

Ottawa, Thursday, February 6, 1997

Review No.: RR-96-002

IN THE MATTER OF a review, under subsection 76(2) of the *Special Import Measures Act*, of the finding of material injury made by the Canadian International Trade Tribunal, on February 7, 1992, in Inquiry No. NQ-91-004, concerning:

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

ORDER

The Canadian International Trade Tribunal, under the provisions of subsection 76(2) of the *Special Import Measures Act*, has conducted a review of its finding of material injury made on February 7, 1992, in Inquiry No. NQ-91-004.

Pursuant to subsection 76(4) of the *Special Import Measures Act*, the Canadian International Trade Tribunal hereby rescinds the above-mentioned finding.

Robert C. Coates, Q.C.

Robert C. Coates, Q.C.
Presiding Member

Raynald Guay

Raynald Guay
Member

Lyle M. Russell

Lyle M. Russell
Member

Michel P. Granger

Michel P. Granger
Secretary

Ottawa, Thursday, February 6, 1997

Review No.: RR-96-002

**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 to rescind or continue, with or without amendment, the finding of material injury made by the Canadian International Trade Tribunal on February 7, 1992, in Inquiry No. NQ-91-004.

Place of Hearing: Ottawa, Ontario
Dates of Hearing: November 27 to 29, 1996
Date of Order and Reasons: February 6, 1997

Tribunal Members: Robert C. Coates, Q.C., Presiding Member
Raynald Guay, Member
Lyle M. Russell, Member

Director of Research: Sandy Greig

Research Manager: Ken Campbell

Economist: Ihn Ho Uhm

Statistical Officer: Nynon Pelland

Counsel for the Tribunal: Hugh J. Cheetham

Registration and Distribution Officer: Pierrette Hébert

Participants: Darrel H. Pearson
Peter W. Collins
Sharon E. Maloney
for ZMC Metal Coating Inc.

(Domestic Producer)

Gordon B. Greenwood
Brian J. Barr
for Turnils (Canada) Ltd.
Turnils AB

(Importer/Exporter)

Witnesses:

David W. MacDonald
Manager
Chemicals & Plastics Unit
Primary Industries
Assessment Programs
Department of National Revenue

Nicholas Perugini
US Sales Manager
ZMC Metal Coating Inc.

Luc Savoie
Sales Representative
ZMC Metal Coating Inc.

Barry Sacks
Chartered Accountant
The Sacks Partnership

Danny Parker
Production Manager
Altex

Thomas Hill
Vice-President and General Counsel
HunterDouglas

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

Fred Growden
Remington Window Fashions Ltd.

Philip Ng
President
ZMC Metal Coating Inc.

Address all communications to:

Secretary
Canadian International Trade Tribunal
Standard Life Centre
333 Laurier Avenue West
15th Floor
Ottawa, Ontario
K1A 0G7

Ottawa, Thursday, February 6, 1997

Review No.: RR-96-002

IN THE MATTER OF a review, under subsection 76(2) of the *Special Import Measures Act*, of the finding of material injury made by the Canadian International Trade Tribunal, on February 7, 1992, in Inquiry No. NQ-91-004, concerning:

**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: ROBERT C. COATES, Q.C., Presiding Member
RAYNALD GUAY, Member
LYLE M. RUSSELL, Member

STATEMENT OF REASONS

BACKGROUND

This is a review, under subsection 76(2) of the *Special Import Measures Act*¹ (SIMA) of the finding of material injury made by the Canadian International Trade Tribunal (the Tribunal) on February 7, 1992, in Inquiry No. NQ-91-004, concerning 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 76(2) of SIMA, the Tribunal initiated a review of the finding and issued a notice of review² on August 19, 1996. This notice was forwarded to all known interested parties.

As part of this review, the Tribunal sent questionnaires to the manufacturer, importers and selected purchasers of aluminum coil stock and steel head and bottom rails. From the replies to these questionnaires and other sources, the Tribunal's research staff prepared public and protected pre-hearing staff reports.

As part of its research activities, the Tribunal staff met with the domestic manufacturer and with Turnils (Canada) Ltd., an importer of the Swedish goods, in order to answer any questions pertaining to the questionnaires. The record of this review consists of all relevant documents, including the finding in Inquiry No. NQ-91-004, the notice of review, public and confidential replies to the questionnaires for the 1996 review and the public and protected pre-hearing staff reports for the 1991 inquiry and for this review. All public exhibits were made available to interested parties, while protected exhibits were provided only to independent counsel who had filed a declaration and confidentiality undertaking with the Tribunal.

