



Ottawa, Tuesday, July 28, 1998

Review No.: RR-97-007

IN THE MATTER OF a review, under subsection 76(2) of the *Special Import Measures Act*, of the findings made by the Canadian International Trade Tribunal on July 29, 1993, in Inquiry No. NQ-92-009, concerning:

**CERTAIN COLD-REDUCED FLAT-ROLLED SHEET PRODUCTS OF
CARBON STEEL (INCLUDING HIGH-STRENGTH LOW-ALLOY STEEL)
ORIGINATING IN OR EXPORTED FROM THE FEDERAL REPUBLIC OF
GERMANY, FRANCE, ITALY, THE UNITED KINGDOM AND
THE UNITED STATES OF AMERICA**

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 findings made on July 29, 1993, in Inquiry No. NQ-92-009.

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

Robert C. Coates, Q.C.
Robert C. Coates, Q.C.
Presiding Member

Raynald Guay
Raynald Guay
Member

Patricia M. Close
Patricia M. Close
Member

Michel P. Granger
Michel P. Granger
Secretary

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Special Import Measures Act - Whether to rescind or continue, with or without amendment, the findings made by the Canadian International Trade Tribunal on July 29, 1993, in Inquiry No. NQ-92-009.

Place of Hearing: Ottawa, Ontario
Dates of Hearing: May 20 to 27, 1998
Date of Order and Reasons: July 28, 1998

Tribunal Members: Robert C. Coates, Q.C., Presiding Member
Raynald Guay, Member
Patricia M. Close, Member

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Lead Researcher: Don Shires

Economist: Dennis Featherstone

Statistical Officer: Margaret Saumweber
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Ronald C. Cheng
Gregory O. Somers
Benjamin P. Bedard
for Algoma Steel Inc.
Ispat Sidbec Inc.

(Domestic Manufacturers)

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Alia Tayyeb
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LTV Steel Company, Inc.
Bethlehem Steel Export Corporation
National Steel Corporation
Inland Steel Company
AK Steel Corporation

Peter Clark
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Titan Tool & Die Ltd.
Magna International Inc.
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National Steel Corporation
Inland Steel Industries, Inc.
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Christopher J. Kent
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Donald J. Goodwin
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Stahlwerke Bremen GmbH
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EKO Stahl GmbH

Arthur O. Jacques
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Darrel H. Pearson
for Automotive Parts Manufacturers' Association

(Importers/Exporters/Other Parties)

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Ottawa, Tuesday, July 28, 1998

Review No.: RR-97-007

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TRIBUNAL: ROBERT C. COATES, Q.C., Presiding Member
RAYNALD GUAY, Member
PATRICIA M. CLOSE, Member

STATEMENT OF REASONS

BACKGROUND

This is a review, under subsection 76(2) of the *Special Import Measures Act*¹ (SIMA), of the findings of material injury made by the Canadian International Trade Tribunal (the Tribunal) on July 29, 1993, in Inquiry No. NQ-92-009,² concerning certain cold-rolled steel sheet originating in or exported from the Federal Republic of Germany (Germany), France, Italy, the United Kingdom and the United States of America. It should be noted that separate findings were made for the four EU countries and for the United States because of the requirement of subsection 43(1.1) of SIMA that a separate finding be made with respect to the United States.

Pursuant to subsection 76(2) of SIMA, the Tribunal initiated a review of the findings and issued a notice of review³ on January 20, 1998. This notice was forwarded to all known interested parties. As part of this review, the Tribunal sent questionnaires to Canadian manufacturers, importers, purchasers and foreign manufacturers of cold-rolled steel sheet. From the replies to these questionnaires and other sources, the Tribunal's research staff prepared public and protected pre-hearing staff reports.

The record of this review consists of all relevant documents, including the findings, the notice of review and public and confidential replies to the questionnaires. All public exhibits were made available to interested parties, while protected exhibits were provided only to independent counsel who had filed a declaration and undertaking with the Tribunal.

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1. R.S.C. 1985, c. S-15, as amended by S.C. 1994, c. 47.
 2. *Findings*, July 29, 1993, *Statement of Reasons*, August 13, 1993.
 3. *Canada Gazette* Part I, Vol. 132, No. 5, January 31, 1998, at 173-74.

Public and in camera hearings were held in Ottawa, Ontario, from May 20 to 27, 1998.

The domestic manufacturers, Stelco Inc. (Stelco), Dofasco Inc. (Dofasco), Algoma Steel Inc. (Algoma) and Ispat Sidbec Inc. (Ispat), were represented by counsel at the hearing. Evidence was presented and arguments were made in support of continuing the findings.

Aciers Francosteel Canada Inc. (Francosteel); British Steel Canada Inc. (BSC); Sollac, Aciers d'Usinor (Sollac); United States Steel International, Inc. (US Steel); LTV Steel Company, Inc. (LTV); Bethlehem Steel Export Corporation (Bethlehem); National Steel Corporation (National); Inland Steel Company (Inland); AK Steel Corporation (AK Steel); German Steel Federation; Krupp Fabco Inc.; Titan Tool & Die Ltd.; Karmax Heavy Stamping; Magna International Inc.; and Maksteel Inc. were also represented by counsel at the hearing. Evidence was presented and arguments were made by their counsel in support of rescinding the findings. Royal Canadian Steel Inc., an importer/distributor, was represented by counsel at the hearing and arguments were made in support of an exclusion for non-prime or secondary cold-rolled steel sheet from any continuation of the findings.

SUMMARY OF THE INJURY FINDINGS IN INQUIRY NO. NO-92-009

On July 29, 1993, the Tribunal found that the dumping in Canada of cold-reduced flat-rolled sheet products of carbon steel (including high-strength low-alloy steel), in coils or cut lengths (not painted, clad, plated or coated), in widths up to and including 80 in. (2,032 mm) and in thicknesses from 0.014 in. to 0.142 in. (0.35 mm to 3.61 mm) inclusive, but not including cold-rolled steel strip made to ASTM A109/A109M specifications, originating in or exported from Germany, France, Italy, the United Kingdom and the United States, had caused, was causing and was likely to cause material injury to the production in Canada of like goods, excluding:

- (i) the subject sheet, containing not more than 100 parts per million of aluminum, for use in the manufacture of flux-core welding wire;
- (ii) cold-rolled motor lamination steel, having a maximum core loss to thickness ratio of 0.11 watt per pound per one thousandth of an inch measured at a frequency of 60 hertz and an induction of 1.5 teslas made to ASTM A34 and A343 specifications, for use in the manufacture of magnetic core laminations;
- (iii) cold-rolled steel strip made to ASTM A682/A682M and A684/A684M specifications;
- (iv) the subject sheet, exported by National to Canada and re-exported, provided that title to such sheet as imported, further processed and re-exported from Canada remains with National and provided that it is not sold in Canada, but re-exported; and
- (v) the subject sheet, exported from the United States for electrogalvanizing by Metal Koting Continuous Colour Coat Limited, and re-exported, provided that title to such sheet as imported, further processed and re-exported from Canada remains with the US exporters and provided that it is not sold in Canada, but re-exported.

In addition to the dumping, the Tribunal examined a broad range of factors that affected the Canadian market for cold-rolled steel sheet, including: (1) rationalization of the US steel industry starting in the 1980s; (2) overcapacity and weak markets in both Europe and the United States in the 1990s; (3) the effects on demand and prices of the 1990-91 recession; (4) the implementation of the *Canada-United States*

Free Trade Agreement;⁴ and (5) the effects of the 1990 Stelco and Algoma strikes and of the Stelco furnace reline in 1991. The Tribunal found that, by 1992, the effects of these factors had become unimportant, particularly on prices, compared to the materially injurious effects of imports at dumped prices.

The evidence before the Tribunal demonstrated that dumped imports caused a severe decline in the domestic industry's prices for cold-rolled steel sheet in 1992. From 1989 through 1992, Canadian mills faced strong and increasingly intense low-priced competition from the four European countries and the United States. By 1991, imports accounted for 13 percent of the market, up significantly from 5 percent in 1989. Cold-rolled steel sheet prices declined over this period. By 1992, domestic mills had decided to meet the competition's dumped prices to recover market share and achieve adequate plant loading. In 1992, the Department of National Revenue (Revenue Canada) found average margins of dumping ranging from 17 to 46 percent. In meeting the dumped price competition, the industry suffered severe financial losses, declining from a profit of \$68 million in 1989 to a loss of \$44 million in 1992. On this basis, the Tribunal made findings of past and present injury. The Tribunal also found that, without anti-dumping duties, prices would remain at low levels and cause material injury in the future.

