

Ottawa, Tuesday, July 3, 2001

Inquiry No. NQ-2000-008

IN THE MATTER OF an inquiry, under section 42 of the *Special Import Measures Act*,  
respecting:

**THE DUMPING OF CERTAIN CORROSION-RESISTANT STEEL SHEET  
ORIGINATING IN OR EXPORTED FROM THE PEOPLE'S REPUBLIC OF  
CHINA, INDIA, MALAYSIA, THE RUSSIAN FEDERATION, SOUTH AFRICA  
AND CHINESE TAIPEI, AND THE SUBSIDIZING OF CERTAIN  
CORROSION-RESISTANT STEEL SHEET ORIGINATING IN OR EXPORTED  
FROM INDIA**

**FINDING**

The Canadian International Trade Tribunal, under the provisions of section 42 of the *Special Import Measures Act*, has conducted an inquiry to determine whether the dumping of certain corrosion-resistant steel sheet originating in or exported from the People's Republic of China, India, Malaysia, the Russian Federation, South Africa and Chinese Taipei, and the subsidizing of certain corrosion-resistant steel sheet originating in or exported from India have caused material injury or retardation or are threatening to cause material injury to the domestic industry.

This inquiry is further to the issuance by the Commissioner of the Canada Customs and Revenue Agency of a preliminary determination dated March 5, 2001, and of a final determination dated June 4, 2001, that the aforementioned goods had been dumped and subsidized.

Pursuant to subsection 43(1) of the *Special Import Measures Act*, the Canadian International Trade Tribunal hereby finds that the dumping and subsidizing of the aforementioned goods have not caused material injury or retardation and are not threatening to cause material injury to the domestic industry.

Patricia M. Close  
Patricia M. Close  
Presiding Member

Peter F. Thalheimer  
Peter F. Thalheimer  
Member

James A. Ogilvy  
James A. Ogilvy  
Member

Michel P. Granger  
Michel P. Granger  
Secretary

The statement of reasons will be issued within 15 days.

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Place of Hearing:	Ottawa, Ontario
Dates of Hearing:	June 5 to 8, 2001
Date of Finding:	July 3, 2001
 Tribunal Members:	 Patricia M. Close, Presiding Member Peter F. Thalheimer, Member James A. Ogilvy, Member
 Director of Research:	 Peter Welsh
 Lead Researcher:	 Ken Campbell
 Researcher:	 Stephen Fryer
 Economist:	 Ihn Ho Uhm
 Statisticians:	 Julie Charlebois Geneviève Chaloux
 Counsel for the Tribunal:	 Philippe Cellard
 Registrar Officer:	 Pierrette Hébert
 <b>Participants:</b>	 Steven K. D'Arcy Laurel C. Broten for Dofasco Inc.  Ronald C. Cheng Paul D. Conlin for Sorevco  Riyaz Dattu John W. Boscariol Orlando E. Silva Julia Kolovarskaia for Stelco Inc.  <b>(Domestic Producers)</b>  Peter Clark John Currie Sean Clark for Macsteel International (Canada) Ltd. Macsteel International South Africa (Pty) Ltd.

Peter Clark  
Gordon LaFortune  
Chris Hines  
John Currie  
Sean Clark  
Yannick Beauvalet  
for Iscor Limited

C.J. Michael Flavell, Q.C.  
Geoffrey C. Kubrick  
J. Peter Jarosz  
Yasir A. Naqvi  
Raahool Watchmaker  
for Jindal Iron & Steel Company Limited

**(Importers/Exporters)**

Ottawa, Wednesday, July 18, 2001

**Inquiry No. NQ-2000-008**

**THE DUMPING OF CERTAIN CORROSION-RESISTANT STEEL SHEET  
ORIGINATING IN OR EXPORTED FROM THE PEOPLE'S REPUBLIC OF  
CHINA, INDIA, MALAYSIA, THE RUSSIAN FEDERATION, SOUTH AFRICA  
AND CHINESE TAIPEI, AND THE SUBSIDIZING OF CERTAIN  
CORROSION-RESISTANT STEEL SHEET ORIGINATING IN OR EXPORTED  
FROM INDIA**

*Special Import Measures Act* — Whether the dumping and subsidizing of the above-mentioned goods have caused material injury or retardation or are threatening to cause material injury to the domestic industry.

**DECISION:** The Canadian International Trade Tribunal hereby finds that the dumping and subsidizing of the aforementioned goods have not caused material injury or retardation and are not threatening to cause material injury to the domestic industry.

Place of Hearing:	Ottawa, Ontario
Dates of Hearing:	June 5 to 8, 2001
Date of Finding:	July 3, 2001
Date of Reasons:	July 18, 2001
Tribunal Members:	Patricia M. Close, Presiding Member Peter F. Thalheimer, Member James A. Ogilvy, Member
Director of Research:	Peter Welsh
Lead Researcher:	Ken Campbell
Researcher:	Stephen Fryer
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Counsel for the Tribunal:	Philippe Cellard
Registrar Officer:	Pierrette Hébert
<b>Participants:</b>	Steven K. D'Arcy Laurel C. Broten for Dofasco Inc.

Ronald C. Cheng  
Paul D. Conlin  
for Sorevco

Riyaz Dattu  
John W. Boscarior  
Orlando E. Silva  
Julia Kolovarskaia  
for Stelco Inc.

**(Domestic Producers)**

Peter Clark  
John Currie  
Sean Clark  
for Macsteel International (Canada) Ltd.  
Macsteel International South Africa (Pty) Ltd.

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J. Peter Jarosz  
Yasir A. Naqvi  
Raahool Watchmaker  
for Jindal Iron & Steel Company Limited

**(Importers/Exporters)**

**Witnesses:**

Richard Greidanus  
Trade Specialist – Financial  
Dofasco Inc.

Dennis G. Martin  
Manager  
Trade Relations & Market Data  
Dofasco Inc.

David J. Waugh  
General Manager  
Sales and Service  
Distribution and Tubular Industries  
Dofasco Inc.

G.J. (Gil) Campeau  
General Manager  
Sales and Service  
Construction and Manufacturing Industries  
Dofasco Inc.

Jack Nadeau  
President  
Sorevco

Pierre Paradis  
Financial Manager  
Sorevco

Lynn Thorogood  
Supervisor  
Budgets & Forecasts  
Stelco Inc.

Donald K. Belch  
Director — Government Relations  
Stelco Inc.

John M. Leskew  
General Sales/Marketing Manager  
Flat Rolled Products  
Stelco Inc.

Wally van Zyl  
Account Manager  
Isco Flat Steel Products

Venkatraman Sridhar  
Dy. General Manager  
(International Marketing)  
Jindal Iron & Steel Company Limited

Rob Lachapelle  
Purchasing Manager  
Carbon Products  
Western Canada  
Samuel, Son & Co., Limited

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Ottawa, Ontario  
K1A 0G7

Ottawa, Wednesday, July 18, 2001

**Inquiry No. NQ-2000-008**

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respecting:

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ORIGINATING IN OR EXPORTED FROM THE PEOPLE'S REPUBLIC OF  
CHINA, INDIA, MALAYSIA, THE RUSSIAN FEDERATION, SOUTH AFRICA  
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CORROSION-RESISTANT STEEL SHEET ORIGINATING IN OR EXPORTED  
FROM INDIA**

TRIBUNAL: PATRICIA M. CLOSE, Presiding Member  
PETER F. THALHEIMER, Member  
JAMES A. OGILVY, Member

**STATEMENT OF REASONS**

**BACKGROUND**

The Canadian International Trade Tribunal (the Tribunal), under the provisions of section 42 of the *Special Import Measures Act*,<sup>1</sup> has conducted an inquiry to determine whether the dumping of certain corrosion-resistant steel sheet originating in or exported from the People's Republic of China (China), India, Malaysia, the Russian Federation (Russia), South Africa and Chinese Taipei, and the subsidizing of certain corrosion-resistant steel sheet originating in or exported from India have caused material injury or retardation or are threatening to cause material injury to the domestic industry.

