

Ottawa, Tuesday, October 9, 2001

**Inquiry No. NQ-2001-002**

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

**THE DUMPING OF CERTAIN COLD-ROLLED STEEL SHEET PRODUCTS  
ORIGINATING IN OR EXPORTED FROM BRAZIL, CHINESE TAIPEI, THE  
FORMER YUGOSLAV REPUBLIC OF MACEDONIA, ITALY, LUXEMBOURG,  
MALAYSIA, THE PEOPLE'S REPUBLIC OF CHINA, THE REPUBLIC OF  
KOREA AND THE REPUBLIC OF SOUTH AFRICA**

## **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 in Canada of certain cold-rolled steel sheet products originating in or exported from Brazil, Chinese Taipei, the former Yugoslav Republic of Macedonia, Italy, Luxembourg, Malaysia, the People's Republic of China, the Republic of Korea and the Republic of South Africa has caused injury or retardation or is threatening to cause injury to the domestic industry.

This inquiry is pursuant to the issuance by the Commissioner of the Canada Customs and Revenue Agency of a preliminary determination dated June 11, 2001, and of a final determination dated September 10, 2001, that the aforementioned goods have been dumped.

Following the Commissioner's final determination, the Canadian International Trade Tribunal determined, by order made on September 11, 2001, pursuant to subsection 42(4.1) of the *Special Import Measures Act*, that the volume of the dumped goods from each of the former Yugoslav Republic of Macedonia, Italy, Luxembourg and Malaysia was negligible, as the volume of the dumped goods from each of those countries was less than 3 percent and, collectively, less than 7 percent of the total volume of the goods of the same description as the dumped goods released into Canada from all countries. Consequently, the Canadian International Trade Tribunal terminated its inquiry with respect to those four countries.

Pursuant to subsection 43(1) of the *Special Import Measures Act*, the Canadian International Trade Tribunal hereby finds that the dumping of the aforementioned goods originating in or exported from Brazil, Chinese Taipei, the People's Republic of China, the Republic of Korea and the Republic of South Africa has not caused injury or retardation and is not threatening to cause injury to the domestic industry.

Richard Lafontaine  
Richard Lafontaine  
Presiding Member

Pierre Gosselin  
Pierre Gosselin  
Member

Patricia M. Close  
Patricia M. Close  
Member

Susanne Grimes  
Susanne Grimes  
Acting Secretary

The statement of reasons will be issued within 15 days.

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Place of Hearing:	Ottawa, Ontario
Dates of Hearing:	September 10 to 17, 2001
Date of Finding:	October 9, 2001
 Tribunal Members:	 Richard Lafontaine, Presiding Member Pierre Gosselin, Member Patricia M. Close, Member
 Director of Research:	 Selik Shainfarber
 Lead Researcher:	 Don Shires
 Researcher:	 Eric G��linas
 Economists:	 Ihn Ho Uhm Genevi��ve Chaloux
 Statisticians:	 Julie Charlebois Marie-Jos��e Monette Rhonda Heintzman Michael Dejong
 Counsel for the Tribunal:	 Mich��le Hurteau
 Registrar Officer:	 Pierrette H��bert
 <b>Participants:</b>	 Steven K. D'Arcy C. Brent Jay for Dofasco Inc.  <b>(Domestic Producer)</b>  Riyaz Dattu Orlando E. Silva Brodie Swartz for Stelco Inc.  Ronald C. Cheng Paul D. Conlin Benjamin P. Bedard for Ispat Sidbec Inc.  <b>(Supporting Domestic Producer)</b>

Gordon LaFortune  
Chris Hines  
John Currie  
Yannick Beauvalet  
for Macsteel International (Canada) Ltd.  
Macsteel International South Africa (Pty) Ltd.  
IsCOR Limited

Peter Clark  
Sean Clark  
for Usinas Siderúrgicas de Minas Gerais S/A  
Companhia Siderúrgica Paulista  
Companhia Siderúrgica Nacional

Peter Clark  
for World Metals Corporation

Richard S. Gottlieb  
Jesse I. Goldman  
Darrel H. Pearson  
Jeffery D. Jenkins  
Peter Collins  
for Shanghai Baosteel Group Corp.

Donald J. Goodwin  
James C. Hopkins  
Evgeny Pavlenko  
Carol McGlennon  
for Laminoir de Dudelange S.A.

Georgievski Mile  
for RŽ Ladna Valavnica A.D.

**(Importers/Exporters)**

Ottawa, Wednesday, October 24, 2001

Inquiry No. NQ-2001-002

**THE DUMPING OF CERTAIN COLD-ROLLED STEEL SHEET PRODUCTS  
ORIGINATING IN OR EXPORTED FROM BRAZIL, CHINESE TAIPEI, THE  
FORMER YUGOSLAV REPUBLIC OF MACEDONIA, ITALY, LUXEMBOURG,  
MALAYSIA, THE PEOPLE'S REPUBLIC OF CHINA, THE REPUBLIC OF KOREA  
AND THE REPUBLIC OF SOUTH AFRICA**

**DECISION**

The Canadian International Trade Tribunal hereby finds that the dumping of the aforementioned goods originating in or exported from Brazil, Chinese Taipei, the People's Republic of China, the Republic of Korea and the Republic of South Africa has not caused injury or retardation and is not threatening to cause injury to the domestic industry.

With respect to the remaining countries, the Canadian International Trade Tribunal issued an order on September 11, 2001, that the volume of dumped goods originating in or exported from each of the former Yugoslav Republic of Macedonia, Italy, Luxembourg and Malaysia was negligible, as the volume of dumped goods from each of those countries was less than 3 percent and, collectively, less than 7 percent of the total volume of goods of the same description as the dumped goods released into Canada from all countries.

Place of Hearing:	Ottawa, Ontario
Dates of Hearing:	September 10 to 17, 2001
Date of Finding:	October 9, 2001
Date of Reasons:	October 24, 2001
Tribunal Members:	Richard Lafontaine, Presiding Member Pierre Gosselin, Member Patricia M. Close, Member
Director of Research:	Selik Shainfarber
Lead Researcher:	Don Shires
Researcher:	Eric Gélinas
Economists:	Ihn Ho Uhm Geneviève Chaloux
Statisticians:	Julie Charlebois Marie-Josée Monette Rhonda Heintzman Michael Dejong
Counsel for the Tribunal:	Michèle Hurteau
Registrar Officer:	Pierrette Hébert

**Participants:**

Steven K. D'Arcy  
C. Brent Jay  
for Dofasco Inc.

**(Domestic Producer)**

Riyaz Dattu  
Orlando E. Silva  
Brodie Swartz  
for Stelco Inc.

Ronald C. Cheng  
Paul D. Conlin  
Benjamin P. Bedard  
for Ispat Sidbec Inc.

**(Supporting Domestic Producer)**

Gordon LaFortune  
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Yannick Beauvalet  
for Macsteel International (Canada) Ltd.  
Macsteel International South Africa (Pty) Ltd.  
Iscor Limited

Peter Clark  
Sean Clark  
for Usinas Siderúrgicas de Minas Gerais S/A  
Companhia Siderúrgica Paulista  
Companhia Siderúrgica Nacional

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Darrel H. Pearson  
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Peter Collins  
for Shanghai Baosteel Group Corp.

Donald J. Goodwin  
James C. Hopkins  
Evgeny Pavlenko  
Carol McGlennon  
for Laminoir de Dudelange S.A.

Mile Georgievski  
for RŽ Ladna Valavnica A.D.

**(Importers/Exporters)**

**Witnesses:**

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

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

Wayne K. Bassett  
President and CEO  
Samuel, Son & Co., Limited

Donald K. Belch  
Director – Government Relations  
Stelco Inc.

Jeff S. Hanley  
Sales / Marketing Manager  
Cold Rolled and Coated Sheet  
Stelco Inc.

David Stephens  
Supervisor  
Accounting, Rolling and Finishing  
Stelco Inc.

Christian Castonguay  
Vice-President  
Marketing and Sales  
Ispat Sidbec Inc.

Luiz Favali Jr.  
Export Department  
Companhia Siderúrgica Paulista

Rodrigo César de Freitas  
General Export Manager  
Usinas Siderúrgicas de Minas Gerais S/A

Arthur Jorge Sant'Anna Pereira  
Controller Assistant  
Controlling Management  
Usinas Siderúrgicas de Minas Gerais S/A

W. Stephen McNevitts  
Controller  
Renown Steel (A Division of Slater Steel Inc.)

Paul Armstrong  
Purchasing Manager  
Renown Steel (A Division of Slater Steel Inc.)

Wally van Zyl  
Account Manager  
Isco Flat Steel Products  
Isco Limited

Lyle Dymont  
General Manager  
Ferrostaal Metals Ltd.

Address all communications to:

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Canadian International Trade Tribunal  
Standard Life Centre  
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Ottawa, Ontario  
K1A 0G7

Ottawa, Wednesday, October 24, 2001

**Inquiry No. NQ-2001-002**

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

**THE DUMPING OF CERTAIN COLD-ROLLED STEEL SHEET PRODUCTS  
ORIGINATING IN OR EXPORTED FROM BRAZIL, CHINESE TAIPEI, THE  
FORMER YUGOSLAV REPUBLIC OF MACEDONIA, ITALY, LUXEMBOURG,  
MALAYSIA, THE PEOPLE'S REPUBLIC OF CHINA, THE REPUBLIC OF KOREA  
AND THE REPUBLIC OF SOUTH AFRICA**

TRIBUNAL: RICHARD LAFONTAINE, Presiding Member  
PIERRE GOSSELIN, Member  
PATRICIA M. CLOSE, 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 cold-rolled steel sheet (CCRS) products originating in or exported from Brazil, Chinese Taipei, the Former Yugoslav Republic of Macedonia (Macedonia), Italy, Luxembourg, Malaysia, the People's Republic of China (China), the Republic of Korea (Korea) and the Republic of South Africa (South Africa) has caused injury or retardation or is threatening to cause injury to the domestic industry.

On March 12, 2001, 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 CCRS products from the aforementioned countries had been dumped. On March 13, 2001, 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 had caused injury or retardation or was threatening to cause injury to the domestic industry. On May 11, 2001, pursuant to subsection 37.1(1) of SIMA, the Tribunal determined that the evidence disclosed a reasonable indication that the dumping of CCRS products had caused injury to the domestic industry.

On June 11, 2001, the Commissioner issued a preliminary determination of dumping respecting CCRS from the above-noted countries sold or released into Canada. The Commissioner was satisfied, as a result of this preliminary investigation, that these goods had been dumped, that the margins of dumping were not insignificant and that the volume of dumped goods was not negligible.<sup>2</sup> In this preliminary determination, five countries had volumes of dumped imports of less than 3 percent of the total imports of CCRS; in aggregate, these volumes comprised over 7 percent of total imports. As a result, they were not considered negligible.

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

2. Canada Customs and Revenue Agency, *Preliminary Determination of Dumping*, 11 June 2001, Tribunal Exhibit NQ-2001-002-01, Administrative Record, Vol. 1 at 24.



On June 12, 2001, the Tribunal issued a notice of commencement of inquiry.<sup>3</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.