Public and *in camera* hearings were held in Ottawa, Ontario, from November 27 to 29, 1996.

The domestic producer, ZMC Metal Coating Inc. (ZMC), was represented by counsel at the hearing, submitted evidence and made arguments in support of continuing the finding.

-
1. R.S.C. 1985, c. S-15, as amended by S.C. 1994, c. 47.
 2. *Canada Gazette* Part I, Vol. 130, No. 35, August 31, 1996, at 2498.

An importer, Turnils (Canada) Ltd., and an exporter, Turnils AB, were represented by counsel at the hearing, submitted evidence and made arguments in support of rescinding the finding.

In response to a subpoena issued by counsel for ZMC, an officer of the Department of National Revenue (Revenue Canada) appeared as a witness at the hearing. As well, at the request of the Tribunal, a representative of Altex, a domestic fabricator of horizontal venetian blinds, appeared as a witness at the hearing.

PRODUCTS

The products that are the subject of this review are 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 in thicknesses of 0.20 mm and 0.15 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 is produced from uncoated aluminum coil which is purchased in widths of 127 mm or 76 mm. The coil is passed through a slitting machine where it is cut into strips of desired widths. The strips are then cleaned, coated with a non-chrome solution and painted. The painted strips are wound into coils for shipment to fabricators.

The head rail is the upper rail and encloses the operating mechanism for the blind. 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 that shapes the steel into the required shape of the rails. The rails then pass through a straightener and are cut into desired lengths, usually 4 m. Unpainted rails are painted. The rails are then packaged into cartons for shipment to fabricators.

DOMESTIC PRODUCER

ZMC is the only Canadian producer of aluminum coil stock and steel head and bottom rails. It is a privately owned Canadian company which has been in business since 1985. The firm produces five sizes of aluminum coil stock (25 mm × 0.20 mm; 25 mm × 0.15 mm; 15 mm × 0.20 mm; 15 mm × 0.15 mm; and 50 mm × 0.20 mm) and several types of steel head and bottom rails. The company also markets ancillary products such as brackets, cords, clips and wands.

ZMC markets its products nationally through its own sales force. Shipments are made directly from its Woodbridge, Ontario, factory, usually on an F.O.B. basis. In addition, the company began to pursue the US market more aggressively in 1993, with the hiring of a salesperson based in Atlanta, Georgia.

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. In late 1991, Wrisco was acquired by Turnils AB. Subsequent to the acquisition, Wrisco ceased operations, and production of steel head and bottom rails was terminated.

IMPORTERS/EXPORTERS

Information filed for this review indicates that two Swedish exporters, namely, Turnils AB and AB Sani-Maskiner, shipped the subject goods to related Canadian companies during the review period.

Sales by Turnils AB were made to Turnils (Canada) Ltd., a wholly owned subsidiary. Turnils (Canada) Ltd. markets the subject goods nationally to Canadian fabricators of venetian blinds. In addition, Turnils (Canada) Ltd. sells venetian blind fabrication equipment. Sales by AB Sani-Maskiner were made to Draco Kirsch Canada (Draco), a related company. Draco is a fabricator of venetian blinds.

In addition to Sweden, imports of aluminum coil stock and steel head and bottom rails are made from a number of other countries. The majority of these imports are made by Canadian fabricators that purchase their requirements from related companies. The balance of imports are transacted by smaller fabricators that purchase the goods in the open market from a variety of sources.

SUMMARY OF THE 1992 FINDING

In its finding of February 7, 1992, the Tribunal concluded that aluminum coil stock and steel head and bottom rails were part of one and the same product class. The products are so intimately related that, if not used together by the fabricators of horizontal venetian blinds, aluminum coil stock and steel head and bottom rails would appear to be almost without any purpose or significant commercial use.

The Tribunal considered ZMC to constitute the domestic industry. The Tribunal noted that ZMC accounted for virtually all of the domestic production of the like goods. Because Wrisco was 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,³ chose to exclude Wrisco from the domestic industry.

The evidence showed 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. In the Tribunal's view, the evidence clearly revealed that the domestic producer, ZMC, lost sales in a number of existing accounts, as well as potential sales. The firm reacted mostly in 1991 to dumped imports by offering price discounts and rebate programs related to the sales of aluminum coil stock and steel head and bottom rails. As a result, sales revenue 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 magnitude of these reductions, the Tribunal considered that the past and present injury was material.