On December 4, 2000, the Commissioner of the Canada Customs and Revenue Agency (the Commissioner), following a complaint filed by Dofasco Inc. (Dofasco), initiated an investigation to determine whether imports of certain corrosion-resistant steel sheet from the aforementioned countries and Portugal had been dumped and subsidized. On December 5, 2000, pursuant to subsection 34(2) of SIMA, the Tribunal issued a notice advising interested parties that it had initiated a preliminary injury inquiry to determine whether the evidence disclosed a reasonable indication that the dumping and subsidizing had caused material injury or retardation or were threatening to cause material injury. On February 2, 2001, pursuant to subsection 37.1(1) of SIMA, the Tribunal determined that the evidence disclosed a reasonable indication that the dumping and subsidizing of certain corrosion-resistant steel sheet had caused material injury to the domestic industry.

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

On March 5, 2001, the Commissioner issued a preliminary determination of dumping and subsidizing. As the volume of dumped goods from Portugal was negligible, the Commissioner terminated the investigation with respect to Portugal.

On March 6, 2001, the Tribunal issued a notice of commencement of inquiry.<sup>2</sup> As part of the inquiry, the Tribunal sent questionnaires to domestic producers, importers, exporters, purchasers and foreign producers. From the replies to the questionnaires and other sources, the Tribunal's research staff prepared public and protected pre-hearing staff reports.

The record of this inquiry consists of all Tribunal exhibits, including the public and protected replies to questionnaires, requests for information and replies thereto, all briefs, witness statements and all exhibits filed by the parties throughout the inquiry, as well as the transcript of all proceedings. All public exhibits were made available to the parties. Protected exhibits were made available only to counsel who had filed a declaration and confidentiality undertaking with the Tribunal in respect of the use, disclosure, reproduction, protection and storage of confidential information on the record of these proceedings, as well as the disposal of such confidential information at the end of the proceedings or in the event of a change of counsel.

On June 4, 2001, the Commissioner issued a final determination that certain corrosion-resistant steel sheet originating in or exported from China, India, Malaysia, Russia, South Africa and Chinese Taipei had been dumped and that certain corrosion-resistant steel sheet originating in or exported from India had been subsidized.

Public and in camera hearings were held in Ottawa, Ontario, from June 5 to 8, 2001. The domestic producers, Dofasco, Stelco Inc. (Stelco) and Sorevco, were represented by counsel at the hearing, as were the exporters, Jindal Iron & Steel Company Limited (Jindal) from India and Iscor Limited (Iskor) from South Africa. The Tribunal also heard testimony from a witness from Samuel, Son & Co., Limited who appeared at the request of the Tribunal.

The Tribunal issued its finding on July 3, 2001.

## **RESULTS OF THE COMMISSIONER'S INVESTIGATION**

The Commissioner's dumping and subsidizing investigation covered all imports of the subject goods during the period from January 1 to August 31, 2000. As a result of the investigation, the Commissioner determined that 80 percent of the goods had been dumped. The margins of dumping and the amounts of subsidy are set out in the following tables.

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2. C. Gaz. 2001.I.902.



**TABLE 1**  
**Margins of Dumping by Exporter/Country**  
**(January 1 to August 31, 2000)**

<b>Country/Exporter</b>	<b>Quantity of Goods Dumped (%)</b>	<b>Weighted Average Margin of Dumping (% of Normal Value)</b>
<b>China</b>		
All Exporters	100.00	37.20
<b>India</b>		
Jindal	100.00	23.30
Lloyds Steel Industries Ltd.	100.00	18.30
<b>Country Total</b>	100.00	22.70
<b>Malaysia</b>		
Group Steel	77.90	3.20
Other Exporters	100.00	37.20
<b>Country Total</b>	78.50	4.10
<b>Russia</b>		
JSC Severstal	100.00	15.90
Other Exporters	100.00	37.20
<b>Country Total</b>	100.00	16.70
<b>Chinese Taipei</b>		
China Steel Corporation	92.50	6.90
Sheng Yu Steel Co., Ltd.	34.20	1.20
Yieh Phui Enterprise Co., Ltd.	30.00	0.84
Other Exporters	100.00	37.20
<b>Country Total</b>	45.80	8.00
<b>South Africa</b>		
IsCOR	100.00	22.40
<b>Country Total</b>	100.00	22.40

**TABLE 2**  
**Amounts of Subsidy**  
**Certain Corrosion-resistant Steel Sheet from India**  
**(January 1 to August 31, 2000)**

<b>Exporter</b>	<b>Amount of Subsidy (Rupees per Metric Tonne)</b>	<b>Countervailing Duty (Rupees per Metric Tonne)</b>
Jindal	381	381
Lloyds Steel Industries Ltd.	3,326	3,326
All Others	3,707	3,707

Note: The average exchange rate for the Indian rupee for the year 2000 was 0.03307.

## PRODUCT

### Product Definition and Description

The goods subject to the Tribunal's inquiry are defined as:

flat-rolled steel sheet products of a thickness not exceeding 0.176 in. (4.47 mm), coated or plated with zinc or an alloy wherein zinc and iron are the predominant metals, excluding corrosion-resistant steel sheet products for use in the manufacture of passenger automobiles, buses, trucks, ambulances or hearses, or chassis therefor, or parts, accessories or parts thereof, for which the proper Harmonized System tariff item is 9959.00.00.

The products are commonly referred to as galvanized (free zinc coating) or galvanized (zinc-iron alloy coating) steel sheet. The products include corrosion-resistant steel sheet in cut lengths and coils (wound successively in superimposed layers or spirally oscillated coils) where the coating or plating is applied by the hot-dip galvanizing or electrogalvanizing process. The most common coating weights for galvanized steel are G90 and G60. The most common thicknesses appear to be in the medium gauges, from 0.013 to 0.036 in. Sales of smaller gauges, 0.010 to 0.012 in., are relatively limited.

Corrosion-resistant steel sheet is usually produced from cold-rolled carbon steel sheet and, sometimes, from hot-rolled carbon steel sheet. However, minor additions of certain elements, such as titanium or boron, during the steel-making process enable the steel to be classified as alloy steel. Therefore, corrosion-resistant steel produced from either carbon steel or alloy steel is included in the definition of the subject goods.

### Production Process

Hot-dip galvanizing and electrogalvanizing are the two processes that can be used to coat the substrate of cold-rolled steel sheet or hot-rolled steel sheet with zinc.

In the hot-dip galvanizing process, the first step is to clean the surfaces to improve the adhesion of the zinc coating. After cleaning, the substrate enters a continuous annealing furnace.<sup>3</sup> The furnace heats the substrate to the temperature necessary to develop the desired metallurgical properties of the final product. The substrate is then placed in a molten zinc-coating bath and, as it emerges from the bath, an air, nitrogen or steam wipe is used to control the thickness of the zinc coating. The galvanized steel sheet is then cooled in a cooling tower.

In some cases, the galvanized steel is further processed into galvanized steel sheet. The first step in galvanizing is to reduce the thickness of the zinc coating. This can be done either by "wipe-coat galvanizing", in which thick pads are used to wipe the sheet as it emerges from the molten zinc-coating bath, or by an air/nitrogen wiping process. The galvanized sheet then passes through a galvanizing furnace, with the heat from the furnace causing the iron from the substrate to combine with the zinc coating to produce a thin zinc-iron alloy. Because of its thinner coating, galvanized steel sheet is easier to weld and paint than galvanized steel sheet.

In the electrogalvanizing process, as the charged steel passes through a plating bath, the opposite electrical charges cause the zinc solution to coat the steel. Cold-rolled steel coils are batch annealed in multi-

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3. Annealing refers to the process of heating and then cooling, which is usually done to soften and make a metal less brittle.

stack furnaces or in off-line continuous annealing processes, often skin passing<sup>4</sup> on a temper mill, before being electrogalvanized with a thin coating of zinc on a continuous processing line.

