



Ottawa, Friday, February 7, 1992

**Inquiry No.: NQ-91-004**

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

**ALUMINUM COIL STOCK AND STEEL HEAD AND BOTTOM RAILS, FOR  
USE IN THE PRODUCTION OF HORIZONTAL VENETIAN BLINDS,  
ORIGINATING IN OR EXPORTED FROM SWEDEN**

**FINDING**

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 October 10, 1991, and of a final determination of dumping dated January 3, 1992, respecting the importation into Canada of aluminum coil stock and steel head and bottom rails, for use in the production of horizontal venetian blinds, originating in or exported from Sweden.

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 from Sweden has caused, is causing and is likely to cause material injury to the production in Canada of like goods.

Michèle Blouin  
Michèle Blouin  
Presiding Member

Sidney A. Fraleigh  
Sidney A. Fraleigh  
Member

Charles A. Gracey  
Charles A. Gracey  
Member

Robert J. Martin  
Robert J. Martin  
Secretary

The statement of reasons will be issued within 15 days.

**Inquiry No.: NQ-91-004**

Place of Hearing:	Ottawa, Ontario
Dates of Hearing:	January 6 to 10, 1992
Date of Finding:	February 7, 1992
Tribunal Members:	Michèle Blouin, Presiding Member Sidney A. Fraleigh, Member Charles A. Gracey, Member
Director of Research:	J.A. (Sandy) Greig
Research Manager:	Paul Berlinguette
Statistical Officer:	Gilles Richard
Counsel for the Tribunal:	Robert Desjardins
Registration and Distribution Officer:	Margaret J. Fisher
<b>Participants:</b>	
	Darrel H. Pearson
for	Z.M.C. Metal Coating, Inc.
	<b>(Complainant)</b>
	Brian J. Barr
	Ronald Benn and
	Suzette Cousineau
for	Turnils (Canada) Ltd. and
	Turnils AB
	<b>(Importer/Exporter)</b>
	Eric G. Nazzer
for	AB Sani Maskiner
	<b>(Exporter)</b>



Ottawa, Monday, February 24, 1992

Inquiry No.: NQ-91-004

**ALUMINUM COIL STOCK AND STEEL HEAD AND BOTTOM RAILS, FOR  
USE IN THE PRODUCTION OF HORIZONTAL VENETIAN BLINDS,  
ORIGINATING IN OR EXPORTED FROM SWEDEN**

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

**DECISION:** The Canadian International Trade Tribunal hereby finds that the dumping in Canada of the aforementioned goods from Sweden has caused, is causing and is likely to cause material injury to the production in Canada of like goods.

Place of Hearing:	Ottawa, Ontario
Dates of Hearing:	January 6 to 10, 1992
Date of Finding:	February 7, 1992
Date of Reasons:	February 24, 1992
Tribunal Members:	Michèle Blouin, Presiding Member Sidney A. Fraleigh, Member Charles A. Gracey, Member
Director of Research:	J.A. (Sandy) Greig
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Statistical Officer:	Gilles Richard
Counsel for the Tribunal:	Robert Desjardins
Registration and Distribution Officer:	Margaret J. Fisher
<b>Participants:</b>	Darrel H. Pearson
	for Z.M.C. Metal Coating, Inc.
	<b>(Complainant)</b>
	Brian J. Barr
	Ronald Benn and
	Suzette Cousineau
	for Turnils (Canada) Ltd. and
	Turnils AB
	<b>(Importer/Exporter)</b>
	Eric G. Nazzar
	for AB Sani-Maskiner
	<b>(Exporter)</b>

**Witnesses:**

Philip Ng  
President  
Z.M.C. Metal Coating, Inc.

Alfred Poon  
Controller  
Z.M.C. Metal Coating, Inc.

Barry Sacks  
Sacks Associates  
Chartered Accountants

David Beaman  
National Sales Manager  
Wrisco Limited

John Currie  
Comptroller  
Wrisco Limited

James G. Kelly  
General Manager  
Sani USA

Ken G. Telmer  
General Manager  
Turnils (Canada) Ltd.

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Ottawa, Monday, February 24, 1992

**Inquiry No.: NQ-91-004**

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

**ALUMINUM COIL STOCK AND STEEL HEAD AND BOTTOM RAILS, FOR  
USE IN THE PRODUCTION OF HORIZONTAL VENETIAN BLINDS,  
ORIGINATING IN OR EXPORTED FROM SWEDEN**

TRIBUNAL: MICHÈLE BLOUIN, Presiding Member  
SIDNEY A. FRALEIGH, Member  
CHARLES A. GRACEY, Member

**STATEMENT OF REASONS**

**THE CONDUCT OF THE INQUIRY**

The Canadian International Trade Tribunal (the Tribunal), under the provisions of section 42 of the *Special Import Measures Act* (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 October 10, 1991, and of a final determination of dumping dated January 3, 1992, respecting the importation into Canada of aluminum coil stock and steel head and bottom rails, for use in the production of horizontal venetian blinds, originating in or exported from Sweden (subject goods). The Deputy Minister's investigation into dumping covered importations of the subject goods between July 1, 1990, and June 30, 1991.