The Tribunal saw a clear causal link between the material injury experienced by the domestic producer of the like goods and the dumped imports. The Tribunal was 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, caused ZMC to lose sales and to reduce its prices. Furthermore, Swedish imports, and especially imports by Turnils (Canada) Ltd., had made inroads in the Canadian market as domestic production decreased.

The Tribunal considered arguments that the injury to ZMC was caused by other factors, including general market conditions, the pricing of other window coverings, such as low-priced stock blinds, imports of aluminum coil stock and steel head and bottom rails from the United States, Indonesia, Israel and Taiwan, and the reduction in world aluminum prices. The Tribunal, however, concluded that these factors, alone or in combination, were not a significant contributing element to the injury.

3. *Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade*, Geneva, March 1980, GATT BISD, 26th Supp. at 171.

The Tribunal was also of the view that there was a likelihood of continued material injury from dumped imports because, if the anti-dumping duties were not kept in place, 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.

The Tribunal considered a request for a finding of massive dumping and was also asked to exclude an exporter and certain products in the event of a finding of material injury. On the basis of the evidence, the Tribunal was not persuaded that a finding of massive dumping was justified nor that any exclusions from its finding were warranted.

POSITIONS OF PARTIES

Domestic Producer

Counsel for ZMC argued that the evidence adduced during the course of the review supported a continuation of the finding without amendment. In introductory remarks, counsel compared the domestic market prior to the 1992 finding with the market as it has developed in the years since the finding.

In the submission of counsel for ZMC, market circumstances which existed in the pre-1992 period are not unlike those which ZMC faces today. Although the company was doing very well financially, it was not able to withstand dumping by Turnils AB. Counsel noted that the normal values for Turnils AB were lowered shortly after the finding which, coupled with its new policy of offering discounts on components, allowed the company to do well in 1993 and 1994. However, in 1995, the performance of Turnils (Canada) Ltd. began to deteriorate because of poor domestic market demand and an increase in normal values which resulted from Revenue Canada's review. With the appreciation of the Swedish krona in 1995 and 1996, the normal values for Turnils AB were increased a second time which, combined with continuing poor domestic market demand, resulted in further reduced sales in 1996.

Counsel for ZMC contrasted the performance of Turnils (Canada) Ltd. during the review period with that of ZMC. After the finding, ZMC discontinued rebates, which had been a principal cause of price erosion, and also removed most of its discounts. ZMC also maintained most of its prices, while those of Turnils (Canada) Ltd. were rising. As a result, ZMC was able to recapture market share lost due to the dumping and to increase its sales revenues. In the process, ZMC returned to a healthy financial performance which exceeded performance levels achieved in the pre-dumping period. This improved performance, in counsel's submission, resulted from the Tribunal's finding and confirms that, in the absence of dumping, ZMC was no longer injured.

In addressing the likelihood of a resumption of dumping, absent the finding, counsel for ZMC pointed to a number of factors which indicated that Turnils AB would resume dumping if the finding were rescinded. Among those factors were the large margin of dumping found against Turnils AB in 1991, Turnils AB's low capacity utilization which provides excess capacity available for the purpose of dumping, the fact that Turnils AB was found to be dumping in 1995, and the continuing appreciation of the Swedish krona which has caused the normal values for Turnils AB to be increased and which will require the company to dump in order to maintain sales.

Counsel for ZMC further argued that Turnils AB had not established a premium for its products based on marketing or better service. In respect of Turnils AB's advantage in the colour range of its products, ZMC is catching up. Price, counsel suggested, is thus the main thrust of Turnils AB's marketing strategy.

Counsel for ZMC also argued that Turnils AB has shown a propensity to dump, as witnessed by its subsidiary's practice of discounting blind component prices which commenced shortly after the issuance of the finding in 1992. The fabricators of horizontal venetian blinds buy coil stock, head and bottom rails and components as part of a "system." It is, therefore, the total price of all inputs that is important to the fabricator. Turnils (Canada) Ltd., it was argued, was constrained from discounting prices on the subject goods because of the normal values. Accordingly, the company began to offer discounts on components in order to sell the higher-priced subject goods and, thereby, to circumvent the finding. Counsel claimed that this strategy was evidence of the willingness of Turnils (Canada) Ltd. to compete on price and illustrated the price sensitivity of the market.

