



Canadian International
Trade Tribunal

Tribunal canadien du
commerce extérieur

CANADIAN
INTERNATIONAL
TRADE TRIBUNAL

Dumping and Subsidizing

DETERMINATION AND REASONS

Preliminary Injury Inquiry
No. PI-2011-002

Stainless Steel Sinks

*Determination issued
Wednesday, December 28, 2011*

*Reasons issued
Thursday, January 12, 2012*

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

**STAINLESS STEEL SINKS ORIGINATING IN OR EXPORTED FROM THE
PEOPLE'S REPUBLIC OF CHINA**

PRELIMINARY DETERMINATION OF INJURY

The Canadian International Trade Tribunal, pursuant to subsection 34(2) of the *Special Import Measures Act*, has conducted a preliminary injury inquiry into whether the evidence discloses a reasonable indication that the dumping and subsidizing of stainless steel sinks with a single drawn bowl having a volume between 1,600 and 5,000 cubic inches (26,219.30 and 81,935.32 cubic centimetres) or with multiple drawn bowls having a combined volume between 2,200 and 6,800 cubic inches (36,051.54 and 111,432.04 cubic centimetres), excluding sinks fabricated by hand, originating in or exported from the People's Republic of China, have caused injury or retardation or are threatening to cause injury.

This preliminary injury inquiry follows the notification, on October 27, 2011, that the President of the Canada Border Services Agency had initiated investigations into the alleged injurious dumping and subsidizing of the above-mentioned goods.

Pursuant to subsection 37.1(1) of the *Special Import Measures Act*, the Canadian International Trade Tribunal hereby determines that there is evidence that discloses a reasonable indication that the dumping and subsidizing of the above-mentioned goods have caused injury or are threatening to cause injury.

Serge Fréchette
Serge Fréchette
Presiding Member

Pasquale Michael Saroli
Pasquale Michael Saroli
Member

Jason W. Downey
Jason W. Downey
Member

Dominique Laporte
Dominique Laporte
Secretary

The statement of reasons will be issued within 15 days.

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BLANCO Canada Inc.
BLANCO GmbH + Co KG

EMCO Corporation
Canadian Tire Corporation, Limited

Paragon Food Equipment (2001) Inc.
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STATEMENT OF REASONS

BACKGROUND

1. On October 27, 2011, following a complaint filed on September 6, 2011, by Novanni Stainless Inc. (Novanni) and Franke Kindred Canada Limited (FKC) (the complainants), the President of the Canada Border Services Agency (CBSA) initiated investigations into the alleged injurious dumping and subsidizing of stainless steel sinks with a single drawn bowl having a volume between 1,600 and 5,000 cubic inches (26,219.30 and 81,935.32 cubic centimetres) or with multiple drawn bowls having a combined volume between 2,200 and 6,800 cubic inches (36,051.54 and 111,432.04 cubic centimetres), excluding sinks fabricated by hand (collectively, stainless steel sinks) originating in or exported from the People's Republic of China (China) (the subject goods).
2. On October 28, 2011, the Canadian International Trade Tribunal (the Tribunal) issued a notice of commencement of preliminary injury inquiry.¹
3. The complaint is opposed by BLANCO Canada Inc. and BLANCO GmbH + Co KG (collectively, BLANCO), an importer and exporter of stainless steel sinks.
4. Other parties to this preliminary injury inquiry include the following: EMCO Corporation; Canadian Tire Corporation, Limited; Paragon Food Equipment (2001) Inc. (Paragon);² Bristol Sinks; and Mr. Jianming Liang. However, these parties did not file submissions with the Tribunal nor did they indicate their positions with respect to the complaint.
5. On December 28, 2011, pursuant to subsection 37.1(1) of the *Special Import Measures Act*,³ the Tribunal determined that there was evidence that disclosed a reasonable indication that the dumping and subsidizing of the subject goods had caused injury or were threatening to cause injury.

CBSA'S DECISION TO INITIATE INVESTIGATIONS

6. In accordance with subsection 31(1) of *SIMA*, the CBSA was of the opinion that there was evidence that the subject goods had been dumped and subsidized, as well as evidence that disclosed a reasonable indication that the dumping and subsidizing had caused injury or were threatening to cause injury. Accordingly, the CBSA initiated investigations on October 27, 2011.
7. The CBSA's period of investigation (POI) with respect to the alleged dumping was from September 1, 2010, to August 31, 2011. The CBSA was of the view that the subject goods had been dumped, with an estimated overall margin of dumping of 20.5 percent, expressed as a percentage of the export price of the subject goods.⁴

1. C. Gaz. 2011.I.3404.

2. On December 29, 2011, Paragon notified the Tribunal that it was withdrawing from participating in this preliminary injury inquiry.

