

Ottawa, Friday, February 13, 1998

Reference No.: RE-97-001

IN THE MATTER OF a reference, under paragraph 34(1)(b) of the *Special Import Measures Act*, made by British Steel Canada Inc. (Montréal) and British Steel Alloys (Vancouver), importers, to the Canadian International Trade Tribunal;

AND IN THE MATTER OF an advice rendered by the Canadian International Trade Tribunal under section 37 of the *Special Import Measures Act*;

RESPECTING the dumping in Canada of certain stainless steel round bar originating in or exported from the Federal Republic of Germany, France, Italy, Japan, Spain, Sweden, Taiwan and the United Kingdom.

ADVICE

The Canadian International Trade Tribunal hereby concludes that the evidence before the Deputy Minister of National Revenue discloses a reasonable indication that the dumping of certain stainless steel round bar originating in or exported from the Federal Republic of Germany, France, Italy, Japan, Spain, Sweden, Taiwan and the United Kingdom has caused material injury or is threatening to cause material injury to the domestic industry.

Pierre Gosselin
Presiding Member

Arthur B. Trudeau
Member

Peter F. Thalheimer
Member

Michel P. Granger
Secretary

Date of Advice: February 13, 1998

Tribunal Members: Pierre Gosselin, Presiding Member
Arthur B. Trudeau, Member
Peter F. Thalheimer, Member

Research Director: Selik Shainfarber
Research Manager: Tom Geoghegan

Counsel for the Tribunal: Hugh J. Cheetham

Ottawa, Friday, February 13, 1998

Reference No.: RE-97-001

ADVICE rendered under section 37 of the *Special Import Measures Act* respecting:

**CERTAIN STAINLESS STEEL ROUND BAR ORIGINATING IN OR
EXPORTED FROM THE FEDERAL REPUBLIC OF GERMANY, FRANCE,
ITALY, JAPAN, SPAIN, SWEDEN, TAIWAN AND THE UNITED KINGDOM**

TRIBUNAL: PIERRE GOSSELIN, Presiding Member
ARTHUR B. TRUDEAU, Member
PETER F. THALHEIMER, Member

STATEMENT OF REASONS

On December 23, 1997, on the basis of a properly documented complaint filed by Atlas Specialty Steels, a division of Sammi Atlas Inc. (Atlas), the Deputy Minister of National Revenue (the Deputy Minister) initiated an investigation into the alleged injurious dumping in Canada of certain stainless steel round bar originating in or exported from the Federal Republic of Germany, France, Italy, Japan, Spain, Sweden, Taiwan and the United Kingdom. The Deputy Minister was of the opinion that there was evidence that the subject goods had been dumped. In addition, there was a reasonable indication “that such dumping has caused or is threatening to cause material injury to the production in Canada of like goods.”¹

On January 14, 1998, pursuant to paragraph 34(1)(b) of the *Special Import Measures Act*² (SIMA), counsel for British Steel Canada Inc. (Montréal) and British Steel Alloys (Vancouver) referred to the Canadian International Trade Tribunal (the Tribunal) the question of whether the evidence before the Deputy Minister disclosed a reasonable indication that the dumping of the subject goods originating in or exported from the United Kingdom had caused material injury or was threatening to cause material injury to the domestic industry.

Section 34 of SIMA requires the Tribunal to provide advice on whether the evidence before the Deputy Minister discloses a reasonable indication that the dumping of the goods under investigation has caused injury or is threatening to cause injury. Paragraph 37(b) of SIMA provides that the Tribunal shall render its advice on the question without holding hearings, on the basis of the information that was before the Deputy Minister when he reached his decision or conclusion on that question, forthwith after the date on which the reference is made to it and, in any event, not later than 30 days after that date.

The Deputy Minister defined the subject goods as follows:

stainless steel round bar of sizes 25 mm diameter up to 570 mm diameter inclusive, originating in or exported from the Federal Republic of Germany, France, Italy, Japan, Spain, Sweden, Taiwan and the United Kingdom.

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1. Department of National Revenue, *Statement of Reasons*, December 23, 1997, at 6.
 2. R.S.C. 1985, c. S-15, as amended by S.C. 1994, c. 47, s. 164.

The subject goods include round bar in cut lengths with various diameters and a variety of surface finishes.

Stainless steel round bar may be: (1) hot-rolled or forged only; (2) hot-rolled or forged and annealed; (3) hot-rolled or forged and annealed and descaled or bar turned, rough turned or lathe turned; (4) cold-drawn whether smooth turned/rough ground, centreless ground or centreless ground and polished; or (5) hot-rolled and bar turned and smooth turned/rough ground or centreless ground or centreless ground and polished.

Stainless steel is a corrosion-resistant and/or heat-resistant alloy steel which contains, by weight, a maximum carbon content of 1.2 percent and a minimum chromium content of 10.5 percent. There are many individual grades or chemical analyses of stainless steel. These grades typically include other alloying elements besides chromium (such as nickel and molybdenum, among others) and are tailored to meet the mechanical and/or physical properties of particular end uses. The most popular grades of stainless steel bar are AISI 303, 304, 304L, 316, 316L, 410, 416, 420, 430F, and the 630 or 17Cr-4Ni precipitation hardening grade. These grades account for over 85 percent of the total Canadian consumption of stainless steel bar.

Stainless steel round bar is used in a variety of production and maintenance applications which require resistance to corrosion and/or heat. Consequently, stainless steel round bar finds application in a variety of industries, including pulp and paper, power generation, petro-chemical, oil and gas, valves and fittings, automotive and transportation. Round bar is used in a wide variety of applications, including valve bodies, various mixer shafts and pump shafts.