## Product Uses

The corrosion-resistant steel sheet that is the subject of this inquiry is commonly used in the production of farm buildings, grain bins, culverts, garden sheds, roofing material, siding, floor decks, roof decks, wall studs, drywall corner beads, doors, door frames, ducting (and other heating and cooling applications), flashing, hardware products and appliance components. Both Stelco and Dofasco also produce galvanized product for further transformation. The corrosion-resistant steel sheet, referred to as “pre-paint”, is sent to Baycoat for painting and returned to Stelco and Dofasco for sale. These goods are not considered like goods for the purposes of this inquiry.

## INDUSTRY

Dofasco, Sorevco, Stelco and Continuous Colour Coat Limited (Continuous Colour) are the four Canadian producers of corrosion-resistant steel sheet.

Dofasco is an integrated steel producer that manufactures both hot-dip and galvanized corrosion-resistant steel sheet from its own substrate production. The company produces corrosion-resistant steel sheet in Hamilton, Ontario, on four lines. It also operates the DoSol Galva Limited Partnership (DSG) hot-dip galvanizing line (DSG line) in Hamilton, Ontario. The DSG line, commissioned in 1999, is designed to manufacture products suitable for exposed and unexposed automotive applications. During the ramp-up period, some of the production was sold into the non-automotive market as well. In addition, the DNN Galvanizing Limited Partnership (DNN) hot-dip galvanizing line (DNN line) in Windsor, Ontario, is a tolling operation that coats, for a fee, substrate provided by its owners, Dofasco, NKK Corporation of Japan and National Steel Corporation. Nearly all the corrosion-resistant steel sheet produced on the DNN line is sold to the automotive sector.

Sorevco is the third largest Canadian producer of corrosion-resistant steel sheet and is a joint venture between Dofasco and Ispat Sidbec Inc. of Montréal, Quebec. It commenced production in April 1991, producing corrosion-resistant steel sheet solely for the construction industry on one continuous hot-dip galvanizing line. In February 1999, the company introduced a process to manufacture galvanized steel sheet. Unlike Dofasco and Stelco, Sorevco purchases all its cold-rolled substrate from other steel producers, principally its two owners.

Stelco is an integrated steel producer that manufactures corrosion-resistant steel sheet on three lines at its Hilton Works located in Hamilton, Ontario. Two of the lines employ the hot-dip galvanizing process, while the third line, which is known as the Z-line, produces both hot-dip galvanized and galvanized steel coils for automotive use. It should be noted that certain volumes off the Z-line were also sold into the non-automotive market. The company produces corrosion-resistant steel sheet from its own substrate production.

Continuous Colour, located in Rexdale, Ontario, operates an electrogalvanizing line and a painting, printing and laminating line. Continuous Colour is a relatively small producer of corrosion-resistant steel sheet and is the only Canadian producer of electrogalvanized steel sheet. The steel sheet can be used in

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4. Skin passing refers to the process given to corrosion-resistant steel sheet to provide a smooth finish to allow for easier painting.

most, if not all, applications where hot-dip galvanized steel sheet is used. All the steel sheet produced by Continuous Colour is made to order, with production being a mix of toll-coating, electrogalvanizing, painting and subcontracted slitting. The company's customers provide cold-rolled substrate. Only a small portion of electrogalvanized steel sheet is sold directly to the Canadian market by Continuous Colour, with the remainder of production sold by toll customers either domestically or for export. Continuous Colour filed a reply to the Tribunal's questionnaire but did not otherwise make submissions.

## **IMPORTERS**

Fifteen importers accounted for 95 percent of the imports from the six subject countries over the years from 1998 to 2000. The seven largest importers during that period were Itochu Canada Ltd., Salzgitter Trade, Inc., Canadian Klockner, Division of Klockner Namasco Corp., BHP Steel Canada Inc., Montsteel Inc., Macsteel International (Canada) Ltd. and Industrial Steels (UK) Ltd. Some of these also imported corrosion-resistant steel sheet from non-subject countries. In addition, there were significant volumes of imports from the United States.

## **EXPORTERS**

The Tribunal sent questionnaires to foreign steel producers in China, India, Malaysia, Russia, South Africa and Chinese Taipei regarding their plant capacities, production, sales, exports and inventories of corrosion-resistant steel sheet. The five foreign steel producers identified below provided responses.

Jindal first began producing steel in 1972. Located in India, Jindal has two plants capable of producing corrosion-resistant steel sheet for the Canadian market.

Iscor first began producing steel in 1934 and introduced corrosion-resistant sheet in 1951. Located in South Africa, Iscor has two plants capable of producing corrosion-resistant steel sheet for the Canadian market.

Three steel producers from Chinese Taipei provided responses to the questionnaires. China Steel Corporation, Sheng Yu Steel Co., Ltd. and Yieh Phui Enterprise Co., Ltd. The three companies combined have a total of eight production lines capable of producing corrosion-resistant steel sheet for the Canadian market.

## **MARKETING AND DISTRIBUTION**

Like goods are sold to both service centres and end users in almost equal volumes. The subject goods are imported into Canada by importers/brokers that, in turn, sell the goods mainly to service centres. It is important to note that the end user market for imports is relatively small, as Canada's service centres are the major market for imported corrosion-resistant steel sheet.

Service centres may resell sheet to end users or to other, usually smaller, resellers. In addition, certain service centres may purchase seconds and excess prime from both domestic and foreign manufacturers. The steel is then further processed by slitting and cutting to create a usable product that is subsequently sold. Service centres generally purchase their sheet on the spot market, placing orders three weeks to four months in advance of requirements, depending on such factors as product specifications and the location of the mill.

The end users are mainly firms that operate in the construction market. It is a highly fragmented market with many purchasers. End users either purchase on the spot market or use relatively short-term contracts.

Domestic producers issue price lists for certain corrosion-resistant steel sheet on an irregular basis. These lists provide "book prices" for individual specifications and sizes of sheet. These book prices are FOB mill and do not include the cost of transportation to the customer's facilities. Discounts from book prices depend on competitive conditions in the market. Testimony suggests that domestic producers sell very little at full book prices.

## **POSITION OF PARTIES**

### **Domestic Producers**

Dofasco submitted that the dumping and subsidizing of the subject goods had caused material injury to the domestic industry. Dofasco submitted that the analysis of injury suffered by the domestic industry must be made in light of the strong domestic market for corrosion-resistant steel sheet in 1999 and 2000. According to Dofasco, during that period, the low-priced dumped subject goods flooded Canada at unprecedented levels. Of particular significance was the surge in imports that occurred in the 12-month period ending June 2000. As a result, Dofasco submitted that it lost market share.

Dofasco submitted that the large volumes of imports of the subject goods caused a buildup of substantial inventories at the service centres. Dofasco claimed that the evidence showed that the subject goods were sold at prices significantly below the prices for domestic corrosion-resistant steel sheet. Dofasco claimed that the buildup of inventories at steel service centres, combined with the low prices at which the subject goods were being sold and offered for sale in the domestic market, destroyed the pricing structure in the domestic market in 2000. As a result, Dofasco submitted that it suffered price erosion in the steel service centre sector. Dofasco also experienced price erosion in the end user sector. Further, Dofasco indicated that, during the second quarter of 2000, it had to implement an import displacement program, under which it lowered its prices aggressively to try to recapture business lost to the subject goods and to retain its current business.

