CANADIAN INTERNATIONAL TRADE TRIBUNAL
TRIBUNAL CANADIEN DU COMMERCE EXTÉRIEUR

Ottawa, Thursday, July 29, 1993

Inquiry No.: NQ-92-009

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

CERTAIN COLD-ROLLED STEEL SHEET ORIGINATING IN OR EXPORTED FROM THE FEDERAL REPUBLIC OF GERMANY, FRANCE, ITALY, THE UNITED KINGDOM AND THE UNITED STATES OF AMERICA

F I N D I N G S

The Canadian International Trade Tribunal, under the provisions of section 42 of the *Special Import Measures Act*, has conducted an inquiry following the issuance by the Deputy Minister of National Revenue for Customs and Excise of a preliminary determination of dumping dated March 31, 1993, and of a final determination of dumping dated June 29, 1993, respecting the importation into Canada of 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 widths up to and including 80 in. (2,032 mm) and in thicknesses from 0.014 in. to 0.142 in. (0.35 mm to 3.61 mm) inclusive, but not including cold-rolled steel strip made to ASTM A109/A109M specifications, originating in or exported from the Federal Republic of Germany, France, Italy, the United Kingdom and the United States of America.

Pursuant to subsection 43(1) of the *Special Import Measures Act*, the Canadian International Trade Tribunal hereby finds that the dumping in Canada of the aforementioned goods originating in or exported from the Federal Republic of Germany, France, Italy and the United Kingdom has caused, is causing and is likely to cause material injury to the production in Canada of like goods, excluding:

(i) the subject sheet, containing not more than 100 parts per million of aluminum, for use in the manufacture of flux-core welding wire;

(ii) cold-rolled motor lamination steel, having a maximum core loss to thickness ratio of 0.11 watt per pound per one thousandth of an inch measured at a frequency of 60 hertz and an induction of 1.5 teslas made to ASTM A34 and A343 specifications, for use in the manufacture of magnetic core laminations; and

(iii) cold-rolled steel strip made to ASTM A682/A682M and A684/A684M specifications.

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In accordance with subsection 43(1.1) and pursuant to subsection 43(1) of the *Special Import Measures Act*, the Canadian International Trade Tribunal finds that the dumping in Canada of the aforementioned goods originating in or exported from the United States of America has caused, is causing and is likely to cause material injury to the production in Canada of like goods, excluding:

(i) the subject sheet, exported by National Steel Corporation to Canada and re-exported, provided that title to such sheet as imported, further processed and re-exported from Canada remains with National Steel Corporation and provided that it is not sold in Canada, but re-exported;

(ii) the subject sheet, exported from the United States of America for electrogalvanizing by Metal Koting Continuous Colour Coat Limited, and re-exported, provided that title to such sheet as imported, further processed and re-exported from Canada remains with the U.S. exporters and provided that it is not sold in Canada, but re-exported;

(iii) the subject sheet, containing not more than 100 parts per million of aluminum, for use in the manufacture of flux-core welding wire;

(iv) cold-rolled motor lamination steel, having a maximum core loss to thickness ratio of 0.11 watt per pound per one thousandth of an inch measured at a frequency of 60 hertz and an induction of 1.5 teslas made to ASTM A34 and A343 specifications, for use in the manufacture of magnetic core laminations; and

(v) cold-rolled steel strip made to ASTM A682/A682M and A684/A684M specifications.

Michèle Blouin
Michèle Blouin
Presiding Member

Arthur B. Trudeau
Arthur B. Trudeau
Member

Lise Bergeron
Lise Bergeron
Member

Michel P. Granger
Michel P. Granger
Secretary

The statement of reasons will be issued within 15 days.

Inquiry No.: NQ-92-009

Place of Hearing:		Ottawa, Ontario
Dates of Hearing:		July 5 to 9, 1993 July 12 to 16, 1993
Date of Findings:		July 29, 1993
Tribunal Members:		Michèle Blouin, Presiding Member Arthur B. Trudeau, Member Lise Bergeron, Member
Director of Research:		Peter Welsh
Research Officers:		Richard Cossette Peter Rakowski
Statistical Officer:		Margaret Saumweber
Counsel for the Tribunal:		David M. Attwater
Registration and Distribution Officer:		Claudette Friesen
Participants:		Alexander D. Givens Steven K. D'Arcy Tracy S. Peters
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	for	Stelco Inc.
		Ronald C. Cheng
	for	Sidbec-Dosco Inc.
		(Complainants)
		Peter Clark John Haime
	for	British Steel Canada Inc. TrefilARBED Ltd. Paturle Aciers S.A. Bartell Industries Inc. A. Richard Ltd.
		C.J. Michael Flavell, Q.C. Paul Lalonde James P. McIlroy Chris Hines
	for	Bethlehem Steel Export Corporation LTV Steel Company, Inc. U.S. Steel Group of USX Corporation Inland Steel Company

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Chris Hines
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Donald Goodwin
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for Siemens Automotive Limited

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Canadian Liquid Air Ltd.

Wolfe Czaikowski
Wolfe Metal Sales, Div. of
W.U.C. Holdings Inc.

J. Bradley Burgess
Vice-President and General Manager
Ventratech Limited

(Importers/Exporters)

CANADIAN INTERNATIONAL TRADE TRIBUNAL
TRIBUNAL CANADIEN DU COMMERCE EXTÉRIEUR

Ottawa, Friday, August 13, 1993

Inquiry No.: NQ-92-009

CERTAIN COLD-ROLLED STEEL SHEET ORIGINATING IN OR EXPORTED FROM THE FEDERAL REPUBLIC OF GERMANY, FRANCE, ITALY, THE UNITED KINGDOM AND THE UNITED STATES OF AMERICA

Special Import Measures Act - Whether the dumping of the above-mentioned goods has caused, is causing or is likely to cause material injury to the production in Canada of like goods.

DECISION: The Canadian International Trade Tribunal has found that the dumping in Canada of certain cold-rolled steel sheet originating in or exported from the Federal Republic of Germany, France, Italy, the United Kingdom and the United States of America, with some exclusions, has caused, is causing and is likely to cause material injury to the production in Canada of like goods.

Place of Hearing:	Ottawa, Ontario
Date of Pre-Hearing Conference:	June 14, 1993
Dates of Hearing:	July 5 to 9, 1993 July 12 to 16, 1993
Date of Findings:	July 29, 1993
Date of Reasons:	August 13, 1993
Tribunal Members:	Michèle Blouin, Presiding Member Arthur B. Trudeau, Member Lise Bergeron, Member
Director of Research:	Peter Welsh
Research Manager:	Richard Cossette
Research Officer:	Peter Rakowski
Economist:	Simon Glance
Statistical Officers:	Margaret Saumweber Robert Larose
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(Complainants)

Ronald C. Cheng
for Sidbec-Dosco Inc.

(Supporting the Complaint)

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Bartell Industries Inc.
A. Richard Ltd.

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LTV Steel Company, Inc.
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Camco Inc.

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Wolfe Czaikowski
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J. Bradley Burgess
Vice-President and General Manager
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(Importers/Exporters)

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CANADIAN INTERNATIONAL TRADE TRIBUNAL
TRIBUNAL CANADIEN DU COMMERCE EXTÉRIEUR

Ottawa, Friday, August 13, 1993

Inquiry No.: NQ-92-009

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

CERTAIN COLD-ROLLED STEEL SHEET ORIGINATING IN OR EXPORTED FROM THE FEDERAL REPUBLIC OF GERMANY, FRANCE, ITALY, THE UNITED KINGDOM AND THE UNITED STATES OF AMERICA

TRIBUNAL: MICHÈLE BLOUIN, Presiding Member
ARTHUR B. TRUDEAU, Member
LISE BERGERON, Member

STATEMENT OF REASONS

CONDUCT OF THE INQUIRY

The Canadian International Trade Tribunal (the Tribunal), under the provisions of section 42 of the *Special Import Measures Act*[1] (SIMA), has conducted an inquiry following the issuance by the Deputy Minister of National Revenue for Customs and Excise (the Deputy Minister) of a preliminary determination of dumping dated March 31, 1993, and of a final determination of dumping dated June 29, 1993, respecting the importation into Canada of 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 widths up to and including 80 in. (2,032 mm) and in thicknesses from 0.014 in. to 0.142 in. (0.35 mm to 3.61 mm) inclusive, but not including cold-rolled steel strip made to ASTM[2] A109/A109M specifications, originating in or exported from the Federal Republic of Germany, France, Italy, the United Kingdom and the United States of America.

The notices of preliminary and final determinations of dumping were published in Part I of the May 1 and July 10, 1993, editions of the Canada Gazette, respectively. The Tribunal's notice of commencement of inquiry issued on April 7, 1993, was published in Part I of the April 17, 1993, edition of the Canada Gazette.

As part of the inquiry, the Tribunal sent detailed questionnaires to Canadian producers, importers and purchasers of the subject goods. Replies to the questionnaires provided production, financial, pricing, import and market information, as well as other data, covering the period from January 1, 1989, to December 31, 1992. From the replies to the questionnaires and other sources, the Tribunal's research staff prepared public and protected pre-hearing staff reports covering that period.

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1. R.S.C. 1985, c. S-15.
2. American Society for Testing and Materials.

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The record of this inquiry consists of all Tribunal exhibits, including the public and protected replies to questionnaires, all exhibits filed by the parties at the hearing, as well as the transcript of all proceedings. All public exhibits were made available to the parties. Protected exhibits were made available only to independent counsel who had given undertakings.

A pre-hearing conference was held in Ottawa, Ontario, on June 14, 1993, as well as public and *in camera* hearings which were held from July 5 to 9 and July 12 to 16, 1993. The complainants, Dofasco Inc. (Dofasco) and Stelco Inc. (Stelco), were represented by counsel at the hearing. Sidbec-Dosco Inc. (Sidbec-Dosco), a producer of the subject goods and supporter of the complaint, was also represented by counsel, as were numerous exporters and importers. Algoma Steel Inc. (Algoma) responded to the Tribunal's questionnaire. Cold Metal Products Company, Ltd. (CMP) supported the complaint and filed a public preliminary brief. The Tribunal invited Mr. Ted Roberts, Purchasing Agent for General Motors of Canada Limited (GM Canada), and Mr. Michael J. Makagon, President and C.E.O. of Maksteel Service Centre, Division of Makagon Industries Ltd. (Maksteel), to answer questions pertaining to the purchasing and pricing of the subject goods.

On July 29, 1993, the Tribunal issued its findings that the dumping in Canada of certain cold-rolled steel sheet originating in or exported from the Federal Republic of Germany, France, Italy, the United Kingdom and the United States of America, with some exclusions, had caused, was causing and was likely to cause material injury to the production in Canada of like goods.

PRODUCT

The product that is the subject of this inquiry is defined by the Deputy Minister in the preliminary determination of dumping 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 widths up to and including 80 in. (2,032 mm) and in thicknesses from 0.014 in. to 0.142 in. (0.35 mm to 3.61 mm) inclusive, but not including cold-rolled steel strip made to ASTM A109/A109M specifications, originating in or exported from the Federal Republic of Germany, France, Italy, the United Kingdom and the United States of America.

The subject goods include, but are not limited to: commercial-quality sheet (ASTM A366/A366M), sheet for porcelain enamelling (ASTM A424/A424M, Type 1), structural-quality sheet (ASTM A611/A611M), drawing-quality sheet (ASTM A619/A619M), drawing-quality sheet - special killed (ASTM A620/A620M), deep drawing-quality sheet (ASTM A620/A620M), extra deep drawing-quality sheet/interstitial free (ASTM A620/A620M), intermediate- and full-hard temper sheet, and high-strength, low-alloy steel sheet equivalent to ASTM A607/A607M, Class 1 Type 1 and Class 2 Type 1. This definition includes non-prime and secondary goods that do not meet specifications.