The Tribunal excluded certain products from its findings of material injury because the domestic mills did not produce them. More particularly, the Tribunal excluded certain cold-rolled steel sheet with a low aluminum content, cold-rolled steel strip with a high carbon content and cold-rolled motor lamination steel sheet. The Tribunal also excluded certain US-made cold-rolled steel sheet that is exported to Canada by certain named US producers for further processing and then re-exported to the United States. The exclusion prevents the imports from entering the Canadian market either as cold-rolled substrate or as a finished galvanized product. The Tribunal granted the exclusion on the basis that the imported steel would not displace the domestic production of like goods.

PRODUCTS

The products that are the subject of this review are described as cold-reduced flat-rolled sheet products of carbon steel (including high-strength low-alloy steel), in coils or cut lengths (not painted, clad, plated or coated), in widths up to and including 80 in. (2,032 mm) and in thicknesses from 0.014 in. to 0.142 in. (0.35 mm to 3.61 mm) inclusive, but not including cold-rolled steel strip made to ASTM A109/A109M specifications, and excluding the cold-rolled steel products defined previously, originating in or exported from the aforementioned countries.

The product definition includes prime and secondary goods (i.e. goods that do not meet specifications) in the above widths and thicknesses.

The subject goods include, but are not limited to, the following quality and end-use specifications:

- (1) commercial-quality sheet (ASTM A366/A366M);
- (2) sheet for porcelain enamelling (ASTM A424/A424M), Type 1;⁵

4. *Canada Treaty Series*, 1989, No. 3 (C.T.S.).

5. On February 26, 1998, imports of vitreous type I cold-rolled steel produced by the open coil anneal process were granted remission of the anti-dumping duties paid or payable during the period from June 1 to October 31, 1997, *Order Respecting the Remission of Anti-Dumping Duties on Vitreous Type I Cold-Rolled Steel*, SOR/98-135, February 26, 1998, *Canada Gazette* Part II, Vol. 132, No. 6 at 845, Tribunal Exhibit RR-97-007-35, Administrative Record, Vol. 1A at 187.

- (3) structural-quality sheet (ASTM A611/A611M);
- (4) drawing-quality sheet (ASTM A619/A619M);
- (5) drawing-quality sheet - special killed (ASTM A620/A620M);
- (6) deep drawing-quality sheet (ASTM A620/A620M);
- (7) extra deep drawing-quality sheet/interstitial free (ASTM A620/A620M);
- (8) intermediate- and full-hard temper sheet; and
- (9) high-strength, low-alloy steel sheet equivalent to ASTM A607/A607M, Class 1 Type 1 and Class 2 Type 1.

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

Commercial-quality sheet (ASTM A366/A366M) is the most common specification of cold-rolled steel sheet. Sheet of this quality is intended for exposed (to the elements) or unexposed uses, where bending, moderate drawing, forming and welding may be involved. Drawing-quality sheet (ASTM A619/A619M) is used to fabricate exposed or unexposed parts, where drawing or severe forming may be involved. Drawing-quality, special-killed material (ASTM A620/A620M) is used to fabricate goods where particularly severe drawing or forming may be involved, or essential freedom from ageing is required.

There are several other qualities of cold-rolled steel sheet used for particular applications which must meet, for example, tensile-strength, drawing or forming, corrosion-resistance, elongation, hardness and weight requirements. In addition to market sales, cold-rolled steel sheet is used as a feedstock or “substrate” to produce other flat-rolled steel products, primarily coated products such as galvanized and tin-plated sheet.

Cold-rolled steel sheet is sold primarily in coils, but it can also be sold in cut lengths.

Manufacturing Process

Cold-rolled steel sheet is produced by cold rolling coils of hot-rolled steel sheet. The initial hot-rolled coil is produced by rolling a hot slab (7 to 10 in. thick) through a continuous strip or reversing hot-roll mill which reduces the slab to a sheet of a specified thickness.⁶ Controlled variations in heating, cooling and rolling pressure help to give the sheet the required metallurgical properties. After cooling, the hot-rolled steel is pickled and oiled, a process that removes surface rust and applies a light coating of oil to prevent further oxidization. This hot-rolled steel sheet (referred to as “hot band”) is then reduced in thickness by cold rolling or cold reducing to the desired thickness. Cold rolling produces a very brittle product referred to as “full hard.” Steel sheet in this condition can be used for some applications. However, for the majority of applications, the steel must be more pliable or ductile. This is achieved by annealing, which involves heating the coils to a specific temperature at a controlled rate, in a special atmosphere of gases, holding the temperature for a specific period of time and then cooling the coils at a specific rate. The annealed steel is referred to as “dead soft.” The coils are then temper rolled to impart the degree of hardness and surface finish specified by the customer. The cold-rolled steel sheet can then be sold either in coil form or in cut lengths. The term “sheet” is used to distinguish cold-rolled sheet from cold-rolled strip, which is a much narrower product (less than 24 in.) with closer gauge tolerances than most cold mills are able to achieve. Cold-rolled

6. The sheet thickness is in the order of 0.2 in. Tribunal Exhibit RR-97-007-5, Administrative Record, Vol. 1A at 16.

sheet is sold in widths of less than 24 in., but is not considered strip, as it does not meet strip gauge tolerances.

The cold-rolled sheet may be sold or moved to another line operated by the domestic producer to be used as a substrate in the production of a further processed product, for example, galvanized steel.⁷ The cold-rolled coil might also be shipped to another party for further processing, then returned to the manufacturer. The further processor does not take title to the product and is paid a fee for the processing done. The industry refers to this type of arrangement as “tolling.”⁸

Distribution

Domestically produced cold-rolled steel sheet is sold directly to end users/manufacturers mainly for the automotive, appliance, tubing, strapping, pails and drums industries, to further processors/warehouse, such as coil coaters and galvanizers, and to steel service centres (distributors). An increasing share of domestic mills' sales to the automotive sector is subject to OEM automotive resale programs.⁹ Steel service centres stock standard sizes for resale in smaller quantities to end users and offer custom cutting, slitting and blanking services. The bulk of the subject goods are sold to steel service centres. Cold-rolled steel sheet is also imported in connection with automotive resale programs.

DOMESTIC PRODUCERS

Four domestic mills account for the total production of cold-rolled steel sheet in Canada.

Dofasco

Dofasco is a vertically integrated, primary iron and steel producer. Head office, sales, administrative and production facilities are located in Hamilton, Ontario. Its cold-rolling facility is also located in Hamilton. Dofasco's principal products include sheet and coils of hot- and cold-rolled steel, galvanized and Galvalume steel, tin plate, chromium-coated steel and tubing. Dofasco's cold-rolling facility consists of three five-stand tandem mills and one reversing mill. Dofasco has interests in a number of joint venture operations, including Sorevco Inc., Coteau-du-Lac, Quebec, and DNN Galvanizing Limited Partnership, Windsor, Ontario (producers of hot-dipped galvanized steel), Baycoat Inc., Hamilton, Ontario (a producer of prepainted flat-rolled steel), and Gallatin Steel, Gallatin, Kentucky (a mini-mill producing hot-rolled steel).

In December 1997, Dofasco announced its intention to construct a 72-in. wide hot-dip galvanizing line in Hamilton. In 1998, Dofasco entered into a joint venture agreement with Sollac to produce an automotive exposed galvanized product. Sollac and Dofasco will supply 20 percent and 80 percent of the cold-rolled feedstock respectively.

7. Dofasco and Stelco have galvanizing lines that are supplied with cold-rolled sheet from the companies' own production. Tribunal Exhibit RR-97-007-5, Administrative Record, Vol. 1A at 17.

8. DNN Galvanizing Limited Partnership located in Windsor, Ontario, is a tolling operation jointly owned by Dofasco, National and NKK Steel of Japan. Tribunal Exhibit RR-97-007-5, Administrative Record, Vol. 1A at 17.

9. Automotive resale programs involve the automobile manufacturers acquiring the steel, through negotiations with the mills, that will be used by parts manufacturers that are contracted to supply parts to the automobile company. The mill ships the steel to the parts manufacturer to meet the requirements of the parts manufacturer's production schedule. Importer's Exhibit F-2 at 2, Administrative Record, Vol. 13A.

In 1993, Dofasco closed its Number 1 oxygen furnace steel-making operation that only produced ingots and its Number 1 hot mill which could only roll ingots. In 1994, Dofasco ceased production of silicon electric steel. The annealing equipment for that product is now used for cold-rolled and tin metal products, and the rolling mill is now used as a temper mill. In 1996, Dofasco commenced operation of an electric arc furnace slab caster facility which is a scrap-based steel production technology. Also in 1996, the company converted the existing slab caster from 10.0- to 8.5-in. thick slabs.