Dofasco submitted that its inventories increased, as service centres had a buildup of the subject goods that they needed to sell. Other clients were hesitant to take delivery of their orders, as steel prices had declined between the time at which they had placed their orders and delivery. Dofasco claimed that the high level of their inventories led to an unscheduled shutdown during the Labour Day weekend in 2000. Dofasco also submitted that the flood of low-priced dumped goods negatively affected its utilization rate. The impact of the dumping and subsidizing of the subject goods was also reflected in the injurious reduction in the net income realized by Dofasco from the sale of corrosion-resistant steel sheet. Dofasco contrasted its general experience in the steel service centre and end user sectors, where prices declined markedly, with its experience in the culvert market. In the latter market, where it does not face competition from the subject goods, Dofasco had been able to sell corrosion-resistant steel sheet at or near book prices and had not suffered price erosion.

Dofasco also submitted that the dumping and subsidizing of the subject goods were threatening to cause material injury to the domestic industry. Dofasco based its assertion on the growth in the volume of subject goods; the fragile state of the world market for certain corrosion-resistant steel sheet; the dependence of foreign mills on exports to maintain their capacity utilization; the massive new capacity additions in the world market for the subject goods; the so-called production imperative; the importance of certain

corrosion-resistant steel sheet to Dofasco and other domestic producers; the numerous recent anti-dumping actions against the subject countries; the recently announced U.S. section 201 “safeguard” investigation; the distribution networks provided by traders, brokers and agents; and the weak state of the Canadian market.

Sorevco submitted that the dumping and subsidizing of the subject goods resulted in lost sales and price erosion, which, in turn, were reflected in the reductions in Sorevco’s gross margins and net income. Sorevco indicated that the low pricing of the subject goods also had a negative impact on its ability to finance capital improvement. In addition, the diminution of sales volumes caused two shutdowns.

Referring to previous Tribunal decisions, Sorevco submitted that the prices of the subject goods can also cause material injury, even if they are at or close to prevailing market prices. Addressing the possible negative impact on prices that the addition of capacity by Dofasco may have had on the domestic market for corrosion-resistant steel sheet, Sorevco submitted that the domestic industry should not have to face unfair import price competition, which might exacerbate the impact of any such price reductions. With regard to the threat of material injury caused by the dumping and subsidizing of the subject goods, Sorevco presented arguments similar to those advanced by Dofasco.

Stelco submitted that the dumping and subsidizing of the subject goods had caused material injury and were threatening to cause material injury to the domestic industry. Stelco also adopted the arguments presented by Dofasco and Sorevco with respect to those positions.

Stelco submitted that the corrosion-resistant steel sheet products covered by this inquiry are commodity products and that the subject goods compete between themselves and with the domestically produced corrosion-resistant steel sheet. Stelco submitted that the conditions required to make an assessment of the cumulative effect of the dumping and subsidizing of the subject goods are present and that the Tribunal should, therefore, make such an assessment in conducting both its past injury analysis and its threat of injury analysis.

With respect to the issue of past injury, Stelco argued that, despite strong demand for corrosion-resistant steel sheet, it was unable to enforce a price increase in August 1999 because of the presence in the Canadian market of the subject goods. With respect to the issue of threat of injury, Stelco claimed that the conditions that the Tribunal found in 1999, when conducting a review, continue to exist.<sup>5</sup> Worldwide conditions of oversupply are still present today, and the strong demand in Canada renders it an attractive market.

## **Exporters**

Iscor submitted that the dumping of the subject goods from South Africa had not caused and was not threatening to cause material injury to the domestic producers. According to Iscor, in conducting its inquiry, the Tribunal should not cumulate the impact of the subject goods from South Africa.

Iscor pointed out that, during the period of inquiry, imports of the subject goods from South Africa decreased. Iscor also indicated that these imports had an important non-prime component, which distinguishes them, in terms of competition, from other imports. Iscor submitted that the subject goods from South Africa were not the lowest-priced imports in the marketplace.

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5. *Certain Corrosion-resistant Steel Sheet Products (expiry review)* (28 July 1999), Review No. RR-98-007.

Iscor submitted that there are production constraints that limit its capacity and that it has no plans to expand production of the subject goods and, indeed, has reduced its ability to produce them. Iscor also referred to its decision to limit its participation on individual export markets and its intention to continue to do so. With respect to the one other producer in South Africa, which is just starting production, Iscor submitted that there was no evidence on the record indicating that it intended to ship to Canada.

Iscor submitted that, in conducting its analysis of injury, the Tribunal should take into account the volume and prices of imports not sold at dumped prices. It referred notably to the subject goods from Chinese Taipei and Malaysia. Iscor also submitted that the recent domestic capacity additions for corrosion-resistant steel sheet and the competition among domestic producers have caused price reductions in the domestic market for corrosion-resistant steel sheet.

Jindal submitted that the dumping and subsidizing of the subject goods had not caused and were not threatening to cause material injury to the domestic industry. Jindal also submitted that the subject goods from India should not be cumulated, given their pricing levels as compared to those of the dumped and undumped subject goods from other countries and those of the domestic producers.

Jindal questioned the domestic producers' position that the subject goods went into inventory at steel service centres. Given that the domestic producers continued to sell their products, Jindal submitted that the only explanation consistent with the domestic producers' position is that prices for domestic corrosion-resistant steel sheet were lower than prices for the subject goods. Jindal submitted that the decrease in prices in the second half of 2000 resulted from the domestic producers' actions. Jindal also noted that the prices for corrosion-resistant steel sheet did not rise after the preliminary determination of dumping and subsidizing was issued.

Jindal submitted that its subject goods and those of the other Indian producers were not threatening to cause material injury to the domestic industry. To support its position, Jindal made the following submissions : the prices of its subject goods in the Canadian market have increased; the company is currently operating at capacity; it has 34 export markets and a diversification strategy; it is in the process of obtaining approvals for automotive corrosion-resistant steel sheet; the Indian mills have a limited ability to compete because of quality issues; the economic forecasts for India and China, an important export market, indicate growth; and significant government infrastructure incentives will lead to an increased demand for the subject goods in India.

## ANALYSIS

Pursuant to subsection 42(1) of SIMA, the Tribunal is required to make inquiry as to whether the dumping and subsidizing of the subject goods have caused injury or retardation or are threatening to cause injury. "Injury" is defined in subsection 2(1) as "material injury to a domestic industry". "Domestic industry", in turn, is described, in part, in that same subsection as "the domestic producers as a whole of the like goods or those domestic producers whose collective production of the like goods constitutes a major proportion of the total domestic production of the like goods". The Tribunal must therefore determine, prior to its analysis of injury, what the like goods are and which domestic producers constitute the domestic industry. The Tribunal must also determine whether it will make an assessment of the cumulative effect of the dumping and subsidizing of the goods from all the subject countries. The Tribunal will then proceed to determine the effects of the dumping and subsidizing of the subject goods on the domestic industry in the past. The Tribunal will determine whether those effects amounted to material injury. In the event that the Tribunal does not make a finding of past material injury, it will then determine whether the dumping and subsidizing are threatening to cause material injury to the domestic industry. In conducting its analyses, the

Tribunal will also examine other factors to ensure that it does not attribute to the dumping and subsidizing any injury caused by other factors.

### **Like Goods and Classes of Goods**

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

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

In considering the issue of like goods, the Tribunal typically looks at a number of factors, including the physical characteristics of the goods (such as appearance), their method of manufacture, their market characteristics (such as substitutability, pricing and distribution) and the question of whether the goods fulfil the same customer needs.

The evidence shows that domestically produced corrosion-resistant steel sheet, of the same description as the subject goods, closely resembles the subject goods in terms of physical characteristics and end uses and is substitutable for them. As such, for the purposes of this inquiry, the Tribunal finds that domestically produced corrosion-resistant steel sheet, of the same description as the subject goods, constitutes like goods to the subject goods.

### **Domestic Industry**

There are four producers of like goods that constitute the domestic industry. The Tribunal’s analysis, however, relies mainly on evidence relating to the three large producers, Dofasco, Sorevco, Stelco, given the limited information relating to Continuous Colour, a relatively small producer.