On September 10, 2001, the Commissioner issued a final determination that CCRS products originating in or exported from Brazil, Chinese Taipei, Macedonia, Italy, Luxembourg, Malaysia, China, Korea and South Africa had been dumped. In this final determination, the volumes of imports of CCRS decreased, in particular those from Brazil. As a result, the percentage of imports from South Africa changed from just under 3 percent to just over 3 percent.<sup>4</sup> Laminoir de Dudelage S.A. filed a motion with the Tribunal on September 11, 2001, for an order terminating its inquiry with respect to CCRS products originating in or exported from Luxembourg on the grounds that the volume of imports from Luxembourg was now negligible.

The Tribunal also considered whether it should terminate its inquiry respecting Macedonia, Italy and Malaysia. Based on the new evidence provided in the Commissioner's final determination, along with its own figures for imports of CCRS from non-subject countries, the Tribunal determined that, for the Commissioner's period of investigation (January 1 to December 31, 2000), the volume of dumped goods from each of Macedonia, Italy, Luxembourg and Malaysia was less than 3 percent and, collectively, less than 7 percent of the total volume of goods of the same description as the dumped goods released into Canada from all countries. As a result, on September 11, 2001, the Tribunal granted the motion and, pursuant to subsection 42(4.1) of SIMA, terminated its inquiry with respect to the dumped goods from Luxembourg, as well as those from Macedonia, Italy and Malaysia.

Public and in camera hearings were held in Ottawa, Ontario, from September 10 to 17, 2001. The domestic producers, Dofasco, Ispat Sidbec Inc. (Ispat) and Stelco Inc. (Stelco), were represented by counsel at the hearing. The following exporters and importers were also represented by counsel at the hearing: Iscor Limited (Iscor) from South Africa, Macsteel International South Africa (Pty) Ltd. (MISA) and Macsteel International (Canada) Ltd. (MICAN); Shanghai Baosteel Group Corp. (Baosteel) from China; Companhia Siderúrgica Paulista (COSIPA), Usinas Siderúrgicas de Minas Gerais S/A (USIMINAS) and Companhia Siderúrgica Nacional (CSN) from Brazil; and World Metals Corporation (World Metals).<sup>5</sup> The Tribunal also heard testimony from two steel service centres: Samuel, Son & Co., Limited (Samuel), which appeared on behalf of Dofasco; and Renown Steel (Renown), which appeared under subpoena by the Tribunal.

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 the hearing. 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 confidential information.

The Tribunal issued its finding on October 9, 2001.

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3. C. Gaz. 2001.I.2229.

4. Canada Customs and Revenue Agency, *Preliminary Determination of Dumping*, 11 June 2001, Tribunal Exhibit NQ-2001-002-01, Administrative Record, Vol. 1 at 42; *Final Determination of Dumping*, 10 September 2001, Tribunal Exhibit NQ-2001-002-05, Administrative Record, Vol. 1 at 103.38.

5. Laminoir de Dudelage S.A. from Luxembourg was represented by counsel who participated in the hearing only until the Tribunal's ruling on negligibility, which terminated proceedings against that country. The Executive Director of RŽ Ladna Valavnica A.D. from Macedonia also filed a notice of participation, but the proceedings against that country were terminated before he could appear.

## RESULTS OF THE COMMISSIONER'S INVESTIGATION

The percentage of CCRS products dumped (the subject goods) and the margins of dumping for the five remaining subject countries during the Commissioner's period of investigation are set out in the following table.

<b>TABLE 1</b> <b>Dumping by Country</b> <b>(January 1 to December 31, 2000)</b>				
<b>Country</b>	<b>Total Imports (net tons)</b>	<b>Goods Dumped (%)</b>	<b>Range of Margin of Dumping (%)</b>	<b>Weighted Average Margin of Dumping<sup>1</sup> (%)</b>
Brazil	74,710	82.56	0.15 – 69.14	10.71
Chinese Taipei	41,640	96.77	0.36 – 69.14	28.71
China	46,117	94.12	0.13 – 69.14	17.99
Korea	61,505	100	0.22 – 69.14	68.64
South Africa	10,302	98.57	10.39 – 77.89	33.97

Note 1. The weighted average margin of dumping is expressed as a percentage of the total export price of all goods reviewed, dumped and non-dumped, with the export price of the non-dumped goods expressed as zero.  
Source: Canada Customs and Revenue Agency, *Final Determination of Dumping and Statement of Reasons*, 10 September 2001, Tribunal Exhibit NQ-2001-002-05, Administrative Record, Vol. 1 at 103.38-103.39.

## PRODUCT

### Product Definition

The subject goods are defined as cold-reduced flat-rolled sheet products of carbon steel (including high-strength low-alloy steel), in coils or cut lengths (not painted, clad, plated or coated), in thicknesses from 0.014 in. to 0.142 in. (0.35 mm to 3.61 mm) inclusive, excluding the following:

- cold-rolled steel sheet products for use in the manufacture of passenger automobiles, buses, trucks, ambulances or hearses or chassis therefor, or parts thereof, accessories or parts thereof;
- full hard (i.e. not annealed or tempered) cold-rolled steel sheet products of carbon steel (including high-strength low-alloy steel) for use in the production in Canada of corrosion-resistant steel sheet; and
- cold-rolled steel sheet products of carbon steel (including high-strength low-alloy steel) for use in the production in Canada of tin plate or prepainted steel.

The subject goods include all widths of cold-rolled steel sheet, coils and products cut from a coil, including cut lengths from slit coils, regardless of whether the product is referred to as a blank. Cold-rolled steel strip made to ASTM<sup>6</sup> A109/A109M, A682/A682M and A684/A684M specifications is excluded from the product definition.

6. American Society for Testing and Materials.

The cold-rolled steel sheet subject to this inquiry is commonly used in the production of household appliances, drums and pails, tubing and office furniture.

All cold-rolled steel sheet, whether CCRS or other cold-rolled steel sheet, is manufactured on rolling mills. The product begins as hot-rolled steel, pickled and oiled, which is further reduced in thickness by a cold reduction process on a continuous or reversing cold rolling mill. This process produces steel in a highly strained condition with very little ductility that is referred to as “full hard”. The vast majority of full hard sheet is annealed to make it more pliable. Temper rolling normally follows annealing and results in improved sheet shape, proper surface finish and a reduction in the tendency to flute or stretch or strain during fabrication. The annealed sheet may be transferred internally for further processing into various products, including tin plate or painted steel sheet, both of which are not subject goods. As well, a large proportion of the full hard steel sheet is transferred internally to production lines that include in-line annealing equipment where it is transformed into coated products, such as galvanized steel sheet, also a non-subject product. The remaining annealed cold-rolled steel sheet is destined for the merchant market and includes non-subject automotive-grade steel, as well as CCRS.

## INDUSTRY

Dofasco, Stelco, Ispat and Algoma Steel Inc. (Algoma) are the Canadian producers of CCRS.

Dofasco is an integrated steel maker and the largest domestic producer of cold-rolled steel sheet. Dofasco’s integrated steel-making facilities are located in Hamilton, Ontario. Products manufactured by Dofasco and its several steel-related joint ventures include: flat-rolled steel sheets (both hot-rolled and cold-rolled); galvanized and Galvalume® steel; prepainted steel; tin plate; and chromium-coated steel, in coils, cut lengths and strip. As well, the firm produces welded pipe and tubular steel. Dofasco is a participant in two joint ventures engaged in the production of corrosion-resistant steel sheet for which Dofasco supplies cold-rolled steel sheet as substrate.<sup>7</sup>

Dofasco’s centralized sales force, located in Hamilton, sells directly to major end users, steel service centres, and independent consumer and industrial product manufacturers in the automotive, construction, pipe and tube, packaging and manufacturing market segments.

Stelco is an integrated steel maker and the second largest producer of cold-rolled steel sheet products in Canada. Stelco’s cold rolling facilities, located at its Hilton Works in Hamilton, consist of two tandem mills: a five-stand mill built in 1948 and a four-stand mill built in 1967. Since 1967, the four-stand mill has been modernized to meet the increasingly stringent requirements of several of Stelco’s customer groups, especially those in the automotive sector. Stelco maintains a significant sales force, including both outside sales and inside sales representatives supported by a sales management team.

Ispat is the third largest producer of cold-rolled steel sheet products in Canada. It is wholly owned by Ispat International N.V., Rotterdam, Netherlands. The company consists of five strategic business units:

7. One of its joint ventures is the operation of the DoSol Galva Limited Partnership hot-dip galvanizing line in Hamilton, Ontario, which is a limited partnership between Dofasco (80 percent) and Sollac, Aciers d’Usinor (20 percent). At full capacity, Dofasco will supply 80 percent of the substrate and Sollac, 20 percent. A second joint venture is the DNN Galvanizing Limited Partnership hot-dip galvanizing line in Windsor, Ontario, which is a joint venture between Dofasco (50 percent), NKK Corporation in Japan (40 percent) and National Steel Corporation in the United States (10 percent). The line functions as a tolling operation that coats, for a fee, substrate provided by its owners. Dofasco is entitled to 50 percent of the line time and National Steel Corporation, the other 50 percent.

primary operations, machine wire, bars and profiles, flat products and tubing. Using steel produced by its primary operations unit in Contrecoeur, Quebec, it manufactures both hot-rolled and cold-rolled steel sheet, among other products, at that same facility.

Algoma is a vertically integrated primary iron and steel producer. It is the smallest producer of cold-rolled steel sheet products in Canada. Algoma is approximately 26 percent employee owned, with the remaining shares held by other investors. It sells its cold-rolled steel sheet products directly to end users and steel service centres. Algoma is currently restructuring its financial obligations under the protection of the *Companies' Creditors Arrangement Act*.<sup>8</sup>

## **IMPORTERS**

Ten importers accounted for 82 percent of the imports of CCRS from the subject countries in 2000. The five largest importers of CCRS in 2000 were MICAN, T.Co Metals Limited, Balli Klockner Canada Ltd., World Metals and Thyssen Canada Ltd. Other large importers include Daewoo Canada Ltd., Ferrostaal Metals Ltd., Montsteel Inc., Pollan Trade, Inc. and Usinor Canada Inc.

## **EXPORTERS**

Foreign producers' questionnaires were sent to all companies identified by the Commissioner as manufacturers or exporters of CCRS located in the subject countries. Questionnaire responses were provided by the following foreign steel producers: Iscor (South Africa); Baosteel (China); COSIPA, USIMINAS and CSN (Brazil); and Yieh Loong Enterprise Co., Ltd. (Chinese Taipei). No responses were received from producers in Korea. Information obtained from the responses to the questionnaires included plant capacities, production, sales, exports and inventories of CCRS.

## **MARKETING AND DISTRIBUTION**

Domestically produced CCRS is sold to steel service centres and end users. Foreign-produced CCRS is, in large part, imported into Canada by brokers and trading companies, which, in turn, sell the goods almost exclusively to steel service centres. Steel service centres resell the sheet to end users or to other, usually smaller, resellers. In addition to reselling the sheet, steel service centres may perform services such as slitting, cutting and holding inventory for customers.

The end-user market segment is highly fragmented with many purchasers. Major end-user sectors include construction, tubing, consumer and industrial packaging, and general manufacturing, as well as metal fabricators and stampers, which further process the sheet for producers of finished goods.

## **POSITION OF PARTIES**

### **Domestic Producers**

The domestic producers argued that the dumping of CCRS from the subject countries caused injury in the form of lost market share, price erosion, price suppression, lost sales, reduced gross margins and deteriorating profitability on the domestic production and sale of CCRS. They also argued that imports of CCRS from the subject countries threatened to cause injury to the domestic producers.

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8. R.S.C. 1985, c. C-36.