The Deputy Minister excluded cold-rolled steel strip in coils or cut lengths made to ASTM A109/A109M specifications from the definition of the subject goods. These specifications cover cold-rolled steel strip, which is finished to closer tolerances than cold-rolled steel sheet and which has specific temper, edge and finish, a maximum thickness of 0.2499 in. (6.0 mm) and widths varying from 1/2 in. (12.5 mm) to 23 15/16 in.

(600.0 mm). Because the Deputy Minister excluded cold-rolled steel strip made to ASTM A109/A109M specifications, the Tribunal inferred that all other cold-rolled steel strip products, including those made to ASTM A682/A682M and A684/A684M specifications, were included in the subject goods.

The subject goods are produced to meet certain ASTM specifications or proprietary end-user specifications.

Commercial-quality (CQ) sheet (ASTM A366/A366M) is the most common specification of cold-rolled steel sheet. Sheet of this quality is intended for exposed (to the elements) or unexposed uses, where bending, moderate drawing, forming and welding may be involved.

Drawing-quality (DQ) sheet (ASTM A619/A619M) is used to fabricate exposed or unexposed parts, where drawing or severe forming may be involved. Drawing-quality, special-killed (DQSK) material (ASTM A620/A620M) is used to fabricate goods where particularly severe drawing or forming may be involved, or essential freedom from aging is required.

Cold-rolled steel strip made to ASTM A682/A682M and A684/A684M specifications is a high-carbon steel product. It is generally narrower than 24 in. (610 mm), with close tolerances and with specific tempering, edge and finishing requirements.

The steel industry also uses cold-rolled steel sheet as a feedstock or "substrate" to produce other flat-rolled steel products, primarily coated products such as galvanized and tin-plated sheet.

There are several other qualities of cold-rolled steel sheet used for particular applications which must meet, for example, tensile-strength, drawing or forming, corrosion-resistance, elongation, hardness and weight requirements. Cold-rolled steel sheet is sold primarily in coils, but it can also be sold in cut lengths.

Traditionally, domestic producers have used "coil base prices" as the basis for establishing relative cold-rolled steel sheet product prices. To these prices, extras are normally added for cutting to length, quality, finish or any other extra, if applicable.

PRODUCTION PROCESS

Cold-rolled steel sheet is produced from hot-rolled pickled and oiled coils, which are produced from either ingot-cast products or cast slabs. Most mills now roll continuous cast slabs. With this process, the hot-rolled coil is produced by rolling a 3.94-in. to 8.86-in. (100-mm to 225-mm) thick hot slab on a continuous strip mill. This slab is progressively reduced to a coil of the required sheet thickness. After cooling, the coil of hot-rolled steel is processed to remove scale (pickled) and then oiled. This coil is then "cold-rolled" on a continuous or reversing mill under tension and pressure. This "cold-reduction process" produces a "full-hard" steel which is in a highly strained condition with very little ductility. The amount of cold reduction varies between 40 and 70 percent. Usually, the full-hard steel is annealed at temperatures above 1,200°F (649°C) to recrystallize the highly stressed grains in the steel. The resultant product is very soft and ductile. It is then classified as being in a "dead soft" condition. Temper rolling normally follows and extends the strip by about 1 percent in length. This results in

improved sheet shape, proper surface finish and reduction in the tendency to flute and/or strain during fabrication. It should be noted that some full-hard steel is sold on the open market, but most of it is further processed into galvanized or tin-plated steel.

Standard cold-rolled steel sheet finishes are matte, tubular bright and commercial bright. The most common finish is matte, which is produced by temper rolling with rolls which have been roughened by mechanical or chemical means to various degrees of surface texture. The tubular bright finish is a modestly bright finish produced on ground rolls. It is primarily intended to be used in the production of tubing, but is not suitable for plating. As for the commercial bright finish, it is attained by temper rolling on smooth ground rolls. With additional surface preparation, the commercial bright finish can be used for plating.

The high-carbon, cold-rolled steel strip goes through stages of production that are similar to those for cold-rolled steel sheet, but there are basic differences. The hot-rolled coil has a high carbon content, and the cold-reduction process is geared to higher tolerances and involves rerolling, tempering and finishing.

MARKETING AND DISTRIBUTION

Cold-rolled steel sheet is an industrial input purchased by end users for a variety of applications, mainly in manufacturing but also in construction. End users form or cut the sheet for use in the products that they produce. Producers and importers or exporters sell cold-rolled steel sheet directly to end users or through steel service centres. Steel service centres, in turn, resell sheet to end users. They may sell the sheet as purchased or after adding value by cutting or slitting it to sizes needed by end users. Sales by steel service centres to individual end users are typically much smaller than sales by the domestic mills to end users. The automotive industry is, by far, the largest single user of cold-rolled steel sheet. Other end users include steel stampers and coaters, and producers of industrial packaging, electrical machinery, appliances, furniture and tubing. Two thirds of the sheet produced by Canadian cold-rolling mills is further transformed by the industry. A very small part of the subject goods sold on the market consists of high-carbon strip. Strip is also an industrial input. It sells at prices that are much higher than those for sheet and is used in various precision applications.

Sales to steel service centres accounted for close to one third of the Canadian market in 1992, up significantly from one quarter in 1989. Sales to steel service centres have increased relative to the market because of the increasingly important role of steel service centres in holding inventory for just-in-time delivery to end users.

The domestic industry sells over 80 percent of the subject goods in Ontario, with the remainder being sold primarily in Quebec. It also sells small quantities in Western Canada. Although importers of the subject goods from Europe also sell mainly in Ontario, some large importers sell close to 40 percent of their imports of the subject goods in Quebec, while one importer sells close to 50 percent of its imports of the subject goods in British Columbia. U.S. exporters, including the integrated mills, sell the subject goods primarily in Ontario, with small amounts being sold in Western Canada.

Cold-rolled steel sheet comes in many grades, gauges, dimensions and finishes. More than one half of the cold-rolled steel sheet sold in Canada is commercial quality in a standard range of sizes and finish specifications. There is a variety of higher quality

products, such as drawing and motor lamination sheet. About 5 to 10 percent of cold-rolled steel sheet produced does not meet specifications. Mills in Canada and abroad sell this product as "seconds." Steel service centres or end users can extract from seconds a "yield" of acceptable quality for their requirements. The anticipated yield determines the price of seconds in relation to the prime-quality product. All the Canadian mills and some importers sell seconds in the Canadian market.

Many end users require a product that meets rigid quality specifications, but they are also likely to use standard, commercial-quality sheet. For example, the automotive, appliance and electrical machinery industries use higher-quality sheet, but also buy commercial-quality sheet. Firms in the tubing, strapping and packaging industries use mainly commercial-quality products. Steel service centres purchase primarily commercial-quality sheet, but they carry other qualities and also purchase seconds.

Dofasco and Stelco supply the full range of qualities of cold-rolled steel sheet. Algoma and Sidbec-Dosco have a relatively small presence in the higher end of the market. Dofasco sells primarily to end users, while the other three producers sell relatively more to steel service centres. Importers and exporters, collectively, supply a substantial portion of the range of products. The large U.S. integrated mills sell mainly higher-quality products, principally to end users. According to testimony, other U.S. mills, steel service centres and traders sell a broader range of products. Importers of the subject goods from Europe sell primarily commercial-quality products, but also supply the higher end of the market.

The Canadian steel market is highly competitive and transparent. Domestic mills, importers and exporters compete directly for end-user and steel-service-centre accounts. Steel service centres, in particular, and certain end users normally negotiate their requirements on a quarterly or single-inquiry basis. Prices, terms, conditions of sale, specifications and delivery are negotiated for a single or quarterly requirement on the basis of spot prices. Large users, such as the automotive and appliance industries, normally buy on a contract basis. Negotiations involve reaching an agreement on estimated volumes, prices, specifications and delivery time frame. Releases to ship the product from a "blanket" order are received on a regular basis. Domestic mills produce to order and sell F.O.B. mill, but will equalize freight when competing with domestic mills in regional markets. Imports from the United States are also normally sold F.O.B. mill. Importers of the subject goods from Europe purchase sheet by the boatload and sell to steel service centres and end users at a delivered price, including duty, freight and other charges.

Steel service centres play a key and increasingly important role in the functioning of the cold-rolled steel sheet market. Collectively, they are the largest buyers of the subject goods. They compete with one another, with domestic mills and with importers and exporters for end-user accounts.

Although the inquiry revealed intense price competition for certain end users, such as the tubing and industrial packaging sectors and, particularly, the automotive sector, which demands prices prevailing in the United States, it is the steel service centres that are the main focus for price competition. The steel service centres purchase steel for future sales, incurring a risk and creating an additional incentive to minimize the price that they pay. They buy at spot prices and in relatively large volumes compared to those of most end users. They use their extensive knowledge of what is being offered in the

market to ensure that the prices that they pay are competitive. The prices at which they buy and sell will have a ripple effect throughout the market as contract prices are renegotiated.

Steel service centres purchase mainly commercial-quality sheet. The prices that they pay for commercial-quality sheet affect prices for other quality sheet sold in the market, which are tied to commercial-quality prices. It was evident from testimony that, once a product met the specifications, and the quality, service and delivery requirements, price was the key factor in deciding to buy cold-rolled steel sheet.

DOMESTIC INDUSTRY

The domestic industry consists of the following producers: Dofasco, Stelco, Sidbec-Dosco and Algoma. In addition to these producers of cold-rolled steel sheet, there is one Canadian producer of cold-rolled steel strip, CMP located in Hamilton, Ontario. Sidbec-Dosco and CMP supported the complaint. CMP filed a public preliminary brief, but did not participate in the public hearing. Algoma did not participate in the inquiry beyond filing a manufacturer's questionnaire response.

Dofasco is a vertically integrated iron and steel producer which began operations in 1912 and is one of Canada's largest steel producers. Its head office, sales, administrative and production facilities are all located in Hamilton, Ontario. Dofasco's principal products include sheet and coils of hot- and cold-rolled steel, galvanized and Galvalume T.M. steel, and tin-plated, chromium-coated and electric motor lamination steels. Subsidiary operations include Prudential Steel Limited of Calgary, Alberta (a producer of small diameter tubular steel products for the oil, gas and construction industries) and National Steel Car Limited of Hamilton, Ontario (a producer of railway rolling stock). Dofasco also owns interests in mines which provide iron ore pellets for steelmaking. It owns 50 percent of Baycoat Limited, a coil-coating company located in Hamilton, Ontario, which produces prepainted steel. It also has interests in Sorevco Inc. of Coteau-du-Lac, Quebec, a producer of hot-dipped galvanized steel, and DNN Galvanizing Corporation (DNN) of Windsor, Ontario, a facility jointly owned by Dofasco, NKK Corporation of Japan and National Steel Corporation (NSC), which is currently in the commissioning stage and which will produce high-quality, hot-dipped galvanized steel sheet for the automotive industry.

Dofasco is the only domestic producer that uses both ingot-cast products and cast slabs to produce the subject goods. Dofasco's current plans are to cease production of steel via the ingot process after the third quarter of 1993. As well, the company is currently in the process of further rationalization. As part of this process, its No. 5 56 in. cold mill has already been closed, and its No. 1 66 in. cold mill is about to be closed. These measures could amount to a reduction of some 300,000 net tons of production capacity. However, the building of the continuous pickle line/cold mill (CPCM) complex facility added one million net tons per year in capacity, for a net increase of 700,000 net tons. According to witnesses for Dofasco, the CPCM facility does not, alone, add tonnage of fully processed cold-rolled steel sheet capacity for the marketplace.