The notices of preliminary and final determinations of dumping were published in Part I of the October 26, 1991, and January 18, 1992, editions of the Canada Gazette, respectively. The Tribunal issued a notice of commencement of inquiry on October 16, 1991, that was published in Part I of the October 26, 1991, edition of the Canada Gazette.

As part of the inquiry, the Tribunal sent detailed questionnaires to Canadian manufacturers and importers of the subject goods, requesting production, financial, import and market information, as well as other information, covering the period from January 1, 1988, to September 30, 1991. 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.

The record of this inquiry consists of all Tribunal exhibits, including public and protected replies to questionnaires, 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 and protected exhibits, to independent counsel only.

Public and *in camera* hearings were held in Ottawa, Ontario, from January 6 to 10, 1992. The complainant, Z.M.C. Metal Coating, Inc. (Z.M.C.), as well as the importer/exporters, Turnils (Canada) Ltd., Turnils AB and AB Sani-Maskiner (Sani-Maskiner), were all represented by counsel at the hearing.

A finding that the dumped goods have caused, are causing and are likely to cause material injury to the domestic production of the like goods was issued by the Tribunal on February 7, 1992.

### **THE PRODUCT**

The subject goods are described by the Deputy Minister in the preliminary determination of dumping as aluminum coil stock and steel head and bottom rails, for use in the production of horizontal venetian blinds, originating in or exported from Sweden.

Aluminum coil stock, which is transformed into individual slats to form the main component of venetian blinds, is usually produced in widths of 15 mm, 25 mm, 35 mm and 50 mm, and thicknesses of .20 mm and .15 mm. It is available in a variety of colours which are categorized into basically three types: standard, metallic and other (patterned, pearlized and two-toned).

Aluminum coil stock for venetian blinds is produced from uncoated aluminum coil, purchased in 127 mm or 76 mm wide coils that weigh about 450 kg. The coil is passed through a slitting machine where it is cut into strips of desired widths. The strips then pass through a series of cleaning stations where they are washed, rinsed and dried. In order to improve paint adhesion and provide extra corrosion protection, the strips are coated with a chrome solution. The strips are then dried, roll coated with a polyester paint and baked at about 230°C. Once cooled, the painted strip is rewound into 914 m coils.

The head rail is the upper rail and encloses the operating mechanisms for the blinds. The aluminum slats rest on the bottom rail when the blind is raised. Head and bottom rails are available in several different styles that are interchangeable, i.e., a fabricator may use one style of head rail and a different style of bottom rail on the same venetian blind.

Head and bottom rails are produced from either painted or unpainted light gauge steel coil. The coil is fed into a rolling machine which shapes the steel into the required shape of the rail. The rollers can be changed depending on the type of rail being rolled. The rail then passes through a straightener, is cut into desired lengths, usually 4 m, and is packaged in cartons. Pre-painted steel coil is used for the popular selling colours. If unpainted steel coil is used in the production of the rails, they must be painted and dried after fabrication. In this process, a conveyor lifts the rails to a vertical position. The rails then pass into an electrostatic paint room where they are painted. From the paint room, the rails move along the conveyor into a bake oven where the paint cures at about 180°C for 10 minutes.

## **THE DOMESTIC INDUSTRY**

At this time, Z.M.C. is the only Canadian producer of aluminum coil stock and steel head and bottom rails. It is a privately owned Canadian company and has been in business since September 1985. The firm currently produces four sizes (25 mm x .20 mm; 25 mm x .15 mm; 15 mm x .20 mm; and 15 mm x .15 mm) of aluminum coil stock and four types of steel head rails and three styles of steel bottom rails. It markets these products to horizontal venetian blind fabricators located across Canada. The company also imports ancillary hardware such as brackets, cord, clips and wands.

In late 1990, Wrisco Limited (Wrisco), a major distributor of parts and components used in the production of various window coverings, including horizontal venetian blinds, started producing steel head and bottom rails from pre-painted steel coils. On November 5, 1991, Wrisco was acquired by Turnils AB of Sweden and Wrisco is now 100 percent owned by that company.