Increasing competition for the sale of the subject goods was also offered as evidence of a likelihood of resumed dumping. Growing import competition originating in Israel and the United States, imports of stock blinds from Taiwan and competition from other window covering products will fuel price competition in a soft market and lead to renewed dumping. Counsel for ZMC also pointed to Turnils (Canada) Ltd.'s pricing at a particular account, to Turnils AB's inability, because of high normal values, to sell 0.006-in. gauge coil stock sourced in Sweden and to Turnils AB's willingness to sell in the United States at substantially lower prices than in Canada as additional evidence of a likelihood of resumed dumping in the absence of the finding.

Turning to ZMC's vulnerability in the face of renewed dumping, counsel for ZMC submitted that current market conditions place the company in a tenuous position. Declining housing starts, fewer customers due to bankruptcies, higher levels of doubtful accounts, increasing import competition and the growing popularity of stock blinds were all offered as reasons for ZMC's continuing vulnerability.

Counsel for ZMC argued that, although ZMC had begun a process of diversification, the company needed more time to complete its plans. Moreover, ZMC required protection in the near term to allow for further expansion in the United States in order to exploit its niche markets. Counsel submitted that increased sales in the United States would contribute to fixed costs and thereby reduce ZMC's vulnerability in the future. Finally, counsel argued that, if Turnils AB were to dump at the same price levels at which it sells the subject goods in the United States, ZMC would be materially injured once again.

Importer/Exporter

Counsel for Turnils (Canada) Ltd. and Turnils AB argued in support of a rescission of the finding. They submitted that the evidence had not established either the likelihood that dumping would resume by Turnils AB or the vulnerability of ZMC in the event that the finding were rescinded.

Counsel for Turnils (Canada) Ltd. and Turnils AB suggested that, by focusing on the discounts on components offered by Turnils (Canada) Ltd., counsel for ZMC had diverted attention away from the real issues associated with a likelihood of resumed dumping. Counsel argued that components are non-subject goods and, therefore, that the issue of discounting was not relevant to the matter at hand. In any event, counsel characterized the discounts on components offered by Turnils (Canada) Ltd. as a "customer response approach" which took into consideration its customers' requirements for lower prices in order to remain competitive.

Counsel for Turnils (Canada) Ltd. and Turnils AB claimed that an adverse implication cannot be drawn from Turnils AB's participation in the US market. Turnils AB, it was submitted, entered the US market at the mid-price range, which was not indicative of a propensity to dump. Counsel also argued that the pricing by Turnils (Canada) Ltd. at one particular account was done in error and that this should be considered an isolated incident. In counsel's view, this does not suggest that Turnils AB has a

corporate policy of low pricing, as suggested by counsel for ZMC, nor that there will be a return to the dumping situation that existed five years ago.

Counsel for Turnils (Canada) Ltd. and Turnils AB argued that the facts do not support allegations of a likelihood of resumed dumping. It was submitted that, in the 1992-95 period, Turnils AB's export prices were higher than normal values in spite of the fact that Revenue Canada had not updated normal values over this period. Moreover, shortly after the finding was issued, normal values were reduced in the range of 20 percent. However, Turnils (Canada) Ltd.'s selling prices went down by an average of only 10 percent, which does not support claims of a propensity to dump. Further, the dumping found in 1995 was minimal and resulted from market forces that were changing more quickly than Turnils (Canada) Ltd. was able to anticipate. This "indirect" dumping was a single occurrence which was corrected in the second normal value review in 1996.

Counsel for Turnils (Canada) Ltd. and Turnils AB also argued that imports by Turnils (Canada) Ltd. of coil stock from Israel refute allegations of a propensity to dump. There was no evidence that these imports were dumped and, although purchased at a cheaper price than Swedish coil, Turnils (Canada) Ltd. did not discount these imports into the Canadian market. Finally, counsel addressed the matter of excess production capacity of Turnils AB and claimed that the mere existence of surplus capacity says nothing about a propensity to dump. Counsel argued that Turnils AB has always had capacity available in Sweden and through related companies located in other parts of the world. Although Turnils AB had enough excess capacity to take as much of the Canadian market as it wished, counsel suggested that it was clearly not Turnils AB's corporate policy to do so.