3. R.S.C. 1985, c. S-15 [*SIMA*].

4. Tribunal Exhibit PI-2011-002-05, Administrative Record, Vol. 1E at 162.

8. The CBSA's POI with respect to the alleged subsidizing was from January 1, 2010, to August 31, 2011. The CBSA was of the view that the subject goods had been subsidized, with an estimated amount of subsidy equal to 15.7 percent of the export price of the subject goods.⁵

9. Further, the CBSA was of the opinion that the estimated overall weighted average margin of dumping and amount of subsidy were not insignificant and that the estimated volumes of dumped and subsidized goods were not negligible.⁶

SUBMISSIONS ON INJURY AND THREAT OF INJURY

Complainants

10. The complainants submitted that the dumping and subsidizing of the subject goods had caused injury. In support of their allegations, they provided evidence of increased volumes of the subject goods, loss of market share, lost sales, price undercutting, price erosion, a decline in capacity utilization, a reduction in employment and a decline in revenues, margins and profits due to the dumping and subsidizing of the subject goods.

11. The complainants also submitted that the dumping and subsidizing of the subject goods threatened to cause injury. They alleged that the increasing volumes of dumped and subsidized subject goods at declining average prices were substantially undercutting the prices of domestically produced stainless steel sinks and, thereby, posing an imminent threat of injury. The complainants indicated that the final determination of dumping made by the International Trade Administration Commission of South Africa on September 17, 2009, with respect to stainless steel kitchen sinks originating in or exported from China,⁷ the disposable production capacity of Chinese producers and their demonstrated interest in exporting to foreign markets were further evidence of a threat of injury.

Party Opposed to the Complaint

12. BLANCO submitted that there is no evidence before the Tribunal that discloses a reasonable indication that the dumping or subsidizing of the subject goods has caused injury or retardation or is threatening to cause injury. It added that the complainants did not set out, in their complaint, a causal relationship between the alleged dumping and subsidizing of the subject goods and injury. Rather, BLANCO submitted that any injury suffered by the complainants was caused by other factors, such as the market slowdown; FKC's self-inflicted injury due to its decision to cease doing business with Rona Inc. (Rona), the large do-it-yourself retailer; BLANCO's superior product quality; the complainants' high prices and low-quality products; the competition from non-subject goods; the complainants' robust competition in the low-end of the market; and the complainants' own imports from China and other countries.

5. *Ibid.* at 167.

6. *Ibid.* at 162, 167.

7. On September 17, 2009, the International Trade Administration Commission of South Africa also made a final determination of dumping and subsidizing with respect to stainless steel kitchen sinks originating in or exported from Malaysia. Tribunal Exhibit PI-2011-002-02.01, Administrative Record, Vol. 1C at 111-77.

ANALYSIS

Legislative Framework

13. The Tribunal's mandate in a preliminary injury inquiry is set out in subsection 34(2) of *SIMA*, which requires the Tribunal to determine whether there is evidence that discloses a reasonable indication that the dumping and subsidizing of the subject goods have caused injury or retardation or are threatening to cause injury.⁸ In making its determination, the Tribunal takes into account the factors prescribed in section 37.1 of the *Special Import Measures Regulations*.⁹

14. Subsection 2(1) of *SIMA* defines "injury" as "... material injury to a domestic industry". It also defines "domestic industry" as "... the domestic producers as a whole of the like goods or those domestic producers whose collective production of the like goods constitutes a major proportion of the total domestic production of the like goods except that, where a domestic producer is related to an exporter or importer of dumped or subsidized goods, or is an importer of such goods, 'domestic industry' may be interpreted as meaning the rest of those domestic producers." Therefore, the Tribunal must identify the like goods and the domestic industry that produces those goods before examining allegations of injury or threat of injury.

Like Goods and Classes of Goods

15. The CBSA has defined the subject goods as stainless steel sinks with certain characteristics, including a specific volume capacity, originating in or exported from China, and the Tribunal must conduct its preliminary injury inquiry on the basis of this product description.