For the purposes of this inquiry, the Tribunal considers Z.M.C. to constitute the domestic industry. In this connection, the Tribunal notes that Z.M.C. accounts for virtually all of the domestic production of the like goods. For greater certainty, since Wrisco is currently related to the largest exporter of the subject goods, the Tribunal, pursuant to paragraph 42(3)(a) of SIMA and Paragraph 1 of Article 4 of the Anti-dumping Code, chooses to exclude Wrisco from the domestic industry.

## **THE IMPORTERS AND EXPORTERS**

Revenue Canada investigated two Swedish producers of aluminum coil stock and steel head and bottom rails, namely, Turnils AB and Sani-Maskiner. During the period of investigation, Turnils AB sold the subject goods to three importers in Canada: a related distributor and two unrelated end-user fabricators. Turnils Inc., a U.S. subsidiary of Turnils AB, exported a limited quantity of the subject goods to Canada.

During the period of investigation, Sani-Maskiner sold the subject goods to one importer in Canada. The bulk of those importations were used in the importer's facilities in the fabrication of horizontal venetian blinds. During the latter part of the period of investigation, Sani USA, owned by Cooper Industries Inc., sold the subject goods to six importers in Canada: a related end-user fabricator and five unrelated end-user fabricators.

## **THE RESULTS OF THE DEPUTY MINISTER'S INVESTIGATION**

The period of investigation selected by the Deputy Minister covered imports of the subject goods during the period July 1, 1990, to June 30, 1991.

In the final determination, the Deputy Minister indicated that 96.3 percent of the subject goods imported into Canada were found to have been dumped. Margins of dumping ranged from 1 percent to 67 percent, with an overall weighted average margin of dumping of 42 percent.

None of the subject goods exported to Canada from the United States by Sani USA were found to have been dumped.

## **THE COMPLAINT**

In public argument, counsel for the complainant submitted that, based on the evidence in this case, the Tribunal ought to find that the dumping of aluminum coil stock and steel head and bottom rails, for use in the production of horizontal venetian blinds, originating in or exported from Sweden has caused, is causing and is likely to cause material injury to the production in Canada of like goods. Counsel argued that the injury had primarily taken the form of lost sales and market share, lost opportunity to increase market share, price erosion and suppression, as well as reduced profitability, employment and capacity utilization.

Counsel also submitted that the dumping has caused and is causing a delay in capital investment. In counsel's view, the delay in capital investment is either another indicator of material injury or a reason for an affirmative finding that the dumping has caused or is causing retardation.

Counsel also requested a finding of massive dumping and the retroactive application of anti-dumping duties on the dumped subject goods imported by Turnils (Canada) Ltd. and exported by Turnils AB or Turnils (U.S.A.) Inc., pursuant to paragraph 42(1)(b) of SIMA. In support of this request, counsel noted the considerable amount of imports from Sweden which occurred within a relatively short period of time and the volume of Turnils (Canada) Ltd.'s inventories in Canada.

With respect to his claim of material injury, counsel argued that as a result of low price offerings and price concessions, significant sales were lost to Turnils (Canada) Ltd. and to Sani-Maskiner. Lost sales, according to counsel, were well documented in the evidence either in the complete loss of customers or substantial reductions in the value of sales and lost opportunities to increase sales. In order to prevent further reduction in sales of aluminum coil stock and steel head and bottom rails, Z.M.C. was forced to reduce its prices in 1991 and offer additional price-related concessions to its customers.

Counsel further argued that the dumped imports continue to have negative effects on the firm's profitability and employment situation. Counsel stated that notwithstanding Z.M.C.'s efforts to reduce its costs, to introduce new products and to find new markets for its products, the lost sales and price erosion have reduced Z.M.C.'s profitability and continue to do so. Employment losses, counsel argued, were evident in both the number of persons employed and the number of person-hours worked.

As for capacity utilization, counsel stated that the utilization rate for aluminum coil stock had fallen from high levels recorded prior to the dumping to low levels experienced in 1991. As for steel head and bottom rails, utilization rates were better, but remained well below capacity. As a consequence of the dumping, opportunities to increase the utilization in rail production were lost.

Concerning the delay in capital investment, counsel submitted that the dumping of the subject goods had forced Z.M.C. to put on hold six projects which would improve production and enhance the firm's product line. In this connection, counsel stated that for each project, development plans had been conceived and could be put into effect in a short time period should the Tribunal grant the relief sought.

On causality, counsel argued that the Swedish imports penetrated the Canadian marketplace and materially injured Z.M.C. as a result of their price levels. In the absence of dumping, counsel contended, Z.M.C. would not have lost sales to the



dumped imports and would not have experienced price erosion, both of which were materially injurious. Counsel stated that the margins of dumping were substantial and showed to what extent exporters were prepared to go in order to recapture and expand market share or obtain a foothold in the Canadian marketplace.