The domestic producers argued that they suffered an injurious loss of market share as a result of dumped CCRS from the subject countries being sold and offered for sale in the domestic market at prices that were substantially less than the domestic mill transaction prices. They pointed to the decline in their combined market share, which fell from 86 percent in 1998 to 85 percent in 1999 and to 76 percent in 2000. During that same period, the subject goods captured the entire market share that the domestic producers had lost. The domestic producers also submitted that the subject countries captured the market share that was previously held by the subject countries in the previous inquiry concerning cold-rolled sheet.<sup>9</sup> Moreover, they contended that brokers and traders showed a pattern of switching to new sources whenever a finding was put in place against their former sources. This pattern was clearly evident in their decision to source from the subject countries in this case.

The domestic producers submitted that steel service centres purchase over 50 percent of domestic CCRS. Many steel service centres have large storage facilities that allow them to purchase the subject goods in large volumes, at low spot prices, and to carry the product in their inventories over long periods of time. The domestic producers noted that the larger steel service centres purchase boatloads of the subject goods and resell a portion of the low-priced dumped goods to other steel service centres. According to the domestic producers, the business of steel service centres is based upon high volumes and low margins.

Dofasco found that, in the first quarter of 2000, steel service centre customers and other customers that bought on the spot market were slow to take delivery of CCRS, which, Dofasco contended, resulted in a substantial increase in its inventory of CCRS. In its view, the principal reason for the sharp rise in inventory was that the steel service centres built up record levels of inventories of the subject goods during 2000. The failure of steel service centres to take delivery of orders resulted in reduced sales volumes and revenues and led to an injurious reduction in Dofasco's total gross margin on sales of CCRS.

The domestic producers contended that the increase in purchases by the steel service centres, particularly between 1999 and 2000, came almost exclusively from the subject countries. According to the domestic producers, the only reason that CCRS from the subject countries came into Canada was because the prices offered for the dumped imports were extremely attractive. In order to remain competitive, the steel service centres had no choice but to buy low-priced imported CCRS.

The domestic producers further argued that they were able to fully supply the Canadian market in the latter part of 1999 and in the first half of 2000. If lack of domestic supply had been a real problem, it was submitted, import prices would have been at premium levels. Stelco argued that the difficulties encountered with its four-stand cold rolling mill occurred between July and September 2000, when there was already an excessive amount of inventory in the marketplace. Furthermore, Stelco submitted that, in early 2000, in anticipation of reduced production in connection with its scheduled upgrade of the four-stand cold rolling mill, it made arrangements for Dofasco to process a significant quantity of its hot-rolled steel sheet feedstock into cold-rolled sheet.

According to the domestic producers, the subject goods swamped the steel service centre market in 2000. However, sales by the steel service centres to their end-use customers did not increase by the same volume and, as a result, inventories held by the steel service centres surged to record levels by July 2000. As a consequence, the domestic producers submitted, they were forced to dramatically reduce their selling prices to steel service centres in order to remain competitive.

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9. *Certain Cold-rolled Steel Sheet Products* (27 August 1999), Inquiry No. NQ-99-001 (CITT).

On the subject of excess primes and seconds, the domestic producers argued that such goods were normally sold at a standard discount rate to prime goods. Therefore, the prime subject goods entering the Canadian market at low prices had the effect, according to the domestic producers, of eroding the prices that purchasers were willing to pay for excess primes and seconds from the domestic industry, as well as for prime goods.

Regarding the evidence that the average prices of imports from the United States were substantially lower than those of domestic products, particularly from the third quarter of 2000 to the first quarter of 2001, the domestic producers submitted that prices for prime CCRS from the United States were generally consistent with those for domestic products. They contended that any differences reflected a different product mix of imports from the United States.

The domestic producers argued that the dumping of the subject goods also threatens to cause injury. They submitted that there is a worldwide excess supply of cold-rolled steel sheet, including CCRS. Despite this global excess supply, they submitted that some offshore mills continue to plan further additions to capacity. The domestic producers contended that the growth and volume of imports from the subject countries reflect the difficult economic conditions in their home and traditional export markets and their mills' dependence on exports. They also argued that the U.S. section 201 "safeguard" investigation would restrict foreign access to the U.S. market and lead to exports of CCRS from the subject countries being diverted to Canada. They contended that the presence of established distribution networks in Canada provided by traders, brokers and agents, together with the weak state of the Canadian market, makes them vulnerable to injurious dumping in the future.

Finally, the domestic producers opposed any request to decumulate or to provide either a country or a producer exclusion. Moreover, they argued that such exclusions have been granted only in exceptional circumstances and in instances where the product is not freely available from domestic producers, which is not the case in this inquiry.

### **Parties Opposed**

The parties opposed submitted that the dumping of CCRS has not caused and is not threatening to cause injury to the production of CCRS in Canada. Further, they argued that factors other than the dumping caused injury to the domestic producers.

Several of the parties opposed argued that the definition of the subject goods had been unreasonably narrowed by excluding cold-rolled steel sheet for automotive end use, full hard steel sheet for use in the production of corrosion-resistant steel sheet and cold-rolled steel sheet for use in the production of tin plate. This narrow definition, according to the parties opposed, had the effect of minimizing the apparent volume of domestic production and exaggerating the share of imports from some of the subject countries.

The parties opposed argued that there was growth in the Canadian CCRS market from 1998 to 2000. They contended that, from the latter part of 1999 through to the second quarter of 2000, the Canadian CCRS market was strong and buoyant, that supplies were tight and that prices increased. They suggested that the domestic producers were producing at full capacity. They also argued that the domestic producers took advantage of their production flexibility to re-allocate their production of cold-rolled steel sheet to product lines that offered the best profits and returns to their shareholders. As a result of a booming Canadian CCRS market and constrained domestic supply, the parties opposed submitted that purchasers turned to imported CCRS to satisfy their requirements. Moreover, a shortage in the domestic market

resulted in certain steel service centres being placed on allocation, encouraging imports of CCRS in 2000 at higher prices than in 1999.

The parties opposed submitted that domestic prices were not affected by imports of CCRS and that the prices of many imports actually exceeded, sometimes by a wide margin, the prices of domestic products. They submitted that average market prices increased in the third and fourth quarters of 1999 and in the first and second quarters of 2000. They acknowledged that prices began to decline in the third and fourth quarters of 2000 and in the first quarter of 2001. However, they argued that this was due to a number of factors unrelated to the dumping, including the reaction of domestic producers to a softening of demand, an increased availability of excess primes and seconds, and the inventory buildup at steel service centres because of the tight supply of domestic CCRS and optimistic demand forecasts.

The parties opposed contended that the prices of domestic CCRS sold to steel service centres declined much more rapidly than the prices of imports, because the domestic producers dropped their prices at the first signs of contraction in demand in the end-user market. The domestic producers attempted to sell more CCRS to the steel service centres, according to the parties opposed, because supplies that would usually go first to the higher-priced OEM market, in buoyant times, were suddenly available for other end uses. The domestic producers decreased their prices for CCRS in the latter part of 2000 in reaction to what they characterized as a declining Canadian CCRS market. According to the parties opposed, as the domestic producers sold more CCRS in a declining market at low prices, imports left the market.

The parties opposed also argued that there was no evidence that the subject goods had affected the domestic prices of excess primes or seconds sold to steel service centres. They submitted that not only was there no evidence of significant imports of excess primes or seconds from the subject countries but also that the problem stemmed from a significant increase in the domestic production of these products in the second half of 2000. Consequently, the parties opposed submitted that there is no causal link between the prices of imports and the domestic prices for excess primes or seconds. Rather, they argued, it was the increased domestic supply of excess primes and seconds that enabled the steel service centres to drive a harder bargain and to obtain lower prices on these products from the domestic producers. This, as well as the fact that it costs the same to produce excess primes and seconds as it does to produce prime goods, but with a much smaller return, caused the injury to the domestic producers, not the imports. According to the parties opposed, any injury to the domestic producers is due to other factors, including: the decline in sales to steel service centres because of intensified competition between the domestic producers; the sudden contraction of demand in the second half of 2000, particularly in the automotive sector; price cutting by the domestic producers to increase market share to fill suddenly freed-up capacity; Stelco's problems with its four-stand cold rolling mill that created a demand-pull situation that drew imports into the Canadian market; and the availability of larger than normal volumes of excess primes and seconds, which had a disrupting effect on the prices of those goods sold to the steel service centres.

Further, the parties opposed submitted that world economic conditions, not dumped imports of CCRS, caused the price decline that continued even after imports were chased from the domestic market in the latter half of 2000. In their view, both global and domestic price trends, which are closely parallel, mirrored the decline in the demand for steel that became apparent in the second quarter of 2000 and that intensified in 2001. It was also submitted that, when demand began to decline, domestic production imperatives forced prices down.

The Brazilian producers argued that the prices of their exports to steel service centres were substantially above the normal prices of these goods in Brazil and that there was no evidence that these prices had caused price erosion or suppression in the domestic market. With respect to threat of injury, the

Brazilian producers argued that there was no positive evidence that there would be an imminent surge of exports from Brazil nor that, if there was, it would be concentrated in Canada. Moreover, the Brazilian producers submitted that, as Brazil is the fastest growing automotive market in the world, there is a strong and growing demand for steel for automotive end use in that country. Accordingly, Brazilian mills will increasingly focus their production on higher value-added automotive steel products rather than on CCRS.

The Chinese producer submitted that the volumes of its goods shipped to Canada, while not *de minimis*, were insignificant and were brought into Canada in a manner that was non-injurious, to a limited number of accounts, for specific purposes and orders. Its goods were sold into Canada during the first half of 2000, with later deliveries at prices that, most of the time, exceeded the prices of domestic producers. Moreover, the Chinese producer submitted that China is decreasing its production of cold-rolled steel sheet as part of a five-year economic plan and is switching its emphasis to the production of higher-value products. The Chinese producer requested that it be decumulated and that the Tribunal find no injury with respect to its exports to Canada. In the alternative, it requested that it be excluded from a finding of injury or threat of injury. In the further alternative, it requested a producer exclusion for the goods that it sells to purchasers in the Prairies and British Columbia.

The South African producer requested that the Tribunal find that the volume of its imports is negligible and terminate the inquiry with respect to South Africa. In the alternative, it requested that the Tribunal find that there is no injury or threat of injury caused by the South African goods. It argued that, because the product definition is so narrow, the apparent share of imports from South Africa was exaggerated. It contended that South African CCRS comprises, as a whole, approximately 1 percent of the entire market, well below the negligibility standard. Moreover, the South African producer argued that it is not a new source of steel to Canada and could not have been part of the source switching. It also requested that it be decumulated because it does not use distribution channels that are similar to those of producers of the other subject countries and all its sales are made through one importer.

## ANALYSIS

Pursuant to subsection 42(1) of SIMA, the Tribunal shall make inquiry in the case of any goods to which a preliminary determination applies, as to whether the dumping or subsidizing of the goods has caused injury or retardation or is 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, 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 will, therefore, first determine what are the like goods and which domestic producers constitute the domestic industry. The Tribunal will then determine if the prerequisite conditions are met in order to make a cumulative assessment of the impact of the dumping from the subject countries on the domestic industry. Next, the Tribunal will proceed to determine the extent of injury to the domestic industry through an analysis of the market and industry during the Tribunal’s period of inquiry, i.e. from 1998 to the first quarter of 2001. The Tribunal will then assess whether the effects of the dumping of the subject goods from the subject countries cause injury or threaten to cause injury in this case. In its injury analysis, the Tribunal will examine other relevant factors to ensure that it does not attribute to the dumping injury caused by other factors.