Stelco

Stelco is a vertically integrated, primary iron and steel producer. Its cold-rolling facilities are located in Hamilton, Ontario, and consist of a five-stand tandem cold-rolling mill built in 1948 and a four-stand tandem mill built in 1967. Since 1967, the four-stand mill has been modernized to meet the requirements of various Stelco customer groups, especially in the automotive sector. In 1997, Stelco announced a \$12.5 million upgrade installation of quick roll change technology planned for July 1998. In February 1998, Stelco announced a further \$47.5 million upgrade of the four-stand mill which will equip the mill with hydraulic gauge controls on all four stands, closed-loop shape controls and other improvements. Future investments include an upgrade of the four-stand tandem mill at Hilton Works intended to significantly increase its capacity. This upgrade will be completed in 1999.

Hilton Works and Lake Erie Steel Co. Ltd. supply hot-rolled sheet or hot band used in the production of cold-rolled steel sheet at Hilton Works.

Ispat

Ispat consists of five strategic business units (SBUs): Primary Operations, Wire Rods, Bars and Shapes, Flat-Rolled Products and Pipes. Its principal facility, located in Contrecoeur, Quebec, produces steel slabs, billets, direct reduced iron, hot-rolled sheet, hot-rolled pickled sheet, cold-rolled sheet, wire rods, bars in coils and some rebar. At its Longueuil, Quebec, plant, Ispat produces special quality bars in rounds and flats, along with rebar, and at its Montréal, Quebec, facility, it produces pipe products. The Primary Operations SBU manufactures the slabs which are hot-rolled and converted into hot bands at the Flat-Rolled Products SBU. The hot bands are pickled before going through a second rolling stage at the cold mill. The cold-rolling plant consists of two reversing mills which have a combined annual capacity of approximately 365,000 net tons. Ispat has an interest in Sorevco Inc., a producer of galvanized steel.

Algoma

Algoma is a vertically integrated, primary iron and steel producer. Its cold-rolling facility is located in Sault Ste. Marie, Ontario, and consists of a single reversing mill. In addition to cold-rolled steel sheet, Algoma produces a broad range of steel products, including flat-rolled sheet and plate, structural shapes, seamless tubular products and various semi-finished products. During 1996 and 1997, Algoma upgraded a number of systems at the facilities. Future planned upgrades include investments to meet the thickness tolerance requirements of a broader range of the products and investments in pickler upgrades.

EXPORTERS AND IMPORTERS

The principal exporters identified in the 1992 inquiry that appeared in the 1998 review included LTV, US Steel, Bethlehem, Inland (United States) and Sollac (France). Principal importers identified in the 1992 inquiry that appeared in the 1998 review included BSC and Francosteel.

POSITION OF PARTIES

Parties in Favour of a Continuation of the Findings

Counsel for the domestic producers argued that dumping is likely to resume if the findings are rescinded and that such dumping is likely to cause material injury to the domestic industry. Counsel submitted a joint brief. At the hearing, they divided between themselves the task of summarizing the evidence, the law and their position.

Counsel for Stelco addressed the issue of the likelihood of resumed dumping using both a cumulation analysis and a country-by-country analysis. They referred to an extract from a British Steel PLC¹⁰ (British Steel) annual report in support of their position that demand and supply conditions for cold-rolled steel sheet must be considered from a worldwide perspective, because trade in cold-rolled steel sheet is global. Counsel submitted that the evidence presented by the domestic producers indicates a problem of existing and future excess capacity for cold-rolled steel sheet in the United States and in Asia.

Counsel for Stelco argued that British Steel will export and participate in the Canadian market if there is product available for export to Canada. It was submitted by counsel that British Steel would not be able to sell the subject goods in Canada except at dumped prices.¹¹ They pointed out that British Steel exited the Canadian market for the subject goods after the findings were issued. Counsel also submitted that Sollac, in effect, circumvents the Tribunal's findings by using its Spanish affiliate to export to Canada.

In dealing with the situation in the United States, counsel for Stelco submitted that the pricing with regard to the cold-rolled steel sheet was precarious and that this was due to the stagnation of exports, coupled with an increase in imports. Counsel argued that the drop in prices in the United States was due to the presence of imports from Asia and from Eastern European countries. To answer the witnesses who said that the drop in prices was only happening in the spot market, counsel referred to the statement of reasons for the findings under review where the Tribunal indicated that, eventually, spot pricing would affect market pricing. Counsel mentioned that the witness for Inland conceded that spot pricing does eventually exert pressure, even in the higher segments of the market.

Regarding the planned addition of 4.1 million tons to the cold-rolled steel sheet production capacity in the United States, counsel for Stelco submitted that the addition, representing 25 percent of the actual production capacity of cold-rolled steel sheet would create chaos in the US market, given the forecast for apparent US consumption. Therefore, it is likely that US producers would resume dumping if the findings were rescinded.

Counsel for Stelco submitted that the Asian crisis has significantly intensified the negative market pressures, caused by overcapacity, that were present in the cold-rolled steel sheet market before the crisis. They noted that an addition to cold-rolling capacity of 9.8 million net tons is forecast for Asia. Citing a news article, counsel indicated that demand for steel in Asia is still in the doldrums, causing exports to increase, and that this abatement in demand and intensifying competition are causing a downward trend in prices. More specifically on cold-rolled steel sheet, counsel referred to news articles indicating a decrease in

10. British Steel plc (exporter) deals exclusively with BSC (importer) in Canada.

11. Counsel noted that the witness for BSC admitted that, using FOB home market prices with the addition of freight and conversion to Canadian dollars, the prices at which British Steel would have to sell its products would not be competitive on the Canadian market.

transaction prices in Asia. It was the position of the domestic producers that, as a result of the Asian crisis, cold-rolled steel sheet from Asia would be exported to the European Union and the United States and that these countries would, in turn, seek Canada as an export market. In order to sell in Canada, they would have to do so at dumped prices.

With respect to the issue of vulnerability, counsel for Stelco argued that dumped imports cause sales volume and price reductions. Relying on the statement of reasons for the findings under review, counsel submitted that those consequences are felt even if the dumped imports are only matching domestic prices. Counsel also submitted that, due to the growth and importance of steel service centres, their influence on prices for cold-rolled steel sheet is even greater than at the time that the findings under review were issued. With regard to the automotive sector, counsel argued that the conditions in which the subject goods are supplied have not changed since the time of the findings. In support of their position, they submitted that commercial-quality steel is still the most common specification, that there continues to be intense price competition and that significant price erosion is occurring in those segments of the markets where imports are present. Counsel concluded by submitting that Stelco's production of cold-rolled steel sheet is very vulnerable to renewed dumping by the producers in the subject countries.

Counsel for Stelco mentioned that Stelco was opposed to all exclusions sought, except the one concerning martinsite, which was requested by counsel for the US integrated mills and is referred to in the section entitled "Parties in Favour of a Rescission of the Findings."

Counsel for Dofasco dealt, first, with the exclusion requests. They indicated that Dofasco would consent to the exclusion sought for martinsite and to the exclusion for the cold-rolled steel sheet to be imported by Sollac for use in the new Dofasco-Sollac coating facility. Second, counsel submitted that the evidence provided by AK Steel with respect to new capacity in the US market for 1997-99 is accurate, while the evidence provided by LTV is based on false assumptions, ignores relevant factors and is not supported by the evidence on the record.

Counsel for Dofasco addressed the issue of the likelihood of material injury to domestic producers from renewed dumping from the named countries. Counsel argued that the general price increases that took place through the 1993-97 period permitted the domestic producers to take part in the positive side of the steel industry cycle. They indicated that this participation is critical if the domestic industry is to remain competitive in a capital-intensive industry such as the steel industry. Counsel remarked that, nonetheless, between 1995 and 1998, the Canadian mills suffered price erosion, lost volume and lower profits as a result of low-priced imports from non-subject countries. Counsel submitted that the domestic producers lose sales when import prices are more than 4 percent below the domestic mill price.

Counsel for Dofasco submitted that, when the presence of imports from non-subject countries is combined with other factors, such as the commodity nature of cold-rolled steel sheet, where price is the predominant factor affecting a decision to purchase, and the ease with which the imports can be distributed in the marketplace, it is clear that the domestic industry is extremely vulnerable to dumped imports. Counsel submitted that there exist strong distribution networks provided by the Canadian traders and steel service centres. Counsel submitted that the same steel traders, sometimes affiliated with the European producers, which imported the subject goods from the subject countries before the findings, are now importing from non-subject countries. Regarding steel service centres, counsel noted that, in the inquiry, the Tribunal found that they played a key role in the market and provided the main entry point for imports and import competition that led to a significant decline in price. While counsel made it clear that the domestic producers

do not have any problem with the existence of the steel service centres or their increased size and importance, they pointed out that the steel service centres feel that they do not have any choice but to buy imported steel at low prices if they want to remain competitive and that this has a negative impact on the Canadian market. Counsel also argued that there are no export opportunities in the United States for Canadian producers as a result of overcapacity and stagnating demand. Finally, counsel underlined that it was extremely important to keep in mind the role of the 15 non-participating US mills, the US service centres and the US-based steel traders.