### **Cumulation**

Subsection 42(3) of SIMA provides, in part, that the Tribunal shall, when conducting an inquiry under subsection 42(1), make an assessment of the cumulative effect of the dumping or subsidizing of the goods that are imported into Canada from more than one country if certain conditions are met. Given that subsection 42(1) covers both the analysis of past injury and the analysis of threat of injury, the principle of cumulation is applicable to both analyses. In conducting those analyses, the Tribunal can also, following its practice, cross-cumulate the effects of dumping and subsidizing.<sup>6</sup>

Subsection 42(3) provides for cumulation if the Tribunal is satisfied that the following conditions are met:

- (a) the margin of dumping or the amount of subsidy in relation to the goods from each of those countries is not insignificant and the volume of the goods from each of those countries is not negligible; and
- (b) an assessment of the cumulative effect would be appropriate taking into account the conditions of competition between goods to which the preliminary determination applies that are imported into Canada from any of those countries and
  - (i) goods to which the preliminary determination applies that are imported into Canada from any other of those countries, or
  - (ii) like goods of domestic producers.

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6. *Certain Grain Corn (final injury inquiry)* (7 March 2001), Inquiry No. NQ-2000-005 at 13-14 (CITT).



In considering the issue of cumulation, the Tribunal took into consideration the relevant provisions of SIMA and the Commissioner's preliminary and final determinations of dumping and subsidizing. The margins of dumping in the case of the subject countries were in excess of the relevant threshold, as was the amount of subsidy from India. Therefore, the Tribunal is satisfied that the margins of dumping in relation to the goods from the subject countries and the amount of subsidy from India were not insignificant. With respect to the issue of negligibility, the Tribunal notes that the volumes of dumped subject goods from the subject countries and the volume of subsidized goods from India surpassed the relevant thresholds. Therefore, the Tribunal is satisfied that the volume of dumped subject goods from each of the subject countries and the volume of subsidized subject goods from India were not negligible.

On reviewing the evidence, the Tribunal finds that the subject goods compete with each other in the domestic market. The Tribunal notes, in this context, that many purchasers bought the subject goods from more than one subject country.<sup>7</sup> The Tribunal is also of the view that the subject goods compete with like goods in the same markets. Many purchasers of the subject goods also bought like goods.<sup>8</sup> Moreover, the Tribunal's witness testified that he saw the subject imports as a second source of supply for his needs.<sup>9</sup> On the basis of the above, the Tribunal is satisfied that, taking into account the conditions of competition, it is appropriate to make an assessment of the cumulative effect of the dumped and subsidized goods from all the subject countries.

### **State of the Market and Industry**

The Tribunal reviewed developments in the Canadian market for corrosion-resistant steel sheet during the period from 1998 through 2000. An examination of the key economic indicators shows that market demand for non-automotive corrosion-resistant sheet was particularly strong in 1999, increasing by some 140,000 net tons over 1998, an increase of 13 percent.<sup>10</sup> Within this strong market, sales from domestic production fell slightly, although industry production of like goods, which includes production for further transformation, increased for each of the producers.

Market data indicate that, as demand grew, import sales from the subject countries increased in volume by 158 percent in 1999. Similarly, import sales from non-subject countries also increased in 1999 by 107 percent.<sup>11</sup> While import volumes increased in 1999, average unit selling prices for goods from both the subject and non-subject countries fell by about \$140/net ton.<sup>12</sup> Although average unit selling prices for the domestic industry also fell, the decline was considerably less than that of the imported product.<sup>13</sup>

In assessing the pricing of corrosion-resistant steel sheet, the Tribunal reviewed, in particular, average pricing at the service centre segment of the market. The evidence indicates that the vast majority of imports are sold into the service centre segment, whereas the domestic industry sells fairly equally to both the service centre and end-user segments of the market. A review of the pricing data shows that average industry selling prices to service centres in 1999 remained virtually unchanged from the pricing levels achieved in 1998. Average prices for both Stelco and Sorevco actually increased in 1999. Although average

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7. Tribunal Exhibits NQ-2000-008-22.02-22.13 (protected), Administrative Record, Vol. 6.2 at 1-85.

8. *Ibid.*

9. *Transcript of Public Hearing*, Vol. 3, 7 June 2001, at 568.

10. *Public Pre-hearing Staff Report*, Tribunal Exhibit NQ-2000-008-06, Administrative Record, Vol. 1A at 25.

11. *Ibid.* at 26.

12. *Ibid.* at 46.

13. *Protected Pre-hearing Staff Report*, Tribunal Exhibit NQ-2000-008-07 (protected), Administrative Record, Vol. 2A at 46.

selling prices of the subject imports to service centres fell sharply in 1999, these prices merely came down to the average pricing levels of the domestic industry product.<sup>14</sup>

In examining market forces at play in 1999, the Tribunal carefully considered the industry's ability to supply market demand for corrosion-resistant steel sheet. The industry argued that it had the capacity to supply the market and that this was evidenced by the fact that its customers were not put on allocation. However, the evidence suggests to the Tribunal that imports entered the country, from both the subject and non-subject sources, to fill a supply void in the market and played a key role as a secondary source of supply. In this regard, the Tribunal notes the extremely high industry capacity utilization rate in 1999, as well as high individual company capacity utilization rates, which indicates that there was, for all practical purposes, no additional domestic capacity available to supply all the increased demand at that time.<sup>15</sup>

The Tribunal also considered the impact of Dofasco's DSG line that commenced production of corrosion-resistant steel sheet in mid-1999. This galvanizing line was commissioned to produce products for the automotive market. However, during the ramp-up period in 1999, the majority of production was sold into the construction market. This new production line temporarily provided Dofasco with increased capacity to supply the construction market and allowed the company to allocate freed-up capacity from its conventional galvanizing lines to supply the booming automotive market.<sup>16</sup>

A review of the financial results on sales of like goods in 1999 reveals a very healthy performance by the industry, one that exceeded results achieved in 1998. On a consolidated basis, industry gross margins and net income increased sharply over the profitable levels obtained in 1998. Moreover, the data indicate that all three domestic producers shared in this strong financial performance.<sup>17</sup>

Similarly, with respect to other economic indicators, the Tribunal notes that industry employment and hours worked in 1999 increased over 1998. As well, industry year-end inventory levels in 1999 appeared to be normal when compared to year-end levels in 1997 and 1998.<sup>18</sup>

In summary, the Tribunal concludes that, despite the increase in imports in 1999, the industry did not suffer injury that year. The Tribunal notes the strong demand for corrosion-resistant steel sheet in both the construction and automotive segments of the market in 1999. Given the rate of capacity utilization at which the domestic industry was operating<sup>19</sup> and that inventory levels were normal,<sup>20</sup> the Tribunal is of the view that the market would have been in short supply had it not been for the increase in imports from the subject countries. The Tribunal notes that galvanized sheet for both the construction and automotive markets is made on the same equipment and that there was a "dramatic increase in capacity to meet automotive demands".<sup>21</sup> Although the domestic industry, and Dofasco in particular, claimed that it lost market share that year and was thus injured, it is the Tribunal's view that Dofasco, whether for contractual or financial reasons, chose to switch its capacity utilization to meet production demands in 1999 in the automotive market.

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14. *Ibid.* at 48.

15. *Ibid.* at 34.

16. *Ibid.* at 20, 34.

17. *Protected Pre-hearing Staff Report*, Tribunal Exhibit NQ-2000-008-07 (protected), Administrative Record, Vol. 2A at 38, 40, 42, 44.

18. *Ibid.* at 31-32, 36.

19. *Ibid.* at 34.

20. *Ibid.* at 36.

