information on the CBSA record indicates that imports of certain stainless steel wire originating in India increased in each year of the POR, and represented over 90% of imports of certain stainless steel wire from subject countries in 2006, 2007 and 2008.⁹³

[136] Evidence on the record also reveals that the capacity for production of certain stainless steel wire in India exceeds the Canadian market for such goods many times over.⁹⁴ Furthermore, the data on the record indicates that producers in India generally rely heavily on the export market to maintain their production capacity utilization.⁹⁵

[137] As well, the four Indian exporters of certain stainless steel wire that were present in Canada at the time of the original subsidy investigation appear likely to remain active in the Canadian market, as evidenced through their participation in both CBSA reinvestigations in 2006 and 2008.

[138] It is concluded, therefore, that Indian exporters retain a high interest in the Canadian market, and that imports of subsidized certain stainless steel wire from India would likely continue and/or increase should the finding expire.

[139] It is also noted that between 1995 and 2008, WTO member countries initiated 45 subsidy investigations against imports from India. In 26 of these cases (14 of which involved steel products and 4 of which involved Canada) countervailing duties were imposed.⁹⁶ Besides stainless steel wire, the CBSA currently has countervailing measures in place respecting hot-rolled steel sheet.

⁹² Exhibit 4.

⁹³ Exhibit 27.

⁹⁴ Exhibit 17, p. 14.

⁹⁵ Exhibit 17, p. 14.

⁹⁶ World Trade Organization website: www.wto.org/english/tratop_e/scm_e/scm_e.htm.

[140] The existence of these other countervailing findings/orders are further indications that certain stainless steel wire and other products from India are being subsidized at this time and that they will likely continue to be subsidized in the foreseeable future.

[141] Based on evidence on the record in respect of: the continued availability of subsidy programs for stainless steel wire exporters in India; the enhanced eligibility of exporters to receive benefits not granted during the original investigation; the exporters' substantial production capacity; the exporters' expressed interest in the Canadian market; and evidence of the imposition of countervailing measures by a country other than Canada in respect of similar goods, the President determined that the expiry of the finding is likely to result in the continuation or resumption of subsidizing of certain stainless steel wire originating in or exported from India.

CONCLUSION

[142] For the purpose of making determinations 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 March 12, 2009, the President of the CBSA determined that:

- (i) the expiry of the finding made by the Tribunal on July 30, 2004, in Inquiry No. NQ-2004-001, concerning certain stainless steel wire originating in or exported from the Republic of Korea and Switzerland is likely to result in the continuation or resumption of dumping of the goods to Canada;
- (ii) the expiry of the finding made by the Tribunal on July 30, 2004, in Inquiry No. NQ-2004-001, concerning certain stainless steel wire originating in or exported from the United States of America is likely to result in the continuation or resumption of dumping of the goods to Canada; and
- (iii) the expiry of the finding made by the Tribunal on July 30, 2004, in Inquiry No. NQ-2004-001, concerning certain stainless steel wire originating in or exported from India is likely to result in the continuation or resumption of subsidizing of the goods to Canada.

FUTURE ACTION

[143] On March 13, 2009, the Tribunal commenced its inquiry to determine whether the expiry of the findings is likely to result in injury or retardation with respect to goods from India, the Republic of Korea, Switzerland and the United States of America. The Tribunal will make its decisions by July 29, 2009.

[144] If the Tribunal determines that the expiry of the findings with respect to the goods from India, the Republic of Korea, Switzerland and the United States of America is likely to result in injury or retardation, the findings 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 or countervailing duties on dumped or subsidized importations of certain stainless steel wire.

[145] If the Tribunal determines that the expiry of the findings with respect to the goods from India, the Republic of Korea, Switzerland and the United States of America is unlikely to result in injury or retardation, the findings will be rescinded in respect of those goods. Anti-dumping and countervailing duties would no longer be levied on importations of certain stainless steel wire beginning on the date the findings are rescinded.

INFORMATION

[146] For further information, please contact the officer listed below:

Mail:

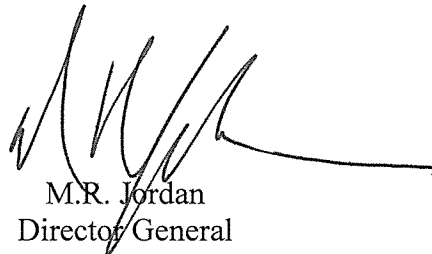
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