Stelco, a vertically integrated iron and steel producer, was founded in 1910. Stelco's cold-rolling facilities are located at Hilton Works, in Hamilton, Ontario. Stelco has two cold-rolling tandem mills: a five-stand mill built in 1948 and a four-stand mill

built in 1967. In 1983, Stelco commissioned its 80-in. hot strip mill at Lake Erie Works in Nanticoke, Ontario. Some of the hot steel strip produced at this facility is used as feedstock in the production of cold-rolled steel sheet.

The five-stand tandem mill is used to produce light-gauge, cold-rolled sheet, as well as tin-plated and galvanized products. Its four-stand mill has been modernized since 1967 to meet all the production requirements in today's critical automotive "exposed" end-use markets. Products include cold-rolled steel sheet for sale and for the production of galvanized and galvanneal material. In addition to producing cold-rolled steel sheet, Stelco produces other steel products (heat-treated plate, hot-rolled steel sheet, bar and rod products, as well as wire and pipe products) at various plants located in Ontario, Quebec and Alberta.

Sidbec-Dosco produces the subject goods at its Contrecoeur plant in Quebec. In addition to the subject goods, the company produces hot-rolled steel sheet, a variety of long products such as bars, rounds and angles, and pipe and wire products at various plants located in Ontario and Quebec. It has an interest in a number of subsidiaries or joint ventures, one of which is Sorevco Inc. of Coteau-du-Lac, Quebec, a joint venture owned with Dofasco. The company's sales of the subject goods are split between Ontario and Quebec. In 1992, the company significantly increased capacity with the addition of a new pickling and annealing line.

Algoma[3] is a vertically integrated, primary iron and steel producer. It operates a major steelworks in Sault Ste. Marie, Ontario, and an iron ore mine and auxiliary facilities in Wawa, Ontario. All of Algoma's steel-producing facilities are located in Sault Ste. Marie. Algoma produces a broad range of products, including flat-rolled steel sheet and plate, structural shapes, seamless tubular products, rails and rail accessories, and various semi-finished products.

CMP, located in Hamilton, Ontario, is the only producer of cold-rolled steel strip in Canada. The company produces low-carbon strip, as well as high-carbon strip and high-strength, low-alloy strip. It buys its hot-rolled substrate from Dofasco.

EXPORTERS/IMPORTERS

In his final determination of dumping, the Deputy Minister identified 117 exporters and 107 importers, all from the subject countries.

There were 108 exporters from the United States, including major integrated mills such as LTV Steel Company (LTV), USX Corporation (USX), Bethlehem Steel Export Corporation (Bethlehem), NSC and Inland Steel Industries, Inc. (Inland), as well as a number of other mills, steel service centres and brokers. Bethlehem and Inland are "niche" players in Canada, supplying customers with particular needs, often in special circumstances. The majority of LTV's sales to Canadian customers have been to large U.S. customers that have some portion of their operations in Canada. Much of both LTV's and USX's sales are destined for the automotive industry. NSC's Canadian sales are almost exclusively to Chrysler Canada Ltd. With respect to imports, the great

3. Algoma was incorporated on June 1, 1992, after acquiring all of the assets and some liabilities of its predecessor, The Algoma Steel Corporation, Limited.

majority of the importers identified by the Deputy Minister import from the United States. Roughly 70 percent of U.S. imports are accounted for by the top 12 importers. Principal importers include GM Canada, Direct Steel, Inc., Dofasco and Karmax Heavy Stamping - A Division of Cosma International Inc.

The Deputy Minister identified nine exporters from Europe. Most of the major exporters have Canadian affiliates as their agents. These are British Steel Canada Inc. (BSC) (United Kingdom); Canadian Klöckner, A Division of Klöckner Namasco Corporation (Federal Republic of Germany); Francosteel Canada Inc. (Francosteel) (France); and ILVA Canada, Inc. (Italy). These companies represented more than 90 percent of the imports from these European countries. Francosteel, with its headquarters in Montréal, Quebec, has two regional offices, one in Ontario and one in British Columbia. BSC has its headquarters in Montréal, Quebec, and sales offices in Western Canada. ILVA Canada, Inc. has a sales office with no warehousing or stocking program.

Importers are classified as traders, distributors, steel service centres or end users. Traders generally sell to order. They ship directly to customers which may be distributors, steel service centres or end users. Most of the major steel service centres in Canada sell both domestic and imported sheet, purchased directly from domestic mills, or imported directly or through distributors. Major steel service centres dealing in the subject goods include Samuel, Son and Company Limited, Drummond McCall Ltd., Wilkinson Steel and Metals, A Division of Premetalco Inc., and Maksteel. Some of these steel service centres have branches in different regions of the country.

RESULTS OF THE DEPUTY MINISTER'S INVESTIGATION

The following table summarizes the margins of dumping found by the Deputy Minister for each exporter investigated.

MARGINS OF DUMPING

Country	Exporter	Weighted Average Margin of Dumping[1] %
Federal Republic of Germany	Klöckner Stahl GmbH	27.7
France	Sollac et Daval, Aciers d'Usinor et de Sacilor	24.8
Italy	ILVA S.p.A.	46.6
United Kingdom	British Steel plc	35.8
United States	Bethlehem Steel Export Corporation	0.0
	California Steel Ind. Inc.	16.9
	Inland Steel Industries, Inc.	0.9
	Kasle Steel Corp.	46.6
	LTV Steel Company, Inc.	8.7
	McLouth Steel Corp.	46.6
	National Steel Corporation	0.0
	Nucor Steel Corporation	0.0
	Ottawa River Steel	46.6
	S & B Metals	46.6
	U.S. Steel Group of USX Corporation - Gary Plant	8.0
	- Irwin Plant	16.4
	The Worthington Steel Company, Subsidiary of Worthington Industries	18.0
	Average for All U.S. Exporters	17.2

1. The weighted average margin of dumping is the overall margin of dumping of all goods shipped during the period of investigation, including those goods that were not dumped.

Note: The margins of dumping were determined for exporters which were required to provide information and for those which were not required to provide information, but made a voluntary submission, which was analyzed by the Department of National Revenue. The exporters identified above shipped the subject goods directly to Canada or through a vendor or an agent during the period of investigation. The margins of dumping are expressed as a percentage of normal value.

The Department of National Revenue (Revenue Canada) reported that, for purposes of determining the margins of dumping of the goods imported into Canada during the period of investigation, it limited its examination to the largest volume of imports, from each country, that could reasonably be investigated. The period of investigation covered shipments of the subject goods made from January 1 to June 30, 1992. However, for each exporting country subject to the investigation, Revenue Canada required information only from those exporters whose apparent exports to Canada collectively comprised at least 60 percent of the apparent volume of goods imported into Canada from that country during the relevant period.

POSITION OF PARTIES

Domestic Industry

Stelco and Dofasco

Arguments on behalf of the domestic industry were made by counsel for both Stelco and Dofasco. In brief, they argued that the domestic industry's problems were primarily a result of imports from the United States. Imports increased dramatically in 1990 because of limits on the domestic supply of cold-rolled steel, which may be attributed, in part, to the strikes at Stelco and Algoma, and the furnace reline at Stelco. Regardless, large volumes of imports continued to enter Canada after the strikes, resulting in a loss of sales volume to the domestic industry. In 1992, the domestic industry responded by continuing to lower its prices to recapture market share, which led to price erosion. The continued dumping of imports contributed to price suppression. As a result, the domestic industry was materially injured.

In describing global industry conditions, counsel for Stelco explained that, for various reasons,[4] there had been a decline in U.S. steel prices prior to the decline experienced in Canada. As such, the subject goods from the United States were offered and sold in Canada at the much lower U.S. prices before the Algoma and Stelco strikes, which commenced at the beginning of August 1990. An overcapacity to produce steel had developed in the United States and overseas by the late 1980s, which was compounded when the Western World went into recession. With very high fixed costs, steel producers attempted to maximize the utilization of the steel-making capacity. With declining domestic demand due to the recession, steelmakers looked to export markets to sell their products.

Counsel for the domestic industry acknowledged that it is understandable that imports would have increased during the strikes. However, the level of imports continued to increase through 1991, declining only marginally in 1992. Because of the fungible nature of the product, imports were directly substitutable for domestically produced steel, and imports continued to displace domestic steel. Counsel for both Stelco and Dofasco identified numerous examples of alleged lost accounts to imported steel. It was noted by counsel for Dofasco that, because of the high fixed costs of the industry, loss of volume had as much of a deleterious impact in some instances as had price erosion.

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4. These include rationalization and modernization of the industry during the 1980s and the presence of "reconstituted" integrated mills that had been permitted to reduce their costs through the operation of Chapter 11 of the U.S. Bankruptcy Code.

The domestic producers reacted to dumped imports into the Canadian market by lowering their prices. In situations where prices were held, market share was lost. It was noted that, in addition to actual imports, the impact of offerings from U.S. steel service centres and brokers also served to reduce domestic prices. Though actual imports were down in 1992, offerings remained. As prices at steel service centres and on the spot market weakened, contract customers demanded lower prices in their next contract. It was noted that, where import penetration was easier, such as in the tubular and strapping segments of the market and at steel service centres, price erosion was most significant. Similarly, where import prices only matched domestic prices, in many instances, prices were met by dumping. Lost sales due to price matching, in this regard, are lost sales due to dumping.

Counsel for Stelco noted that, excluding sales to Sorevco Inc., the domestic industry's sales volume dropped by 26 percent between 1989 and 1991, and that, between 1991 and 1992, sales of domestic steel increased by only 0.1 percent. Stelco suffered other forms of injury, including price erosion and suppression, reduction in gross margins and profitability, decrease in market share and underutilization of production capacity.

Counsel for Dofasco noted that it suffered injury through price erosion and suppression, lost sales, reduction in gross margins and retardation of its ability to make improvements to its production facilities. The weighted average prices for Dofasco and the other Canadian producers declined steadily. For example, the average selling price of prime steel to steel service centres dropped by 16 percent between 1989 and 1992. Similarly, the tonnage sold by Dofasco to this sector dropped by 16 percent.

Counsel for the domestic industry sought to demonstrate that non-dumping factors had a minimum impact on the domestic industry. It was argued that, though the recession may explain some of the contraction in the market, it cannot explain the price erosion which occurred. Counsel for Stelco noted that, during the recession of the early 1980s, there was an increase of 11 percent in the average price of the subject goods, whereas, during the current recession, the average price dropped by approximately 15 percent. With regard to the alleged aggressive price competition amongst domestic suppliers subsequent to the strikes, it was noted that the market share trends for the various domestic producers refuted these allegations. With regard to the fluctuation in the value of the Canadian dollar, counsel for Stelco noted that this fluctuation was much less than the size of the margins of dumping found by the Deputy Minister for most of the exporters. In attempting to illustrate the effects of dumping while isolating the impact of the non-dumping factors, counsel for Stelco compared the performance factors of cold-rolled steel sheet with those of prepainted steel sheet. The average selling price of prepainted steel sheet during the current recession and strike period remained relatively stable, while the domestic industry's average selling price of the subject goods declined by 15 percent.