Counsel for Algoma and Ispat argued that the threat of injury does not have to be the same for all four domestic producers to find that there is a threat of injury from resumed dumping. They argued that vulnerability must be analyzed while taking into account the capacity and the financial performance of the domestic producers at the time of the review or in the immediate future. The fact that conditions may have improved since the time of the findings cannot be seen as a lack of vulnerability.

Regarding the issue of the likelihood of resumed dumping, counsel for Algoma and Ispat submitted that the named countries will have to dump to match the current prices, that there is a propensity on the part of Canadian importers to seek exports at dumped prices and that significant overcapacity exists in the subject countries for production of the subject goods. On the issue of the likelihood of injury to the domestic producers from resumed dumping, counsel argued that cold-rolled steel sheet is of a commodity nature, that the costs of production are highly sensitive to the volume of production, that prices are declining and will decline more if the findings are rescinded and that the domestic producers must be able to recoup their continued investment in production capacity and capabilities.

Parties in Favour of a Rescission of the Findings

Sollac and Francosteel

Counsel for Sollac and Francosteel submitted that there is no likelihood of a resumption of dumping from France, nor a likelihood of injury if dumping resumes. Counsel submitted that, while conducting a review, there is a need for persuasive evidence, for factual evidence, as opposed to conjecture, and for use of a limited time frame of prospective analysis of one to two years. Referring to Article 11:3 of the *World Trade Organization Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994*,¹² counsel also argued that likelihood means more than a simple possibility and that the continuation of a finding is an exception for which there must be evidence.

Counsel for Sollac and Francosteel argued that the factors that led to the injury finding against the four European countries, including France, i.e. declining prices, overcapacity, financial losses, weak demand conditions, increasing imports and low-priced competition from Eastern Europe, are no longer present.

Indeed, in the view of counsel for Sollac and Francosteel, the evidence shows that the cold-rolled steel market in Europe is doing very well at the present time and that this situation should endure. The evidence also shows that the economic forecasts are very good for Europe and that economic growth will be driven by internal demand and no longer be export driven. Furthermore, the introduction of the euro on January 1, 1999, should also have a good impact on economic conditions. Concerning steel and cold-rolled steel sheet in particular, the evidence shows that, in the European Union, demand was very strong, prices were rising in 1998, capacity utilization was high and stocks were at satisfactory levels. In addition, exports

12. Signed at Marrakesh on April 15, 1994.

from France to markets outside the European Union declined by 10 percent in 1997. Counsel argued that Sollac has no incentive to increase its exports outside the European Union, since its production capacity is fully utilized. Rather, Sollac intends to reduce its shipments of cold-rolled steel sheet to North America between 1998 and the year 2000.

With respect to the impact of imports from non-subject countries, counsel for Sollac and Francosteel noted that cold-rolled steel sheet has been imported from Spain for the last four years, but that no complaint of dumping has been made and no evidence of dumping has been submitted to the Tribunal. Counsel submitted that, once a complaint is filed against certain non-subject countries, prices in Canada should increase and that the subject countries would no longer have to match the low prices in the market.

Counsel for Sollac and Francosteel argued that the reliance of domestic producers on excess capacity to make their case is unwarranted. According to counsel, there is no evidence of excess capacity in cold-rolled steel sheet in France, the European Union or elsewhere. On the contrary, the witness for Sollac testified that the company was operating at full capacity and questioned the capacity additions in Asia. Counsel argued that, even if there was overcapacity in Asia, that would not be sufficient to demonstrate a propensity to dump on the part of France. It would be necessary to show that the added capacity would be shipped to the European Union, that it would not be absorbed in the European Union, that it would cause French and EU steel to be diverted from the European Union to Canada and that this would be done at dumped prices. Counsel submitted that no evidence has been produced with respect to those elements.

Regarding the Asian crisis issue, counsel for Sollac and Francosteel noted that the witness for Sollac stated that there is no indication that the Asian crisis has had or will have an impact on the European market. Indeed, there was no evidence of a surge of imports from Asia. Counsel recalled that the witness for Sollac indicated that the European market is somewhat isolated from the Asian crisis, because of issues of quality and just-in-time delivery, and that the integration of the steel producers with the steel service centres prevents the access of foreign products. Counsel also suggested that an anti-dumping action would be very likely if imports from Asia were to cause problems in Europe.

Counsel for Sollac and Francosteel concluded by requesting an exclusion, on behalf of Sollac, for cold-rolled steel used as a substrate for further processing in the galvanizing line put in place by Dofasco and Sollac.

BSC

Counsel for BSC submitted that British Steel has no propensity to dump cold-rolled steel sheet in Canada. To sustain his position, he referred to the evidence which showed that British Steel is a very profitable company and that all its major plants are working at or near capacity levels. He also noted that BSC has not sourced cold-rolled steel sheet from non-subject countries, that British Steel has not been the object of a dumping complaint relating to the subject goods in any other jurisdiction and that the prices for cold-rolled steel in the European Union are increasing. Counsel submitted that, even if dumping resumed, there was no likelihood that it would cause material injury to the domestic industry.

Thyssen Krupp Stahl AG, Stahlwerke Bremen GmbH, Preussag Stahl AG and EKO Stahl GmbH

Counsel for the German producers underlined that, in a review, evidence must relate directly to producers in the subject countries, not to importers of goods from non-subject countries. Counsel submitted that the Asian crisis will not result in substantial low-priced Asian exports to Germany and other

EU countries. They referred to the testimony of the witness for Sollac indicating that it is very difficult for imports to find their way into the European market because of the integration of the steel service centres with the steel producers. Counsel submitted that, because the cold-rolled steel sheet prices are \$100 higher in Germany than in Canada and the mills are operating at full capacity, there is no incentive for the German producers to export to Canada. Therefore, there is no propensity to dump on the part of the German producers. Counsel submitted that, even if there were a propensity to dump, there would be no likelihood of material injury to the domestic industry.

US Steel, LTV, Bethlehem, National, Inland and AK Steel

Counsel for the US producers referred to the evidence which showed that capacity utilization and demand in the United States are at high levels. This, coupled with high and stable or increasing prices and the appreciation of the US dollar against the Canadian dollar, deters US producers from exporting to Canada. Counsel highlighted the fact that the six represented US producers in the review produced more than 80 percent of the cold-rolled steel that is produced in the United States. They submitted that there is no reason to believe and no evidence that those potential exporters that are not represented are facing market conditions that are different from those faced by the represented producers. Counsel argued that, if demand decreased, there would be a real willingness to reduce production. As well, US producers have strict Canadian pricing policies. Given all those factors, counsel submitted that there is no propensity to dump the subject goods in the Canadian market on the part of the US producers, neither is there a likelihood of material injury from resumed dumping.

With regard to exclusions, counsel for the US producers, on behalf of their clients, requested an exclusion for martinsite and for the cold-rolled steel substrate to be further processed at related coating mills.

Fabricated Steel Products Inc., Titan Tool & Die Ltd., Magna International Inc., Maksteel Inc., National Auto Radiator Mfg. Co. Ltd. and A.G. Simpson Co. Ltd.

Counsel for the above-noted purchasers/users¹³ of cold-rolled steel sheet submitted that the findings should be rescinded with regard to the subject goods that are imported from the subject countries for use in the automotive industry. Counsel argued that the specifications for automotive steel are much narrower than the ASTM specifications. They referred to the evidence which showed that auto parts stampers sometimes have difficulties getting steel from the domestic producers. Furthermore, auto parts stampers need flexibility and a safe supply to operate their business in an efficient way. Good supply is crucial for them. Counsel also referred to the evidence which showed that auto parts stampers prefer to buy from the domestic producers, but need to buy imported steel when the domestic producers cannot supply it. Counsel submitted that there is no likelihood of injurious dumping of cold-rolled steel sheet for automotive use from the subject countries and, therefore, that the findings should be rescinded regarding that end use.

Royal Canadian Steel Inc.

Counsel for Royal Canadian Steel Inc. requested, on behalf of their client, that, if the findings were continued, an exclusion be granted regarding cold-rolled secondary steel. Counsel submitted that the exclusion should cover cold-rolled steel in coils not exceeding 15,000 pounds or 200 PIW (pounds per inch of width) at an export price not exceeding \$550 per ton, with the producer certifying that: (1) it makes no

13. These firms are automotive parts stampers, with the exception of Maksteel Inc., which is a steel service centre that also manufactures blanks used in the production of automotive parts.

representation as to warranty or fitness; (2) the goods are sold on an as is and where is basis ex-mill and without recourse; and (3) the goods are not prime and are sold without specifications. Counsel submitted that there is no evidence of dumping of secondary cold-rolled steel sheet in Canada and that there is no likelihood of injury to the domestic industry resulting from the importation of secondary cold-rolled steel sheet as defined.