## Like Goods

The Tribunal will, first, determine which domestically produced goods are “like goods” to the subject 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.

During the preliminary injury inquiry, the Tribunal found that the “like goods” were all the domestically produced goods that matched the Commissioner’s product definition of the subject goods.

Some parties opposed argued, at the hearing, that injury to domestic production should be conducted on the basis of an analysis of all categories of cold-rolled steel sheet, including cold-rolled steel sheet for automotive end use, for the production of tin plate and prepainted steel and for further internal processing into corrosion-resistant steel sheet.<sup>10</sup>

These parties argued that the subject goods should have included these excluded categories of cold-rolled steel sheet. Had they done so, the percentage share of total imports held by the subject countries would have been smaller and, in one case, below the 3 percent negligibility threshold.<sup>11</sup> They also argued that the Canada Customs and Revenue Agency (CCRA) data were not reliable.<sup>12</sup>

Turning, first, to the like goods issue, the Tribunal notes that, according to the evidence, cold-rolled steel in the full hard state is not sold into the merchant market except for a small amount for strapping, fasteners and snap ties.<sup>13</sup> Save these exceptions, full hard cold-rolled steel sheet needs to be tempered and annealed before being sold into the merchant market; otherwise, it is too brittle and too hard for drawing purposes.<sup>14</sup> Whereas those tons of cold-rolled steel sheet sold into the merchant market are batch-annealed, the annealing process to which full hard cold-rolled steel sheet is subjected for the production of corrosion-resistant steel sheet is an integral part of the galvanizing line.<sup>15</sup> Based on the evidence, the Tribunal is satisfied that CCRS and full hard cold-rolled steel sheet for further processing have different chemical compositions,<sup>16</sup> have different manufacturing processes and fulfil different customer needs. Therefore, the Tribunal finds that full hard cold-rolled steel sheet for further processing is not a like good.

With respect to cold-rolled steel sheet for automotive end use, the Tribunal heard that such steel must meet very strict tolerances<sup>17</sup> and possess certain physical and quality characteristics<sup>18</sup> that enable it to

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10. *Transcript of Public Argument*, 17 September 2001, at 159.

11. *Ibid.* at 224.

12. This issue is addressed later under “Cumulation”.

13. *Transcript of In Camera Hearing*, Vol. 2, 12 September 2001, at 330.

14. *Transcript of Public Hearing*, Vol. 1, 10 September 2001, at 28-30.

15. *Ibid.* at 34-36.

16. *Ibid.* at 29.

17. *Ibid.* at 40.

18. For example, it must be “surface critical”. *Transcript of Public Hearing*, Vol. 2, 11 September 2001, at 421.

be certified for specific automotive use.<sup>19</sup> CCRS does not go through any similar certification process. While cold-rolled steel sheet for automotive end use may serve for other end uses, this in itself does not convince the Tribunal that it is ordinarily substitutable for CCRS. The Tribunal is not convinced that a producer would typically incur the additional expense of producing this type of product for general application. Therefore, the Tribunal finds that cold-rolled steel sheet for automotive end use is not a like good in this case.

The Tribunal is also of the view that cold-rolled steel sheet for use in the production of tin plate or prepainted steel is not a like good. Like corrosion-resistant steel sheet, these are essentially further processed products.<sup>20</sup> Moreover, the evidence indicates that cold-rolled steel sheet for the production of tin plate is made to a lighter and thinner gauge than CCRS.<sup>21</sup> The Tribunal also heard testimony that cold-rolled steel sheet for the production of tin plate is subject to continuous in-line annealing as opposed to batch annealing used for the production of CCRS.<sup>22</sup> The Tribunal, therefore, finds that the physical characteristics of cold-rolled steel sheet for the production of tin plate differ from those for the production of CCRS. In the case of cold-rolled steel sheet for use in the production of prepainted steel, the Tribunal also heard evidence that it serves a different market from that for CCRS.<sup>23</sup> Accordingly, the Tribunal finds that cold-rolled steel sheet for the production of tin plate or prepainted steel is not substitutable for CCRS and is not a like good.

Having regard to the foregoing, for the purposes of this inquiry, the Tribunal finds that domestically produced cold-rolled steel sheet, of the same description as the subject goods, constitutes a like good to the subject goods.

As concerns the scope of the definition of the subject goods, it is well established that the Commissioner has the sole jurisdiction to define the subject goods. The Commissioner's jurisdiction is derived from the definition of "properly documented" found at subsection 2(1) of SIMA, where a properly documented complaint must specify the goods that are the basis for the Commissioner's investigation pursuant to section 31 of SIMA.

### **Domestic Industry**

In conjunction with their argument on like goods, the Brazilian mills argued that the Tribunal should focus its examination on the totality of the state of the domestic industry, not simply on the partial production of the industry.<sup>24</sup> Once the Tribunal has made a determination of like goods, then it is required to make inquiry into whether the dumping of the subject goods has caused injury or retardation or is threatening to cause injury to the domestic industry, as a whole, of the like goods. Having decided the scope of like goods to be CCRS, the Tribunal finds that, in the present inquiry, Dofasco, Stelco, Algoma and Ispat, being the sole domestic producers of those goods, constitute the domestic industry.

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19. *Transcript of Public Argument*, 17 September 2001, at 9.

20. The Tribunal notes that Dofasco is the only user of cold-rolled steel sheet for the production of tin plate in Canada and that it supplies all the cold-rolled steel sheet substrate from its own production. Manufacturer's Exhibit A-3 at 5, Administrative Record, Vol. 11. The painting facilities in Canada either are owned by the domestic producers of the cold-rolled steel sheet substrate or provide painting as a service for which the domestic producers pay a fee. *Transcript of Public Hearing*, Vol. 1, 10 September 2001, at 42-43.

21. *Transcript of Public Hearing*, Vol. 1, 10 September 2001, at 41.

22. *Ibid.* at 43.

23. *Ibid.* at 76.

24. *Transcript of Public Argument*, 17 September 2001, at 160.

## Cumulation

Subsection 42(1) of SIMA provides the Tribunal with the authority to make inquiry into whether the dumping of the goods to which the preliminary determination applies has caused injury or retardation or is threatening to cause injury. Subsection 42(3) states that, in making its inquiry under subsection 42(1), the Tribunal shall make an assessment of the cumulative effect of the dumping or subsidizing of the goods to which the preliminary determination applies that are imported into Canada from more than one country, if it is satisfied that the margin of dumping from each of those countries is not insignificant, the volume of goods from each of those countries is not negligible and an assessment of the cumulative effect is appropriate taking into account the conditions of competition.

Taking into consideration the relevant provisions of SIMA and based on the Commissioner's final determination of dumping, the Tribunal finds that the margins of dumping in relation to the goods from each of the subject countries are not insignificant.

The concept of negligibility is defined in subsection 2(1) of SIMA:

"negligible" means, in respect of the volume of dumped goods of a country,

(a) less than three per cent of the total volume of goods that are released into Canada from all countries and that are of the same description as the dumped goods,

except that

(b) where the total volume of dumped goods of three or more countries, each of whose exports of dumped goods into Canada is less than three per cent of the total volume of goods referred to in paragraph (a), is more than seven per cent of the total volume of goods referred to in paragraph (a),

the volume of dumped goods of any of those countries is not negligible.

On the issue of negligibility, South Africa, whose dumped goods were just above the 3 percent negligibility threshold according to the Commissioner's final determination, challenged the validity of the data used by the CCRA that underlie the negligibility calculation. The Tribunal notes that the negligibility calculation compares the proportion of dumped imports from a subject source to total CCRS imports from all sources, both subject and non-subject. The Commissioner is the authoritative source for data on dumped imports and total imports from the subject sources and, unless there is clear evidence on the file that the Commissioner's data are wrong or unsupported by the evidence, it would not be appropriate for the Tribunal to question those data.

As far as CCRS imports from non-subject sources are concerned, while the Commissioner has provided estimates in this area, the Tribunal has also conducted its own survey of CCRS imports from the original non-subject countries. The Tribunal typically relies on the data that it has compiled for the volume of imports from the non-subject countries during the period of investigation. It has done so, in this case, for the original non-subject countries. However, the numbers arrived at by the Tribunal do not differ materially from the numbers estimated by the CCRA. On the basis of all the data available, the Tribunal finds that imports from South Africa exceed the negligibility threshold and, therefore, are not negligible. Similarly, the Tribunal finds that the volume of goods from each of the other subject countries is not negligible.

The Tribunal must also consider whether an assessment of the cumulative effect of the dumping would be appropriate taking into account the conditions of competition between the subject goods from each of the subject countries and imports from any other of those countries or the like goods of domestic producers.

In assessing the conditions of competition, the Tribunal will consider a number of factors, including: (1) fungibility, i.e. interchangeability, which refers primarily to whether there exist physical characteristics of the subject goods imported from the subject countries that differentiate them to a significant degree from those of the other subject countries and from the like goods; (2) the presence or absence of sales or offers to sell in the same geographical markets as imports from different subject countries and the domestic like product; (3) the existence of common or similar channels of distribution; and (4) the differences in the timing of imports from a subject country and those of the other subject countries, and of the availability of like goods supplied by the domestic industry.

In the present case, the Tribunal has considered the conditions of competition among the subject goods and between the subject goods and the like goods. The Tribunal has determined that an assessment of the cumulative effect of the dumping of the subject goods from Brazil, Chinese Taipei, China, Korea and South Africa would be appropriate. Based on the evidence, the Tribunal finds that the subject goods from each of these countries compete with one another and with the like goods, with little, if any, distinguishing characteristics<sup>25</sup> and that the subject goods have similar distribution channels.<sup>26</sup>

In arriving at the foregoing conclusion, the Tribunal carefully considered the argument made by Baosteel that subsection 42(3) of SIMA requires that an assessment be made each time there is more than one producer, let alone more than one country.<sup>27</sup> Baosteel submitted that the Tribunal must examine the performance of individual producers in order to decide whether to cumulate and which players to cumulate.<sup>28</sup> It argued that this is tied to subsection 43(1), which provides that, in making its finding, the Tribunal, where appropriate, may determine the “supplier or country” in respect of which its finding will be made. Baosteel submitted that the Tribunal should not cumulate the impact of exports from producers that were causing injury with the impact of exports from producers that were not causing injury. In its view, to cumulate in these circumstances would undermine the causal foundation in SIMA. Baosteel supported its position that it not be cumulated, by arguing that it carefully marketed its goods to a limited number of select steel service centres and end users based on the quality of its products and to fulfil certain market needs not being met by the domestic producers.

The Tribunal recently examined this question with respect to exporters in Inquiry No. NQ-2000-001.<sup>29</sup> The Tribunal, in that case, relying on a decision<sup>30</sup> of the Supreme Court of Canada stated that “there is nothing in SIMA that requires the Tribunal” to conduct an exporter-specific analysis. The Tribunal cannot accept Baosteel’s argument that it must make individual producer injury assessments in order to decide whether to cumulate, as the Tribunal makes its decision on cumulation prior to its injury analysis. Pursuant to subsection 42(3) of SIMA, however, the Tribunal might decide not to cumulate a certain country in light of the conditions of competition attaching to the subject goods of its producers. The Tribunal was not convinced that such a determination should be made in this case.