16. However, in assessing whether the evidence discloses a reasonable indication that the dumping and subsidizing of the subject goods have caused injury or threaten to cause injury to domestic producers of like goods, the Tribunal must examine whether the domestically produced stainless steel sinks are like goods in relation to the subject goods and may consider whether there is one or more classes of goods.

17. Subsection 2(1) of *SIMA* defines "like goods", in relation to any other goods, as follows:

(a) goods that are identical in all respects to the other goods, or

(b) in the absence of any goods described in paragraph (a), goods the uses and other characteristics of which closely resemble those of the other goods.

18. The complainants submitted that the subject goods constitute one class of goods and that domestically produced stainless steel sinks are identical or similar to the subject goods and, therefore, like goods in relation to the subject goods. In support of their position, they noted that stainless steel sinks produced by domestic producers and the subject goods are made from the same material, are produced on the same equipment, using the same manufacturing process, and are sold through the same channels of distribution.

19. BLANCO did not make any arguments with respect to like goods or separate classes of goods.

8. Subsection 34(2) of *SIMA* allows for a finding of a reasonable indication of "retardation", which, according to subsection 2(1), is defined as "... material retardation to the establishment of a domestic industry." Because, as will be discussed below, a domestic industry for stainless steel sinks already exists in Canada, "retardation" is not an issue in this preliminary injury inquiry.

9. S.O.R./84-927.

20. On the issues of “like goods” and “classes of goods”, the CBSA opined as follows in its statement of reasons:

[28] Certain stainless steel sinks produced by the domestic industry compete directly with and have the same end uses as the subject goods imported from China. Subject and like goods are made from the same input material and produced in the same general manner. Although certain stainless steel sinks have varying physical characteristics (finish, corner radius, etc.), they are fully interchangeable. When sold, certain stainless steel sinks are sold via the same channels of distribution, whether subject or like goods, to the same types of customers and in many cases, to the same customers.

[29] After considering questions of use, physical characteristics and all other relevant factors, the CBSA is of the opinion that subject and like goods constitute only one class of goods.¹⁰

21. In deciding the issues of like goods and classes of goods, the Tribunal typically considers a number of factors, including the physical characteristics of the goods (such as composition and appearance) and their market characteristics (such as substitutability, pricing, distribution channels, end uses, and whether the goods fulfill the same customer needs).¹¹

22. In relation to these factors, the Tribunal recognizes that the evidence in this preliminary injury inquiry indicates that there may be certain physical differences, such as finish and corner radius, between stainless steel sinks produced by domestic producers and the subject goods. In the Tribunal’s view, while the evidence suggests that these goods are not identical in all respects, their close resemblance renders the stainless steel sinks produced by domestic producers “like goods” in relation to the subject goods. Specifically, the evidence on the record indicates that domestically produced stainless steel sinks and the subject goods are interchangeable, compete directly against one another in the marketplace and have the same end uses. In other words, the CBSA’s findings on this issue appear legally and factually sound. Similarly, on the basis of the evidence on the record, the Tribunal agrees with the CBSA’s statement that stainless steel sinks are produced in the same general manner, using the same input material, and are sold in the Canadian market through the same distribution channels. Indeed, the Tribunal notes that the issue of like goods is not contested in this preliminary injury inquiry.

23. Thus, with respect to the issue of like goods, the Tribunal finds that, in the context of this preliminary injury inquiry, stainless steel sinks produced by domestic producers compete with the subject goods and are like goods in relation to the subject goods.

24. Turning to the issue of classes of goods, the question before the Tribunal is whether there are sufficient differences between the various types of stainless steel sinks that comprise the subject goods and the like goods to justify separating them into different classes. On this issue, the Tribunal has not received any evidence or submissions that would contradict the CBSA’s conclusion that the subject goods and like goods constitute a single class of goods. The Tribunal therefore finds that stainless steel sinks comprise a single class of goods for the purpose of this preliminary injury inquiry.

Domestic Industry

25. In its decision to initiate the investigations, the CBSA indicated that the complainants accounted for a major proportion of the domestic production of stainless steel sinks.¹² The CBSA added that there were no other known producers of like goods in Canada.¹³

10. Tribunal Exhibit PI-2011-002-05, Administrative Record, Vol. 1E at 158.

11. See, for example, *Copper Pipe Fittings* (19 February 2007), NQ-2006-002 (CITT) at para. 48.

12. Tribunal Exhibit PI-2011-002-05, Administrative Record, Vol. 1E at 155.

13. *Ibid.* at 156.