21. Tribunal Exhibit NQ-2000-008-21.06, Administrative Record, Vol. 5.2 at 124.

A review of market indicators reveals that demand remained strong for non-automotive corrosion-resistant steel sheet in 2000, but the demand for automotive sheet began a precipitous decline in the latter months of the year. For the goods under inquiry, the market fell by 14,000 net tons in 2000; however, sales from domestic production reached their highest level over the three-year period under consideration. In contrast, sales from the subject countries fell by over 30,000 net tons in 2000, a decline of 21 percent from 1999, and sales from non-subject countries fell by an even greater volume, declining by 34 percent.<sup>22</sup>

Although industry sales volumes of corrosion-resistant steel sheet increased in 2000, prices obtained on these sales deteriorated throughout the year. Average unit selling prices fell for each of the producers in 2000, with the largest decrease experienced by Stelco. While average industry selling prices to end users declined somewhat in 2000, the greatest decline occurred in industry sales to service centres. The Tribunal also examined sales of benchmark products to service centres and end users. Here too, the record shows the decline in industry selling prices that accelerated throughout 2000.<sup>23</sup>

The impact of falling domestic prices is reflected in the financial results reported by the industry in 2000. Increased sales volumes were offset by declining industry prices, which resulted in a significant drop in net income. This decline in financial results was shared by all three producers, which witnessed sharply decreased gross margins and net income. Although Dofasco was able to maintain a profitable position, albeit at a much lower level than in 1999, both Stelco and Sorevco recorded losses in sales of like goods.<sup>24</sup>

In summary, the Tribunal notes that industry sales volumes grew in 2000 over 1999 as the market softened somewhat from its strong growth in 1999, resulting in an increase of market share for the domestic producers. However, these gains were made at the expense of sharply decreased industry prices and revenues, which are witnessed by the decline in the industry's financial performance in 2000. It is the Tribunal's opinion that the industry suffered injury in 2000 in the form of price erosion and declining financial performance.

### **Injury and Causality**

The Tribunal next considered the effects of the dumped and subsidized imports of corrosion-resistant steel sheet on the domestic industry in 2000 and whether they caused the above-noted injury. In this regard, the Tribunal considered factors prescribed by the *Special Import Measures Regulations*,<sup>25</sup> including whether any factors other than the dumping and subsidizing have caused material injury.<sup>26</sup>

The domestic industry argued that there was a surge of dumped and subsidized imports from the subject countries in the last half of 1999 and the first half of 2000, which caused injury principally in the form of severe price erosion and price suppression, as well as lost sales, declining market share, increased inventories and underutilization of production capacity.

In considering prices at the macro level, the evidence shows that average industry prices fell significantly in 2000 and that these price declines, while shared by all three producers, were particularly severe on sales by Stelco. On the other hand, import selling prices into the market from the subject

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22. *Supra* note 17 at 25.

23. *Ibid.* at 46, 48, 50, 53, 121.

24. *Ibid.* at 38, 40, 42, 44.

25. S.O.R./84-927 [hereinafter Regulations].

26. Subsections 37.1(1) and 37.1(3) of the Regulations.

countries, together and individually, show an opposite trend. They increased by an average of \$66/net ton between 1999 and 2000. Similarly, average selling prices of imports from non-subject countries also increased sharply, by \$85/net ton over the same period.<sup>27</sup>

The Tribunal then considered pricing to the service centres, the segment of the market where the majority of the price competition occurred. The evidence again confirms the average pricing trend noted above. Industry selling prices to service centres fell by substantial margins in 2000 and, once again, this decline was particularly noteworthy in sales by Stelco. However, selling prices of imports from the subject countries, on a combined basis, increased significantly, rising from an average of \$693/net ton in 1999 to an average of \$763/net ton in 2000. Moreover, the pricing data indicate that selling prices from each of the subject countries increased between 1999 and 2000.<sup>28</sup>

The industry argued that average pricing for corrosion-resistant steel sheet disguises the real effect of import pricing because it does not take into consideration the impact of product mix. The evidence indicates that the thinner gauges of sheet sell at higher prices per net ton than do the heavier gauges because the proportion, by weight, of zinc to steel substrate is higher in the lighter gauges, and zinc is more expensive per pound than the steel used as substrate. In an attempt to address the product mix equation, the Tribunal looked at pricing to the service centres at a micro level. In particular, the Tribunal carefully examined benchmark pricing of Commercial Quality sheet sold in the two most popular coatings (G60 and G90) and in five thickness ranges.

With the removal of potential product mix influences, the evidence once again confirms the average pricing trends noted previously. Although the benchmark pricing is based on a sampling of sales to service centres, it is clear that domestic selling prices, with few exceptions, began to decline in the first quarter of 2000 and that the decline accelerated in each quarter of the year. Although there is somewhat more fluctuation in the quarterly pricing of the subject country benchmark products, the pricing data show an opposite trend to that of the industry. Industry prices for G60 products fell by over \$100/net ton between the first and fourth quarters of 2000, while the subject import pricing for this product increased by over \$50/net ton during the same time frame. Similarly, industry prices for the larger volume G90 products fell by more than \$70/net ton between the first and fourth quarters of 2000, while prices of the subject imports increased by over \$10/net ton during the same time frame.<sup>29</sup>

A thorough analysis of the pricing evidence persuades the Tribunal that the necessary causal connection between the price erosion suffered by the industry and the dumped and subsidized imports cannot be made. Moreover, industry allegations that it suffered price suppression and lost sales due to the presence of imports from the subject countries, including imports of lighter-gauge products, cannot be sustained by the evidence. Although industry efforts to institute a price increase in March 2001 failed,<sup>30</sup> the Tribunal is not persuaded that the subject imports played a role in this failure given that average import selling prices were higher than domestic industry selling prices in 2000 and that there was a continual downward trend in subject country import volumes in the first quarter of 2001.<sup>31</sup> As well, the Tribunal

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27. *Protected Pre-hearing Staff Report*, Tribunal Exhibit NQ-2000-008-07 (protected), Administrative Record, Vol. 2A at 46.

28. *Ibid.* at 48.

29. *Protected Pre-hearing Staff Report*, Tribunal Exhibit NQ-2000-008-07 (protected), Administrative Record, Vol. 2A at 53.

30. *Transcript of Public Hearing*, Vol. 2, 6 June 2001, at 190.

31. *Transcript of In Camera Hearing*, Vol. 1, 5 June 2001, at 114; Exporter's Exhibit H-05, Administrative Record, Vol. 13. No convincing evidence was provided to indicate that subject country import prices had declined in the first quarter of 2001.

considered industry allegations of lost sales at a number of accounts. However, a review of these allegations in 2000 does not convince the Tribunal that there was any significant loss of sales to the subject imports. In fact, as already noted, the industry gained sales and market share in 2000.

### Other Factors

The Tribunal now turns its attention to the reasons, other than dumping and subsidizing, that may explain why the industry suffered injury in 2000. The evidence convinces the Tribunal that a number of other factors were at play in the domestic market, which, when taken in combination, explain the decline in the industry's prices and the resulting decline in the industry's financial results in 2000.

In the Tribunal's view, it was not the dumped and subsidized imports that caused injury to the industry. The domestic industry, perhaps because of the production imperative to maintain high capacity utilization, injured itself through aggressive intra-industry competition that escalated during the year. The industry claimed that it was forced to lower prices in competition with the subject imports because of the large inventory overhang at the service centre level. Dofasco implemented what it called an import displacement program in the second quarter of 2000.<sup>32</sup> It is the Tribunal's view that, although Dofasco may have introduced the program to replace imports, its primary objective was to increase sales. In so doing, its prices went well below import prices, at a time when import prices began to rise.