With respect to South Africa’s request that it also not be cumulated because it markets its CCRS through a single trader, the Tribunal is not convinced that importing goods through one exclusive company suffices to warrant decumulation. Furthermore, the Tribunal notes that the importer of the South African

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25. *Transcript of Public Hearing*, Vol. 3, 12 September 2001, at 455; *Transcript of Public Hearing*, Vol. 4, 13 September 2001, at 641-42; *Pre-hearing Staff Report*, revised 31 August 2001, Tribunal Exhibit NQ-2001-002-07A, Administrative Record, Vol. 1A.1 at 86-88.

26. Like the domestic product, the vast majority of the subject goods enter the Quebec and Ontario markets. *Pre-hearing Staff Report*, revised 31 August 2001, Tribunal Exhibit NQ-2001-002-07E, Administrative Record, Vol. 1A.1 at 242.

27. *Transcript of Public Argument*, 17 September 2001, at 207.

28. *Ibid.*

29. *Certain Refrigerators, Dishwashers and Dryers* (1 August 2000) (CITT).

30. *Hitachi v. Anti-dumping Tribunal*, [1979] 1 S.C.R. 93.

subject goods may also import from other sources and that the goods are distributed to several domestic purchasers.

Consequently, for the purposes of this inquiry, the Tribunal will cumulate all the subject countries.

## Injury

Subsection 37.1(1) of the *Special Import Measures Regulations*<sup>31</sup> prescribes certain factors that the Tribunal may consider in determining whether the dumping of goods has caused injury to the domestic industry. These factors include the volume of dumped goods, their effect on prices in the domestic market for like goods and the consequent impact of the dumped goods on all relevant economic factors and indices that have a bearing on the state of the domestic industry. In this case, the relevant factors include any actual or potential declines in output, sales, domestic market share, profits and utilization of industrial capacity. Also included are any actual or potential effects on inventories. Subsection 37.1(3) of the Regulations also requires the Tribunal to consider other factors not related to the dumping to ensure that injury caused by those other factors is not attributed to the dumped imports. In this case, the relevant listed factors include the volume and prices of imports of goods that are not dumped, a contraction of demand for the subject goods and the like goods, and several other factors that are relevant in the circumstances.

In considering the foregoing matters, the Tribunal notes that the domestic market for CCRS is divided into two major sectors: the end-user sector and the steel service centre sector. Throughout the period of the Tribunal's inquiry, sales by domestic producers were divided evenly between the two sectors.<sup>32</sup> According to the evidence, sales to end users are usually based on contractual arrangements that specify price and tonnage commitments for time periods of 12 months or more.<sup>33</sup> For this and other reasons,<sup>34</sup> this sector is generally less open to imports than the steel service centre sector, where such contractual arrangements are not common. This is evidenced by the fact that, in 2000, about 98 percent of the sales of the subject goods from the subject countries were made to steel service centres.<sup>35</sup> Moreover, there was little price erosion in the end-use sector over the inquiry period.<sup>36</sup>

Indeed, the industry's claim of injury with respect to the end-use sector has more to do with its concern that the price erosion in the steel service centre sector will eventually spread to the end-use sector as and when contracts are renewed.<sup>37</sup> In the Tribunal's opinion, the industry's claim in this respect is more one of threat than of past injury. Accordingly, and in the absence of any persuasive evidence of past injury in the end-use sector of the market, the Tribunal finds that there has been no injury caused by dumped imports from the subject countries in this sector.

Having regard to the foregoing considerations, the Tribunal will focus its analysis on the sales of domestic and imported CCRS in the steel service centre sector. The Tribunal will examine especially closely the years 1999 and 2000, as well as the first part of 2001, as it is over these periods that the injury to the domestic industry is alleged to have occurred. The main economic indicators are summarized in Table 2 as follows:

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

32. *Pre-hearing Staff Report*, revised 11 September 2001, Tribunal Exhibit NQ-2001-002-07C, Administrative Record, Vol. 1A.1 at 222, 226.

33. Manufacturer's Exhibit A-01 at para. 87, Administrative Record, Vol. 11.

34. For example, end users may require just-in-time delivery, which importers may not be able to provide.

35. *Protected Pre-hearing Staff Report*, revised 11 September 2001, Tribunal Exhibit NQ-2001-002-08C (protected), Administrative Record, Vol. 2A.1 at 203, 222.

36. *Pre-hearing Staff Report*, revised 11 September 2001, Tribunal Exhibit NQ-2001-002-07C, Administrative Record, Vol. 1A.1 at 210.

37. Manufacturer's Exhibit A-01 at para. 88, Administrative Record, Vol. 11.

**TABLE 2**  
**Summary of Economic Indicators**

	1998	1999	2000	2000				2001
				Q1	Q2	Q3	Q4	Q1
<b>Production (net tons)</b>								
CCRS	1,093,556	1,115,915	1,136,370	297,645	293,078	268,475	277,172	261,572
Other Cold-rolled Steel Sheet	3,065,558	3,250,777	3,221,492	839,634	817,089	822,843	741,925	711,443
<b>Total Apparent Imports (net tons)</b>	165,003	187,924	326,361	94,512	101,671	72,180	57,998	31,746
Subject Countries*	33,696	80,153	259,161	74,896	77,999	63,084	43,182	22,228
Non-subject Countries*	131,307	107,141	67,200	19,616	23,672	9,096	14,818	9,518
<b>Apparent Market (net tons)</b>	1,151,678	1,221,291	1,338,221	379,297	362,765	286,317	309,842	287,274
<b>Market Share (% of volume)</b>								
Domestic Production	86	85	76	72	72	79	84	89
Imports								
Subject Countries*	3	6	19	23	22	18	12	8
Non-subject Countries*	11	9	5	5	7	3	5	3
<b>Average Prices (\$/net ton)</b>								
<b>Total Market</b>								
Domestic Producers <sup>1</sup>	639	628	619	643	644	621	567	548
Imports								
Subject Countries*	575	547	603	595	611	613	592	525
United States	512	563	474	512	587	426	336	384
<b>To End Users</b>								
Domestic Producers	691	675	681	679	686	687	673	642
Total Imports	642	620	629	621	687	645	680	645
<b>To Service Centres</b>								
Domestic Producers <sup>1</sup>	585	587	563	609	605	554	488	482
Domestic Producers <sup>2</sup>								
Seconds	435	417	375	447	429	368	281	269
Imports								
Subject Countries*	564	546	604	597	611	613	591	522
United States	510	556	464	504	575	426	328	358
<b>Total Cold-rolled Capacity (net tons)</b>	5,234,413	5,264,887	5,358,000	1,335,266	1,310,690	1,372,179	1,339,865	1,366,608
CCRS Utilization (%)	21	21	21	22	22	20	21	19
Other Utilization (%)	59	62	60	63	62	60	55	52
Total Utilization (%)	79	83	81	85	85	80	76	71
<b>Financial Total Industry (\$/net ton)</b>								
Gross Margin	81	79	60	90	94	54	1	(42)
Net Income Before Taxes	11	15	(13)	18	22	(23)	(71)	(113)

Note 1: Weighted average unit values for prime and non-prime goods.

Source: *Pre-Hearing Staff Report*, revised 11 September 2001, Tribunal Exhibit NQ-2001-002-07B, Administrative Record, Vol. 1A.1; “\*”*Pre-hearing Staff Report*, revised 31 August 2001, Tribunal Exhibit NQ-2001-002-07A, Administrative Record, Vol. 1A.1 (the public data in this report vary marginally from the revisions of 11 September 2001 that resulted in protected data).

### Pre-midyear 2000

Between 1999 and 2000, import sales of CCRS from all sources to steel service centres increased 84 percent, with the sales from the subject countries tripling in volume, to 238,000 net tons.<sup>38</sup> According to the Commissioner's final determination, a large proportion of the subject goods was ordered in the last quarter of 1999 and the first two quarters of 2000.<sup>39</sup> Exporters, importers and steel service centres provided a similar account of the timing of the orders of imports over this period.<sup>40</sup>

According to the evidence, the market conditions in Canada were robust during the period that the steel service centres were ordering imports.<sup>41</sup> Domestic sales were among the best ever in the first quarter of 2000<sup>42</sup> before easing somewhat in the second quarter of 2000.<sup>43</sup> Demand for other cold-rolled steel sheet was also very strong during this period because of the health of the economy, in general, and the automotive, high-tech and construction markets, in particular.<sup>44</sup> As a consequence, the industry's cold rolling mills were operating at high production and capacity utilization rates, for both CCRS and total cold-rolled steel sheet.<sup>45</sup>

Inventory levels at steel service centres are a function of market expectations. The robust demand being experienced in the cold-rolled steel sheet markets in the second half of 1999 was expected to continue for the whole of 2000.<sup>46</sup> Adequate inventory levels are particularly critical for steel service centres because their business is to serve their customers' needs from stock on hand in large or small quantities. Accordingly, steel service centres began to deliberately build their inventories in the second half of 1999 to meet the expected higher levels of demand<sup>47</sup> amid the emergence of what one witness described as a "hoarding mentality".<sup>48</sup> The evidence indicates that they turned to imports from the subject countries as an important part of this inventory-building process for a number of reasons. First, the growing lead times for domestic mill deliveries raised concerns about whether domestic mills would be able to meet their anticipated requirements in 2000<sup>49</sup> in a timely manner. Further, there is evidence that domestic mills were

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38. *Pre-hearing Staff Report*, revised 11 September 2001, Tribunal Exhibit NQ-2001-002-07C, Administrative Record, Vol. 1A.1 at 222-23.

39. The CCRA import data by exporter provide sale/order dates for imports that entered Canada in 2000. Tribunal Exhibit NQ-2001-002-06 (protected), Administrative Record, Vol. 2 at 84-144; Tribunal Exhibit NQ-2001-002-06A (protected), Administrative Record, Vol. 2 at 144.1-144.11.

40. For example, Manufacturer's Exhibit A-04 at para. 12, Administrative Record, Vol. 11.

41. *Transcript of Public Hearing*, Vol. 2, 11 September 2001, at 395; *Transcript of Public Hearing*, Vol. 4, 13 September 2001, at 567, 604; *Transcript of In Camera Hearing*, Vol. 3, 13 September 2001, at 362.

42. *Transcript of Public Hearing*, Vol. 3, 12 September 2001, at 466; *Transcript of Public Hearing*, Vol. 4, 13 September 2001, at 644.

43. *Transcript of In Camera Hearing*, Vol. 1, 11 September 2001, at 17.

44. *Transcript of Public Hearing*, Vol. 3, 12 September 2001, at 477.

45. *Pre-hearing Staff Report*, revised 31 August 2001, Tribunal Exhibit NQ-2001-002-07A, Administrative Record, Vol. 1A.1 at 49.

46. *Transcript of Public Hearing*, Vol. 4, 13 September 2001, at 644-45; *Transcript of In Camera Hearing*, Vol. 3, 13 September 2001, at 440-41.

47. *Ibid.*

48. *Transcript of Public Hearing*, Vol. 1, 10 September 2001, at 294.