ANALYSIS

Section 76 of SIMA provides that, on completion of a review, the Tribunal shall rescind or continue an order or a finding, with or without amendment. In making this decision, the Tribunal addresses two fundamental questions. First, it determines whether there is a likelihood of resumed dumping if the finding is rescinded. If the Tribunal concludes that there is a likelihood of resumed dumping, it then determines whether such dumping is likely to cause material injury to the domestic industry. Prior to examining these two questions, the Tribunal will deal with a matter raised in argument, which affects the Tribunal's analysis of these questions.

Counsel for Algoma and Ispat raised the issue of the application of the principle of cumulation. They argued that this principle applies to both inquiries conducted under section 42 of SIMA and reviews conducted under section 76. In support of this argument, counsel referred to the following statement from the Tribunal's decision in Review No. RR-95-002:¹⁴ "the Tribunal is satisfied that its cumulative assessment of the threat of dumping in review proceedings is consistent with SIMA and the [World Trade Organization *Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994*]."¹⁵

Counsel for Algoma and Ispat acknowledged that, in Review No. RR-97-006,¹⁶ the Tribunal held that the statement only refers to the application of the principle of cumulation in the context of the question of likelihood of injury. Counsel argued, however, that, in *Carbon Steel Plate*, the Tribunal left open the possibility of applying the principle of cumulation to the issue of likelihood of resumption of dumping by finding that it has the discretion to cumulate in a review under section 76 of SIMA. Counsel submitted that, since the domestic producers' evidence in the present case relies heavily on overcapacity in the subject countries in total, world price and volume trends in the subject goods overall, including from non-subject countries, and world market conditions in general, the Tribunal should apply the principle of cumulation in determining whether dumping is likely to resume.

Counsel for Sollac and Francosteel argued that, in *Carbon Steel Plate*, the Tribunal clearly held that the cumulation principle can only apply to the issue of likelihood of material injury. Counsel argued that the Tribunal's practice shows that cumulation cannot and should not apply to the issue of the likelihood of a resumption of dumping. They submitted that there is a vast amount of evidence on the record to allow the Tribunal to conduct a country-by-country analysis to determine that question in the present case.

14. *Certain Carbon Steel Welded Pipe Originating in or Exported from Argentina, India, Romania, Taiwan, Thailand, Venezuela and Brazil, Order and Statement of Reasons*, July 25, 1996.

15. *Ibid.* at 8.

16. *Certain Hot-Rolled Carbon Steel Plate and High-Strength Low-Alloy Plate, Heat-Treated or Not, Originating in or Exported from Belgium, Brazil, the Czech Republic, Denmark, the Federal Republic of Germany, Romania, the United Kingdom and the Former Yugoslav Republic of Macedonia, Order*, May 5, 1998, *Statement of Reasons*, May 20, 1998.

The Tribunal notes that counsel for Algoma and Ispat made similar arguments when they appeared before the Tribunal in *Carbon Steel Plate* on behalf of Algoma and IPSCO Inc. In *Carbon Steel Plate*, the Tribunal held that “it is clear from the wording of subsection 42(3) of SIMA that the requirements of that subsection, relating to making a cumulative assessment of the effects of dumping, apply only to inquiries conducted under section 42. Section 76 contains no parallel provision to subsection 42(3).¹⁷” The Tribunal interpreted that to mean that, under the present form of SIMA, it is not required to cumulate in a review under section 76. However, the Tribunal held that it has the discretion to cumulate in a review under section 76 in appropriate circumstances and that it has done so in the past in numerous cases. A review of these cases revealed, however, that this has primarily been done in the context of the question of the likelihood of injury. The Tribunal did not refer to a single case where it, or any of its predecessors, had applied cumulation to the issue of the likelihood of dumping.

The Tribunal adopts its reasoning in *Carbon Steel Plate* and finds that a country-by-country analysis of the question of the likelihood of a resumption of dumping is appropriate in the present case.

ECONOMIC INDICATORS

The following table provides a summary of the main economic indicators for this review. The table covers the inquiry period from 1989 to 1992 and the review period from 1993 to 1997.

In its 1993 injury findings, the Tribunal found that dumped imports from the four named European countries and the United States caused a severe decline in domestic producers’ selling prices, lost market share and financial losses.

Since the Tribunal’s findings in 1993, the market for cold-rolled steel sheet increased by over 600,000 tons, or 48 percent, to 1.8 million tons. Total domestic production also increased by some 600,000 tons, but only 327,000 tons were dedicated for market sales. In 1997, 40 percent of production was available for market sales; the balance went to further processing. Domestic producers’ average selling prices increased by over \$100 per ton since the findings, rising to \$646 per ton in 1997. The growing market, combined with the producers’ ability to raise prices, resulted in annual profits increasing from \$17 million to \$109 million since the findings. Despite these benefits from the findings, the domestic producers lost market share to non-subject country imports that were entering the market in increasing volumes and, in most years, at lower average prices. By 1997, the domestic producers’ share of the market had declined from 98 to 85 percent, while the non-subject country imports increased their share from 0 to 11 percent. Subject country imports had the highest average prices since the findings and, in 1997, accounted for 4 percent of the market. The subject country imports were largely from the United States, as the European subject countries’ imports almost disappeared from the market after the findings.

17. *Ibid.* at 15-16.

SELECTED ECONOMIC INDICATORS									
(1989-97)									
	<u>1989</u>	<u>1990</u>	<u>1991</u>	<u>1992</u>	<u>1993</u>	<u>1994</u>	<u>1995</u>	<u>1996</u>	<u>1997</u>
Production (000 tons)	3,810	3,179	2,998	3,456	3,636	3,842	3,922	4,050	4,259
% Change		(17)	(6)	15	5	6	2	3	5
Production for Market Sales	1,427	1,195	1,123	1,254	1,379	1,474	1,491	1,642	1,706
% Change		(16)	(6)	12	10	7	1	10	4
Imports (000 tons)									
Subject Countries	74	138	175	126	25	27	77	63	76
Non-Subject Countries	5	9	11	5	6	112	61	39	199
Market									
Volume (000 tons)	1,330	1,186	1,128	1,144	1,244	1,479	1,476	1,592	1,848
% Change		(11)	(5)	1	9	19	(0)	8	16
Market Share (%)									
Domestic Producers	94	90	86	89	98	91	90	93	85
Subject Countries	5	10	13	11	2	2	5	4	4
Non-Subject Countries	0	1	1	0	0	7	4	3	11
Average Prices (\$/ton)									
Producers from Production	613	597	563	533	529	607	668	631	646
Subject Countries	662	596	627	594	1,014	986	840	846	809
Non-Subject Countries	626	554	602	521	876	584	658	567	607
Average Market Price	615	596	569	538	540	612	677	638	649
Industry Financial									
Profits (\$000)	68,426	1,879	(47,802)	(45,265)	17,515	77,004	134,072	96,820	109,565
% of Net Sales	9	0	(9)	(9)	3	10	15	10	11
Exports (000 tons)	117	78	101	200	136	97	105	119	82
Capacity (000 tons)	4,295	4,469	4,171	4,690	4,652	4,491	4,635	4,737	5,072
% Change		4	(7)	12	(1)	(3)	3	2	7
Utilization Rate (%)	88	71	71	73	78	86	85	85	84
Number of Employees (direct)	1,624	1,459	1,232	1,274	1,557	1,543	1,609	1,556	1,592
% Change		(10)	(16)	3	22	(1)	4	(3)	2

Note: Some percentages may not add up to 100 due to rounding.
Source: For the period 1989-92, *Public Pre-Hearing Staff Report*, Inquiry No. NQ-92-002. For the period 1993-97, *Public Pre-Hearing Staff Report*, Review No. RR-97-007.

LIKELIHOOD OF RESUMED DUMPING

In determining whether there is a likelihood of resumed dumping, the Tribunal considered factors relating to market conditions in Canada, the named countries and other markets for the subject goods. Such factors included: (1) the volume of imports of the subject goods from each named country into Canada and their exports to other countries; (2) developments in the demand and supply of the subject goods in Canada, the named countries and other markets; (3) the capacity to produce cold-rolled steel sheet by domestic mills and a selection of foreign mills from the named countries; (4) the economic situation in the domestic markets

of the named exporting countries; and (5) the existence of anti-dumping actions concerning the subject goods in other countries.

Before conducting a country-by-country analysis on the issue of the likelihood of a resumption of dumping, there are three other issues that relate to the subject goods on a broader scale that need to be discussed. These are the Asian financial crisis, imports from non-subject countries and market conditions in the European Union.

Asian Financial Crisis

The domestic producers argued that, as demand for the subject goods in Asian markets declines, imports of Asian steel into Europe and the United States will displace domestic product in those markets which will, in turn, be exported to other countries, including Canada.