Further, the industry alleged that this overhang resulted in the service centres delaying taking delivery of orders, which also resulted in the growth of inventories held by the industry. To support their claim of an inventory overhang at the steel service centres, the domestic producers pointed to market data prepared by the Steel Service Centre Institute.<sup>33</sup> However, those data dealt with all steel products. With respect to corrosion-resistant steel sheet inventory at steel service centres, the Tribunal paid particular attention to the testimony of its witness, who works for perhaps the largest service centre customer in Canada for the goods under inquiry. The witness testified that, although inventories had grown in the last quarter of 1999 and in early 2000, by the end of the first quarter of 2000, the company had its inventory levels under control.<sup>34</sup> In the Tribunal's view, the decreasing trend in prices for domestic corrosion-resistant steel sheet throughout 2000 cannot be blamed on inventory at steel service centres that was getting under control as the year progressed. The Tribunal notes that those imports held by the service centres were purchased in late 1999 and early 2000, before the industry implemented its aggressive price reductions and before Dofasco's import displacement program.

The Tribunal's witness also stated that the company had not delayed taking delivery of orders from the domestic producers.<sup>35</sup> Further, the Tribunal is not persuaded that the domestic industry's inventory buildup was at levels that could be considered injurious. Inventory levels at Dofasco were higher than normal by year-end 2000. However, in light of the fact that Dofasco had planned to shut down its hot mill for two weeks in December,<sup>36</sup> the company could be expected to have higher inventories of galvanized products to ensure that it could supply its customers. Year-end inventory levels at Stelco and Sorevco do not appear to have been at abnormal levels. In any event, such inventory buildup that did occur cannot be attributed to imports from the subject countries, since, as previously noted, such imports were declining in 2000 and particularly so in the last half of the year.

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32. *Transcript of Public Hearing*, Vol. 1, 5 June 2001, at 58-59.

33. Manufacturer's Exhibit A-01, Appendix 2 at 8, Administrative Record, Vol. 11.

34. *Transcript of Public Hearing*, Vol. 3, 7 June 2001, at 543-44, 587.

35. *Ibid.* at 569-70.

36. *Transcript of Public Hearing*, Vol. 1, 5 June 2001, at 92.

Dofasco submitted that the dumped and subsidized imports negatively affected its utilization rate. While it is true that the total utilization rate of the Hamilton lines and the DNN line decreased in 2000, the utilization of those lines for the production of non-automotive corrosion-resistant steel sheet actually increased. In addition, as already noted, with the implementation of the DSG line, the total production of corrosion-resistant steel sheet by Dofasco increased by more than 20 percent in 2000. As for the unscheduled shutdown at Dofasco's Hamilton lines on the Labour Day weekend of 2000, it was more likely caused by Dofasco's increased production capacity than by the dumped and subsidized imports, which volumes by that time were decreasing. The shutdown also cannot be attributed to an inventory overhang of the subject goods, given that there is no convincing evidence that such inventory was a problem at that time of the year. Similarly, the unscheduled shutdowns at Sorevco were also more likely due to the overcapacity of the domestic producers over all and the aggressive intra-industry competition than to the low levels of imports of the subject goods.

The Tribunal carefully considered the evidence concerning competition among the domestic producers. Industry witnesses testified that the three producers compete mainly on the basis of non-price factors, such as quality, service and delivery. Industry prices are publicly available through published "book prices", which are used as the basis for providing discounts. However, it is clear from the evidence that the producers became considerably more price competitive with each other in 2000. The Tribunal's witness stated that, prior to June 2000, industry selling prices were virtually identical. However, beginning in June, the period during which Dofasco implemented its import displacement program, the evidence indicates that pricing by the domestic producers became "more aggressive".<sup>37</sup> In the Tribunal's view, there are at least three explanations as to why the industry pricing became more aggressive in the latter half of 2000, none of which can be attributed to the dumped and subsidized imports.

First, the record indicates that the ramp-up period for Dofasco's DSG line progressed rapidly in 2000. This freed-up production capacity in the company's other galvanizing lines was then diverted to the production of like goods. As a result, Dofasco's production of like goods in 2000, including significant production of like goods on the DSG line, was at the highest volume achieved in the three years commencing in 1998 and, in fact, was almost 20 percent higher than the high volume levels achieved in the previous two years. Such high production levels in a market that was softening would lead Dofasco to price more aggressively to gain market share, with or without the subject country imports in the market.

Second, the evidence shows that, while all three producers sell seconds or less-than-prime quality, this is particularly so with respect to Stelco's sales. The record shows that Stelco sold a significant percentage of its production as seconds in 1998 and 1999. However, in 2000, the percentage of seconds increased sharply, due to production problems with the company's four-stand mill upgrade.<sup>38</sup> However, this only partly explains Stelco's low selling prices in 2000. More important, in the Tribunal's view, was the very large percentage of Stelco's production that was sold as excess prime.<sup>39</sup> The evidence shows that this material is prime quality, but was sold at prices substantially below prime prices and that this spread in Stelco's pricing increased sharply in 2000.<sup>40</sup>

Third, the evidence indicates that industry price competition intensified as the year progressed, in spite of the fact that the subject imports fell sharply and their prices increased. The Tribunal notes that, in the

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37. *Supra* note 34 at 578, 580.

38. *Transcript of Public Hearing*, Vol. 2, 6 June 2001, at 270.

39. "Excess prime" refers to goods that are produced as a result of overage or may be goods produced in non-standard widths. Unlike seconds, excess primes are not goods that have defects.

40. *Transcript of In Camera Hearing*, Vol. 2, 6 June 2001, at 220-21.

latter months of the year, automotive demand began to decline, with a consequent negative impact on demand for automotive corrosion-resistant steel sheet. Given the capital-intensive nature of galvanized production, the Tribunal accepts that there is a production imperative to maintain high capacity utilization rates. However, to maintain these rates, taking into account the decline in demand for automotive corrosion-resistant steel sheet, there was additional pressure to expand sales into the construction market, as both types of corrosion-resistant steel are made on the same equipment.

The industry pointed to the culvert market as evidence of its ability to obtain prices at or near book prices when they do not have to compete with dumped or subsidized imports. The Tribunal notes that galvanized steel used to produce culverts is sold directly to end-user fabricators.<sup>41</sup> The Tribunal notes that average industry selling prices to end users in 2000 declined marginally when compared to the decline in average industry prices to service centres.<sup>42</sup> As noted, in 2000, the domestic industry was under pressure to increase its sales of corrosion-resistant steel sheet and reduced its prices accordingly. The evidence also shows that it concentrated its efforts to expand sales to the service centre market, where sales increased by over 5 percent in 2000.<sup>43</sup> In the Tribunal's view, it is likely that the stability of the culvert market in 2000 was not due to the absence of dumped and subsidized imports, but rather to a lesser degree of competition between the domestic producers in that market than at the steel service centre segment of the market. The culvert market may well have remained, in 2000, one of those markets where the three producers competed mainly on the basis of non-price factors.

Finally, the Tribunal notes that the poor financial performance of the industry in 2000, while mainly attributable to the other factors as discussed above, results in part from a sharp increase in production costs. In particular, the Tribunal notes that energy costs increased dramatically as the year progressed.<sup>44</sup>

In summary, the Tribunal finds that, in 2000, it is the increased volume of production at Dofasco coupled with the decrease in demand in the latter half of the year in the automotive sector for corrosion-resistant steel sheet and with Stelco's increased production of excess primes and seconds that exerted price pressure on the domestic corrosion-resistant steel sheet market, especially at steel service centres, causing the price erosion suffered by the domestic producers. That price erosion and its impact on the financial performance of the domestic producers cannot be attributed to the dumped and subsidized subject goods that saw their prices increase and their volumes decrease.

For the foregoing reasons, the Tribunal concludes that the injury suffered by the industry in 2000 was caused by factors other than the dumping and subsidizing of the subject goods from the named countries.

### **Threat of Injury**

Having found that the dumping and subsidizing have not caused material injury, the Tribunal must consider whether the dumping and subsidizing are threatening to cause material injury. In its consideration, the Tribunal is guided by subsection 37.1(2) of the Regulations, which prescribes factors that the Tribunal may take into account for the purposes of determining whether the dumping and subsidizing of the goods are threatening to cause material injury. As well, in making a finding of threat of material injury to the

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41. Manufacturer's Exhibit A-05, paras. 115 and 120, Administrative Record, Vol 11.