Counsel for Stelco noted that the five U.S. integrated mills that were represented at the hearing accounted for only 30 to 43 percent of U.S. imports into Canada between 1989 and 1992. During the critical years of 1990 and 1991, they represented only 30 percent of U.S. imports. It was argued that the small steel service centres and brokers were most disruptive to the price stability of cold-rolled steel sheet in the southern Ontario market, particularly in the latter part of 1990. Though these five mills had zero or low margins of dumping during the period of investigation, their products were acquired by the disruptive steel service centres and brokers and, subsequently, exported to Canada at dumped prices.

Counsel for the domestic industry also invited the Tribunal to find that dumping had occurred prior to the 1992 period investigated by the Deputy Minister. As average U.S. import prices were lower in the latter part of 1990 and in 1991 than in 1992, and the cost of production had not increased in the United States since 1989, it can be inferred that dumping was also occurring in these earlier years.

Counsel for the domestic industry argued that the injury that it suffered will continue without the imposition of anti-dumping duties. In support of this proposition, counsel referred to the overcapacity of steel production in the named countries. Reference was made to the significant imports into Canada in the early part of 1993, until the imposition of provisional duties subsequent to the Deputy Minister's preliminary determination of dumping.

Importers and Exporters

Counsel for the importers and exporters argued that the injury suffered by the domestic industry was caused by factors other than dumping. The impact of these other factors cannot be attributed to dumped imports, but must be isolated from the effects of dumping.

Counsel argued that the *Canada-United States Free Trade Agreement*[5] (the FTA) resulted in a 30-percent decrease in tariffs over the period investigated by the Tribunal. As a result, it encouraged the migration of Canadian steel-consuming companies to the United States. It also increased U.S. competition with Canadian-made finished products that use steel, thus forcing the Canadian producers to seek competitive prices from domestic steel mills. The domestic industry was unable to supply the market in 1990 and 1991 during the strikes at Stelco and Algoma and the furnace reline at Stelco, thus encouraging imports. Counsel attributed price suppression to competition among the domestic producers, subsequent to the strikes, when they were attempting to regain market share. Similarly, the uncertainty surrounding the insolvency of Algoma during 1991 and the first half of 1992 encouraged purchasers to seek other sources of steel. It was also noted that Dofasco imported much steel from the United States, as it chose to have Bethlehem cold-reduce steel for it, as Stelco could not provide the quality nor do the job according to the technical requirements of Dofasco.

As the value of the Canadian dollar increased relative to the U.S. dollar between 1989 and 1991, imports became more affordable. When the dollar decreased in value in 1992, it had a negative impact on imports. It was also noted that prices were decreasing everywhere in the industrialized Western World. Counsel for the five integrated steel mills argued that, between 1989 and 1991, total domestic production dropped by 282,000 net tons, while imports increased by 73,595 net tons, representing only 26 percent of reduced domestic production. The balance of the decrease can be attributed to factors such as the recession, business failures and the move away from cold-rolled steel toward corrosion-resistant steel.

Bethlehem, NSC, LTV, USX, Inland

Counsel for Bethlehem, NSC, LTV, USX and Inland argued that tonnages from the United States were not significant, particularly from these five U.S. mills. Similarly, the margins of dumping from these mills were nil or relatively small. There were no

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5. Canada Treaty Series, 1989, No. 3 (C.T.S.), signed on January 2, 1988.

allegations of lost sales or price suppression as a result of imports from some of these mills. Some decisions to purchase from the mills were made for reasons other than price. Counsel argued that the other allegations against the U.S. mills were unfounded.

Counsel explained that there was a price differential between Canadian and U.S. steel unrelated to dumping in the 1989-90 period. Dumping cannot be presumed to have occurred during this time. Further, the evidence shows that the average price of U.S. imports was higher than the average domestic price. It was submitted that imports entered Canada in increasing volumes and that the domestic industry suffered injury due to non-dumping factors. Also, it is improper to compare the industry's performance during the last two recessions.

BSC

Counsel for British Steel Canada Inc. (BSC) argued that there was no evidence on the record to support a case of material injury against imports by BSC. In this regard, counsel reviewed several accounts, arguing that their client was not the catalyst in bringing down prices. Its marketing policies and practices were responsible and non-disruptive, and its presence in the market was *de minimis*. BSC will meet, but will not beat, domestic prices.

It was submitted that it is not proper to compare the performance of prepainted steel sheet to cold-rolled steel sheet for purposes of illustrating the effects of dumping. Counsel also argued that any injury suffered by the domestic industry was the result of non-dumping factors.

As to future injury, it was asserted that any finding must not be based on conjecture or remote possibility. Counsel noted that BSC has made efforts to rationalize and reduce its production capacity.

Francosteel, Sollac and Daval

Counsel for Francosteel and Sollac et Daval, Aciers d'Usinor et de Sacilor argued that the fundamental issues in this case were whether there was a causal link between imports and the injury suffered by the domestic industry, and whether that injury was material. He argued that the burden of proof rested with the domestic industry and that it had not provided sufficient proof that dumping, particularly from France, had caused injury. The domestic industry did not establish the necessary causal link between imports from France and injury.

Several non-dumping factors were identified as reducing volumes or as having a depressive effect on prices. It was submitted that price was the causal link between imports and injury. Average import prices were higher and declined less than average domestic prices. Prices also declined for accounts where there was no import penetration. As such, there was no causal link.

Counsel reviewed the various allegations against his clients. He noted that Francosteel's higher prices, reduced volume, limited clientele and regional concentration indicate that it is a responsible importer. He argued that the majority of Francosteel's sales are in British Columbia, where the domestic industry has a limited presence. Francosteel has not had a price-depressive effect in this region.

Counsel reiterated that it is not proper to compare prepainted steel sheet to cold-rolled steel sheet nor to compare the recent recession to the recession in the early 1980s to illustrate the effects of dumping. Counsel distinguished this case from the *Gypsum Board* case.[6]

As to future injury, it was asserted that any finding must be based on facts and not conjecture. It was noted that world capacity for producing steel has been reduced, and that domestic shipments and prices have increased, as have import prices.

ILVA

Counsel for ILVA S.p.A. (ILVA) noted that, beginning in 1989, Canada entered a period of declining economic growth, which culminated in a recession. This affected the domestic industry, resulting in decreased demand for the subject goods. However, since 1992, consumption has improved, and steel has become difficult to obtain. In addition, many other non-dumping factors were identified as contributing to a decline in domestic consumption.

Counsel argued that three of the five domestic producers made no claims of injury due to dumping and did not come forward with any evidence concerning imports from Italy or elsewhere. Further, these three produce 30 times more cold-rolled steel sheet than the volume of imports from ILVA.

Counsel addressed the various allegations against ILVA, arguing that imports from this source did not result in price erosion, price suppression or lost sales. He submitted that, when the proper comparisons are made, ILVA's prices, on average, are higher than the Canadian mill prices. Further, ILVA sold little sheet to steel service centres, where price suppression is alleged to have occurred most prominently. Counsel submitted that the domestic industry did not make its case.

Requests for Exclusions

Several requests for exclusions were made, in the event of an injury finding, to exclude certain exporters or products from the imposition of anti-dumping duties. Requests were made on behalf of the U.S. mills represented at the hearing, BSC and Preussag Stahl AG (Preussag). Two further requests were based on the argument that the goods were imported for further manufacturing, after which they would be exported. Numerous end users requested exclusions for reasons such as a lack of availability of the steel product from Canadian production. These requests are addressed in further detail below.

ECONOMIC INDICATORS

The following table summarizes the key economic indicators for production and trade of cold-rolled steel sheet, including high-carbon strip. Financial performance of the industry is shown in a separate table. CMP is not shown in the employment, capacity and financial indicators because it did not provide sufficient data.

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6. *Gypsum Board, Composed Primarily of a Gypsum Core, with Paper Surfacing Bonded to the Core, Originating in or Exported from the United States of America*, Canadian International Trade Tribunal, Inquiry No. NQ-92-004, January 20, 1993.

ECONOMIC INDICATORS

	1989	1990	1991	1992
Production				
Volume (000 n/t)	3,810	3,179	2,998	3,456
% Increase (decrease)		(17)	(6)	15
For Furtherance	2,384	1,990	1,917	2,274
For Sale as Cold-Rolled Steel Sheet	1,427	1,189	1,081	1,182
Export Sales (000 n/t)	117	78	101	200
Landed Imports (000 n/t)				
United States	58	97	129	67
Subject European Countries	16	41	46	59
Total Subject Countries	74	138	175	126
Other Countries	5	9	11	5
Total Imports	79	147	186	131
Apparent Market Sales				
Volume (000 n/t)	1,330	1,186	1,087	1,063
% Increase (decrease)		(11)	(8)	(2)
Shares of Market Sales (%)				
Domestic Producers	94	90	86	88
Subject Countries	5	9	13	11
Other Countries	1	1	1	1
Direct Employment				
Employees	1,624	1,459	1,160	1,195
Person-Hours Worked (000)	2,736	2,123	1,918	1,973
Capacity				
Volume (000 n/t)	4,294	4,469	4,170	4,690
Utilization Rate (%)	88	71	71	73

n/t = Net ton.
Source: Replies to Tribunal questionnaires.

In 1992, domestic production totalled 3.5 million net tons of cold-rolled steel sheet, which included feedstock or substrate for further manufacture (furtherance) and for sale as cold-rolled steel sheet in Canada and abroad. Production was up 15 percent from 1991, but down 354,000 net tons or 9 percent from 1989. Over the inquiry period, the domestic producers transformed over 60 percent of their total production into other flat-rolled products, mainly galvanized and tin-plated sheet. Exports increased, particularly in 1992.

There were 131,000 net tons of imports[7] in 1992, including 5,000 net tons from the non-subject countries. Trends in total imports were volatile during the inquiry period, mainly because of swings in imports from the United States. Imports from the United States more than doubled between 1989 and 1991, but declined in 1992. Imports from the subject European countries climbed steadily through the period, more than tripling between 1989 and 1992.

The market for cold-rolled steel sheet totalled some 1.1 million net tons in 1992, roughly the same level as in 1991. However, the market was 20 percent smaller than in 1989, the biggest drop occurring in 1990 (11 percent). Domestic producers' share of sales to the market dropped by 8 percentage points over the 1989-91 period, but increased by 2 percentage points in 1992. The combined share of the market held by sales of imports from the subject countries increased from 5 percent in 1989 to 13 percent in 1991. In 1992, their share decreased to 11 percent, roughly twice the share held in 1989.

Employment fell by 26 percent over the four-year period, trends in hours worked following a similar trend.

Total domestic capacity for producing cold-rolled steel sheet for sale in Canada and abroad and for furtherance was 4.7 million net tons in 1992. Capacity fluctuated over the period, especially between 1990 and 1992. Two firms, Dofasco and Sidbec-Dosco, made major investments that increased overall cold-rolling capacity. Sidbec-Dosco installed a new rolling mill along with sufficient finishing capacity to increase its effective capacity by one third. Dofasco started, but has not yet completed, a major restructuring program involving the closing of its ingot steel-making facility, the closing of certain cold-rolling mills and the installation of a new reversing cold-rolling mill. The net effect of these different decisions will be to substantially increase its cold-rolling capacity. The utilization rate fell from 88 percent in 1989 to 71 percent in 1990 and 1991, before rising to 73 percent in 1992.

Extensive data and testimony were provided to the Tribunal on the pricing of cold-rolled steel sheet during the inquiry period. The Tribunal staff generated statistics on domestic industry and importer average selling prices, and actual prices paid by purchasers of the subject goods. The domestic industry submitted additional pricing information in its allegations of lost business and price erosion, and importers and exporters provided additional pricing data in response to these allegations. The data show delivered prices to buyers and include freight and any relevant duties, brokerage fees or margins.