While recognizing the price suppressive and erosive effects of the recession, counsel submitted that Swedish imports exacerbated the situation by being dumped at substantial margins. The fact that customers were demanding lower prices was, in counsel's view, no excuse for the dumping.

Counsel argued that there is no question of the substitutability of the different suppliers' coil and rail. As a matter of course, customers buy coil and rail from different sources. Different machinery and hardware systems require only that the rail and coil be of a compatible dimension.

With respect to other window coverings such as draperies, pleated shades, roller blinds, vertical blinds, stock blinds and semi-customized blinds, counsel argued that the price points tended to be so far removed from horizontal venetian blinds, the products being intended for such different purposes or having made little inroads in the market, that they had not affected the pricing of horizontal venetian blinds made from aluminum coil stock and steel head and bottom rails.

Concerning imports of aluminum coil stock and steel head and bottom rails from the United States, counsel contended that these goods had not been a source of injury for domestic production since they either relate to tied sales, i.e., purchases from parent companies, or are not a new phenomenon in the Canadian marketplace. Counsel also submitted that U.S. imports didn't cause problems to Z.M.C. in the past nor were they likely to cause problems in the future.

With respect to imports of aluminum coil stock and steel head and bottom rails from Indonesia, Israel and Taiwan, counsel contended that these goods had not been a source of injury for domestic production since they were not a new phenomenon in the Canadian marketplace, had certain quality problems or were of little significance in terms of the volume of imports.

On the allegedly price erosive effect of lower aluminum prices, counsel submitted that Z.M.C. had taken steps to reduce costs in a number of ways, but these steps had not safeguarded Z.M.C. from the effects of the dumping. Further, counsel argued, reductions in aluminum ingot values meant nothing in quantifiable terms at trade levels down the line.

As far as Sani-Maskiner's contribution to injury was concerned, counsel argued that it was the cumulative effect of dumped imports that has caused and is likely to cause material injury, and that the substantial margin of dumping contributed to the loss of a customer for Z.M.C.

Finally, with regard to future injury, counsel stated that the large dumping margins reflected the exporters' propensity to continue selling at dumped prices should the Tribunal fail to make a material injury finding. On this point, counsel submitted that there remains a significant customer base for Turnils (Canada) Ltd. to target which would further aggravate Z.M.C.'s situation, and that Sani will only be able to compete in Canada if it dumps.

## **THE RESPONSE**

### **Turnils AB and Turnils (Canada) Ltd.**

In a public statement, Turnils AB and Turnils (Canada) Ltd. submitted that their objective in setting up operations in Canada was to recapture their existing Canadian customer base which had previously been serviced through Wrisco.

They claimed that because the window coverings market is down as a result of poor housing starts and a decline in the Gross National Product, the coil stock and rail markets are also depressed. They also argued that the advent of polyvinyl chloride (PVC) and aluminum stock venetian blinds (i.e., factory-made blinds in standard sizes and a limited range of colours), and the availability of new cutting machinery, which allows stock blinds to be semi-customized to specific widths and lengths according to the consumer's needs, have resulted in static venetian blind prices and lower sales volumes during the last two years. This, in turn, has forced fabricators to offer greater discounts for venetian blinds more frequently and to seek lower prices for coil stock and rails. In this environment, some large-scale fabricators (Louverdrape Canada and Frontenac Fabrics) have gone out of business.

In addition, they pointed out that the cost of aluminum, which represents about 50 percent of the total material cost of producing horizontal venetian blinds, has declined by over 40 percent since the third quarter of 1989. They submitted that such a drop in aluminum prices has contributed to the drop in the selling price of coil stock. Moreover, they further submitted that the Canadian fabricators have access to low-priced material from Indonesia, Israel and Taiwan, and that these fabricators are increasingly importing aluminum coil stock from U.S. suppliers at prices lower than those offered by Turnils.

A request for certain exclusions, i.e., profiled coil stock in widths of 35 mm, 50 mm and 89 mm, all coil stock in widths exceeding 50 mm and perforated coil stock in all sizes, was put forward.

In public argument, counsel representing Turnils AB and Turnils (Canada) Ltd. submitted that the products, for which an exclusion was requested, were not produced in Canada. Concerning the 50 mm and 89 mm coil stock, as well as the perforated coil stock, counsel argued that because the products have different characteristics or are used to make different kinds of blinds, one cannot conclude that Z.M.C. has been harmed by the sale of these goods.

Counsel also argued that aluminum coil stock and steel head and bottom rails are not like goods and, consequently, the Tribunal would have to rule separately on the question of material injury. In this connection, counsel contended that these products are not substitutable for one another, are produced differently, perform completely separate functions and are priced at different levels.

