



Ottawa, Friday, February 2, 2001

Preliminary Injury Inquiry No.: PI-2000-005

IN THE MATTER OF a preliminary injury inquiry, under subsection 34(2) of the *Special Import Measures Act*, respecting:

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

PRELIMINARY DETERMINATION OF INJURY

On December 4, 2000, the Acting Director General, Anti-dumping and Countervailing Directorate, Canada Customs and Revenue Agency, notified the Canadian International Trade Tribunal that an investigation had been initiated into the alleged injurious dumping of certain corrosion-resistant steel sheet originating in or exported from the People's Republic of China, India, Malaysia, Portugal, the Russian Federation, South Africa and Chinese Taipei and the alleged injurious subsidizing of the same goods originating in or exported from India.

Following receipt of the notice, the Canadian International Trade Tribunal, under the provisions of subsection 34(2) of the *Special Import Measures Act*, has conducted a preliminary inquiry into whether the evidence disclosed a reasonable indication that the dumping and subsidizing of the above-mentioned corrosion-resistant steel sheet have caused injury or retardation or are threatening to cause injury to the domestic industry.

Pursuant to subsection 37.1(1) of the *Special Import Measures Act*, the Canadian International Trade Tribunal hereby determines that the evidence before it discloses a reasonable indication that the dumping and subsidizing of the above-mentioned corrosion-resistant steel sheet have caused injury to the domestic industry.

Patricia M. Close

Patricia M. Close
Presiding Member

Pierre Gosselin

Pierre Gosselin
Member

James A. Ogilvy

James A. Ogilvy
Member

Michel P. Granger

Michel P. Granger
Secretary

The statement of reasons will be issued within 15 days.

Date of Determination: February 2, 2001
Date of Reasons: February 16, 2001

Tribunal Members: Patricia M. Close, Presiding Member
Pierre Gosselin, Member
James A. Ogilvy, Member

Director of Research: Peter Welsh

Researchers: John Gibberd
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Economist: Ihn Ho Uhm

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Steven K. D'Arcy
for Dofasco Inc.

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(Domestic Manufacturers)

Denis Gascon
Benoît Pepin
for Usinor Canada Inc. and Lusosider – Aços Planos, SA

Richard A. Wagner
for Barzelex Inc.

Peter Clark
Yannick Beauvalet
Jin Li
Chris Hines
Sean Clark
John Currie
for Iscor Limited

Randall J. Hofley
Susan M. Hutton
Jason L. Gudofsky
Patrick Gay
Glenn A. Cranker
for Sheng Yu Steel Co. Ltd. (“Sysco”)

Chia-Pi Wang
for China Steel Corporation

V.J. Kulkarni
for Lloyds Steel Industries Limited

S.R. Mani
for Government of India

Chen Tzer Haw
for Group Steel Corporation (M) Sdn. Bhd.

(Importers/Exporters/Others)



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AND THE SUBSIDIZING OF CERTAIN CORROSION-RESISTANT STEEL SHEET
ORIGINATING IN OR EXPORTED FROM INDIA**

TRIBUNAL: PATRICIA M. CLOSE, Presiding Member
PIERRE GOSSELIN, Member
JAMES A. OGILVY, Member

STATEMENT OF REASONS

BACKGROUND

On December 4, 2000, pursuant to subsection 31(1) of the *Special Import Measures Act*,¹ the Commissioner of the Canada Customs and Revenue Agency (the Commissioner) initiated an investigation respecting the alleged injurious dumping of certain corrosion-resistant steel sheet originating in or exported from the People's Republic of China, India, Malaysia, Portugal, the Russian Federation, South Africa and Chinese Taipei, and the alleged injurious subsidizing of certain corrosion-resistant steel sheet originating in or exported from India.

The investigation was initiated following a complaint filed on behalf of Dofasco Inc. (Dofasco) on October 13, 2000. On November 3, 2000, the Canada Customs and Revenue Agency (CCRA) informed Dofasco that its complaint was properly documented and also informed the governments of the People's Republic of China, India, Malaysia, Portugal, the Russian Federation, South Africa and Chinese Taipei that a properly documented complaint had been filed.