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7. The domestic industry observed that, over the period, imports recorded by Statistics Canada, which include cold-rolled steel strip made to ASTM A109/A109M specifications, were higher than those estimated by the Tribunal staff through its survey of importers, which do not include cold-rolled steel strip made to ASTM A109/A109M specifications. Trends in the two series are basically similar, with the exception of data for 1991 and imports from the United States in that year. The Tribunal notes that, compared to staff estimates, Statistics Canada data show both a smaller increase in imports between 1990 and 1991 and a smaller decline in imports in 1992.

The average delivered price of domestic producers' sales[8] of cold-rolled steel sheet declined steadily from $613 per net ton in 1989 to $540 per net ton in 1992,[9] a drop of 12 percent. Other data on the record confirm the sharp decline in domestic selling prices during the inquiry period.

Average selling prices of the subject imports also declined, dropping from $662 per net ton in 1989 to $594 per net ton in 1992.[10] However, there was much greater volatility in year-to-year average prices of imports. Average prices of cold-rolled steel sheet sold by importers from each of the subject countries showed considerable volatility. Other data on the record show the same basic price trends.

If the product mix remains relatively stable, average prices are reliable indicators of price trends. Looking at domestic sales collectively, there was no evidence suggesting shifts in product mix of sufficient magnitude to lead the Tribunal to question its conclusion that domestic prices declined. As regards import prices, evidence suggests that there was more variation in product mix, but still not sufficient to lead to a different conclusion about a downward trend in import prices.

The domestic industry questioned the use of average prices as indicators that prices of imports sold in the market were higher than prices of domestic products. The Tribunal notes that data on the record show that there are significant differences among average prices of imports from the different subject countries. For example, the average price of imports from the United States was much higher than that of imports from most subject European countries.[11] These differences in average prices are clearly due to different product mixes, which was confirmed during testimony. The evidence on sales to particular accounts is that, for products that have the same specifications and quality and that are purchased in the same volume range, prices offered by importers and the domestic industry track one another closely over time.

The following table displays data on the industry's financial performance during the inquiry period.

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8. Dofasco, Stelco, Sidbec-Dosco and Algoma.

9. Tribunal protected pre-hearing staff report, Table 9A (July 5, 1993), Protected Tribunal Exhibit No. NQ-92-009-7F, Volume 2 (Protected) at 154.65.

10. *Ibid.*

11. Average prices for sales of imports, particularly those from the United States, do not represent prices for all sales made in the market.

COMBINED INDUSTRY INCOME STATEMENT
SUBJECT GOODS - DOMESTIC SALES FROM DOMESTIC PRODUCTION
(Fiscal year ending December 31)
($ million)

	1989	$ per n/t	1990	$ per n/t	1991	$ per n/t	1992	$ per n/t
Volume (000 n/t)	1,246		1,057		923		927	
Net Sales	751	602	619	586	512	554	490	529
Cost of Goods Sold	582	467	516	488	456	494	444	479
Gross Margin	168	135	104	98	55	60	46	50
G.S.A.	53	43	53	50	52	56	45	49
Financial Expenses	23	19	27	25	30	32	24	26
Depreciation	23	18	23	21	22	24	21	23
Net Income (Loss) Before Taxes	68	55	2	2	(47)	(51)	(44)	(48)

Notes: Some figures may not add up due to rounding.
n/t = Net ton.
G.S.A. = General, selling and administrative expenses.
Excludes CMP's data.
Source: Tribunal protected pre-hearing staff report, Tables 21(a) and 23(a) (June 22, 1993), Protected Tribunal Exhibit No. NQ-92-009-7D, Volume 2 (Protected) at 154.42 and 154.44.

Over the four years ending in 1992, the value of the industry's sales decreased by nearly 35 percent, and the gross margin slipped from 22 percent of sales in 1989 to 9 percent in 1992. Losses before taxes for the domestic industry with respect to the subject goods were $47 million for 1991 and $44 million in 1992, compared to a profit of $68 million in 1989 and $2 million in 1990. In terms of net income before taxes, the industry moved from a net profit of 9 percent in 1989 to a net loss of 9 percent in 1992. The bulk of the decline in the industry's financial performance occurred between 1989 and 1991, primarily as a result of reduced sales and average revenue per net ton. However, total sales revenues declined further in 1992, as slightly increased sales volumes were more than offset by a further decline of $25 in average revenue per net ton.

Despite large reductions in volumes sold, there were relatively small increases in the average cost per ton of goods sold from 1989 to 1991. In 1992, the average cost per net ton returned to a level which was only slightly above that of 1989, when volumes had been much higher. Trends in other expense components were similar to those of the cost of goods sold, rising from 1989 to 1991, then declining in 1992 towards 1989 levels. In 1991 and 1992, the continued decline in average revenues per net ton led to heavy losses for the industry. These losses would have been greater in 1992 had it not been for the industry's reduction in unit costs.

REASONS FOR DECISION

Section 42 of SIMA requires the Tribunal to determine if the dumping of the subject goods, as found by the Deputy Minister, has caused, is causing or is likely to cause material injury to the production in Canada of like goods. In assessing injury, the Tribunal must be satisfied that the domestic industry, which forms the subject of its inquiry, constitutes, at least, a major proportion of the total domestic production of cold-rolled steel sheet products.[12] For its injury analysis, the Tribunal has relied on production figures, prices, market shares and financial data. These indicators include the entire domestic industry except for the financial data, which did not include CMP.[13] As such, the requirement to assess injury against at least the major proportion of total domestic production of like goods has been satisfied.

As a preliminary matter, counsel for Francosteel argued that cold-rolled steel sheet used to produce pipes or tubes (skelp) constitutes a separate class of like goods. The Tribunal has the jurisdiction to divide the goods produced domestically into separate classes of like goods for purposes of its injury inquiry.[14] However, the Tribunal declined to create a separate class for skelp. The evidence available to the Tribunal indicated that skelp is not a unique cold-rolled steel sheet product. The qualities of sheet used for making pipes and tubes are generally no different from qualities used for certain other end uses. Under these circumstances, skelp would be considered like goods to the other cold-rolled steel sheet products, and creation of a separate class of like goods for skelp is, therefore, not necessary.

Consistent with previous decisions, the Tribunal determined that both internally transferred goods for further manufacture (furtherance) and goods sold in the Canadian market must be considered part of the domestic production for purposes of its injury inquiry.[15] In determining if dumping caused material injury, however, the Tribunal focused principally on those indicators relating to sales in the domestic market. They include trends and levels of imports and market shares, prices and financial performance.

Global Market and Economic Conditions

There was no dispute that Canadian producers' financial performance declined over the period reviewed by the Tribunal, which covered the years from 1989 to 1992. Similarly, there was no dispute with respect to the trends in the principal economic

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12. Pursuant to paragraph 42(3)(*a*) of SIMA, the Tribunal must take fully into account paragraph 1 of Article 4 of the GATT Anti-Dumping Code (*Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade*, signed in Geneva on April 12, 1979).

13. However, CMP's financial performance was analyzed separately as part of the Tribunal's consideration of requests for exclusions.

14. *In Re Y.Y.K. Zipper Co. of Canada Ltd.*, [1975] F.C. 68 (Court of Appeal); and *Noury Chemical Corporation and Minerals & Chemicals Ltd. v. Pennwalt of Canada Ltd.*, [1982] 2 F.C. 283 (Court of Appeal).

15. *Tomato Paste in Containers Larger Than 100 Fluid Ounces, Originating in or Exported from the United States of America*, Canadian International Trade Tribunal, Inquiry No. NQ-92-006, March 30, 1993; and *Certain Flat Hot-Rolled Carbon Steel Strip, Sheet and Floor Plate Originating in or Exported from the Federal Republic of Germany, France, Italy, New Zealand, the United Kingdom and the United States of America*, Canadian International Trade Tribunal, Inquiry No. NQ-92-008, May 31, 1993.

indicators for the industry and the market. There were significant increases in imports and in their share of the market between 1989 and 1991, followed by declines in 1992. Underlying this trend in imports, there was a steady decline in average annual domestic prices of cold-rolled steel sheet from 1989 through 1992. What was disputed were the causes of the erosion in the domestic industry's market share and financial performance and, more importantly, the causes of the decline in prices of cold-rolled steel sheet in the Canadian market. In the Tribunal's view, this case is about volumes lost to imports over a good part of the period, but especially about the decline in prices of cold-rolled steel sheet that characterized the period.

The Tribunal has examined a number of factors to determine what caused the deterioration in the industry's performance. It acknowledges that any injury caused by factors other than dumping cannot be attributed to the effects of dumping. The Tribunal must "weigh and balance" the dumping and non-dumping factors, and decide on the importance to be given to each.[16] The industry attributed the bulk of its injury to both sales and offers of imports at dumped prices. It argued that the origins of the dumping could be traced to developments in the cold-rolled steel sheet industry in the United States in the 1980s and in Europe from 1990 onwards. It recognized, however, that other factors, such as the 1990 Stelco and Algoma strikes and the recession, were also contributing, but not significant, factors in its injury.

In contrast, counsel for the exporters and importers argued that the effects of the strikes and the recession, along with other non-dumping factors, were the causes of injury. Among the other factors, they argued that the FTA had a major impact on the industry and its market. In addition to reducing tariffs, the FTA led to permanent losses of cold-rolled steel sheet tonnage because businesses either closed or migrated to the United States. The FTA also forced Canadian buyers of cold-rolled steel sheet to put pressure on their domestic suppliers to obtain sheet at U.S. prices to make them competitive with U.S. firms in what had become an integrated North American market. Another factor affecting the industry and its market was a shift in demand away from cold-rolled steel sheet to corrosion-resistant steel products. Finally, counsel for the exporters argued that the changes in the value of the Canadian dollar also had a decisive effect on the ability of domestic producers to compete in Canada with imports, particularly from the United States.

The Tribunal believes that most of these factors have played a role, but that their relative importance has varied over time. To understand fully how they affected the industry and the market, the Tribunal has reviewed them chronologically, starting in the 1980s, and concluding with the year in which dumping was found. The objective of the Tribunal's analysis has been to determine the importance to be given to each of the factors and, especially, to circumscribe the time period in which these factors had their primary impact on the industry.

Starting in the 1980s, there were major changes in the steel industry throughout the world, particularly in the United States, that had repercussions for the Canadian industry. In addition, this inquiry covers the period in which there was a severe economic recession, with especially significant consequences for the steel industry in Canada and elsewhere.

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16. *Sacilor Aciéries v. The Anti-dumping Tribunal* (1985), 9 C.E.R. 210 (Federal Court of Appeal, File No. A-1806-83, June 27, 1985).

The Tribunal examined evidence and heard testimony on the major developments that took place in the U.S. steel industry during and since the 1980s, and in Europe since the beginning of the 1990s. According to the testimony of witnesses invited by the Tribunal to appear at the hearing, and additional evidence on the record, there were profound structural changes in the U.S. steel industry during the 1980s. Significant rationalization took place. The steel industry cut employment by 80 percent between 1983 and 1988 and reduced its production capabilities by 40 percent. By closing facilities and modernizing its equipment, the industry was looking at ways to cut unit costs of production and to increase productivity. Regarding this latter point, it was estimated that productivity during this time frame went from approximately 11.3 to 2.5 person-hours per net ton produced.