On the issue of massive importation, counsel invited the Tribunal to assess the situation in the historical context of the role of Swedish material in the Canadian market and to take into consideration the fact that market shares of Swedish imports have not varied in a manner consistent with such a finding.

Regarding the issues of material injury and causality, counsel developed its argument *in camera*.

### **Sani-Maskiner**

In a public statement, Sani-Maskiner submitted that the volume of sales (four shipments) made by the firm into the Canadian market could not have caused material injury to Z.M.C. It claimed that those sales to a single customer were merely a failed attempt to establish an independent wholesale distributor in Canada.

In public argument, counsel representing Sani-Maskiner supported Turnils' position on material injury and the latter's request for exclusion of certain products not produced by Z.M.C. Counsel submitted that the 17.5 mm coil stock should also be excluded from an affirmative finding since there was clear evidence that Z.M.C. had not been prevented from manufacturing such a product and had chosen not to do so. Moreover, counsel contended that the 17.5 mm coil is unique to Sani.

Counsel argued that the complaint was basically a dispute between Z.M.C. and Turnils, and Sani's trading activities had not contributed to Z.M.C.'s injury. Should overall material injury be found in this case, counsel submitted that there were fair and reasonable grounds for the Tribunal to exercise its discretion to exclude goods produced or exported by Sani.

### **THE ECONOMIC INDICATORS**

The Canadian market for aluminum coil stock and steel head and bottom rails grew in 1989 and, to a lesser extent, in 1990. The market declined in the first half of 1991 compared to the same period a year earlier.

Z.M.C.'s domestic sales of aluminum coil stock and steel head and bottom rails grew in 1989, then declined in 1990. Z.M.C.'s share of the Canadian market reached its highest level in 1989, then declined in 1990. Sales for the first half of 1991 declined compared to the same period a year earlier. However, Z.M.C.'s share of the market was higher in the first two quarters of 1991 than in the first two quarters of 1990.

Swedish imports of aluminum coil stock and steel head and bottom rails (measured in dollar value) decreased in 1989, and then increased in 1990 to a level greater than the 1988 level. In the first half of 1991, the dollar value of imports decreased. The share of the Canadian market held by the Swedish imports decreased in 1989, and then increased in 1990 to about the same share as in 1988. The share of the Canadian market held by Swedish imports increased again in the first half of 1991.

Over the review period, imports from the United States have shown a strong and growing presence in the marketplace. Imports from other countries with sizable imports have recently accounted for smaller shares of the domestic market.

Although Z.M.C. has remained profitable throughout the review period, profitability has declined in fiscal periods 1990 and 1991.

### **THE REASONS FOR DECISION**

The Tribunal has to consider six main issues in this inquiry. First, as a preliminary matter, the Tribunal must decide whether aluminum coil stock and steel head and bottom rails represent one or two distinct classes of goods. Second, the Tribunal must determine whether the domestic industry has experienced, is experiencing and is likely to experience material injury. Third, the Tribunal must determine whether the

domestic industry has experienced or is experiencing retardation. Fourth, the Tribunal must determine whether there is a causal link between the dumped imports and the material injury. Fifth, the Tribunal must decide whether the material injury has been caused by reason of the fact that the dumped goods constitute a massive importation into Canada. Finally, the Tribunal must decide whether to exercise its discretion and to grant an exclusion for certain products and for Sani-Maskiner.

### **Preliminary Matter**

At the outset of the hearing, counsel for Turnils AB and Turnils (Canada) Ltd. submitted to the Tribunal that the inquiry dealt with two distinct classes of goods, namely, aluminum coil stock and steel head and bottom rails, and that, accordingly, the Tribunal was bound to rule on the question of injury separately for each of the classes. Having reviewed the arguments and considered the cases mentioned by counsel, the Tribunal observes that both determinations of dumping, preliminary as well as final, cover only one product class to which only one margin of dumping applies. The Tribunal considers that the aluminum coil stock and the steel head and bottom rails are so intimately related that they are part of one and the same product class. The degree of complementarity of aluminum coil stock and steel head and bottom rails in the making or existence of an horizontal venetian blind is such as to convince the Tribunal that the present inquiry does not deal with two distinct product classes. Indeed, the subject aluminum coil stock and steel head and bottom rails, if not used together by the fabricators of horizontal venetian blinds, would appear to be almost without any purpose or significant commercial use.

### **Material Injury**

The evidence adduced at the hearing, as well as the information provided in response to the Tribunal's questionnaires, have enabled the Tribunal to review the range of factors which give an indication of injury to the domestic industry. An assessment of the evidence and of the information gathered through the questionnaires reveals an increase in the market share held by Swedish imports in 1990 and the first half of 1991, and the existence of price erosion in the marketplace, particularly in 1991. Z.M.C.'s revenues and net income before taxes have steadily declined from their peak in fiscal 1989. Z.M.C.'s domestic production and overall plant utilization have similarly declined after 1989 while Z.M.C.'s employment declined after 1990.