On December 5, 2000, pursuant to subsection 34(2) of SIMA, the Canadian International Trade Tribunal (the Tribunal) issued a notice advising interested parties that it had commenced a preliminary injury inquiry to determine whether the evidence disclosed a reasonable indication that the dumping and subsidizing had caused injury or retardation or were threatening to cause injury.²

1. R.S.C. 1985, c. S-15 [hereinafter SIMA].
2. Subsection 2(1) of SIMA defines "injury" as "material injury to a domestic industry". Henceforth, "injury" is used in that sense in this statement of reasons. However, "material injury" is used when summarizing the submissions.

The record of this preliminary injury inquiry consists of all documents that relate to the Commissioner's decision to initiate the investigation, his statement of reasons for the initiation and the public and protected versions of the complaint. In addition, the record consists of all submissions filed in response to the Tribunal's notice. All public exhibits were made available to the parties. Protected exhibits were made available only to counsel who had filed a declaration and undertaking with the Tribunal in respect of the use, disclosure, reproduction, protection and storage of confidential information on the record of the proceedings, as well as the disposal of such confidential information at the end of the proceedings or in the event of a change of counsel.

The Tribunal received notices of participation from 12 parties and submissions from 5 parties. ISCOR Limited (ISCOR) of South Africa and China Steel Corporation (China Steel) of Chinese Taipei filed submissions that the imports from the subject countries were not causing injury. The Government of India filed a submission concerning alleged subsidy programs. Dofasco and Stelco Inc. (Stelco) filed reply submissions.

The Tribunal issued its preliminary determination of injury on February 2, 2001.

PRODUCT

The subject goods are defined as “[f]lat-rolled steel sheet products of a thickness not exceeding 0.176 in. (4.47 mm), coated or plated with zinc or an alloy wherein zinc and iron are the predominant metals, excluding corrosion-resistant steel sheet products for use in the manufacture of passenger automobiles, buses, trucks, ambulances or hearses or chassis therefor, or parts, accessories or parts thereof, for which the proper Harmonized System tariff item is 9959.00.00, originating in or exported from the People's Republic of China, India, Malaysia, Portugal, the Russian Federation, South Africa and Chinese Taipei”.

The products are commonly referred to as galvanized (free zinc coating) or galvanized (zinc-iron alloy coating) steel sheet. The products include corrosion-resistant steel sheet in cut lengths and coils (wound successively in superimposed layers or spirally oscillated coils) where the coating or plating is applied by the hot-dip galvanizing or electrogalvanizing process.

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

INDUSTRY

The Canadian producers of corrosion-resistant steel sheet are Dofasco of Hamilton, Ontario; Stelco of Hamilton; Sorevco Inc. (Sorevco) of Coteau-du-Lac, Quebec; and Continuous Colour Coat Limited (Continuous Colour) of Rexdale, Ontario. Continuous Colour produces corrosion-resistant steel sheet using the electrogalvanizing process, and the other three producers use hot-dip galvanizing lines.

COMMISSIONER'S DECISION

In the statement of reasons supporting the Commissioner's decision to initiate an investigation, the CCRA referred to the import data that indicated that the volume of imports of certain corrosion-resistant steel sheet from each of the named countries was greater than 3 percent of the total volume of imports from all sources during the period of investigation from January 1 to August 31, 2000.

Dumping

The following table presents the CCRA's estimated percentage of goods dumped and the estimated margin of dumping as a percentage of the normal value for each of the named countries for the period from January to August 2000.