26. The complainants submitted that they were not aware of any other Canadian producers of like goods. They indicated, however, that there existed small producers of hand-fabricated stainless steel sinks, which are excluded from the product definition.

27. In addition, the complainants indicated in their complaint that they were themselves importers of the subject goods into Canada. BLANCO alleged that the complainants were major importers of the subject goods. However, the Tribunal notes that BLANCO did not comment on whether that prevented the complainants from accounting for a major proportion of domestic production. In their reply submission, the complainants clarified that their imports of the subject goods were insignificant.

28. The Tribunal observes that the evidence in this preliminary injury inquiry indicates that the volume of subject goods imported by the complainants is small in comparison to the total volume of imports of the subject goods and to the complainants' domestic sales volume of domestic production.¹⁴

29. As indicated above, subsection 2(1) of *SIMA* confers on the Tribunal the discretion to interpret the term "domestic industry" as meaning only the domestic producers that are not related to an exporter or importer of dumped or subsidized goods, or that are not importers of such goods. In other words, in certain circumstances, a domestic producer that is also an importer of the subject goods may be excluded from the domestic industry. The fundamental question that the Tribunal typically examines in this regard in the context of an inquiry under section 42 of *SIMA* is whether the domestic producer is essentially a producer of like goods in Canada or, instead, essentially an importer of dumped or subsidized goods.¹⁵

30. At the preliminary injury inquiry stage, the Tribunal has generally interpreted the term "domestic industry" as including all the domestic producers of like goods, whether or not they imported dumped or subsidized goods. Indeed, determining whether a domestic producer should be excluded from the domestic industry on the basis of its import activities requires a thorough analysis of the circumstances surrounding the importation of dumped or subsidized goods, which is difficult, if not impossible, in the context of a preliminary injury inquiry. Moreover, the preliminary data available concerning the complainants' imports of the subject goods indicate that the volumes are relatively small. Therefore, the Tribunal will not exclude any producer from the scope of the domestic industry on that basis at this stage. The Tribunal notes that it will have the opportunity to revisit this issue by collecting detailed information during its inquiry under section 42 of *SIMA* if, of course, the CBSA issues preliminary determinations of dumping and subsidizing.

31. Accordingly, in this preliminary injury inquiry, the Tribunal finds that the evidence indicates that Novanni and FKC are the only domestic producers of like goods and, thus, are considered to constitute the domestic industry. The Tribunal also finds that Novanni and FKC account for a major proportion of the total domestic production of like goods.

Volume of Dumped and Subsidized Goods

32. The complainants submitted that imports of the subject goods entered the Canadian market in increasing volumes from 2008 to 2010. More precisely, during this period, the absolute volume of imports of the subject goods increased by 170 percent, from over 127,000 units to over 345,000 units. The complainants added that, when comparing the first quarter of 2011 to the first quarter of 2010, the absolute

14. Tribunal Exhibit PI-2011-002-2.01, Administrative Record, Vol. 1 at 39; Tribunal Exhibit PI-2011-002-3.01 (protected), Administrative Record, Vol. 2 at 18, 32.

15. See, for example, *Cross-linked Polyethylene Tubing* (29 September 2006), NQ-2006-001 (CITT) at para. 56.

volume of imports of the subject goods decreased by 10 percent, from over 71,000 units to over 64,000 units. The complainants claimed that the decline was a reflection of the overall contraction of the Canadian apparent market,¹⁶ as discussed later in the “Impact on the Domestic Industry” section.

33. BLANCO submitted that the complainants were inflicting injury upon themselves due to their major imports of the subject goods.