In assessing injury to Z.M.C., the Tribunal is of the view that two considerations must be borne in mind. The first is that the market for aluminum coil stock and steel head and bottom rails is price-sensitive. Although domestic fabricators of horizontal venetian blinds consider customer service an important element in the purchasing decision of the subject goods, the key factor is price. There was considerable information on prices obtained during the inquiry that confirmed the price sensitivity of the marketplace.

The second consideration is that in response to dumped imports, the domestic industry has two options. It can decide to maintain its prices and surrender market share to the importers or it can lower its prices in order to maintain market share. Based on the evidence, it seems that Z.M.C. initially resisted lowering its prices, but then, in early 1991, responded with lower prices for a number of accounts so as to prevent further losses in sales. The Tribunal has no doubt that the value of the dumped subject imports and their share of the Canadian market would have been even greater in 1991 had Z.M.C. not responded to the dumped imports by lowering its prices.

In examining the pricing behaviour of the marketplace, the Tribunal paid particular attention to developments since 1990. When the relationship between Turnils AB and Wrisco<sup>1</sup> ended, Turnils (Canada) Ltd. was established with the objective of recapturing Turnils AB's existing Canadian customer base. In this connection, Turnils (Canada) Ltd. introduced four price lists (March 1990, September 1990, December 1990 and May 1991) in the marketplace over the 1990-91 period. It is when the company created a four-tier pricing structure in December 1990, which was further revised in May 1991, that the greatest impact was felt in the market.

In December 1990, Turnils (Canada) Ltd. granted discounts based on the volumes of aluminum coil stock and steel head and bottom rails purchased. For group one colours, the "bread and butter" of the industry, for example, this represented discounts for the higher volume accounts of close to 14 percent off the base price for 25 mm x .20 mm aluminum coil and about 12 percent for 25 mm x .15 mm coil. Discounts of about 16 percent and 13 percent were also offered for standard steel head and bottom rails, respectively. As noted above, the firm made another pricing move in May 1991, resulting in greater discounts for high volume purchasers of aluminum coil.

The Tribunal notes that prices tended to gravitate towards the lowest prices offered by the sellers of the dumped goods. The Tribunal also notes that Turnils (Canada) Ltd.'s sales of the subject goods more than doubled in the first three quarters of 1991 against the first three quarters of 1990.

At the same time, the evidence is clear that Z.M.C. lost sales in a number of existing accounts, as well as potential sales, to Turnils. Z.M.C. reacted mostly in 1991 to the pricing actions of Turnils (Canada) Ltd. by offering price discounts and rebate programs related to the sales of aluminum coil and steel head and bottom rails.

As a result of the lower prices, the discount and rebate programs, and lost sales, Z.M.C.'s sales revenues and net income before taxes declined. With falling sales, production was cut back, overall plant utilization declined and employment was reduced, both in terms of the number of persons employed and hours worked. In considering the fact and the magnitude of these reductions, the Tribunal is of the view that Z.M.C. has experienced and is experiencing material injury. Moreover, if current trends continue, the Tribunal is of the view that Z.M.C. will likely experience material injury in the future.

### **Retardation**

Counsel for the complainant claimed that the dumping has caused and is causing retardation. Counsel submitted that the complainant, in a number of instances, had conceived realistic plans to improve production and develop new product offerings. In the Tribunal's opinion, the evidence adduced by the complainant has not shown that these plans are of the definite or committed kind required for a determination of retardation. The Tribunal is convinced of the entrepreneurial spirit and drive of the complainant's founder. However, the rapid emergence and fairly impressive achievements of the complainant in the business of producing aluminum coil stock and

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1. Through Wrisco, Turnils AB sold the subject goods to a large number of independent Canadian fabricators of horizontal venetian blinds. The witness for Turnils indicated that this relationship ended in March 1990. On November 5, 1991, Wrisco was acquired by Turnils AB. Effective January 1, 1992, Wrisco is known as Wrisco Division of Turnils (Canada) Ltd.

steel head and bottom rails cannot, *per se*, suffice to demonstrate the degree of firmness of the alleged development plans needed for the Tribunal to find retardation. Therefore, the Tribunal concludes that the dumping has not caused retardation.

### Causality

The Tribunal must next consider whether there is a causal link between the material injury experienced by the domestic producer of the like goods and the dumped imports.