ESTIMATED PERCENTAGE OF GOODS DUMPED AND ESTIMATED MARGINS OF DUMPING January 1 to August 31, 2000		
Country	Estimated Percentage of Goods Dumped	Estimated Weighted Average Margin of Dumping as a Percentage of Normal Value
People's Republic of China	78	3.7
India	100	18.4
Malaysia	95	7.9
Portugal	98	5.3
Russian Federation	100	15.8
Chinese Taipei	84	11.1
South Africa	<u>100</u>	<u>20.6</u>
All Named Countries	92.7	12.5

Source: CCRA's statement of reasons.

Subsidizing

The CCRA accepted Dofasco's estimate that Indian producers received an average subsidy of 3,307 rupees per metric tonne from various programs as being consistent with the amounts determined in recent CCRA subsidy investigations involving steel products from India.

SUMMARY OF COMPLAINT AND SUBMISSIONS

In its complaint, Dofasco submitted that imports from the subject countries have grown significantly in volume in recent years, while the combined market share of the four Canadian producers of certain corrosion-resistant steel sheet has declined. Dofasco claims lost market share and it also claims injury in the form of price erosion, price suppression, increased inventories and a reduction in gross margins

and profitability. Dofasco claims that it decided, towards the end of the first quarter of 2000, that it could no longer continue to lose market share and, accordingly, reduced prices to protect its market share. Dofasco was supported in its complaint to the CCRA by the other three domestic producers. Stelco, in a supporting letter to the CCRA, claimed a loss of market share, price erosion, price suppression and a reduction in gross margins and profitability.

In its submission opposing the complaint, China Steel argued that Dofasco did not suffer material injury during the period of investigation and that there was no causal link between the alleged material injury and the subject imports. It noted that the domestic industry's sales and market share increased in 2000, while the market share of total imports and the subject imports declined. China Steel saw a contradiction between the increase in the average price per ton of the subject imports in the first nine months of 2000 and Dofasco's claim that price erosion started in March 2000. China Steel also suggested that the decrease in Dofasco's profit margin could be due to increased production costs caused by a scheduled shutdown in Dofasco's Hamilton operations.

The one South African company exporting to Canada, ISCOR, submitted that Dofasco and the CCRA should have included all galvanized steel, including non-subject goods, in their assessment of negligibility. ISCOR argued that there was not sufficient evidence of injurious dumping with respect to South Africa and noted that South Africa's share of total imports had declined steadily since 1996. It also submitted that it exports to Canada on the basis of firm orders. In response to Dofasco's claim of price suppression, ISCOR argued that the steel cycle has been in a buoyant phase and that a fall in prices from the peak should not be seen as surprising or injurious. Finally, in response to Dofasco's claim of profit erosion, ISCOR noted that Dofasco, in its 1999 Annual Report, indicated that, in 1999, it was the most profitable steel maker in North America and that it had its highest net income of the 1990s.

Both China Steel and ISCOR questioned the effect of the additional production from Dofasco's new DSG line on the market. In addition, both companies questioned the impact on the non-automotive market of changes in demand in the automotive market.

In its reply submission, Dofasco argued that the question of negligibility only arises in a preliminary injury inquiry with respect to the decision on whether to cumulate and submitted that the Tribunal should consider the cumulative effect in this case, as the 3 percent negligibility threshold is met for each of the subject countries. As well, it indicated that the subject imports are, for a given specification, fungible among themselves and the like goods. Dofasco also replied, supported by Stelco, that the evidence that it supplied exceeds the threshold of a reasonable indication, with the un rebutted evidence clearly showing that it had suffered material injury caused by the subject imports. Stelco noted that none of the opposing parties filed any evidence responding to the evidence of injury in Stelco's letter to the CCRA supporting the complaint.

ANALYSIS

Under subsection 34(2) of SIMA, the Tribunal, upon receiving the notice of the initiation of an investigation by the CCRA, is required to make a preliminary injury inquiry into whether the evidence discloses a reasonable indication that the dumping or subsidizing of the goods has caused injury or retardation or is threatening to cause injury.