34. The import data compiled by the CBSA show trends comparable to those provided by the complainants in terms of relative share of imports of the subject goods in comparison with other countries and in terms of total imports. The CBSA’s analysis supports the complainants’ claims and shows that there has been a substantial increase in the volume of imports of the subject goods since 2008.¹⁷

35. From 2008 to 2010, the share of the volume of imports of the subject goods relative to the total imports entering the Canadian market increased from 63 percent to 82 percent. In the first quarter of 2011, compared to the first quarter of 2010, the subject goods represented 82 percent of total imports into Canada. In contrast, the share of imports of non-subject goods relative to total imports decreased from 37 percent to 18 percent from 2008 to 2010 and remained stable at 18 percent in the first quarter of 2011.¹⁸

36. The volume of subject goods in the Canadian apparent market also increased relative to both the volume of domestic production and the volume of domestic consumption between 2008 and the first quarter of 2011. While the ratios calculated for 2009 showed modest increases compared to 2008, those for 2010 increased significantly and were at least twice the ratios calculated for 2009. Between 2008 and 2010, the volume of subject goods increased by 60 percentage points relative to both the volume of domestic production and the volume of domestic consumption. Between the first quarter of 2010 and the first quarter of 2011, the volume of subject goods relative to both the volume of domestic production and the volume of domestic consumption increased and represented more than twice the ratios calculated for 2008 and 2009.¹⁹

37. In light of the above, the Tribunal finds that the evidence discloses a reasonable indication that, from 2008 to 2010, the absolute volume of imports of the subject goods increased significantly. In addition, between 2008 and the first quarter of 2011, the volume of imports of the subject goods increased considerably relative to both the volume of domestic production and the volume of consumption of the like goods.

Effect on the Price of Like Goods

38. The complainants submitted that they suffered price erosion, as prices of the subject goods declined steadily and undercut their prices of like goods. The complainants provided confidential evidence at the market-, account- and model-specific levels to illustrate the negative effect of competition from the subject goods on their selling prices and to substantiate their allegations of price undercutting and erosion.

16. Tribunal Exhibit PI-2011-002-2.01, Administrative Record, Vol. 1 at 39; Tribunal Exhibit PI-2011-002-3.01 (protected), Administrative Record, Vol. 2 at 32.

17. Tribunal Exhibit PI-2011-002-05, Administrative Record, Vol. 1E at 159-60, 167.

18. Tribunal Exhibit PI-2011-002-2.01, Administrative Record, Vol. 1 at 39; Tribunal Exhibit PI-2011-002-3.01 (protected), Administrative Record, Vol. 2 at 32; Tribunal Exhibit PI-2011-002-05, Administrative Record, Vol. 1E at 160.

19. Tribunal Exhibit PI-2011-002-2.01, Administrative Record, Vol. 1 at 39; Tribunal Exhibit PI-2011-002-3.01 (protected), Administrative Record, Vol. 2 at 18, 32.

39. BLANCO claimed that the complainants drove price competition in the Canadian apparent market and led pricing down in the highly competitive, low-priced market in Toronto, Ontario. This, according to BLANCO, was a pricing choice on the part of the complainants and did not reflect injury arising from imports of the subject goods.

40. The Tribunal reviewed the evidence in this preliminary injury inquiry and compared the prices of the like goods to the prices of the subject goods in the Canadian apparent market. While the evidence reveals that average unit import prices of the subject goods were consistently and significantly lower than the complainants' average unit selling prices from 2008 to the first quarter of 2011, the Tribunal is cognizant of the fact that this price gap is overestimated, as the comparison is between values for duty and selling values. Nevertheless, between 2008 and the first quarter of 2011, the average unit selling prices of like goods decreased by almost 10 percent compared to a reduction of 11 percent for the much smaller average unit import prices of the subject goods.²⁰ Preliminary data tend to indicate that imports of the subject goods were exerting downward pressure on the complainants' prices. The Tribunal is of the view that, even with adjustments for transportation and other costs, and profit, the estimated average unit selling prices of the subject goods would still undercut the complainants' average unit selling prices.

41. With respect to BLANCO's allegation that the complainants drove price competition in the Canadian market and led pricing down, the Tribunal notes that BLANCO did not provide evidence to substantiate this claim. The Tribunal observes that the evidence in this preliminary injury inquiry suggests, rather, that the subject goods were the low-price leader in the Canadian apparent market, when compared to the complainants' average unit selling prices, as already discussed, and to the average unit values for duty of imports from other countries. Indeed, preliminary information indicates that, in 2008, the average unit price of the subject goods was almost half the average unit price of imports from other countries. Between 2009 and the first quarter of 2011, average unit prices of the subject goods were at least half and even as much as a third of the average unit prices reported for other countries.²¹

42. The Tribunal is of the view that a comparison of the total average unit selling prices of the like goods and those of the subject goods is not always the best approach to determine the effect of the dumped and subsidized imports on the prices of like goods in the Canadian apparent market, due to the issue of product mix. For this reason, the Tribunal examined the complainants' specific injury allegations on customer and model bases. The confidential reports and supporting documents filed by the complainants provide evidence that, from 2008 to the first quarter of 2011, Novanni and FKC suffered price erosion at many of their largest accounts at the hands of the subject goods.²²

43. On the basis of the foregoing, the Tribunal finds that the evidence in this preliminary injury inquiry discloses a reasonable indication that the dumping and subsidizing of the subject goods have resulted in price undercutting and price erosion.