The Tribunal is satisfied that the lost sales and price erosion that took place in the market during the 1990-91 period were caused by the dumped imports. The Tribunal is of the opinion that the low prices of the subject imports, 96 percent of which were dumped at a weighted average margin of dumping of some 42 percent during the Deputy Minister's period of investigation, caused Z.M.C. to lose sales and to reduce its prices. Furthermore, as noted above, Swedish imports, and especially Turnils (Canada) Ltd.'s imports, have made inroads into the Canadian market as domestic production decreased.

Extensive documentary evidence presented during the proceedings clearly indicated that Z.M.C. lost sales and was forced to lower its published prices through discount and rebate programs to meet the prices of Swedish imports. The evidence relating to the periods following the introduction and revision of Turnils (Canada) Ltd.'s four-tier pricing structure was particularly telling. The evidence illustrates, in the Tribunal's view, the direct price erosive effects of the dumped imports and clearly establishes the causal link between the dumping and injury sustained by Z.M.C.

The Tribunal has considered carefully the arguments that the injury to Z.M.C. was caused by factors other than the dumped Swedish imports.

In this respect, the Tribunal expected to see some deterioration in Z.M.C.'s performance due to general market conditions. With fabricators of venetian blinds chasing a smaller market, it seems likely that there were pressures to reduce input prices and there is some evidence on the record suggesting a movement to the use of thinner six-gauge coil. However, the Tribunal is persuaded that the significant volume of the dumped subject goods being sold into the domestic market was the principal cause of the price erosion in the market, and thus the greater cause of the injury to Z.M.C. The Tribunal notes that the price erosion caused by the dumping affected the pricing of both six and eight-gauge coil.

The Tribunal has also considered the effect of the pricing of other window coverings on the pricing of horizontal venetian blinds and the coil and rails used to make them. The Tribunal considered the general argument, but also the more specific argument that fabricators had to compete with fabricators of both low-priced stock blinds, low-priced semi-customized blinds and custom blinds made from low-priced coil and rail stock. The only way fabricators could compete, according to the argument, was to sell a low-priced blind themselves, and the only way they could do that was to get a better price for coil and rail. There was almost no evidence adduced to support these allegations. In reviewing the arguments, however, the Tribunal is of the view that the price points of the various products are so different, the final products have such distinct characteristics, or the products have made such limited inroads in the market, that it does not accept the suggestion that competition between these products and venetian blinds has led to the erosion of coil and rail prices. Furthermore, competition with most of

these products has been a factor in the marketplace for many years, and there is little evidence to suggest a fundamental change in the nature of that competition in recent years.

The Tribunal also considered whether the imports of aluminum coil stock and steel head and bottom rails from the United States may have led to price erosion in the domestic market and thus injured Z.M.C. The Tribunal observed that over the review period, U.S. imports have accounted for a large and increasing share of the Canadian market. Taking into account the fact that a major portion of U.S. imports were tied to affiliated companies and that the evidence does not suggest that these imports displaced domestic production, nor that it was U.S. pricing that prompted fabricators to ask for better prices from Z.M.C., the Tribunal does not find the presence of U.S. imports to be a significant contributing factor to the injury.

With respect to imports of aluminum coil stock and steel head and bottom rails from Indonesia, Israel and Taiwan, data gathered by the Tribunal's staff suggest that their presence in the Canadian marketplace has recently been declining. In addition, testimony confirmed that the quality of aluminum coil imported from Israel is of a lower quality and that aluminum coil imported from Indonesia is not a factor in the marketplace. Therefore, the Tribunal concludes that imports of aluminum coil stock and steel head and bottom rails from these countries have not contributed to the injury.

The Tribunal has considered the argument that the reduction in world aluminum prices has prompted fabricators to demand lower prices for aluminum coil stock. The reduction in aluminum prices may have contributed to some decrease in feedstock prices, but the Tribunal is of the view that it cannot be considered a significant contributing factor in explaining the changes in aluminum coil stock prices.

Therefore, the Tribunal is not of the view that any of these factors alone or in combination are a significant contributing factor to the injury.

In light of the foregoing, the Tribunal finds that the dumping of the subject imports has caused and is causing injury to Z.M.C.

The Tribunal considered a range of arguments made *in camera* by counsel representing Turnils AB and Turnils (Canada) Ltd. In summary, counsel asked the Tribunal to consider carefully the magnitude of the injury caused by the dumping because of certain mitigating revenue and operational considerations. The Tribunal has carefully considered and assessed these considerations and is convinced that Z.M.C. has experienced and is experiencing material injury caused by the dumping of aluminum coil and steel head and bottom rails, originating in or exported from Sweden.