Despite productivity gains and rationalization efforts, by the late 1980s, the U.S. steel industry was plagued by declining domestic prices and profitability. These developments continued through the 1989-92 period. The evidence shows, for example, that the U.S. integrated mills suffered an operating loss of approximately $225 million in 1991, as compared with a profit of $367 million in 1989. The average Midwest spot price, which reflects the market for most U.S. producers which export to Canada, began falling in mid-1989 and, except for a brief period in mid-1990, dropped continuously until late 1991 and remained low in 1992. During the 1989-92 time frame, the U.S. steel industry was also plagued by overcapacity. Witness statements from the industry show that the capacity utilization rate for U.S. mills dropped between 1989 and 1991, and remained low in 1992.

The Canadian industry, on the other hand, lagged behind the United States in rationalizing its operations. The Canadian industry, which had operated in a relatively orderly pattern, was not affected by U.S. developments until the late 1980s. At that time, the rationalization of the U.S. industry made it very competitive, and a pricing discrepancy emerged in favour of U.S. steel products relative to Canadian products. In this context, the Canadian market became attractive to U.S. exporters.

U.S. exporters, brokers, agents and steel service centres seized opportunities to sell cold-rolled steel sheet in Canada. To quote the witness for a major Canadian steel service centre on the impact of price offerings in the marketplace, "the full impact of those price levels that had been the fact in the United States became a fact in Canada." U.S. prices were exported to Canada, and imports surged through 1990 and 1991.

Soon after the Canadian industry felt the effects of increased imports and low prices from the United States, the North American market experienced an economic recession. It affected demand and prices in both countries through 1990 and into 1991. For example, the total Canadian market for the subject goods declined by 11 percent in 1990 and by a further 8 percent in 1991.

The recession in the United States no doubt contributed to the increased flow of exports from the United States to Canada. The steel product industry, including production of cold-rolled steel sheet, is a high-fixed-cost industry, where there is an imperative to maintain plant loading. This plant-utilization imperative, coupled with difficult market conditions faced by U.S. producers at home, encouraged ever-increasing volumes of cold-rolled steel sheet to enter Canada during the 1989-91 time frame. Imports from the United States increased from 58,000 net tons in 1989 to 129,000 net tons in 1991, an increase of 121 percent.

The evidence shows that the European market, like the U.S. market, was also plagued by declining prices, overcapacity and financial losses. Spot prices for cold-rolled steel sheet at the border between France and the Federal Republic of Germany began to deteriorate in early 1990 and, except for a brief period at the end of 1990, continued to decline through 1992. There was persuasive evidence filed of excess supply of cold-rolled steel sheet in Europe, starting in 1990 and continuing into 1993, as reported in the CRU Metal Monitor-Steel Sheet Products. Imports from the subject European countries, which were facing similar weak conditions in their own market, came close to tripling between 1989 and 1991, and continued to increase in 1992.

Increased imports from both the United States and Europe compounded the effects of the recession on the industry. The industry's share of a declining market dropped sharply by 8 percentage points between 1989 and 1991. As well, the domestic producers' average selling price of cold-rolled steel sheet declined by 8 percent between 1989 and 1991. Price declines varied significantly between the various market segments.

At a time when the industry faced extremely difficult conditions because of the recession and increased imports from Europe and the United States, Stelco and Algoma had to cope with strikes. They lasted some 3 1/2 months, starting in August 1990, and proved to be an important factor in further enhancing the entry of imports into Canada.

The testimony of witnesses for Dofasco, supported by facts, was that imports captured a significant portion of the business vacated by Stelco and Algoma during the strikes and furnace reline period at Stelco. Dofasco and Sidbec-Dosco, on the other hand, did not experience strikes. Dofasco captured part of the market share vacated by Stelco and Algoma in 1990 and 1991, but not to the extent anticipated. On the other hand, Sidbec-Dosco's share declined in 1991. Market prices for cold-rolled steel sheet, which had begun their downward spiral in 1989 and into the first half of 1990, continued to descend during a period of restricted domestic supply. The Tribunal attributes the decline to low-priced imports, primarily from the United States. The Canadian industry was faced with made-in-U.S. prices. As noted by the witness for Maksteel, in the time frame when Stelco and Algoma reduced their supply to the market because of strikes, such loss of tonnage was not missed at all. There was a certainty of supply from the United States that was immediately available. In his view, Canada and the United States had become an integrated market.

Looking at the situation of the Canadian industry in 1991, the Tribunal notes that the restructuring of the U.S. industry, the recession and the strikes had a serious negative impact on the Canadian market and the domestic producers' financial performance. The prices of cold-rolled steel sheet had declined sharply, the industry was losing market share, and its financial performance had deteriorated.

Counsel for the exporters and importers argued that there were other factors that also contributed to the deterioration of the industry's profitability. One of these factors was the effects of the FTA implemented by both Canada and the United States in 1989. Other factors were the shift in demand from cold-rolled steel sheet to corrosion-resistant steel products and changes in the value of the Canadian dollar. The Tribunal has examined these factors to determine their importance and when their effects, if any, were felt.

The FTA had an effect on the Canadian steel industry. Witnesses for the domestic industry testified that, from a strategic planning standpoint, there is a single North American market for cold-rolled steel sheet. The Tribunal considers that market

players made their strategic decisions prior to or soon after the implementation of the FTA. Examples of these decisions are reflected in the testimony by Dofasco and Stelco about expanding their exports to the United States and in major decisions by the industry to increase the capacity of substrate for the production of galvanized sheet. To assess the volume effects of the FTA and, especially, to isolate them from the effects of structural changes in the United States, the recession and the strikes in the early 1990s, the Tribunal would need more conclusive evidence than it had before it. There was contradictory evidence regarding migrating tons to the United States (or totally lost tonnage because of closed businesses) following the FTA, with the industry arguing that the FTA led to some additional sales in Canada. Even with conclusive evidence, any net negative effect of migrating tons would simply be another factor in the overall decline in volume in the market caused primarily by the 1990-91 recession.

From the standpoint of this inquiry, the Tribunal believes that it is particularly important to understand what effects the FTA has had on prices for cold-rolled steel sheet in Canada since its implementation. The price effects of the FTA mentioned by counsel for the exporters and importers would work towards a lowering of Canadian prices for cold-rolled steel sheet towards U.S. levels. For example, Canadian end users would put pressure on the domestic industry for the same prices paid by their U.S. end-user competitors. The Tribunal has already observed that, by 1991, cold-rolled steel sheet prices had generally reached U.S. levels.

Tariff reductions under the FTA are unlikely to have had a significant impact on prices for cold-rolled steel sheet. Reductions in most-favoured-nation (MFN) tariffs of 0.8 percent a year represent only a small part of the decline in prices since 1989. Moreover, the overall average effect of these reductions was likely diluted because many imports from the United States were already entering at lower than MFN rates or duty-free. The Tribunal believes that, taking into account the minimal effects that tariff cuts appear to have had on prices since the implementation of the FTA, it is unlikely that tariff reductions of 0.8 percent annually under the FTA until 1998 will have any significant impact on cold-rolled steel sheet prices in Canada.

Turning to the other causes of injury that counsel advanced, the Tribunal notes that any shift from cold-rolled to corrosion-resistant steel sheet would not affect total production. Cold-rolled steel sheet is a substrate of corrosion-resistant steel sheet, and there is substantial evidence that the domestic industry is positioning itself to take advantage of that market. There is no evidence on the record to show that increased market demand for corrosion-resistant steel had replaced demand for cold-rolled steel sheet.

Counsel for the exporters and importers argued that the Tribunal should look at the effect of changes in currency exchange rates on the volume of imports and their prices, particularly from the United States. The Tribunal has looked not only at changes in the U.S.-Canadian dollar exchange rate but also at changes in the Canadian dollar relative to the currencies of the subject European countries. During the inquiry period, there were significant changes in the value of the Canadian dollar expressed in the currencies of the various subject countries, including the U.S. dollar. In theory, an increase in the value of the Canadian dollar relative to currencies of the subject countries would lead to a decline in the price of imports from those countries as expressed in Canadian dollars and to an increase in the volume of imports from those countries. Conversely, a decline in the value of the Canadian dollar relative to the currencies of the subject countries would lead to an increase in the prices of imports and to a decline in the volume of imports from those countries.

In the case of the subject European countries, there was a general decline in the value of the Canadian dollar with respect to their currencies throughout the period of investigation, particularly in 1992. However, throughout this period, the average prices of European imports declined along with the decline in domestic industry average prices, and the volume of imports increased. In the case of the United States, the value of the Canadian dollar appreciated over the 1989-91 period and then declined sharply in 1992. However, the decline in the price of U.S. imports into Canada in 1989-91 was much greater than the corresponding increase in the value of the Canadian dollar, and volumes increased sharply. In 1992, the average prices of imports from the United States increased, but not as much as the decrease in the value of the Canadian dollar, and the volume of U.S. imports declined. This suggests that, in 1992, in the case of the United States, an exchange rate change had some effect on the prices and volume of imports sold in Canada.

The relationship between the value of the U.S. dollar and selling price of imports in Canadian dollars is based on average prices of sales by exporters and importers that provided data to the Tribunal. The Tribunal has already noted that, because of product mix and market segmentation, there can be difficulties in drawing conclusions based on average prices. Moreover, the average price data for sales of U.S. imports exclude sales by numerous small steel service centres and traders whose sales account for roughly 40 percent of imports from the United States, which witnesses characterized as being disruptive in their marketing in Canada. There is other evidence on the record that shows that, during 1992, imports and particularly offers of cold-rolled steel sheet from the United States had a significant depressive effect on prices in Canada. The Tribunal's evidence on accounts, which is analyzed below, shows examples of sales and offerings at prices well below the average prices reported by exporters from the United States.

In general, the Tribunal concludes that there has not been a close relationship between exchange rate changes and the prices and volumes of imports from all the subject countries. With respect to the United States in 1992, however, some exporters have adjusted their prices, with consequent effects on volume. Many other U.S. exporters continued to price or make offers at prices that did not reflect exchange rate changes. It was in 1992, of course, that Revenue Canada found that imports from the United States had been dumped at an average margin of dumping of at least 17 percent, and clearly, the price-suppressive effects of dumping greatly outweighed any theoretical price-enhancing effects of a weaker Canadian dollar.

As the industry moved through 1991, it was faced with a relatively depressed market and low prices. A witness for Stelco testified that, when Stelco emerged from its strike and subsequent furnace reline, it found that market prices were much lower than those before the strike. From mid-1991 onward, producers' average selling prices continued to decline. Average quarterly prices for each domestic producer decreased overall between 7.5 and 13.0 percent from the second quarter of 1991 to the fourth quarter of 1992. It would appear that the domestic producers, which had seen imports capture an ever-increasing share of the market over the 1989-91 period, chose to adopt a new strategy in the post-recessionary period. Rather than try to maintain prices and continue to lose sales, the domestic producers matched low-priced import offerings to maintain plant loading.

In the Tribunal's view, the continued drop in domestic producers' prices between the second half of 1991 and the end of 1992 cannot be attributed, to any significant degree, either to the recession or to discontinuities in domestic supply, or to any of the other factors advanced by counsel for the importers and exporters. Since non-dumping

factors were not an important cause of the drop in prices over the post-recessionary period, the Tribunal will now consider what role dumped imports have played in the continued drop in domestic prices during this period.