The evidence, however, demonstrates to the Tribunal that there are a number of factors that indicate that the Asian crisis will not have a major impact on either the EU or US cold-rolled steel sheet markets. The Tribunal heard testimony that integration between the mills in France and steel service centres located in France, Belgium and Luxembourg¹⁸ limit the penetration of Asian imports into the European Union. The evidence indicates that there are similar links between mills and service centres in Germany. In the Tribunal's view, this aspect of the EU market would present a significant barrier to imports from Asia of surplus production of cold-rolled steel sheet. Secondly, the Tribunal notes that a witness for the domestic industry acknowledged that, for countries with very low levels of trade with Asia, the impact of the Asian financial crisis would be relatively low.¹⁹

More particularly, the evidence shows that trade in cold-rolled steel sheet between the European Union and Asia accounts for a minimal proportion of EU total trade flows for cold-rolled steel sheet. In 1997, EU exports of cold-rolled steel sheet to markets in Southeast Asia amounted to only 0.02²⁰ percent of total EU exports of cold-rolled steel sheet. The same ratio applies to exports from the four named EU countries²¹ to those markets. The evidence also shows that only 0.02²² percent of total EU imports of cold-rolled steel sheet, in 1997, originated in Southeast Asia. Respecting the four named EU countries, their imports from Southeast Asia accounted for only 0.007 percent of their total imports of cold-rolled steel sheet in 1997.²³ Furthermore, imports from Asia into the European Union declined by about 26 percent in the first quarter of 1998 compared to the same period in 1997.²⁴

18. *Transcript of Public Hearing*, Vol. 4, May 25, 1998, at 814.

19. *Transcript of Public Hearing*, Vol. 1, May 20, 1998, at 147-49.

20. Exporter's Exhibit R-10, Administrative Record, Vol. 13K.

21. Exporter's Exhibit R-1A, Tab 22, Administrative Record, Vol. 13K.

22. Exporter's Exhibit R-9, Administrative Record, Vol. 13K.

23. Exporter's Exhibit R-1A, Tab 22, Administrative Record, Vol. 13K.

24. Exporter's Exhibit R-17, Administrative Record, Vol. 13K.

The domestic producers argued that imports from Asia would rise and cause price reductions in the EU market. In the Tribunal's view, the projections for favourable market conditions in the European Union for cold-rolled steel sheet do not support that conclusion. For example, in April 1998, the French producer, Sollac, announced a price increase for all flat-rolled products and reported that its order books were full until September 1998.²⁵

Another factor that would limit the penetration of Asian imports into the European Union is that the automotive sector of the EU cold-rolled steel sheet market requires increasingly sophisticated cold-rolled steel sheet products. Consequently, EU producers have been gearing their production toward meeting those requirements. In the Tribunal's view, it is unlikely that the EU automotive sector will readily switch to an Asian supplier for the bulk of its requirements.

The Tribunal also notes that there is evidence that the European Union is closely monitoring the import situation and is willing to move rapidly by launching anti-dumping actions if appropriate.²⁶

With regard to the potential impact of the Asian crisis in the United States, counsel for the domestic industry argued that imports from Asia have resulted in reduced prices for cold-rolled steel sheet in the US market. In the Tribunal's view, the evidence does not support this argument. This evidence is largely comprised of published reports that low-priced Asian imports were available in the US market. However, the Tribunal did not find any evidence to support the proposition that US producers have reduced their prices in response to the presence of such imports in the US market. Furthermore, the Tribunal heard testimony that Korean imports into the United States are subject to an anti-dumping order.²⁷ US Steel provided import data²⁸ which show that Korean imports accounted for only 0.02 percent of the US market in 1997. The data also show that the combined imports from Japan and the People's Republic of China accounted for less than 3 percent of the US market. The only other Asian countries listed in the US import data were Indonesia and Thailand which, together, accounted for 0.17 percent of the US market. In total, increases in Asian imports into the United States between 1996 and 1997 resulted in the combined Asian share of the total US market increasing from 2 to 3 percent.

The Tribunal also notes that the Organization for Economic Co-operation and Development (OECD) has stated that, in most OECD countries outside Asia, the underlying economic situation has been generally more positive than was expected and that policy responses and other forces acting on the economy, such as significantly lower interest rates, are likely to mitigate the negative effects of the Asian crisis.²⁹

In the Tribunal's view, the evidence suggests that the extent of the impact that the crisis may have on cold-rolled steel sheet markets in the subject countries is uncertain. The evidence clearly indicates, however, that, to date, the Asian crisis has not had any adverse effect on cold-rolled steel sheet markets in Europe and North America. Indeed, the evidence shows that the economic outlook for markets in the European Union

25. Exporter's Exhibit R-1A, Tab 18, Administrative Record, Vol. 13K.

26. *Transcript of Public Hearing*, Vol. 4, May 25, 1998, at 689.

27. *Transcript of Public Hearing*, Vol. 5, May 26, 1998, at 1051; USITC Anti-dumping Investigation 731-TA-607, USITC Publication 2549, August 1992, and USITC Countervail Investigation 701-TA-342, USITC Publication 2664, August 1993.

28. Exporter's Exhibit E-4, Administrative Record, Vol. 13.

29. OECD Economic Outlook 63, April 9, 1998, Exporter's Exhibit R-1A, Tab 18, Administrative Record, Vol. 13K.

and North America is quite positive. The combined effect of the preceding factors leads the Tribunal to conclude that the impact of the Asian crisis on the EU and US cold-rolled steel sheet markets is still uncertain and appears to be less marked than originally forecast.

In sum, it is the Tribunal's view that the evidence does not support the domestic producers' proposition that either EU- or US-produced cold-rolled steel sheet will be displaced by a surge of Asian imports and, as a result, be dumped in Canada if the findings are rescinded.

Non-Subject Country Imports

Since the findings, non-subject country imports have largely replaced the subject country imports, have consistently been below domestic producers' average selling prices and have sold at the lowest prices in the market in most years since 1994. The evidence shows that cold-rolled steel sheet from the Republic of Korea and Russia were offered for sale at \$572 and \$554 per ton, respectively, in the first quarter of 1998,³⁰ compared to an average Canadian market price of \$631 per ton for the same period. Counsel for the domestic producers argued that, in order to re-enter the Canadian market, the subject countries would have to sell their cold-rolled steel sheet at dumped prices in order to be competitive with low-priced non-subject country imports.³¹

With regard to the domestic producers' contention that the non-subject country imports are being dumped,³² the Tribunal notes that the domestic producers are considering filing a dumping complaint against these imports.³³ With regard to the subject countries having to meet low non-subject country prices, the Tribunal notes that the subject countries now sell into the Canadian market at a substantive premium above domestic prices (\$809 per ton compared to \$646 per ton in 1997). The Tribunal, therefore, does not believe that an increase in subject country imports into Canada would have to be made at dumped prices.

Market Conditions in the European Union

Four of the named countries in this review are members of the European Union. As their primary market for cold-rolled steel sheet is the European Union, current and prospective economic conditions in the European Union are important determinants of supply, demand and prices for cold-rolled steel sheet produced by the mills in each of the four named countries. Furthermore, the European Union determines the global policy for all its member states on production capacity of steel and cold-rolled steel sheet.

The evidence shows that the real gross domestic product growth for the European Union, in each year from 1997 to 1999, was and is forecast to be 2.6, 2.7 and 2.8 percent respectively.³⁴ Evidence was presented forecasting continuing strong internal demand sustained by a strengthening of consumer and business confidence and increased profitability.³⁵ Growth in output was forecast for the steel-using industries in the European Union.³⁶ Respecting cold-rolled steel sheet, the evidence on the record indicates that demand

30. Manufacturer's Exhibit B-11, Administrative Record, Vol. 11A.

31. Manufacturer's Exhibit A-1 at 45, Administrative Record, Vol. 11; and Manufacturer's Exhibit B-11, Administrative Record, Vol. 11A.

32. Manufacturer's Exhibit A-1 at 45, Administrative Record, Vol. 11.

33. *Transcript of Public Hearing*, Vol. 1, May 20, 1998, at 120.

34. OECD Outlook, April 8, 1998, Exporter's Exhibit R-1A, Tab 8, Administrative Record, Vol. 13K.

35. Exporter's Exhibit R-2A (protected), Tab 16 at 1, Administrative Record, Vol. 14K.

36. Exporter's Exhibit R-2A (protected), Tab 16 at 3, Administrative Record, Vol. 14K.

is forecast to remain high throughout Europe, as are mill capacity utilization levels and prices. In the Tribunal's view, the market conditions in the European Union today are clearly significantly different from what they were during the years prior to the 1993 finding, when the Tribunal found overcapacity, declining prices and financial losses in the European cold-rolled steel sheet market.