49. *Transcript of Public Hearing*, Vol. 4, 13 September 2001, at 669-70; *Transcript of In Camera Hearing*, Vol. 3, 13 September 2001, at 441-42.

not prepared to supply incremental amounts.<sup>50</sup> There was also some concern about domestic supply capability in light of a mill upgrade at Stelco that was scheduled for the second half of 2000.<sup>51</sup>

During this period of strong demand, although there were no actual supply shortages, delivery times for CCRS orders placed with domestic mills were being extended.<sup>52</sup> In fact, by late 1999, the industry's lead times had increased from 6 - 10 weeks to 12 - 14 weeks, according to the Tribunal's steel service centre witnesses.<sup>53</sup> Moreover, domestic prices rose steadily from the third quarter of 1999 to the second quarter of 2000.<sup>54</sup> Indeed, late in the first quarter of 2000, the domestic mills announced a price increase that took effect early in the second quarter of 2000.<sup>55</sup> Although prices began to soften later in the second quarter, there were no significant declines during this period.<sup>56</sup> Subject country exporters found the demand-supply conditions in Canada to be "attractive"<sup>57</sup> throughout the period.

Although the average selling price of imports from the subject countries on sales to steel service centres was, in 1999, at about \$40 per net ton below domestic prices, by the first quarter of 2000, it had risen sharply, and it continued to rise over the next two quarters. This steady and significant rise in the price of subject country imports raised import prices to levels equivalent to domestic prices and, in the case of the second and third quarters, above those prices.

It is apparent from the evidence submitted by the domestic industry that it was well aware that its steel service centre customers were engaged in buying CCRS from the subject countries at prices that were below domestic prices in the latter half of 1999 and the first half of 2000. Yet, the industry did not make any major adjustments to its prices to become more competitive with the subject countries during this period, despite the frequent requests from steel service centres.<sup>58</sup> In the Tribunal's opinion, the industry's relative unresponsiveness to import prices is undoubtedly attributable to the fact that it was not affected by the import competition and was selling all the cold-rolled steel sheet it could, including CCRS. Industry witnesses confirmed this at the hearing,<sup>59</sup> and it is particularly evident in the strong financial results reported by the domestic producers, as a whole, for the first two quarters of 2000.<sup>60</sup> The industry showed steadily increasing gross margins and net income before taxes through the second quarter of 2000.

Having regard to the foregoing, the Tribunal has no reason to conclude that the industry suffered injury from dumped imports prior to midyear 2000.

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50. *Transcript of Public Hearing*, Vol. 4, 13 September 2001, at 668-69.

51. *Transcript of In Camera Hearing*, Vol. 1, 11 September 2001, at 20.

52. *Transcript of Public Hearing*, Vol. 2, 11 September 2001, at 395-96.

53. *Transcript of Public Hearing*, Vol. 1, 10 September 2001, at 289; *Transcript of Public Hearing*, Vol. 4, 13 September 2001, at 669-70.

54. *Pre-hearing Staff Report*, revised 31 August 2001, Tribunal Exhibit NQ-2001-002-07A, Administrative Record, Vol. 1A.1 at 133; *Transcript of Public Hearing*, Vol. 1, 10 September 2001, at 249; *Transcript of In Camera Hearing*, Vol. 1, 11 September 2001, at 8-9.

55. *Transcript of Public Hearing*, Vol. 2, 11 September 2001, at 394; *Transcript of In Camera Hearing*, Vol. 1, 11 September 2001, at 8.

56. *Transcript of In Camera Hearing*, Vol. 1, 11 September 2001, at 8-9.

57. *Transcript of Public Hearing*, Vol. 4, 13 September 2001, at 617-18.

58. *Transcript of In Camera Hearing*, Vol. 1, 11 September 2001, at 8.

59. *Transcript of Public Hearing*, Vol. 3, 12 September 2001, at 476-77.

60. *Pre-hearing Staff Report*, 31 August 2001, Tribunal Exhibit NQ-2001-002-07A, Administrative Record, Vol. 1A.1 at 54.



### Post-midyear 2000

In contrast to the first half of 2000, the second half of 2000 and the first half of 2001 were not good periods for the domestic industry. The softening in prices, which was first evidenced in the early summer of 2000, continued through the third quarter of 2000. This gradual easing of prices accelerated in the fourth quarter of 2000 when domestic prices fell sharply. The rapid and steep decline in domestic prices continued unabated into the first and subsequent quarters of 2001.<sup>61</sup> There has been no rebound in prices, despite an attempt by the industry to raise prices in April 2001.<sup>62</sup>

As the domestic industry's prices declined, so did its financial performance. More specifically, its unit gross margins were cut almost in half from the second to the third quarter of 2000. By the fourth quarter, the industry was barely able to generate positive unit gross margins. In the first quarter of 2001, industry unit revenues actually fell below unit costs, as the industry began to incur significant losses, at the gross margin level, on every ton sold. The same trend in financial deterioration is apparent in the industry's average unit net income, except that, at this level, the industry registered losses immediately in the third quarter of 2000, followed by substantial declines thereafter.<sup>63</sup>

In the Tribunal's opinion, there is no question that the industry suffered significant injury after midyear 2000, as reflected, in particular, in its declining prices and profitability. The issue now before the Tribunal is whether there is a causal nexus between the dumped imports from the subject countries and the industry's injury and, if so, whether the injury caused by the dumped imports is material.

### **Effects of Dumping and Other Factors**

By the beginning of the third quarter of 2000, economic conditions started to change as a result of an increase in interest rates and a weakening in demand in the automotive and high-tech sectors<sup>64</sup>. As a result, steel service centres began to be concerned that their earlier expectations of continued growth in demand in 2000 were not going to be realized in the second half of the year.<sup>65</sup> In this regard, Renown testified that, in the second quarter of 2000, it had begun to receive negative feedback from its customers about softening conditions in cold-rolled steel sheet markets, including CCRS.<sup>66</sup> In its view, the weakening in the automotive sector was particularly significant because it was a "barometer" for conditions in all cold-rolled steel sheet markets, including CCRS.<sup>67</sup>

Consistent with this testimony, the statistical data also point to a drop in demand for cold-rolled steel sheet in the second half of 2000. Specifically, sales to end users of CCRS were down by over 18 percent in the second half of 2000 compared to the first half, further to sequential declines in both the

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61. Specifically, the domestic industry's prices on prime CCRS to steel service centres in the third quarter of 2000 were first reduced by \$32 per ton. This was followed by declines of \$48 per ton in the fourth quarter of 2000 and \$31 per ton in the first quarter of 2001, which represented a total decline of \$111 per net ton, or about 17 percent from the levels reached in the second quarter of 2000. In terms of the industry's sales of excess primes and seconds, even greater declines were reported over this period. *Transcript of Public Hearing*, Vol. 1, 10 September 2001, at 252; *Transcript of Public Hearing*, Vol. 3, 12 September 2001, at 467; *Transcript of In Camera Hearing*, Vol. 3, 13 September 2001, at 470-71.

62. *Transcript of Public Hearing*, Vol. 1, 10 September 2001, at 31, 228; *Transcript of In Camera Hearing*, Vol. 1, 11 September 2001, at 8; *Transcript of In Camera Hearing*, Vol. 3, 13 September 2001, at 435-36.

63. *Pre-hearing Staff Report*, 31 August 2001, Tribunal Exhibit NQ-2001-002-07A, Administrative Record, Vol. 1A.1 at 54.

64. *Transcript of Public Hearing*, Vol. 5, 14 September 2001, at 799.

65. *Transcript of Public Hearing*, Vol. 4, 13 September 2001, at 656-57.

66. *Ibid.*

67. *Ibid.* at 656-58.

third and fourth quarters of 2000.<sup>68</sup> There are also some seasonal effects that come into play at midyear or later in the second half, such as holiday shutdowns in the automotive and construction sectors, which lower demand for cold-rolled steel sheet in this time period.<sup>69</sup> But, in this case, the midyear softening in end-user demand continued into the first and second quarters of 2001, by which time, all witnesses agreed, the major market downturn that persists today was well underway.

In short, by midyear 2000, steel service centres had come to the realization that they had ordered too much CCRS from the subject countries going into the second half, in light of the emerging economic downturn. The evidence shows that, as their first response, steel service centres collectively cut back sharply on import orders. Indeed, the witness from Samuel, the largest steel service centre in the country, testified that he placed no new orders for imports after the first half of 2000.<sup>70</sup> Similarly, Renown stated that it placed its last order for imports in May-June 2000.<sup>71</sup> Carrying costs of inventories meant, to varying degrees at different steel service centres, less cash for new purchases.<sup>72</sup>

The statistical data provide ample evidence of this cutback in imports from the subject countries.<sup>73</sup> Specifically, sales of imports from the subject countries fell by over 30 percent in each quarter starting in the third quarter of 2000 through to the first quarter of 2001.<sup>74</sup> Moreover, because the Tribunal's figures report imports in the quarter in which they are sold in Canada, they reflect a certain proportion of imports that were ordered in the first half of 2000, but which arrived in the second half. Taking this lag into account would show an even sharper cutback in purchases of the subject imports from the subject countries in the second half of 2000 than is revealed by the staff data. However, whether considered on the basis of order placement or arrival, there is unmistakable evidence of a sharp downturn in the volume of imports from the subject countries commencing in the third quarter of 2000 and continuing in the quarters thereafter.

Not only did steel service centres cut back on imports from the subject countries,<sup>75</sup> but they also cut back their purchases of domestic CCRS, at least initially. Specifically, in the third quarter of 2000, the industry's sales to steel service centres dropped by some 16 percent when compared to the second quarter.<sup>76</sup> As a result of the combined cutbacks in purchases of imported and domestic goods, total purchases by steel service centres declined by 27 percent between the second and third quarters of 2000.<sup>77</sup> However, in contrast to the third quarter of 2000, steel service centres substantially increased their purchases of domestic CCRS in the fourth quarter of 2000 and the first quarter of 2001, by over 20 percent when compared to the second quarter, even as their purchases of imports continued to decline.

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68. *Protected Pre-hearing Staff Report*, revised 11 September 2001, Tribunal Exhibit NQ-2001-002-08C (protected), Administrative Record, Vol. 2A.1 at 226. The data represent direct sales of CCRS to end users by domestic producers and, to a small extent, importers. In the Tribunal's opinion, these sales are also a good proxy for the conditions confronting steel service centres in particular, as all their sales are to end users.

69. *Transcript of Public Hearing*, Vol. 1, 10 September 2001, at 195.

70. *Ibid.* at 269-70.

71. *Transcript of In Camera Hearing*, Vol. 3, 13 September 2001, at 448.

72. *Transcript of In Camera Hearing*, Vol. 1, 11 September 2001, at 17-18.

73. As does the CCRA's final determination. Tribunal Exhibit NQ-2001-002-02 (protected), Administrative Record, Vol. 2 at 84-144.

74. *Protected Pre-hearing Staff Report*, revised 11 September 2001, Tribunal Exhibit NQ-2001-002-08C (protected), Administrative Record, Vol. 2A.1 at 203-204.

75. Imports of CCRS from non-subject countries also declined substantially in the second half of 2000, compared to the first half, as a result of a very sharp reduction in the third quarter of 2000. *Protected Pre-hearing Staff Report*, revised 11 September 2001, Tribunal Exhibit NQ-2001-002-08C (protected), Administrative Record, Vol. 2A.1 at 222.

76. *Pre-hearing Staff Report*, revised 11 September 2001, Tribunal Exhibit NQ-2001-002-08C, Administrative Record, Vol. 1A.1 at 223.