Subsection 42(3) of SIMA provides, in part, that, in making a final injury inquiry under section 42, the Tribunal shall make an assessment of the cumulative effect of the dumping or subsidizing of goods that are imported into Canada if the Tribunal is satisfied that certain conditions are met. Pursuant to this subsection, the Tribunal must be satisfied that the volume of dumped goods imported into Canada is not

negligible and that an assessment of the cumulative effect of the subject goods would be appropriate taking into account the conditions of competition between the goods from any of the named countries, the other dumped or subsidized goods and like goods. While this subsection deals with final injury inquiries, and does not explicitly cover preliminary injury inquiries, it seems to the Tribunal that it would be inconsistent not to cumulate at this stage when the evidence to date appears to justify cumulation. This follows past Tribunal practice where, in referrals under section 34 prior to recent changes to SIMA,³ the Tribunal habitually cumulated the impact of dumped or subsidized goods from all named sources and examined their total effect on the domestic industry.⁴

ISCOR argued that the CCRA, in assessing negligibility, should have considered imports from South Africa as a percentage of imports of **all** corrosion-resistant steel, including those automotive products that do not meet the definition of the subject goods. ISCOR submitted that its exports would be negligible if such a calculation were made.

In the Tribunal's view, in making its determination with respect to negligibility in the cumulation context, it is appropriate to use the CCRA definition of the subject goods and its import data. The term negligible, in respect of the volume of dumped goods of a country, is defined in subsection 2(1) of SIMA, in part, as less than 3 percent of the total volume of goods that are released into Canada from all countries and that are of the same description as the dumped goods. The CCRA has established that the volume of dumped South African imports during the period of investigation represented 3.8 percent of the total volume of imports that were of the same description as the dumped goods. Consequently, the Tribunal determines that the volume of imports of the subject goods from South Africa is not negligible.

With respect to the conditions of competition in the cumulation context, the Tribunal is satisfied, on the basis of the information before it at this stage, that the subject goods compete with each other and with the like goods. The Tribunal notes, in that connection, that there is no contradictory evidence at this stage that suggests that the South African goods, or goods from other named countries, are not fungible with those of the other subject countries and with the like goods produced by the domestic industry.

Accordingly, the Tribunal has made an assessment of the cumulative effect of the dumping and subsidizing of corrosion-resistant steel sheet originating in or exported from all the named countries.

In the Tribunal's opinion, the evidence at this preliminary stage provides a reasonable indication that the dumping and subsidizing of the subject goods have caused injury to the domestic industry. The Tribunal is satisfied that the evidence shows that, as the volume of the subject imports increased, the industry suffered lost market share, price erosion, price suppression and a reduction in gross margins and profitability. In this regard, the Tribunal notes that, in the first eight months of 2000, the volume of imports from the subject countries was close to double what it had been in 1998 and that the industry's market share was 8 percentage points lower than it had been in 1998. Claims of price erosion and price suppression are supported by industry evidence.

The Tribunal also notes that parties opposed to the complaint identified other factors, such as the production from Dofasco's DSG line and changes in demand in the automotive market, that may have caused injury to the domestic industry. The evidence submitted concerning these factors was not sufficient

3. These changes entered into force on April 15, 2000.

4. *Certain Flat Hot-rolled Carbon and Alloy Steel Sheet Products, Advice and Statement of Reasons* (18 January 1999), RE-98-002 (CITT).

to indicate to the Tribunal at this stage what role they may have played in the injury suffered by the domestic industry.

Having found that there is a reasonable indication that the dumped and subsidized imports have caused injury, the Tribunal is of the opinion that it is not necessary to determine if there is a threat of injury.

CONCLUSION

On the basis of the information before it, the Tribunal determines, pursuant to subsection 37.1(1) of SIMA, that the evidence discloses a reasonable indication that the dumping of certain corrosion-resistant steel sheet originating in or exported from the People's Republic of China, India, Malaysia, Portugal, the Russian Federation, South Africa and Chinese Taipei and the subsidizing of certain corrosion-resistant steel sheet originating in or exported from India have caused injury to the domestic industry.

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