Impact on the Domestic Industry

44. The complainants claimed that the resulting impact of the dumping and subsidizing of the subject goods on the state of the domestic industry is material injury in the form of loss of market share, lost sales, a decline in capacity utilization, a reduction in employment and a decline in revenues, margins and profits.

20. Tribunal Exhibit PI-2011-002-2.01, Administrative Record, Vol. 1 at 42; Tribunal Exhibit PI-2011-002-3.01 (protected), Administrative Record, Vol. 2 at 35.

21. Tribunal Exhibit PI-2011-002-2.01, Administrative Record, Vol. 1 at 42.

22. Tribunal Exhibit PI-2011-002-3.01 (protected), Administrative Record, Vol. 2 at 36-41, 91-151.

45. BLANCO alleged that any injury suffered by the domestic industry is unrelated to the subject goods.

46. The Tribunal examined the evidence provided by the complainants and observes that the domestic industry's performance, on the basis of a number of injury indicators, declined from 2008 to 2010, and between the first quarter of 2010 and the first quarter of 2011.

47. The evidence shows that, in terms of volume, the Canadian market share of the subject goods increased by 23 percentage points between 2008 and 2010, and by 6 percentage points from the first quarter of 2010 to the first quarter of 2011. The subject goods captured their largest shares of the Canadian apparent market in 2010 and the first quarter of 2011.²³ In contrast, the domestic industry's share of the Canadian apparent market declined by 22 percentage points from 2008 to 2010, and by 3 percentage points in the first quarter of 2011 compared to the first quarter of 2010. The much smaller market share of imports of non-subject goods remained relatively constant throughout the entire period, decreasing by only 2 percentage points from 2008 to the first quarter of 2011.²⁴ The evidence in this preliminary injury inquiry seems to disclose a reasonable indication that the domestic industry's decreased market share was caused by the dumping and subsidizing of the subject goods.

48. The evidence reveals that, between 2008 and 2010, and again from the first quarter of 2010 to the first quarter of 2011, there were significant reductions in the domestic industry's domestic production of like goods and capacity utilization rate,²⁵ and significant declines in domestic sales of like goods both in the Canadian apparent market and at specific accounts. While part of the decline in domestic sales in the Canadian apparent market can be explained by the contraction of the market, the Tribunal believes that this only holds true for the first quarter of 2011 when there was a 23 percent reduction in the size of the Canadian apparent market compared to a 19 percent increase from 2008 to 2010. The evidence shows that the sales lost by the domestic industry were more likely the result of the rapid increase in the volume of sales of the subject goods, especially in 2010, when it increased by 132 percent, from over 148,000 units in 2009 to over 345,000 units.²⁶

49. The Tribunal notes that the domestic industry's lost sales are even more apparent when examining the account-specific allegations filed by the complainants. The evidence in this preliminary injury inquiry shows that the domestic industry lost a significant volume of sales at major accounts and, in some instances, even lost the entire account to the low-priced subject goods. The Tribunal observes that the same impact is reflected in Novanni's evidence with regard to sales of high-volume models at specific accounts.²⁷ The Tribunal also observes that BLANCO did not file any evidence to substantiate its claim that FKC's self-inflicted injury was due to its decision to cease doing business with Rona.

50. It follows that a deterioration of these economic indicators adversely affected the domestic industry's employment and financial performance. The evidence indicates that the domestic industry had to reduce its number of employees between 2008 and 2010, and again between the first quarter of 2010 and the first quarter of 2011. A comparison of the data for the second quarter of 2010 and second quarter of 2011

23. *Ibid.* at 32.

24. *Ibid.*

25. *Ibid.* at 18, 44.

26. Tribunal Exhibit PI-2011-002-2.01, Administrative Record, Vol. 1 at 39; Tribunal Exhibit PI-2011-002-3.01 (protected), Administrative Record, Vol. 2 at 32.