In addressing the question of vulnerability, counsel for Turnils (Canada) Ltd. and Turnils AB submitted that ZMC presented a blurred perspective about its vulnerability and its prosperity. In counsel's view, ZMC is a thriving company which has established itself as a dominant supplier in the domestic market. ZMC complaints of downward sales trends were, in fact, isolated to the first half of 1996. The evidence indicates that the company rebounded in the second half of the year and has returned to its previous level of prosperity. Furthermore, ZMC's performance on the export market leaves no doubt that it will succeed. Although ZMC may be disappointed with its financial results on its US exports, counsel suggested that this disappointment had more to do with subjective accounting allocations than it did with reality.

Counsel for Turnils (Canada) Ltd. and Turnils AB submitted that ZMC's financial performance over the period of review had been enviable and was probably understated because of the company's method of allocating management fees and bad debts. Counsel also pointed to ZMC's absence of debt as evidence of a lack of vulnerability. With respect to pricing issues, counsel argued that ZMC's deliberate policy to hold the line on list prices after the 1992 finding was not the result of competitive market pressures, but rather a decision to maximize volume. Although ZMC did not increase list prices, it discounted habitually and by large amounts on sales of coil stock and rails and occasionally on components. In counsel's view, an analysis of the pricing data contained in the pre-hearing staff report confirms that ZMC's prices were lower on average than those of Turnils (Canada) Ltd. This low pricing resulted in a substantial volume move in favour of ZMC. In conclusion, counsel suggested that the evidence demonstrated ZMC's ability not only to succeed in the Canadian market but also to succeed in the even tougher US market. ZMC had also moved into new product lines, such as 50-mm coil stock and wooden blinds. In spite of this success, ZMC was now asking the Tribunal to be the guarantor of its prosperity by continuing the finding.

REASONS FOR DECISION

In deciding whether to rescind or continue, with or without amendment, a finding, the Tribunal considers two fundamental questions. Before the Tribunal continues a finding, it must be satisfied that, in the absence of the finding, dumping is likely to resume and, if so, whether resumed dumping is likely to cause material injury to the domestic industry.

Likelihood of Resumed Dumping

Sales of coil stock and rails are highly dependent upon residential and commercial construction. Statistics Canada data indicate a sustained decline in construction starts throughout the first half of this decade⁴ which has had a corresponding negative effect on sales of the subject goods. While total domestic demand fell by almost \$4 million between 1990 and 1995, the decline was primarily absorbed by US sourced coil stock and rails. Although imports from Sweden had to contend with the Tribunal's injury finding of February 1992, data collected for this review show that Swedish suppliers more than held their own and actually increased the value of their sales in the domestic market compared to the pre-finding period.⁵

The evidence indicates that, subsequent to the injury finding, Swedish exporters have generally been able to compete in the Canadian market without resorting to dumping. With respect to Turnils AB, the Tribunal notes that no anti-dumping duties were assessed against this company's shipments to Canada until 1996. However, as a result of a review by Revenue Canada, secondary dumping was found on certain imports made by Turnils (Canada) Ltd. during the period from April 1, 1995, to March 31, 1996. The Tribunal notes that dumping was found in a period of declining sales⁶ for Turnils (Canada) Ltd., but that Turnils (Canada) Ltd. took actions in 1995 and 1996 to reduce its general, selling and administrative expenses,⁷ including the release of its last salesperson, and raised prices⁸ to avoid dumping in the Canadian market. The Tribunal is of the view that neither the amount of anti-dumping duty assessed nor the margin of dumping was of a significant magnitude.⁹ Moreover, the duration of the dumping was short-lived, as Revenue Canada's second review, covering the period from April 1 to August 31, 1996, found that no dumping had occurred.

A second Swedish exporter of the subject goods, namely, AB Sani-Maskiner, also shipped during the course of the period of review. The record indicates that all sales were made to Draco, a related company located in the province of Quebec. The Tribunal notes that the evidence suggests that no anti-dumping duties have been assessed against shipments made by this company since the finding.¹⁰

In the Tribunal's view, Turnils AB has attempted to maintain a corporate policy as a fair trader. The company markets its products in more than 100 countries, and its exports account for 75 percent of company revenues. With the exception of Canada, Turnils AB has not been involved in dumping proceedings in any

4. *Public Pre-Hearing Staff Report*, October 21, 1996, Tribunal Exhibit RR-96-002-5, Administrative Record, Vol. 1 at 79.

5. *Protected Pre-Hearing Staff Report*, October 21, 1996, Tribunal Exhibit RR-96-002-6 (protected), Administrative Record, Vol. 2 at 45-46.