Domestic Market Analysis

Counsel for the exporters and importers argued that average prices for imports being higher than average domestic prices was evidence that dumping had not caused the decline in domestic prices for cold-rolled steel sheet. The Tribunal has noted the drawbacks of average prices as an indicator, particularly for import prices. Rather, the Tribunal looked at the specific market-sector evidence and the allegations of lost business and price erosion filed by the participants to verify what role dumping played in the erosion of prices. The evidence showed that the most significant price erosion took place in those segments of the market where imports were present, e.g. steel service centres and the automotive, tubing and strapping industries. In most of these segments, the quality of the goods and technical support services are less crucial. On the other hand, prices declined only marginally in the appliance sector, where import penetration was limited and where the domestic industry has a long, established presence based on a high level of service. Thus, a significant correlation exists between the extent of price erosion on the one hand, and the level of imports on the other.

As noted earlier, steel service centres play a key and increasingly important role in the distribution of cold-rolled steel sheet. Their share of purchases of the total subject goods increased from one quarter to one third between 1989 and 1992. Collectively, they are the largest buying segment of the cold-rolled steel sheet market. While price competition has been intense in many segments of the market, steel service centres are the main focus for import competition. Prices to this segment declined significantly over the 1989-92 period. Some of these steel service centres imported the product directly from foreign mills during that period. The Tribunal noted that the landed purchase price of imports paid by these steel service centres was, in some instances, well below the price available from domestic producers. As well, steel service centres buying from Canadian importers that bought from U.S. and offshore mills paid prices that were often lower than those available from domestic mills. The effect of these import purchases at low prices was pervasive. Because steel service centres sell to most market sectors, these low prices were passed on to the various end-user sectors, thereby contributing further to the depression of prices in those sectors and putting pressure on the domestic industry to lower its prices for direct sales to end users.

Besides actual import purchases, steel service centres were particularly subject to low-priced import offerings. The evidence filed by the industry, confirmed by the testimony of witnesses for the steel service centres, shows that steel service centres were regularly receiving very low-priced import offerings from various brokers and potential exporters from both U.S. and offshore suppliers. The testimony of witnesses confirmed that offerings from brokers and agents, often operating with no more than a facsimile machine and a telephone, were particularly disruptive in the marketplace. These offerings were evident during 1989 and 1990, and continued into 1991 and 1992. In the Tribunal's view, these offerings contributed further to the erosion of prices in the marketplace, by establishing a floor price to which the domestic producers were forced to react.

An analysis of the allegations of lost business and price erosion offers further proof of the injury suffered by the complainants due to low-priced imports. Notwithstanding the inherent difficulties for the domestic industry to document a case against dumped imports,which was acknowledged by witnesses for both the domestic industry and importers, the two complainants provided dozens of examples, in both the steel-service-centre and end-user segments of the market, where the domestic industry lost volumes because of import competition from the subject countries or where it made sales only by cutting and, in effect, matching the low-priced import offering. Many of these examples covered the 1991-92 period.

In many instances, the allegations were substantiated by contemporaneous internal memos or field reports, as well as by actual written quotations, purchase orders and invoices. These allegations were further verified by analyzing information provided by opposing parties and responses to the importer's, producer's and purchaser's questionnaires, other sales data and parties' testimony during the hearing. An extensive study of these allegations reveals that, in a number of instances, the price paid for the imported product undercut the price paid for the domestic product. The account analysis also reveals that domestic producers often maintained or recaptured sales only by matching or beating the delivered price of imports. The loss of sales, price erosion and suppression, and offerings covered a wide spectrum of foreign suppliers and each of the five subject countries.[17]

It was not only in the core commercial-quality segment of the market that the competition from dumped imports caused price declines in the Canadian market. As evidenced by data and the testimony provided by a witness for a large automotive end user, there were also very severe competitive pressures in the upper end of the market. His testimony was that approved Canadian suppliers basically had to meet prices of approved U.S. suppliers. Exports by U.S. producers of these products were found to be dumped in 1992.

It is clear that low-priced imports affected prices for the entire range of products sold by the domestic producers. The evidence on the record shows that there are distinct price relationships among the various qualities of cold-rolled steel sheet.

The evidence filed regarding market-segment competition and allegations of lost business and price erosion confirms that U.S. imports played an important role in the erosion of prices over the period of analysis. Of particular significance was the large number of exporters (over 100) found by the Deputy Minister to be dumping in Canada over the period of investigation. The evidence and testimony of witnesses were clear that sales and offerings from U.S. suppliers, made either directly or through brokers, were often undercutting domestic prices and contributing to the erosion of prices or the maintenance of depressed prices in the marketplace. While average prices of U.S. imports were higher in 1992 than in 1990 or 1991, such prices were found to be dumped, and it was to these depressed price levels that Canadian producers were forced to react.

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17. The bulk of Dofasco's evidence pertaining to allegations of lost business and price erosion is found in Volume 10 (Protected) - Manufacturers' Cases, Exhibit No. A-5 (Protected) at 2-50, including supporting appendices included therein. Stelco's principal allegations are found in Volume 10 (Protected) - Manufacturers' Cases, Exhibit No. B-5 (Protected) at 17-39, including supporting appendices (tabs 1-18) and invoices, Exhibit Nos. B-5.1 and B-8 (Protected).

Dumped imports from Europe were as important a factor as dumped imports from the United States in the injury suffered by the domestic producers in 1992. Average selling prices for each of the named European countries declined in 1992 over 1991, with the largest price declines reported by the Federal Republic of Germany, Italy and the United Kingdom. These declines were corroborated by the analysis of the allegations of lost sales and price erosion filed by the industry. As a further indication of the attractiveness of European imports in the marketplace, the Tribunal observes that both the volume and market share held collectively by European imports continued to increase in 1992.

Based on this positive evidence,[18] the Tribunal is convinced that the domestic industry has demonstrated that, in the period from mid-1991 through 1992, both sales and offerings of low-priced imports from the subject countries were driving prices down in Canada. There may have been lingering effects of certain other factors that the Tribunal has recognized as having negatively affected the industry earlier, but, by this time, the effects of these factors had become much less significant and clearly unimportant, compared to the effects of low-priced imports from the subject countries.

The Tribunal does not accept the argument raised by the exporters and importers that competition between the domestic producers drove prices down in Canada during this period. The testimony of the industry's witnesses, supported by the testimony of independent witnesses, was that, after their respective strikes, Stelco and Algoma reentered the marketplace in a responsible fashion. Further confirmation of this responsible market behaviour was that, to reenter the market in an orderly fashion, Stelco purposely stretched to five months (instead of normally three months) the relining of its blast furnace in early 1991. Stelco also chose to increase export sales during this time frame, as part of its gradual reentry program.

To summarize, the Tribunal finds that the factors other than dumping do not explain the decline in domestic prices in the period from mid-1991 to 1992. The only compelling reason for this decline was low-priced imports, which drove prices to even lower levels. In the first half of 1992, the Deputy Minister found these imports to be dumped. In this regard, the Tribunal rejects the argument that the importers were only "matching" domestic prices. An importer may not dump on the pretext that it only matches a domestic price. As indicated by the Anti-dumping Tribunal, in its *Soda Ash* decision, the domestic industry:

> *Could anticipate that competitors would follow [prices down], but it was entitled to assume that its competitors would not cross the line into injurious dumping.*[19]

The margins of dumping for each of the five subject countries, as found by the Deputy Minister in his final determination, are substantial and range up to 47 percent. Given the commodity nature of a significant portion of the market, such large margins of dumping provide the exporters with a substantial potential to undercut domestic producers' prices. The Tribunal also notes that the three U.S. mills for which Revenue Canada established margins of dumping of 0 percent sold relatively small volumes of exports during the period. Imports from the United States held the largest share of total

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18. Article 3 of the GATT Anti-Dumping Code.

19. *Commercial Grade Sodium Carbonate, Commonly Known as Soda Ash, Originating in or Exported from the United States of America*, Inquiry No. ADT-7-83, July 7, 1983, at 12.

imports over the period. The weighted average margin of dumping for the United States for "sampled and non-sampled exporters making a voluntary submission" was 17 percent. The magnitude of this margin of dumping constitutes a substantially unfair price advantage in a commodity product such as cold-rolled steel sheet.

Material Injury

In determining whether dumped imports have caused material injury to domestic production, the Tribunal assessed the cumulative effect of all imports from the named countries. Even when dumped imports from certain sources are small and "cannot be found to have contributed significantly to the plight of the domestic producers when considered separately," it is their cumulative impact combined with all other imports which is to be assessed in considering the question of material injury.[20] "It is only after the cumulative effect of the dumped goods from all subject countries has been analyzed that exclusions, if any, can be envisaged.[21]"

The Tribunal has no doubt that the dumping of cold-rolled steel sheet has caused and is causing material injury to Canadian producers of cold-rolled steel sheet. Canadian producers chose not to match low-priced import offers, particularly in 1991 when they were first faced with import competition, thereby losing substantial market share. In 1992, the domestic industry endeavoured to recapture part of the market share that it had lost. It was relatively unsuccessful in meeting competition from imports from the subject European countries. Imports continued to increase through 1992 as the domestic industry could not meet their prices.[22] It was more successful in meeting competition from the United States, but this was achieved only by severely reducing prices. Had it not reduced its prices, the domestic industry's market share would have continued to decline. The evidence and testimony demonstrate that the low prices required to obtain sales were the direct cause of the industry's losses of $44 million in 1992. This contrasts sharply with profits of $68 million in 1989, a period in which imports held about one half of the share that they held in 1992. Total sales revenues declined further in 1992, as slightly increased sales volumes were more than offset by a further decline of $25 in average revenue per net ton. The Tribunal considers the losses experienced in 1992 to constitute material injury to the domestic industry. As such, the Tribunal felt it unnecessary to address the injury suffered prior to this period.

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20. *Certain Carbon and Alloy Plates Originating in or Exported from Belgium, Brazil, Czechoslovakia, the Federal Republic of Germany, France, the Republic of South Africa, the Republic of Korea, Romania, Spain and the United Kingdom* (1983), 6 C.E.R. 21 at 33-34; Anti-dumping Tribunal, Inquiry No. ADT-10-83, Statement of Reasons, December 29, 1983, at 9-10.

21. *Polyphase Induction Motors Originating in or Exported from Brazil, France, Japan, Sweden Taiwan, the United Kingdom and the United States of America* (1989), 1 T.T.R. 58 at 77; Canadian International Trade Tribunal, Inquiry No. CIT-5-88, Statement of Reasons, May 12, 1989, at 12, as argued in *Certain Hot-Rolled Carbon Steel Plate and High-Strength Low-Alloy Plate, Heat-Treated or Not, Originating in or Exported From Belgium, Brazil, the Czech Republic, Denmark, the Federal Republic of Germany, Romania, the United Kingdom, the United States of America and the Former Yugoslav Republic of Macedonia*, Canadian International Trade Tribunal, Inquiry No. NQ-92-007, Statement of Reasons, May 21, 1993, "Dissenting Opinion of Member Fraleigh" at 28.

22. *Supra*, note 17.

Further, the Tribunal is convinced that the continued dumping of cold-rolled steel sheet is likely to cause material injury to the domestic industry, unless anti-dumping duties are imposed. According to the evidence, there is worldwide steel production overcapacity, including both in Europe and in the United States. The testimony of a witness for one U.S. exporter agreed with the proposition that reducing excess capacity in the European steel industry was politically hazardous and, therefore, not likely to be achieved in the near future. As well, witnesses testifying for the European exporters provided little specific data concerning the extent and timing of anticipated capacity cutbacks or improved plant loading. BSC's 1993 Annual Report makes references to improved prospects, but to a continuing fragile situation. Weak demand has been exacerbated by increased steel imports from Eastern Europe. Overall demand in mainland Europe for steel was down by 5 percent in 1992-93.