During the seven-month period ending July 31, 1997, the Deputy Minister found that 78.2 percent of all imports reviewed from the named countries were dumped, with a weighted average margin, expressed as a percentage of normal value, of 14.1 percent.

The Tribunal notes that, under section 35 of SIMA, at any time before making a preliminary determination of dumping, the Deputy Minister shall terminate an investigation where, among other things, he is satisfied that the actual or potential volume of dumped or subsidized goods from any named source is negligible, within the meaning of SIMA. The Tribunal notes that the Deputy Minister performed the "negligibility" test on a preliminary basis for each of the named countries. The results show that each of these countries is above the minimum threshold. However, the Deputy Minister has indicated that he will be updating the data for the purpose of conducting the negligibility test for the preliminary determination of dumping.

The information before the Deputy Minister, with respect to injury, when he made the decision to initiate the investigation, included a confidential complaint filed by Atlas and an analysis of the complaint prepared by officers of the Department of National Revenue (Revenue Canada). Atlas's complaint contained data on the domestic market for stainless steel bar; Atlas's market share and the market share held by the named countries from 1994 to mid-1997; price offerings and pricing activity by the named countries at various accounts; financial performance; and trends in capacity utilization.

In its complaint to Revenue Canada, Atlas indicated that the apparent domestic market increased in 1995, compared to 1994. However, in 1996, it fell below the level shown for 1994. In 1997, based on data for the first half of the year, Atlas submitted that the market would likely decline even further.

Combined with the sharp decline in the market in 1996, there was a significant increase in the share of the market captured by imports from the named countries. During the last half of 1996, Atlas's market share was at its lowest level in the 42-month period. Atlas provided data which indicated that average declared unit values of imports from the named countries declined significantly during the last half of 1996.

While Atlas's share of the market returned to a more historical level during the first half of 1997, it submitted evidence to show that significant volumes of the named countries' imports had average declared unit values in several cases which were well below those during the last half of 1996, increasing the downward price pressure in the Canadian market.

Atlas also provided evidence concerning price erosion. This was demonstrated in a number of instances where Atlas was required to offer discounts to its customers over the period from March 11, 1996, to June 4, 1997. Additional evidence included internal customer-specific price lists and price memos in effect from May 1995 to April 1997. It was alleged that Atlas was not only required to lower its posted price due to the presence of dumped imports but also required to meet this import competition through discounts and special competitive allowances to specific accounts.

To support its allegations of lost orders, Atlas submitted a number of contact reports which are internal memoranda completed by sales staff to document lost sales or competitive pricing activities. These reports document alleged lost orders to specific accounts in 1996 and 1997. In each case, the quoted selling price was lower than Atlas's offered price.

As a further indication of the impact of the dumping of stainless steel bar by the named countries, Atlas provided information indicating that it experienced lower profitability and a reduction in its utilization of capacity.

As evidence of a threat of injury from the dumped stainless steel bar, Atlas provided information which, it argued, showed that the named countries have significant capacity to melt and produce stainless steel in various mill forms and that these large production capabilities exceed the named countries' home market requirements, thus causing them to be highly export-oriented. Atlas also stated that stainless steel producers in the named countries have previously been found to have dumped stainless steel bar and/or other specialty steel products in the Canadian market, as well as in other jurisdictions.³

In considering the question of injury or reasonable indication of injury, it is the Tribunal's practice to cumulate the impact of dumping from all named sources and to examine its total effect on the domestic industry. In the context of this reference, the Tribunal has, therefore, considered the cumulative effect of

3. On April 7, 1983, in Inquiry No. ADT-1-83, the Anti-dumping Tribunal found that the dumping of stainless steel bar and wire from Brazil, the Federal Republic of Germany, France, Japan, the Republic of Korea and Spain had caused, was causing and was likely to cause material injury to the production in Canada of like goods. On July 20, 1990, in Review No. RR-89-009, the Tribunal rescinded this finding. On April 19, 1985, In Inquiry No. CIT-16-84, the Canadian Import Tribunal found no injury concerning stainless steel bar and wire from Italy. On November 13, 1990, in Inquiry No. NQ-90-002, the Tribunal made a finding of no injury with respect to imports of stainless steel bar from India. Revenue Canada states, in its case analysis, that, in February 1995, US manufacturers of stainless steel bar obtained an injury finding from the United States International Trade Commission. The countries involved were not mentioned in Revenue Canada's files.

dumping from all eight named sources, including the United Kingdom, for the purpose of its advice on whether the evidence discloses a reasonable indication of injury or threat of injury.

The Tribunal notes that there is information in the Deputy Minister's file which appears to connect rising imports from the named countries with falling domestic prices of stainless steel bar. At the account level, Atlas submitted specific examples of price erosion and lost orders. In terms of causation, the Tribunal is of the view that there is an apparent correlation between the increasing presence of dumped imports in the Canadian market and Atlas's falling prices and declining performance which provides a reasonable indication that the dumping of the subject goods has caused injury or is threatening to cause injury. However, it is only through an inquiry that the Tribunal will be able to explore fully whether the domestic industry has suffered, or could suffer, injury and whether there is a causal link between that injury and the dumping. In making this assessment, the Tribunal will also examine the effects of other factors on industry performance.

On the basis of the information before it, the Tribunal concludes, pursuant to section 37 of SIMA, that the evidence discloses a reasonable indication that the dumping of certain stainless steel round bar originating in or exported from the Federal Republic of Germany, France, Italy, Japan Spain, Sweden, Taiwan and the United Kingdom has caused material injury or is threatening to cause material injury to the domestic industry.

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