6. *Ibid.* at 18-21.

7. *Transcript of In Camera Hearing*, November 28, 1996, at 275.

8. Importer/Exporter's Exhibit B-6 (protected), Administrative Record, Vol. 12.

9. Tribunal Exhibit RR-96-002-4A (protected), Administrative Record, Vol. 2 at 0.33.

10. Tribunal Exhibit RR-96-002-4 (protected), Administrative Record, Vol. 2 at 0.2-0.31.

other jurisdiction.¹¹ Turnils AB, through its corporate relationship with HunterDouglas, has access to substantial capacity of a number of major coil stock and rail producers located in countries other than Sweden and, therefore, outside the scope of the finding. However, with the exception of one shipment transacted from Holis Metal Industries, a related company located in Israel, Turnils AB has not purchased from other sources. Further, the evidence with respect to the Holis Metal Industries shipment lends support to the efforts of Turnils AB to maintain a good corporate image. This shipment of coil stock was not up to Turnils AB's quality standards. However, instead of discounting the product into the Canadian market, the company has looked for alternatives to avoid selling an inferior product.¹² In the Tribunal's opinion, the fact that the company has excess capacity does not necessarily lead to the conclusion that it will use this capacity to increase sales at any price. Sales to Canada have historically represented a small part of Turnils AB total sales.

With respect to the US market, the Tribunal notes that Turnils AB, by its own admission, is a small player in that market and has focused its sales efforts on small- to medium-sized fabricators at mid price points.¹³ There is no evidence to suggest that this is likely to change in the near future. Given Turnils AB's excess production capacity, it would be expected that the company could have made major inroads in the US market if it had resorted to low pricing. Moreover, although price competition in the US market appears to be more severe than in Canada, the Tribunal is not persuaded to the view that Turnils AB's selling prices to Canada will drop to US pricing levels, absent the finding. As previously noted, Turnils (Canada) Ltd. has maintained a strong presence in Canada in spite of the finding and has generally done so without resorting to dumping.

Similarly, evidence presented with respect to pricing by Turnils (Canada) Ltd. at a particular account does not, in the Tribunal's view, indicate a practice of dumping. In this regard, the Tribunal has considered the circumstances of the pricing, the parties involved in the transaction¹⁴ and the fact that the prices were offered only to this one account and only for purchases made in 1994.¹⁵ In any event, the evidence does not confirm that this pricing resulted in sales at dumped prices.

During the hearing, counsel for ZMC presented considerable evidence designed to show that Turnils AB had attempted to circumvent the finding by offering its customers discounts on components. However, a relationship, if any, between Turnils (Canada) Ltd.'s component discounting and the secondary dumping found during the period from April 1, 1995, to March 31, 1996, is not clear. In any case, the Tribunal has already indicated that it did not consider the amount of anti-dumping duty assessed and the margin of dumping for that period to be of a significant magnitude. Moreover, although the evidence was conflicting, it is clear that components represent somewhat less than a third of the total material input costs in the production of horizontal venetian blinds. No doubt discounts by Turnils (Canada) Ltd., which averaged around 20 percent,¹⁶ assisted the company in maintaining or gaining sales. However, in the Tribunal's opinion, Turnils AB's reputation for quality, its emphasis on marketing a complete "system" and the need for

11. Importer/Exporter's Exhibit B-2, Administrative Record, Vol. 11.

12. Importer/Exporter's Exhibit B-1 (protected), Administrative Record, Vol. 12.

13. Importer/Exporter's Exhibit B-2, Administrative Record, Vol. 11; and Manufacturer's Exhibit A-24, Administrative Record, Vol. 9.

14. *Transcript of In Camera Hearing*, November 27, 1996, at 36-37; and *Transcript of In Camera Hearing*, November 28, 1996, at 289-94.

15. *Transcript of In Camera Hearing*, November 28, 1996, at 289; and Importer/Exporter's Exhibit B-7, Administrative Record, Vol. 11.

16. *Transcript of In Camera Hearing*, November 28, 1996, at 282.

customers to maintain consistency in colours¹⁷ also contributed to its success in maintaining a strong market presence.

In summary, the Tribunal concludes that there is not a likelihood of resumed dumping and, therefore, that the finding should be rescinded. The evidence suggests that these companies have made efforts to ensure that they will continue to participate in the Canadian market and that they can successfully do so without resorting to dumping. Clearly, after five years of experience, they are aware of the remedial action available to the domestic industry should dumping resume.