The next consideration facing the Tribunal is whether there is a likelihood of injury due to the dumping of imports from Sweden. In this regard, the Tribunal considered whether future injury in the Canadian market was more likely to result from the presence of low-priced imports from the United States. On this point, the Tribunal observes that U.S. exporters have been a known phenomenon in the market for a long time. They have not been responsible for the current injury to the domestic producer Z.M.C. The Tribunal has no reason to believe that this situation will change in the future.

The Tribunal also took note that imports from Sweden continued to enter Canada in important volumes even after the initiation of the anti-dumping investigation by the Deputy Minister. The Tribunal is of the opinion that if the anti-dumping duties were not kept in place, then that Swedish imports would continue to erode prices in the Canadian market and would continue to gain market share at the expense of the domestic industry.

For these reasons, the Tribunal finds that the dumping of the subject imports is likely to cause material injury to Z.M.C. in the future.

### **Massive Dumping**

Counsel for the complainant has also requested a finding of massive dumping in accordance with the provisions of paragraph 42(1)(b) of SIMA. The Tribunal has reviewed carefully the value of Turnils AB's exports to Canada in the period 1988 through 1991. While the value of exports in 1991 is greater than in 1990, the value change is not sufficiently great to justify a finding of massive dumping.

### **Requests for Exclusions**

Counsel for Sani-Maskiner requested that in the event of an affirmative finding by the Tribunal, their products be excluded on the basis that the volume of their importations was minimal.

On the question of exclusion, the Tribunal has a discretion which has been recognized in the past by the courts.<sup>2</sup> Most recently, a Binational Panel under Article 1904 of the Canada-United States Free Trade Agreement re-affirmed this discretion in *Certain Dumped Integral Horsepower Induction Motors*.<sup>3</sup> The circumstances in which the Tribunal would exclude one or more exporters from a finding of material injury must be adequately demonstrated and would be exceptional. In this case, there is evidence that the bulk of the importations of the subject goods sold by Sani-Maskiner was used in the fabrication of horizontal venetian blinds. This represented a lost sales opportunity for Z.M.C. Furthermore, the Tribunal notes that there is opposition to Sani-Maskiner's exclusion.

The Tribunal, having regard to the price-sensitive nature of the Canadian market for aluminum coil stock and steel head and bottom rails, finds that the cumulative effect of the dumping of both exporters has caused material injury to the Canadian industry. The Tribunal notes that imports from Sani-Maskiner were found to be dumped at a weighted average margin of 19.4 percent. Given this high margin of dumping, the Tribunal is convinced that the removal of the anti-dumping duties would permit renewed dumping by Sani-Maskiner at low prices in a market where Turnils AB is no longer permitted to sell the subject goods at dumped prices. As a consequence, Sani-Maskiner could increase its exports and exert downward price pressures, thereby continuing to cause material injury to the Canadian industry.

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2. *Hitachi Limited et al. v. The Anti-dumping Tribunal et al.*, [1979] 1 S.C.R. 93; *Sacilor Aciéries et al. v. The Anti-dumping Tribunal et al.*, [1985] 9 C.E.R. 210 (F.C.A.).

3. Article 1904 Binational Panel, Decision dated September 11, 1991, in *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*.



Counsel for Sani-Maskiner specifically requested an exclusion for 17.5 mm coil stock. Counsel for Turnils AB and Turnils (Canada) Ltd. also put forward a request for an exclusion on profiled (crowned) coil stock in widths of 35 mm, 50 mm and 89 mm, all coil stock in widths exceeding 50 mm and perforated coil stock in all sizes. The Tribunal notes that 89 mm aluminum coil stock is used exclusively for the production of vertical blinds and that 50 mm coil stock is primarily used in the production of vertical blinds. Consequently, these goods, as imported for use in the manufacture of vertical blinds, fall outside the scope of the present inquiry. With respect to the 17.5 mm, 35 mm and 50 mm aluminum coil stock, as well as the perforated coil stock used in the production of horizontal venetian blinds, the Tribunal notes that Z.M.C. does not currently manufacture these products, but could do so with some investment. Furthermore, these goods are substitutable for other coil stock used in the production of horizontal venetian blinds. If the Tribunal were to exclude these goods, they could be imported at dumped prices and displace Canadian production. For the foregoing reasons, the Tribunal is not persuaded that any exclusions from its affirmative finding are warranted.

### **THE CONCLUSION**

In light of the foregoing, the Tribunal concludes that the dumping of aluminum coil stock and steel head and bottom rails, for use in the production of horizontal venetian blinds, originating in or exported from Sweden has caused, is causing and is likely to cause material injury to the production in Canada of like goods.

Michèle Blouin  
Michèle Blouin  
Presiding Member

Sidney A. Fraleigh  
Sidney A. Fraleigh  
Member

Charles A. Gracey  
Charles A. Gracey  
Member