27. Tribunal Exhibit PI-2011-002-3.01 (protected), Administrative Record, Vol. 2 at 36-41, 91-151.

shows an even more severe reduction in the domestic industry's employment.²⁸ With respect to the domestic industry's financial performance, the evidence shows that, between 2008 and 2010, there was a constant decline in revenues and gross margins, at the aggregate level, and a reduction in revenues and stable gross margins at the unit level. The evidence suggests that these stable gross margins were only achieved as a result of drastic measures taken by the domestic industry to minimize the effect of lost revenues on its gross margins. However, it is in the first quarter of 2011, compared to the first quarter of 2010, that the domestic industry saw its revenues and gross margins deteriorate significantly, at both the aggregate and unit levels.²⁹ On the basis of the evidence in this preliminary injury inquiry, the Tribunal is of the view that, if the domestic industry had not taken measures to maximize its returns, its financial position would have been far worse.

51. The Tribunal notes that the domestic industry did not provide any information with respect to productivity, return on investment, cash flow and wages. Nevertheless, the Tribunal finds that there is sufficient preliminary evidence on the record to determine that such evidence discloses a reasonable indication that the dumping and subsidizing of the subject goods have caused injury to the domestic industry in the form of lost sales and accounts, a decline in capacity utilization and a reduction in employment, revenues and gross margins.

Other Factors

52. BLANCO argued that any injury suffered by the domestic industry was attributable to factors other than the dumping and subsidizing of the subject goods. These factors include a market slowdown, BLANCO's superior product quality, the domestic industry's high prices and low product quality, and competition from non-subject goods.

53. In rebuttal, the complainants argued that BLANCO's submissions provided no evidence to contradict the evidence in their complaint and raised issues that the Tribunal has routinely considered to be best examined in the context of an inquiry under section 42 of *SIMA*.

Market Slowdown

54. BLANCO contended that the domestic industry's declining sales since 2008 were the result of a significant drop in the Canadian economy, as reflected in lower housing starts, and a decline in Canadian demand for stainless steel sinks since the first quarter of 2010, which coincided with the end of the Government of Canada's Home Renovation Tax Credit.

55. The complainants refuted BLANCO's allegations by alluding to the significant increase in the size of the Canadian apparent market from 2009 to 2010, which was captured entirely by imports of the subject goods.

Product Quality and High Prices

56. BLANCO submitted that its success was due to the superior quality of its product and not to price undercutting. It referred to the complainants' high prices and low-quality products, due to the older Canadian manufacturing facilities, as the cause of their poor financial performance.

28. The complainants provided employment data for the second quarters of 2010 and 2011. Tribunal Exhibit PI-2011-002-3.01 (protected), Administrative Record, Vol. 2 at 44.

29. Tribunal Exhibit PI-2011-002-3.01 (protected), Administrative Record, Vol. 2 at 42-43.

57. The complainants submitted that BLANCO provided no pricing information to corroborate these allegations. The complainants pointed out that they provided evidence of low-priced imports of the subject goods at major accounts and of particular models of stainless steel sinks sold to specific accounts, which refutes BLANCO's allegations.

Competition From Non-subject Goods

58. BLANCO also claimed that the cause of the injury to the domestic industry was the competition from non-stainless steel sinks and hand-fabricated sinks, which, in its opinion, were sufficiently close in price to the subject goods to provide direct competition to the domestic industry.

59. The complainants argued that BLANCO provided no evidence with respect to its own prices of non-stainless steel sinks and hand-fabricated sinks upon which the Tribunal could assess this claim.

Conclusion

60. The Tribunal is of the view that the limited evidence on the record regarding the impact that these other factors may have had on the domestic industry is insufficient to negate the Tribunal's conclusion that the overall evidence discloses a reasonable indication that the dumping and subsidizing of the subject goods have caused injury. It is only in the context of an inquiry under section 42 of *SIMA* that the Tribunal will be in a position to fully probe these or other factors.

CONCLUSION

61. On the basis of the foregoing analysis, the Tribunal determines that there is evidence that discloses a reasonable indication that the dumping and subsidizing of the subject goods have caused injury or are threatening to cause injury.

Serge Fréchette
Serge Fréchette
Presiding Member

Pasquale Michaele Saroli
Pasquale Michaele Saroli
Member

Jason W. Downey
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Member