77. *Ibid.*

This cutback in purchases of CCRS, both domestic and imported, in the third quarter, allowed the steel service centres to begin the process of working down their inventories. Witnesses from the two steel service centres who testified at the hearing indicated that they acted quickly, so that, in the fourth quarter, they had reached their targeted inventory levels.<sup>78</sup>

The sharp decline in steel service centre purchases of CCRS in the third quarter of 2000 suggests that the inventory work down was quite aggressive in this period. In this softening market environment, steel service centres such as Renown achieved rapid inventory adjustments by dropping the price to their customers of stock on hand.<sup>79</sup> The decline in industry sales of CCRS to steel service centres in the third quarter of 2000 appears to have been a one-quarter occurrence. In this connection, the evidence shows that, as the industry's sales plummeted in the third quarter of 2000, it began the process of reducing its prices. As it did so, its sales to steel service centres increased substantially in the fourth quarter of 2000, compared to the third quarter. Sales in the fourth quarter were higher than they were in the first quarter of 2000, which itself had been a record quarter for the industry. Sales were even higher in the first quarter of 2001.<sup>80</sup>

These increases in sales by the domestic industry were accomplished despite the softening market conditions noted earlier.<sup>81</sup> The increases reflect the fact that domestic goods were rapidly displacing imported goods from the subject countries in the period after midyear 2000. The Tribunal estimates that the increased sales are also evidence of a strong demand response by steel service centres to the low CCRS prices offered by domestic producers over this period.<sup>82</sup> The Tribunal believes that, given the high proportion of fixed costs<sup>83</sup> in the manufacture of cold-rolled steel sheet, it was important for the domestic industry to increase its sales volume of CCRS in post-midyear 2000 to offset a decline in plant loading for other cold-rolled steel sheet that was occurring at this time.<sup>84</sup> This decline reflected the weakening automotive sector on which the industry relies heavily to maintain efficient operating rates for its cold-rolled steel sheet facilities, as a whole.<sup>85</sup> The steel service centre sector is the only major buyer of cold-rolled steel sheet that carries substantial inventories and where there is some elasticity of demand.<sup>86</sup>

As the domestic industry was dropping its prices and ramping up sales in the second half of 2000, not only were imports of CCRS from the subject countries receding from the market but their prices were increasing. The average unit import prices from the subject countries actually rose in the third quarter of 2000 compared to the second quarter, even as domestic prices declined at that time. Moreover, the subject country import prices slipped only slightly in the fourth quarter of 2000, compared to the large decline

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78. *Transcript of Public Hearing*, Vol. 1, 10 September 2001, at 299-300; *Transcript of Public Hearing*, Vol. 4, 13 September 2001, at 639.

79. *Transcript of Public Hearing*, Vol. 4, 13 September 2001, at 654.

80. *Pre-hearing Staff Report*, revised 11 September 2001, Tribunal Exhibit NQ-2001-002-07C, Administrative Record, Vol. 1A.1 at 222.

81. The Tribunal notes that some of the increased volumes, approximately 10,000 net tons a quarter, were of lower-priced full hard cold-rolled steel sheet for strapping.

82. Unless otherwise specified, the domestic CCRS prices noted hereinafter are all delivered average unit prime prices. Similarly, the subject country prices are average unit prime prices, keeping in mind that almost all CCRS imported over the period reviewed was prime material, according to witnesses from all sides.

83. *Transcript of In Camera Hearing*, Vol. 2, 12 September 2001, at 298.

84. *Pre-hearing Staff Report*, revised 31 August 2001, Tribunal Exhibit NQ-2001-002-07A, Administrative Record, Vol. 1A.1 at 49.

85. *Transcript of Public Hearing*, Vol. 5, 14 September 2001, at 799. The automotive industry accounts for 47.7 percent of steel shipped in Canada. Exporter's Exhibit H-02 at para. 81, Administrative Record, Vol. 13.B; *Transcript of Public Hearing*, Vol. 2, 11 September 2001, at 383.

86. *Transcript of Public Hearing*, Vol. 1, 10 September 2001, at 302.

reported by the domestic industry.<sup>87</sup> In short, looking at the second half of 2000, as a whole, compared to the first half, import prices from the subject countries increased,<sup>88</sup> whereas domestic prices declined by over 12 percent.

Moreover, no matter how one compares the prices, in the latter half of 2000 and the first quarter of 2001, the Tribunal is of the view that import prices could not have had a depressing or suppressing effect on domestic prices. Based on average prices, i.e. prices that include prime, excess prime and seconds, domestic producers' prices for sales into the steel service centre sector of the market were below subject country import prices throughout this period.<sup>89</sup>

The domestic industry made the argument that the Tribunal should only compare the price of the subject goods to the domestic price of prime CCRS.<sup>90</sup> When the Tribunal does so, it finds that, in the fourth quarter of 2000, the price of the subject goods was still higher (some \$15 per net ton) than the price of domestic prime. For the third quarter of 2000 and the first quarter of 2001, import prices ranged between \$15 and \$25 per net ton below domestic prime prices, which is within the premium range that the industry can command for domestic product.<sup>91</sup> The Tribunal heard evidence that the domestic industry could command a premium of approximately \$30, or 5 percent, per net ton<sup>92</sup> in recognition of the disadvantages of importing. There is a financial risk<sup>93</sup> associated with possible currency fluctuations, a market risk associated with possible price declines prior to delivery, a financial burden associated with large unit purchases and their consequent impact on inventory accumulation. All of these risks are exacerbated, given the 3- to 4-month lead time required in ordering imports. As a result, these import prices could not be seen to cause price erosion of the domestic product.

Another way to look at the pricing is to combine the domestic excess prime with prime prices, the reason for such a combination being that excess prime is undamaged prime product that is sold by two of the four domestic mills at less than prime prices. As such, it has, in the Tribunal's view, a depressing effect on the average price that the mills can extract for prime from the service centres. A service centre that has a choice between excess prime or prime will only buy the prime if it is discounted. The mills that do not sell excess prime would, nevertheless, be competing with it in the marketplace. This would be especially true in a situation of a weak market with a large proportion of excess prime available, as was the case in the fourth quarter of 2000 and the first quarter of 2001. The result of combining prime and excess prime in the steel service centre sector was that, in the third and fourth quarters of 2000, the prices of the subject goods were above the domestic prices (\$613 compared to \$605 per net ton in the third quarter and in excess of \$590 compared to \$546 per net ton in the fourth quarter). In the first quarter of 2001, the prices were virtually identical (a \$522 per net ton import price compared to a \$525 per net ton domestic price). This price

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87. *Protected Pre-hearing Staff Report*, revised 11 September 2001, Tribunal Exhibit NQ-2001-002-08C (protected), Administrative Record, Vol. 2A.1 at 209; Tribunal Exhibit NQ-2001-002-37 (protected), Administrative Record, Vol. 2 at 150.

88. Many goods ordered in the first half of 2000 arrived in Canada in the second half of 2000. Accordingly, the delivered average unit value of goods arriving in the second half of 2000 reflects the value of goods that were ordered in the first half of the year.

89. *Protected Pre-hearing Staff Report*, revised 11 September 2001, Tribunal Exhibit NQ-2001-002-08C (protected), Administrative Record, Vol. 2A.1 at 209.

90. *Transcript of Public Argument*, 17 September 2001, at 271.

91. *Protected Pre-hearing Staff Report*, revised 11 September 2001, Tribunal Exhibit NQ-2001-002-08C (protected), Administrative Record, Vol. 2A.1 at 209; Tribunal Exhibit NQ-2001-002-37 (protected), Administrative Record, Vol. 2 at 150.

92. *Transcript of Public Hearing*, Vol.4, 13 September 2001, at 686; *Transcript of Public Hearing*, Vol. 5, 14 September 2001, at 713.

93. *Transcript of In Camera Hearing*, Vol. 3, 13 September 2001, at 443-44.

comparison, as well as the previous price comparisons, shows that the subject imports could not have had a price erosion or suppression effect on the sale of domestic CCRS.

The Tribunal notes that it was not until the first quarter of 2001 that a substantial decline in import prices from the subject countries occurred. Although this decline brought subject country import prices again below domestic prices, which, as noted, also fell in this quarter,<sup>94</sup> the spread was not large enough to provide steel service centres with an incentive to buy imports to any great extent. Indeed, the decline in subject country prices in the first quarter of 2001 did not stem their sustained retreat from the Canadian market, as reflected by the fact that imports from the subject countries by this time were down some 75 percent compared to the quarterly levels shipped in the first half of 2000.<sup>95</sup>

Furthermore, the prices of the domestic industry continued to fall in 2001. Even after provisional duties were put in place, the prices were lower than at the beginning of the year.<sup>96</sup> This fact, along with the inability of the domestic industry to raise its prices in April 2001, when relatively few subject goods were in the market, illustrates to the Tribunal the lack of a causal connection between the dumped imports and the price erosion and suppression suffered by the domestic industry since the latter half of 2000.

In brief, in the period after midyear 2000, the subject country imports were steadily displaced by domestic sales. Moreover, domestic prices declined well before subject country prices and at no time did the spread between the two exceed the margin that steel service centres require to buy imports instead of domestic CCRS.

In the Tribunal's opinion, the foregoing facts, evidence and analysis do not indicate that import volumes or prices from the subject countries caused injury to the domestic industry. In the Tribunal's view, although imports from the subject countries were part of the inventory imbalance that emerged in the middle of 2000, under the market conditions that prevailed in the first half of 2000, these imports were needed in the Canadian market and the dumping of these imports was not a source of injury.

Furthermore, the Tribunal does not agree that subject country imports can be held responsible for the overbuying by steel service centres or the chain of events that occurred in the second half of the year. In the Tribunal's opinion, market developments in the second half were driven by the actions of the steel service centres and the steps that they took to adjust to the new market conditions that they saw evolving as early as midyear 2000. The industry responded to these actions by lowering its prices to sustain and increase sales and plant loading levels. Based on the evidence, the Tribunal is of the opinion that, in the second half of 2000, imports from the subject countries were essentially bystanders to the situation that evolved.

In addition, there were other non-dumping factors that adversely affected the industry's performance in the period after midyear 2000. The work on Stelco's previously announced investment to upgrade its four-stand mill was begun in July 2000. According to the evidence, unanticipated problems were encountered with the upgrade, which have not yet been fully resolved. These problems have necessitated continuing the operation of Stelco's five-stand mill that had been scheduled to be retired following successful commissioning of the upgraded four-stand mill. The increased costs directly arising from these difficulties had an ongoing negative impact of several millions of dollars on Stelco's financial results<sup>97</sup> and, in turn, on the industry's results, as a whole. The injury resulting from this situation, of course, has nothing

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94. *Protected Pre-hearing Staff Report*, revised 11 September 2001, Tribunal Exhibit NQ-2001-002-08C (protected), Administrative Record, Vol. 2A.1 at 209.

95. *Pre-hearing Staff Report*, revised 11 September 2001, Tribunal Exhibit NQ-2001-002-07C, Administrative Record, Vol. 1A.1 at 204.

96. *Transcript of In Camera Hearing*, Vol. 3, 13 September 2001, at 436; *Transcript of Public Hearing*, Vol. 1, 10 September 2001, at 169-70.

97. *Transcript of In Camera Hearing*, Vol. 1, 11 September 2001, at 173-74.

to do with, and cannot be attributed to, dumped imports. The announced outages did however contribute, earlier in the year, to the climate of uncertainty about the industry's ability to supply on a timely basis.