Since the 1993 finding, the European Union has been pursuing a policy of reducing steel-making capacity. This process has resulted in the privatization of a number of state-owned companies, including Usinor, Sollac's parent company. According to the witness for Sollac, the privatization of Usinor has made Sollac more efficient and profitable.³⁷ The witness for Sollac indicated that the total reduction in capacity targeted by the European Union has been achieved.³⁸ The European Union forecasts that, in 1998, EU steel producers will reach optimal capacity.³⁹ The Tribunal heard testimony that EU cold-rolled steel sheet producers are operating at near full capacity.⁴⁰ As well, the evidence indicates that EU producers have changed their product mix by increasing the portion accounted for by higher value-added and higher-priced products.

The witness for Sollac forecasts a 4 percent increase in demand for cold-rolled steel sheet in the European Union in 1998 and continued growth in 1999 and the year 2000 in response to growth in the major steel-consuming sectors, particularly the automotive sector. The witness for Sollac also submitted that there are new applications for cold-rolled steel sheet, such as galvanized steel construction materials. The Tribunal heard testimony that average prices for cold-rolled steel sheet in the European Union and France increased through 1997 and continued in the first two quarters of 1998.⁴¹ Evidence submitted by BSC shows the same rising trend in prices for the subject goods.⁴² As noted earlier, the witness for Sollac testified that Sollac introduced a price increase in April 1998. There is also evidence that transaction prices for cold-rolled steel sheet increased in the United Kingdom during the same period.⁴³

The Tribunal notes that, since the finding, low-priced imports into the European Union from Central and Eastern Europe and the former Soviet Union increased significantly.⁴⁴ However, the Tribunal also notes that the European Union responded quickly and provided protection from these low prices to its domestic producers by negotiating separate bilateral agreements with Russia, Kazakhstan and the Ukraine that limit the tonnage that these countries are permitted to export to EU countries.⁴⁵ Furthermore, in the Tribunal's view, the fact that large producers, such as Poland, are seeking membership in the European Union acts as a strong incentive for these countries not to dump their products in the European Union.

The Tribunal is of the view that the current and forecasted economic conditions in the European Union described above, together with the EU global policy on capacity reductions and the bilateral agreements completed between the European Union and the Eastern European countries mentioned earlier, have established very positive conditions for the cold-rolled steel sheet market in the European Union.

37. *Transcript of Public Hearing*, Vol. 4, May 25, 1998, at 696.

38. *Transcript of Public Hearing*, Vol. 4, May 25, 1998, at 697.

39. Exporter's Exhibit R-1A, Tab 15 at 5, Administrative Record, Vol. 13K.

40. *Transcript of Public Hearing*, Vol. 4, May 25, 1998, at 813.

41. *Transcript of Public Hearing*, Vol. 4, May 25, 1998, at 672-73.

42. Importer's Exhibit G-29, Table 3, Administrative Record, Vol. 13B.

43. Manufacturer's Exhibit A-2, Tab 1 at 4, Administrative Record, Vol. 11.1.

44. Manufacturer's Exhibit A-1, Administrative Record, Vol. 11.

45. Exporter's Exhibit R-14, Administrative Record, Vol. 13K.

In particular, the evidence points to an increasingly strong link between EU production and domestic demand for the subject goods. In sum, the economic conditions in the European Union are substantially better than those during the years leading up to the Tribunal's inquiry in 1992.

France

Since the 1993 finding, Sollac has exported a negligible volume of the subject goods from France to Canada.⁴⁶ The evidence shows that Sollac exported cold-rolled steel sheet to Canada from non-subject countries, principally Spain.

The domestic producers argued that, after the finding, Sollac switched its exports to Canada of cold-rolled steel sheet from France to its mill in Spain because Sollac is not competitive in Canada unless it is dumping. The Canadian producers also argued that, if the finding is rescinded, Sollac will switch its exports from Spain back to its mills in France and resume dumping in Canada. The Tribunal finds that the evidence does not support the producers' arguments because the French mills are operating at near full capacity and the prices in France and the European Union being higher than in Canada render the Canadian market unattractive. The Tribunal also notes that France has not been found to be dumping cold-rolled steel sheet in any other jurisdiction since the finding.

Sollac is the largest cold-rolled steel sheet producer in France and the only French mill that has exported the subject goods to Canada since the finding. Usinor, Sollac's parent company, was privatized in 1995. Sollac's cold-rolling capacity declined by 3.6 percent in 1995, then remained stable from 1995 to 1997. During the 1994 to 1996 period, Sollac's utilization rate was stable at 70 percent, then increased to 84 percent in 1997. Between 1994 and 1997, the share of total cold-rolled production destined for further processing increased from 67 to 72 percent, apparently reflecting a shift in the market towards higher-quality steel products. Further to being privatized, the company also reduced its debt significantly. All of these measures have made Sollac one of the most profitable steel producers in the European Union.

The record indicates that the current and expected economic conditions in France are positive for various sectors, including the cold-rolled steel sheet market.⁴⁷ The evidence shows that demand for cold-rolled steel sheet remains high, mills are operating at or near full capacity, order books are full through the summer of 1998 and orders are being taken for September deliveries.⁴⁸ In April 1998, Sollac announced a price increase for all carbon steel flat products effective in the third quarter 1998.⁴⁹ The evidence indicates that market conditions in France have changed significantly from the period leading up to the finding in 1993, when significant overcapacity existed. In these conditions, the Tribunal is persuaded that there would be no incentive for Sollac to resume dumping in Canada. The Tribunal notes that France's principal export market is the United States, which, according to the witness for Sollac, is still a strong market and where Sollac has every intention of continuing its activities.

For these reasons, the Tribunal finds that there is no likelihood of resumed dumping from France.

46. Tribunal Exhibit RR-97-007-6B (protected), Administrative Record, Vol. 2, at 212.5.

47. Exporter's Exhibit R-1A, Tabs 9 to 12, Administrative Record, Vol. 13K.

48. Exporter's Exhibit R-1A, Tab 18, Administrative Record, Vol. 13K.

49. Exporter's Exhibit R-1A, Tab 18, Administrative Record, Vol. 13K.

United Kingdom

Since the 1993 finding, British Steel has not exported the subject goods to Canada. The record also shows that British Steel has not been found to be dumping the subject goods in any other jurisdictions since the finding. British Steel is a profitable firm that is directing its production of the subject goods to the UK and EU markets where demand is high and prices exceed Canadian market prices.

British Steel is the only producer of cold-rolled steel sheet in the United Kingdom. The company's capacity to produce cold-rolled steel sheet remained stable from 1994 to 1997. However, it achieved annual increases in its utilization rate as market conditions improved in the United Kingdom and the European Union. The evidence indicates that British Steel's plants are operating at near full capacity. The company has invested in a continuous annealing and processing line at its Port Talbot facility to improve the quality and range of steel that it produces. The evidence shows that the investment was directed at improving sales of cold-rolled steel to the UK and EU markets by meeting the increasingly sophisticated demands of the European auto industry for coated steel. The investment did not increase capacity. British Steel has also acquired certain facilities since the finding.⁵⁰ The production from those facilities is high-tolerance steel that is not intended for export outside the European Union.⁵¹

The Tribunal is satisfied that the combined impact of lower market prices in Canada and the limited volume of cold-rolled steel sheet that British Steel might have available for exporting outside the European Union presents no economic incentive for British Steel to export to Canada. The Tribunal finds, therefore, that there is no likelihood of resumed dumping from the United Kingdom.

Germany

Merchant sales made by German Steel mills in markets outside Germany and the other EU countries declined by almost 70 percent between 1993 and 1997,⁵² and there have been no exports of the subject goods to Canada since the finding. The Tribunal notes that Germany has not been found to be dumping the subject goods in other jurisdictions since the finding.

The German Steel Federation submitted production and sales information on behalf of all cold-rolled steel sheet producers in Germany. The evidence shows that cold-rolling capacity⁵³ was stable at 13.56 million tons in the years 1993 to 1995. Annual declines occurred in the subsequent two years with capacity falling to 13.26 million tons in 1997, down 2.2 percent from 1995. During the 1993 to 1997 period, utilization rates⁵⁴ increased from 82 to 100 percent. The evidence indicates that the German market has been on an increasing trend since 1993, apart from a sharp drop in 1996, from which it fully recovered in 1997.⁵⁵ In response to rising demand, German producers' sales volume in Germany and in other EU countries has increased, although total merchant sales have declined as a percentage of total cold-rolled steel sheet

50. Importer's Exhibits G-6 and G-7, Administrative Record, Vol. 13B.

51. Importer's Exhibit G-2 at 4, Administrative Record, Vol. 13B.

52. Tribunal Exhibit RR-97-007-32.1, Administrative Record, Vol. 5.5 at 22.

53. Tribunal Exhibit RR-97-007-32.1, Administrative Record, Vol. 5.5 at 22.

54. Tribunal Exhibit RR-97-007-32.1, Administrative Record, Vol. 5.5 at 22.

55. Tribunal Exhibit RR-97-007-32.1, Administrative Record, Vol. 5.5 at 20.

production.⁵⁶ The evidence shows that an increasing proportion of that production has been transferred for further processing⁵⁷ in response to increasing demand for higher-quality steel products.⁵⁸

The evidence indicates that the average transaction price⁵⁹ in Germany increased steadily through the fourth quarter of 1997 into February 1998, then stabilized, apart from a 1 percent decline in May 1998.