Although counsel for the exporters and importers argued that measures are being taken to reduce such excess capacity, it would appear that success in eliminating worldwide excess capacity is neither imminent nor certain. The Tribunal observes that this evidence relates to steel-making capacity as a whole, but it heard no evidence that the situation for cold-rolled steel sheet was different. The Tribunal also notes that utilization rates of cold-rolling capacity in the United States have been running well below capacity over the years from 1990 to 1992. Furthermore, the Tribunal also heard testimony and received evidence regarding the price-suppressive influence of reconstituted U.S. mills (i.e. mills that have undergone Chapter 11 bankruptcy proceedings and that may have reduced operating costs) and the emergence of mini-mills, like Nucor, producing cold-rolled steel sheet in the U.S. market. These factors contribute to a strong likelihood of dumping in the immediate future.

In conclusion, many factors that induced foreign suppliers to export to Canada at dumped prices are likely to persist in the foreseeable future. In the absence of anti-dumping duties, the dumped imports will likely cause material injury to the domestic industry, as it would be unable to obtain the higher prices that it needs to remedy the large losses that it is now incurring because of dumped imports.

REQUESTS FOR EXCLUSIONS

As noted above, counsel for the importers and exporters and several other participants requested exclusions for their respective clients or for particular steel products. In this regard, the Tribunal notes that it is within its discretion to grant such exclusions.[23] The onus is on the person requesting an exclusion to establish that it is warranted.[24]

Counsel representing the five U.S. integrated steel mills requested that, in the event of an injury finding, their clients be excluded from the finding. Counsel noted that they had insignificant margins of dumping and that only small percentages of their exports were found to be dumped. Counsel for BSC requested an exclusion for their

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23. See, e.g. *Hitachi Limited v. The Anti-dumping Tribunal*, [1979] 1 S.C.R. 93; *Sacilor Aciéries v. The Anti-dumping Tribunal* (1985), *supra*, note 16; and Article 1904 Binational Panel, *Certain Dumped Integral Horsepower Induction Motors, One Horsepower (1 HP) to Two Hundred Horsepower (200 HP) Inclusive, with Exceptions Originating in or Exported from the United States of America*, 4 T.C.T. 7065, September 11, 1991.

24. *Certain Hot-Rolled Carbon Steel Plate and High-Strength Low-Alloy Plate, Heat-Treated or Not*, *supra*, note 21 at 23.

client on the basis of the same *de minimis* argument, adding that BSC's pricing policy and behaviour in the market were non injurious. Counsel for Preussag requested that his client be excluded from any injury finding because it had not exported the subject goods to Canada in the past three years.

Counsel for NSC requested an exclusion for certain cold-rolled steel sheet products that will be imported into Canada for further processing and re-exported to the United States. Counsel explained that processing of the goods will be performed by DNN. Though DNN acts as an importer of record, title to the goods and to the further processed goods will remain with NSC at all times. The goods will be imported into Canada pursuant to the inward processing provisions of the *Customs Tariff*.[25] Counsel argued that, because the goods will not be entering the Canadian market, they will not cause injury to the production in Canada of like goods.

A similar request was received from Metal Koting Continuous Colour Coat Limited (Metal Koting) for certain cold-rolled steel sheet exported from the United States for electrogalvanizing by it and re-exported to the United States. In a letter addressed to the Tribunal, it was noted that title to the steel remains with the U.S. exporters, that the steel will not be sold in Canada and that it already qualifies for relief from customs duties pursuant to an *Inward Processing Remission Order*.[26]

The Tribunal received several requests for an exclusion for strip products made to ASTM A682/A682M and A684/A684M specifications. These requests were received from the following strip producers: The Worthington Steel Company, Subsidiary of Worthington Industries of the United States, Paturle Aciers S.A. of France, Glynwed Steels Limited of the United Kingdom and ILVA of Italy. End users of the products, such as A. Richard Ltd., Bartell Industries Inc. and Ventratech Limited, appeared at the hearing in support of their requests for an exclusion for certain strip products from an injury finding. The Tribunal entertained similar requests from Wolfe Metal Sales, Div. of W.U.C. Holdings Inc., Olbert Metal Sales Limited, TrefilARBED Ltd. and Robinson and Heath Limited by way of oral or written submission.

Submissions in support of the requests for an exclusion for ASTM A682/A682M and A684/A684M strip were consistent. It was argued that CMP, the only Canadian producer of strip, did not participate in the hearing and that its submission did not provide evidence before the Tribunal of its production capabilities. Many of the end users testified that the specific high-carbon strip products that they require are not available in Canada. Moreover, counsel argued that there is no evidence that production of strip in Canada has been injured in any way by imports of strip from the subject countries.

Numerous other requests for exclusions for various steel products were also received by the Tribunal. Siemens Automotive Limited, El-Met-Parts Inc. and Inland requested an exclusion for motor lamination steel because it is not available in Canada. Camco Inc. requested an exclusion for vitreous porcelain enamel and textured cold-rolled steel sheet on the basis of disruptions in the availability of the domestic product. Similarly, USX requested that vitrenamel cold-rolled steel sheet for porcelain enamelling and embossed cold-rolled steel sheet be excluded from any injury finding. Canadian Liquid Air Ltd. (CLA) requested an exclusion for steel sheet containing not more than

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25. R.S.C. 1985, c. 41 (3rd Supp.).
26. SOR/82-41, February 10, 1982, Canada Gazette Part II, Vol. 116, No. 3 at 699.

100 parts per million of aluminum for use in the manufacture of flux-core welding wire, on the basis that it is not available in Canada. Harvest Services Corporation requested an exclusion for material that does not meet automotive and appliance steel specifications, within the range of 0.026 in. to 0.030 in. (0.66 mm to 0.76 mm), purchased from Century Steel Corporation of the United States. Francosteel requested exclusions for sheet over 72 in. (1,829 mm) wide, sheet used to produce pipe and tubing, and strip greater than 23 15/16 in. (600 mm) made to ASTM A109/A109M specifications. Finally, Inland also requested an exclusion for high-tensile, high-strength proprietary steels and for any products entering Canada under tariff code 5933.

With regard to the request for exclusion from NSC, the Tribunal concluded that it should be granted. While Dofasco and Sidbec-Dosco consented to the exclusion, Stelco objected because of a perceived potential for injury that the Tribunal did not recognize. As defined, the exclusion prevents the imports from entering the Canadian market, either as the cold-rolled substrate or as a finished galvanized product. Though DNN may be the importer of record, title to the goods remains with NSC, which is a joint owner of the DNN facility. The Tribunal concludes that the importation of this steel, under the circumstances, will not displace the domestic production of like goods because of the nature of the contract.

As to imports from Metal Koting, the Tribunal notes that the goods enter Canada under circumstances similar to those under which the DNN substrate enters. For the same reasons, the Tribunal determined that an exclusion was warranted.

CMP is the only domestic producer of strip products. CMP supported the domestic industry in these proceedings; however, it did not participate in the hearing. From its response to the Tribunal's manufacturer's questionnaire, it is apparent that CMP maintained its share of a growing market. The Tribunal notes that CMP's net sales increased between 1991 and 1992 and that it was profitable in both years.

CMP has indicated that, for purposes of this inquiry, its focus is on cold-rolled carbon steel strip with greater than 0.25 percent carbon and high-strength, low-alloy steel products. However, the Tribunal has no information on specific grades or products produced by CMP. In contrast, several witnesses appeared before the Tribunal and testified that there was no domestic production of the specific steel products that they require and subsequently import. The testimony of these witnesses was consistent in that all their requests for exclusions were within the ASTM A682/A682M and A684/A684M specifications. They were also categorical that, because of strip's stringent technical characteristics in treatment and finish, slit cold-rolled steel sheet could not be substituted for cold-rolled steel strip. Under these circumstances, the Tribunal determined that an exclusion for strip products falling within these specifications was warranted.

At the hearing, a witness for CLA testified that low-aluminum steel would soon no longer be available in Canada. Because of particular Canadian Standards Association (CSA) specifications, flux-core welding wire must be made of steel with a low aluminum content. It was indicated that 100 parts per million of aluminum would be the maximum acceptable to meet the CSA standards. CLA has been purchasing domestic steel since 1979 and, recently, has met its needs from Dofasco, which continued to use the ingot-cast method of producing steel. However, as Dofasco will discontinue using this method in the second half of 1993, low-aluminum steel will no longer be available in Canada.

Witnesses for CLA indicated that it is presently working with the domestic industry to produce this product. However, to date, only steel with as little as 250 ppm of aluminum is available domestically. As such, a product suitable for the production of flux-core welding wire to meet CSA standards is not available in Canada. On this basis, the Tribunal determined that an exclusion for steel sheet containing not more than 100 parts per million of aluminum, for use in the manufacture of flux-core welding wire, was warranted.

As to cold-rolled motor lamination steel, the exclusion, as described by Siemens Automotive Limited and unopposed or agreed to by the various domestic producers, has been granted by the Tribunal. There is some evidence on the record that a product comparable to that from foreign sources is not available in Canada.

For the balance of the requests, the Tribunal was not persuaded that exclusions were warranted. In several instances, the goods, for which an exclusion was requested, were available in Canada. As to the proprietary steels exported to Canada from Inland, no evidence was provided to demonstrate that a domestically made product could not be substituted for the proprietary grade in question. As to the requests for an exclusion for an exporter or a country made by the participants represented at the hearing, the Tribunal notes that its injury determination was made on the basis of total imports from the subject countries.

CONCLUSION

For the reasons stated above, the Tribunal concludes that the dumping in Canada of cold-rolled steel sheet originating in or exported from the Federal Republic of Germany, France, Italy and the United Kingdom has caused, is causing and is likely to cause material injury to the production in Canada of like goods, excluding:

(i) the subject sheet, containing not more than 100 parts per million of aluminum, for use in the manufacture of flux-core welding wire;

(ii) cold-rolled motor lamination steel, having a maximum core loss to thickness ratio of 0.11 watt per pound per one thousandth of an inch measured at a frequency of 60 hertz and an induction of 1.5 teslas made to ASTM A34 and A343 specifications, for use in the manufacture of magnetic core laminations; and

(iii) cold-rolled steel strip made to ASTM A682/A682M and A684/A684M specifications.

Similarly, the Tribunal concludes that the dumping in Canada of cold-rolled steel sheet originating in or exported from the United States of America has caused, is causing and is likely to cause material injury to the production in Canada of like goods, excluding:

(i) the subject sheet, exported by National Steel Corporation to Canada and re-exported, provided that title to such sheet as imported, further processed and re-exported from Canada remains with National Steel Corporation and provided that it is not sold in Canada, but re-exported;

(ii) the subject sheet, exported from the United States of America for electrogalvanizing by Metal Koting Continuous Colour Coat Limited, and re-exported, provided that title to such sheet as imported, further processed and re-exported from Canada remains with the U.S. exporters and provided that it is not sold in Canada, but re-exported;

(iii) the subject sheet, containing not more than 100 parts per million of aluminum, for use in the manufacture of flux-core welding wire;

(iv) cold-rolled motor lamination steel, having a maximum core loss to thickness ratio of 0.11 watt per pound per one thousandth of an inch measured at a frequency of 60 hertz and an induction of 1.5 teslas made to ASTM A34 and A343 specifications, for use in the manufacture of magnetic core laminations; and

(v) cold-rolled steel strip made to ASTM A682/A682M and A684/A684M specifications.

Michèle Blouin
Michèle Blouin
Presiding Member

Arthur B. Trudeau
Arthur B. Trudeau
Member

Lise Bergeron
Lise Bergeron
Member