Having come to the conclusion that the finding should be rescinded, the Tribunal wishes to comment on the current position of the domestic producer.

As noted, market demand for aluminum coil stock and steel head and bottom rails has been depressed compared with the pre-finding period.¹⁸ Less residential and commercial construction, competition from a host of window covering products, including the growing popularity of stock venetian blinds, and the continuing competition from a number of offshore suppliers have all contributed to a highly competitive domestic market. As a result of these market factors, several fabricators of horizontal venetian blinds have exited the market, often through bankruptcy. Moreover, suppliers of coil stock and rail have been faced with uncertain payments for their products, as bad debts have become a growing hazard of the business.

Within this difficult market, the performance of ZMC has been impressive. A review of the economic indicators in this case reveals the level of success achieved by the company since the issuance of the finding in early 1992. The clearest manifestation of that success has been the financial performance of ZMC over the period of review.

Data submitted by ZMC indicate that net revenues earned on domestic sales of coil stock and rail increased steadily between 1993 and 1995. Although production and selling costs also increased during this three-year period, the cost increases were modest when viewed in relation to changes in sales revenue. The financial results during this period are reflected in the very healthy gross margins and net profits earned on sales of like goods. The evidence shows that ZMC's bottom-line results between 1993 and 1995 even exceeded the profits earned in the pre-dumping period prior to mid-1990.¹⁹

Counsel for ZMC argued that the company's deteriorating financial results in the first half of 1996 were evidence of its vulnerability to a resumption of dumping. Declining sales revenue combined with rising production costs, particularly increased costs for aluminum, were offered as evidence of this vulnerability. A review of the evidence, however, indicates that the combination of decreased revenue and higher costs had a modest impact on gross margins. Although net profits declined, they too remained at a high level. Moreover, ZMC's sales revenue for fiscal 1996 reveal that the downturn in the first half of the year was temporary. In fact, the company's full fiscal 1996 sales revenue for coil stock and rails slightly exceeded its

17. *Transcript of Public Hearing*, November 27, 1996, at 87-91; and *Transcript of In Camera Hearing*, November 27, 1996, at 44-46.

18. *Public Pre-Hearing Staff Report*, October 21, 1996, Tribunal Exhibit RR-96-002-5, Administrative Record, Vol. 1 at 102-103.

19. *Protected Pre-Hearing Staff Report*, October 21, 1996, Tribunal Exhibit RR-96-002-6 (protected), Administrative Record, Vol. 2 at 23; and *Protected Pre-Hearing Staff Report*, December 10, 1991, Inquiry No. NQ-91-004, Tribunal Exhibit RR-96-002-9 (protected), Administrative Record, Vol. 2.1 at 18.

fiscal 1995 sales revenue.²⁰ Further, while ZMC's bottom-line financial results on its export sales do not match results achieved on domestic sales, the evidence suggests that its US sales have made a significant contribution to the company's fixed costs.²¹

The Tribunal also notes the success achieved by ZMC in regaining sales and market share lost to dumping in the 1990-91 period. As a result of the finding, Turnils AB prices increased, while ZMC chose to maintain list prices in order to gain sales. This pricing decision, in combination with discounting where necessary to meet market competition, benefited the company, as sales and market share increased sharply. In 1995-96, ZMC increased list prices in order to keep pace with rising costs. Although market demand declined in late 1995 through the first half of 1996, these price increases offset lost sales volume by ZMC. As a result, in spite of decreased demand, ZMC was able to maintain sales revenue in fiscal 1996 which matched levels achieved in fiscal 1995.

In summary, ZMC's healthy financial results, gains in domestic sales and market share, strong export performance and increases in employment and capacity utilization levels are all positive indicators. ZMC has used the period provided by the finding to regain past losses and to strengthen its position in the domestic market.

CONCLUSION

For the foregoing reasons, the Tribunal hereby rescinds the finding in respect 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.

Robert C. Coates, Q.C.

Robert C. Coates, Q.C.
Presiding Member

Raynald Guay

Raynald Guay
Member

Lyle M. Russell

Lyle M. Russell
Member

20. Manufacturer's Exhibits A-9 (protected) and A-17 (protected), Administrative Record, Vol. 10.

21. *Protected Pre-Hearing Staff Report*, October 21, 1996, Tribunal Exhibit RR-96-002-6 (protected), Administrative Record, Vol. 2 at 24.