The evidence also shows that the industry generated a substantial volume of seconds in the latter half of 2000, especially in the fourth quarter of the year. Indeed, over 20 percent of the industry's sales in the fourth quarter were comprised of "off-spec" or damaged material.<sup>98</sup> The fourth quarter volumes of seconds were well above the average volume of seconds produced and sold in the previous quarters of 2000.<sup>99</sup> According to the evidence, the high rate of production of seconds by the industry in the second half of 2000 was related, in part, to the production problems that Stelco was having with its four-stand mill.

Seconds are sold at a discount to prime, and since the costs of production are the same for prime product or seconds, the unusually high volume of production of seconds in the second half of 2000 would have adversely affected industry margins in the second half of the year.<sup>100</sup> Thus, it is clear that the industry's production of seconds would have had a distinct negative impact on the industry's results, even if the subject country imports had not been in the Canadian market.

The analysis in the above paragraph also applies to the increase in volume of excess primes in the fourth quarter of 2000. Excess primes are also sold at a discount to primes, albeit at a smaller discount than seconds. Accordingly, higher-than-average sales volumes of this product would adversely affect margins, as in the case of seconds. A greater supply of excess primes would also have some price-depressing effect on primes.

The industry has argued that dumped import prices from the subject countries had a price-depressing effect on the industry's prices for excess primes and seconds. The Tribunal is of the view that the price gap between primes, excess primes and seconds increased in the second half as a result of an increased supply of excess primes and seconds from domestic producers, not as a result of imports whose prices were rising and volumes decreasing.

There was, as well, low-priced U.S. product in the steel service centre sector throughout 2000. This U.S. product was priced about \$100 per net ton below the subject country imports in the first half of 2000. In the second half of 2000, the U.S. prices fell precipitously, while the subject country import prices were increasing. The gap between the two widened to over \$260 per net ton in the fourth quarter of 2000 when the prices of imports from the United States to service centres fell to \$328 per net ton. The import volumes from the United States stayed relatively constant throughout each quarter of 2000, at between 4,000 and 5,000 net tons. They did not decrease as did the import volumes from the subject countries, as the market softened. The Tribunal heard evidence that this decline in prices and stable volumes may have been due to U.S. steel service centres trying to reduce inventories, much like their Canadian counterparts were doing at that time.<sup>101</sup> The domestic industry, on the other hand, claimed to be unaware of these low-priced imports and ventured that they must have been seconds.<sup>102</sup> The Tribunal is not convinced that the pricing of the U.S. product had no effect on the prices that the domestic industry had to meet in the marketplace, be they prices of primes or seconds.

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98. Tribunal Exhibit NQ-2001-002-37 (protected), Administrative Record, Vol. 2 at 147.

99. *Ibid.* at 146.

100. In calculating the direct costs associated with its four-stand mill problems, Stelco claims to have taken into account certain yield loss and "reclass" issues. It is not clear, from the explanation given, to what extent or on what basis Stelco accounted for the incremental costs associated with its high rate of production of seconds in the second half. Stelco's cost estimates appear to be conservative to the Tribunal, given the large incremental volumes of seconds produced. *Transcript of In Camera Hearing*, Vol. 2, 12 September 2001, at 291.

101. *Transcript of Public Hearing*, Vol. 5, 14 September 2001, at 831-32.

102. *Transcript of Public Hearing*, Vol. 1, 10 September 2001, at 149-50, and Vol. 3, 12 September 2001, at 440-441.

Having regard to the foregoing considerations, the Tribunal finds that the dumped imports from the subject countries have not caused injury to the domestic industry. Rather, the injury stems from a variety of other factors, including certain business, economic, market and operational imperatives, as elaborated above. This conclusion is further reinforced by the fact that domestic prices have continued to decrease throughout 2001,<sup>103</sup> despite the substantial reductions in import volumes and the imposition of provisional anti-dumping duties against the subject countries following the Commissioner's preliminary determination in June 2001.

### **Threat of Injury**

Having found that dumping has not caused injury, the Tribunal must consider whether dumping is threatening to cause injury to the domestic industry. In considering this question, the Tribunal is guided by subsection 37.1(2) of the Regulations, which prescribes factors such as: (1) whether there has been a significant rate of increase of dumped imports of CCRS into Canada; (2) whether there is sufficient freely disposable capacity, or an imminent substantial increase in the capacity of an exporter, that indicates a likelihood of a substantial increase of dumped goods, taking into account the availability of other export markets to absorb any increase; (3) whether the goods are entering the domestic market at prices that are likely to have a significant depressing or suppressing effect on the price of like goods; and (4) other relevant factors.

Moreover, to establish whether a causal relationship exists between the dumping and the threat of injury, paragraph 37.1(3)(a) of the Regulations requires the Tribunal to examine other prescribed factors. Finally, the Tribunal notes that, in making a finding of threat of injury to the domestic industry, subsection 2(1.5) of SIMA requires that the "circumstances in which the dumping . . . of [the subject] goods would cause injury . . . [be] clearly foreseen and imminent."

Subject to the foregoing legal framework, in considering whether a threat of injury exists after a finding of no injury has been made, the Tribunal must determine whether there are imminent or foreseeable developments or changes in circumstances that could alter the *status quo ante* with respect to dumped imports and their effect on the domestic industry. In this case, the Tribunal sees no such new significant developments or changes in circumstances. More particularly, domestic prices continue to be low, and the current market downturn shows no sign of improvement. If anything, the downturn appears to be deepening. While the current downturn makes the industry vulnerable to dumping, these bleak conditions also make the Canadian market unattractive to imports from the subject countries. As noted in the analysis on injury, subject country imports, as a whole, withdrew from the Canadian market as market conditions deteriorated. Accordingly, the Tribunal has no reason to believe that they would return under the even worse conditions that now prevail. The Tribunal heard no evidence that these conditions are likely to improve significantly in the months to come.

The Tribunal notes that the industry's principal argument on the issue of threat of injury is that there is considerable excess cold-rolled steel sheet capacity among the steel producers in the subject countries. Moreover, a significant proportion of the CCRS production in the subject countries is exported. The industry further contends that, in the absence of anti-dumping duties, this excess capacity and export orientation would result in high volumes of dumped CCRS in Canada from the subject countries in the future.

There is no doubt from the evidence that producers in the subject countries have excess capacity and that they export CCRS to a wide variety of foreign destinations. However, this is not a new phenomenon, and it more or less characterizes the state of most cold rolling mills around the world. In the

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103. *Transcript of In Camera Hearing*, Vol. 3, 13 September 2001, at 436; *Transcript of Public Hearing*, Vol. 1, 10 September 2001, at 169-70.

Tribunal's view, the important issue is not the mere existence of excess capacity and export trade, but whether there is concrete evidence to support the proposition that this will lead to injurious dumping in Canada from the subject countries. Here again, the best evidence as to the future is what happened in the past, in the Tribunal's estimation. In this regard, the Tribunal notes that, despite the excess capacity that existed in the subject countries over the Tribunal's period of review and that is likely to continue to exist in the future, subject country producers retreated from the Canadian market as conditions deteriorated. Excess capacity figures and export trade volumes are, therefore, not determinative of any threat that is posed in this case, in the Tribunal's view.

With respect to Brazil, the industry submitted evidence concerning a drought in 2001 and a resulting hydro-electric energy shortage that is hampering economic activity in the country. The industry also submitted evidence concerning the ramifications of certain financial problems in Argentina in 2001, including the establishment of a quota regime to control shipments of steel, including CCRS, from Brazil to Argentina. The Tribunal notes that both these events go to the issue of potential excess capacity that the Tribunal has addressed in general terms above. Specifically in terms of Brazil, the evidence shows that, despite any excess capacity, Brazilian producers were adjusting their shipments to Canada downward in the first half of 2001 in response to Canadian market conditions.<sup>104</sup>

Moreover, as far as the Brazilian energy problems are concerned, it is not apparent to the Tribunal that this will increase surplus CCRS capacity at Brazilian steel mills. In this regard, the Tribunal notes that, although Brazilian steel demand may fall along with the overall economy, the supply of steel may also fall, as the Brazilian government has required steel mills to reduce their energy consumption.<sup>105</sup> Further, as part of their energy reduction program, Brazilian steel mills plan to shift their production and export mix to goods that require less energy to produce, such as slabs from more energy-intensive goods such as cold-rolled steel sheet, including CCRS.<sup>106</sup>

With respect to China, the Tribunal notes that, according to the Commissioner's final determination, a large proportion of the Chinese goods investigated were exported to Canada at levels of dumping that are "insignificant" pursuant to subsection 2(1) of SIMA, i.e. less than 2 percent.<sup>107</sup> In fact, the overall weighted average margin of dumping for the Chinese goods examined by the Commissioner was only 2.44 percent. In terms of Chinese Taipei and Korea, the weighted average margin of dumping found by the Commissioner was also low for those producers whose exports to Canada were actually examined.<sup>108</sup> These low margins of dumping, combined with the fact that, in the last quarters of 2000 and especially in 2001, these countries reduced their imports and, in one case, withdrew completely from the Canadian market, indicate to the Tribunal that these countries are unlikely in the foreseeable future to cause injury to the domestic industry.

As far as South Africa is concerned, the evidence shows that the volume of goods imported from this country is barely above the 3 percent negligibility level. The evidence also shows that Iscor, the principal steel exporter in South Africa, limits its shipments to foreign markets to the 3 percent level or less,

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104. *Transcript of In Camera Hearing*, Vol. 3, 13 September 2001, at 335, 336, 419-20.

105. *Transcript of Public Hearing*, Vol. 3, 12 September 2001, at 521-22.

106. *Transcript of Public Hearing*, Vol. 4, 13 September 2001, at 583.

107. Tribunal Exhibit NQ-2001-002-06A (protected), Administrative Record, Vol. 2 at 144.3-144.9.

108. In the case of both China and Chinese Taipei, the goods examined by the CCRA in the final determination comprise the majority of goods exported from these countries during the CCRA's period of investigation, January 1 to December 31, 2000. For goods not examined, the normal values were determined by ministerial specification and were based on the export price of the goods advanced by 69.14 percent. In the case of Korea, only a small portion of the goods actually shipped were examined by the CCRA. In other words, most goods were given the aforementioned prescribed rate.



as a matter of explicit company policy.<sup>109</sup> According to a witness from Iscor, the company does this so as to not be a disruptive factor in terms of its foreign trade.<sup>110</sup> The Tribunal has no reason to believe that shipments to Canada from Iscor will increase in the near future or that it will depart from its self-regulating policy of keeping its exports to minimal levels.

Finally, the domestic industry argued that the section 201 safeguard investigation into a variety of steel products, including cold-rolled steel sheet, that is currently underway in the United States would lead exporting countries, including the subject countries, to divert their steel to the Canadian market. The Tribunal cannot give this argument any weight at this time because there is no way of knowing what, if anything, will result from that process and how it might affect the subject countries or their export patterns.

Having regard to the foregoing considerations, the Tribunal finds that there is no threat of injury from dumping by the subject countries.

## CONCLUSION

Pursuant to subsection 43(1) of SIMA, the Tribunal hereby finds that the dumping of CCRS originating in or exported from Brazil, Chinese Taipei, China, Korea and South Africa has not caused injury or retardation and is not threatening to cause injury to the domestic industry.

Richard Lafontaine  
Richard Lafontaine  
Presiding Member

Pierre Gosselin  
Pierre Gosselin  
Member

Patricia M. Close  
Patricia M. Close  
Member

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109. *Transcript of Public Hearing*, Vol. 5, 14 September 2001, at 696-97.

110. *Transcript of Public Hearing*, Vol. 5, 14 September 2001, at 696-98.