42. *Protected Pre-hearing Staff Report*, Tribunal Exhibit NQ-2000-008-07 (protected), Administrative Record, Vol. 2A at 48, 50.

43. *Ibid.* at 47.

44. *Transcript of Public Hearing*, Vol. 2, 6 June 2001, at 228.

domestic industry, subsection 2(1.5) of SIMA requires that the circumstances in which the dumping and subsidizing of goods would cause material injury be clearly foreseen and imminent.

In the present inquiry, there was insufficient positive evidence to convince the Tribunal that the subject countries would dump at sufficient volumes and at low enough prices to cause material injury in the future. In fact, the trends are the reverse, as was noted above. Imports of the subject goods fell, and their prices increased in 2000. There was no indication that these trends have changed in 2001. In fact, the industry was surprised that so few import permits had been requested this year. The domestic industry surmised that this may be due to the 5,000 net tons of inventory from Chinese Taipei, South Africa and Indonesia, which, it claimed, are on the Vancouver docks. According to the industry, this represents a threat to the industry's ability to increase prices.<sup>45</sup>

The evidence indicates that only 41 net tons of the Vancouver inventory originate in South Africa.<sup>46</sup> Indonesia, for its part, is not a subject country. It appears that the bulk of the product originates in Chinese Taipei. The Tribunal notes that the Commissioner found that the weighted average margin of dumping for goods originating in Chinese Taipei was 8 percent and that only 45 percent of the goods were dumped. The Tribunal is not convinced that this volume, even if it were all dumped, would materially injure the domestic industry. Such volumes are simply too small to cause injury to the domestic market of over 1 million net tons. The alleged pricing of this product is inconsistent with the average selling price of Chinese Taipei subject goods in 2000 which significantly exceeded the average market selling price of the domestic industry.<sup>47</sup> If this steel was similarly priced, as the trend throughout 2000 indicates, such priced steel could not cause price suppression.

Although the industry did provide information on new world production capacity that is expected to come on stream in the near future, virtually all new capacity will be introduced in countries that are not subject to the inquiry. This evidence was not specific enough for the Tribunal to be satisfied that the new production capacity indicated a likelihood of a substantial increase in the exportation to Canada of the dumped and subsidized goods from the named countries.<sup>48</sup> Furthermore, the Regulations direct the Tribunal to take into consideration, in its assessment of available capacity, the ability of other markets to absorb the capacity. It became quite clear to the Tribunal from the two exporter witnesses (from India and South Africa) that these exporters had a strategy of exporting around the world, not just to Canada.<sup>49</sup> Given that there was no evidence to the contrary, the Tribunal assumes that a diversified export strategy may well be followed by the other exporters of the subject goods. This assumption is upheld by the fact that imports in the latter half of 2000 fell when demand in the automotive sector slowed, providing excess domestic capacity for non-automotive galvanized sheet in Canada, and prices decreased.

During the course of the hearing, counsel referred to the initiation in the United States of a global safeguard investigation under section 201 of the *Trade Act of 1974* that would cover most steel products, including corrosion-resistant steel sheet. On June 22, 2001, a request for such an investigation was filed with the United States International Trade Commission by the United States Trade Representative.<sup>50</sup> In the

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45. Manufacturer's Exhibit A-10 (protected), Administrative Record, Vol. 12.

46. Exporter's Exhibit F-03 (protected), Administrative Record, Vol. 14.

47. *Protected Pre-hearing Staff Report*, Tribunal Exhibit NQ-2000-008-07 (protected), Administrative Record, Vol. 2A at 46.

48. Manufacturer's Exhibit A-01, paras. 53-55, Administrative Record, Vol. 11.

49. *Transcript of Public Hearing*, Vol. 3, 7 June 2001, at 359, 500, 526.

50. Letter from the United States Trade Representative to the Chairman of the United States International Trade Commission (22 June 2001), online: <<http://www.usitc.gov/steel/ER0622y1.pdf>>.



Tribunal's view, it is impossible at this point to predict the outcome of that investigation and whether it might have repercussions on the international and Canadian markets for corrosion-resistant steel sheet.

As previously noted, the evidence suggests that imports serve a demand as a secondary source of supply in the domestic market, particularly in periods of tight supply, as was the case in 1999. In this regard, the Tribunal noted the testimony of witnesses for Iscor, the lone South African mill that shipped to Canada, and for Jindal, the largest Indian producer of the subject goods.

With respect to Iscor, the Tribunal notes that the company employs an orderly marketing export strategy that places limits on its participation in each of its many export markets.<sup>51</sup> Moreover, the company has limited capacity to supply export demand for corrosion-resistant steel sheet due to production difficulties in its cold-rolled mill, which it does not plan to rectify in the foreseeable future, as well as strong domestic demand for automotive corrosion-resistant steel sheet.<sup>52</sup> Although it appears that a new South African mill will start or has recently started production of galvanized sheet,<sup>53</sup> there was no evidence adduced with respect to the markets that this new producer intends to serve or indicating that the Canadian market would be targeted.

With respect to Jindal, the evidence indicates that the company views itself as a secondary supplier in export markets.<sup>54</sup> Given current product mix, the evidence suggests that the company has a limited ability to satisfy additional demand.<sup>55</sup> While there are many other Indian producers of galvanized sheet, these companies have a limited ability to provide the quality required to serve the Canadian market.<sup>56</sup> As for product shifting on the same production facilities, the Tribunal notes the testimony of the witness for Jindal who implied that the trend was towards providing more rather than less automotive corrosion-resistant steel.<sup>57</sup>

Finally, with respect to the margins of dumping and subsidizing, the Tribunal notes that only 80 percent of the subject goods were dumped, with margins of dumping for some countries and suppliers that were very low. In this regard, the Tribunal notes that the majority of the goods originating in Chinese Taipei, the second largest subject country supplier during the period of inquiry, were not dumped. Moreover, the margin of dumping for three of its suppliers was very low, ranging from less than 1 to 7 percent. Similarly, 21 percent of the goods originating in Malaysia were undumped, and the margin of dumping on the remainder was only 4 percent. Given these numbers, plus the trend in the imports from the subject countries away from the Canadian market, it would be difficult for the Tribunal to conclude that the dumped and subsidized imports are likely to cause material injury to the domestic industry in the foreseeable future.

On the basis of a cumulative analysis, the Tribunal does not find that there is a likelihood of material injury to the domestic industry in the foreseeable future from the dumped and subsidized subject goods. Although the industry may be more vulnerable in the future than it was in the past, given its additional production capacity and the decline in demand by the automotive industry in particular, the Tribunal did not have before it sufficient positive evidence to make a finding of future injury. The subject imports did not cause injury in the past and there was little, if any, evidence that the imports would reverse

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51. Exporter's Exhibit F-02, para. 10, Administrative Record, Vol. 13.

52. *Supra* note 49 at 418-20, 424.

53. *Ibid.* at 396-98.

54. *Ibid.* at 505-06.

55. *Transcript of Public Hearing*, Vol. 3, 7 June 2001, at 525.

56. *Ibid.* at 490, 525-26.

57. *Ibid.* at 479.

their present trend in terms of prices and volumes in the foreseeable future and surge into a weaker market at lower prices.

## CONCLUSION

For the foregoing reasons, the Tribunal finds that the dumping of certain corrosion-resistant steel sheet originating in or exported from China, India, Malaysia, Russia, South Africa and Chinese Taipei, as well as the subsidizing of certain corrosion-resistant steel sheet originating in or exported from India, have not caused material injury and are not threatening to cause material injury to the domestic industry.

Patricia M. Close  
Patricia M. Close  
Presiding Member

Peter F. Thalheimer  
Peter F. Thalheimer  
Member

James A. Ogilvy  
James A. Ogilvy  
Member