The evidence demonstrates that the German mills are concentrating principally on meeting the requirements of their customers in Germany and the European Union. The Tribunal is of the view that the very favourable market conditions for cold-rolled steel sheet in Germany and the European Union make it unlikely that the German producers would accept the reduction in price that would enable them to be competitive in the Canadian market, particularly as the German mills are operating at full capacity.

For these reasons, the Tribunal finds that there is no likelihood of resumed dumping from Germany.

Italy

Cold-rolled steel sheet producers in Italy were not represented by counsel in this review, nor did they participate in the Tribunal's public hearing. In addition, no responses were received from the two Italian steel producers that were sent a foreign manufacturer's questionnaire.⁶⁰ In considering the likelihood of resumed dumping of the subject goods from Italy, the Tribunal notes that there have been no imports from Italy since the finding.⁶¹ There is no evidence of anti-dumping actions against Italy respecting imports of the subject goods into other jurisdictions since the finding. The Tribunal examined the evidence concerning the economic conditions in the European Union and the cold-rolled steel sheet sector. The record contains no evidence that Italy is not experiencing the buoyant economic outlook and the favourable cold-rolled steel sheet market conditions described previously for the European Union. The Tribunal notes that the evidence indicates that the Italian automotive industry is booming.⁶² The witness for Sollac testified that, in his opinion, the French and Italian markets are similar. The Tribunal is satisfied that, in Italy, as is the case for France, Germany and the United Kingdom, the high demand in the European Union for cold-rolled steel sheet will yield the high levels of capacity utilization and rising or at the least stable prices found in those countries. In these circumstances, the Tribunal is of the view that Italian cold-rolled steel sheet producers will continue to focus on supplying their customers in Italy and the European Union, as there is little incentive for them to export to Canada.

For these reasons, the Tribunal finds that there is no likelihood of resumed dumping of the subject goods from Italy.

56. Production for merchant sales declined from 37 to 30 percent of total cold-rolled steel sheet production between 1993 and 1997. Tribunal Exhibit RR-97-007-32.1, Administrative Record, Vol. 5.5 at 22.

57. Production for further processing increased from 63 to 70 percent of total cold-rolled steel sheet production between 1993 and 1997. Tribunal Exhibit RR-97-007-32.1, Administrative Record, Vol. 5.5 at 22.

58. Tribunal Exhibit RR-97-007-32.1, Administrative Record, Vol. 5.5 at 19-20.

59. Manufacturer's Exhibit B-15, Administrative Record, Vol. 11A.

60. Ilva S.p.A. and Nuova Italsider SpA were each sent a foreign manufacturer's questionnaire.

61. Tribunal Exhibit RR-97-007-6 (protected), Administrative Record, Vol. 2 at 212.5.

62. Exporter's Exhibit R-2A (protected), Tab 16 at 13, Administrative Record, Vol. 14K.

United States

There are over a dozen producers of the subject goods in the United States. Six integrated mills participated in this review. In 1997, these mills accounted for approximately 80 percent of the total US cold-rolled steel sheet production capacity. The US integrated mills' cold-rolling facilities were operating at approximately 87 percent⁶³ of capacity in 1997. The Tribunal notes that, based on planned additions to capacity in the United States to be completed by mid-1999, the six integrated mills will account for somewhat less than 80 percent of total US cold-rolled steel sheet production capacity, depending upon the capacity reductions which may occur during the intervening period and on which US producers make these reductions.

Steel producers in the United States are in the process of increasing their production capacity for cold-rolled steel sheet and for further processed steel that uses cold-rolled steel sheet as a substrate. The further processed steel is primarily coated steel sheet, such as galvanized steel sheet. The planned additions to capacity are a response to increased demand by users of cold-rolled steel products in general and a shift in product mix toward producing more higher value-added products to meet the changing requirements of the market.

These additions to capacity and the presence of low-priced imports into the United States from Asia and elsewhere are central to the Canadian mills' argument that there is a likelihood of resumed dumping from the United States. More particularly, they argued that the impact of the total capacity additions and the presence of low-priced imports in the US market would cause US producers to resume exports to Canada at dumped prices.

Dofasco, LTV and AK Steel each submitted estimates of the planned additions to capacity. The AK Steel estimates were revised somewhat following cross-examination of the witnesses for the US mills by counsel for Dofasco. The Tribunal is of the view that the revised AK Steel estimates are the most thorough analysis of the planned additions to capacity and the best evidence on the record because they included a breakdown of the proportion of the additional capacity that would be dedicated to producing a substrate for further processing and the amount that would be available for merchant sales. This evidence indicates that, for the period from 1997 to mid-1999, the additional cold-rolling capacity available for merchant sales is estimated to be 4.1 million tons.⁶⁴

Having determined the expected growth in capacity in the United States, the Tribunal examined the current and forecasted US market conditions for cold-rolled steel sheet. At the outset, the Tribunal notes that there is abundant evidence on the record that demonstrates that capacity in the United States and Canada has been unable to keep pace with the rising demand for cold-rolled steel sheet since the finding. This led to the robust expansion programs that were outlined in AK Steel's previously mentioned summary of capacity additions. The Tribunal heard considerable evidence that the outlook is for continued high demand in the US market, as the major cold-rolled steel consuming industries are experiencing sustained high demand in their respective markets. High demand for cold-rolled steel sheet by the US automotive sector, in particular,

63. Tribunal Exhibit RR-97-007-6 (protected), Administrative Record, Vol. 2 at 195-99 and 212.39. This figure is based on the capacity and production data provided by AK Steel, Bethlehem, LTV, National and US Steel in response to the foreign manufacturer's questionnaire. Inland was excluded as the data provided were reported to be inaccurate during testimony at the public hearing.

64. Dofasco Aid to Argument 1, Administrative Record, Vol. 17.

was cited by all the witnesses for the US mills. The record also contains testimony that there is a trend in the automotive sector to use uncoated cold-rolled steel sheet instead of galvanized steel in exposed applications, which would further increase merchant sales of cold-rolled steel sheet, but which could reduce, somewhat, the demand for galvanized steel sheet.

The testimony of the witnesses for the US producers indicates that exports to Canada are subject to limitations on availability and strict pricing policies. The witness for National testified that its sales program is customer-driven rather than country-driven. Consequently, National has no cold-rolled steel sheet available for sale to Canada beyond that which was included in National's annual sales plan relating to a specific customer.⁶⁵ The witness for US Steel indicated that it operates in a similar fashion and has a strict pricing policy that precludes it from undercutting Canadian mill prices or selling at prices that are not profitable. The witness for US Steel also testified that, as its Canadian customers are either the Canadian operation of a US customer or linked through a joint venture arrangement with a US customer, US Steel does not want its Canadian prices to disrupt its pricing to its customers in the United States.⁶⁶

According to the witness for Bethlehem, the company's export pricing policy requires that all exports, including cold-rolled steel sheet, generate a profit and not be priced below its US transaction price.⁶⁷ The witness testified that Bethlehem will export if demand in the US market weakens due to a surge in imports or a recessionary period in the US economy, neither of which is being experienced in the cold-rolled steel market at the current time.⁶⁸

The Tribunal heard testimony that LTV's export pricing policy is to cease selling to customers where prices fall below LTV's domestic selling prices.⁶⁹ The witness for LTV also testified that there is no incentive for the company to sell into markets outside the United States, given the current market conditions in the United States, the lower prices that are prevalent in certain regions, the strong US dollar and the fact that the company is operating at effective full capacity.⁷⁰

The witness for Inland testified that, currently, its production capacity falls short of the demand for its cold-rolled steel sheet. The witness also testified that the company has no plans to increase capacity at the present time.⁷¹

The witness for AK Steel indicated that its additional capacity is intended to address the automotive industry's attempts to reduce its cost of production by increasing the use of uncoated cold-rolled steel sheet in automotive exposed applications.⁷²

Counsel for the domestic producers argued that most of the new cold-rolling capacity will be added by mills that did not participate in the review. The Tribunal notes that the mills that participated in the hearing account for about 80 percent of the current capacity in the United States. The evidence indicates that some of the forecasted additional capacity is already in place and has been absorbed by the US market. There is no

65. *Transcript of Public Hearing*, Vol. 5, May 26, 1998, at 1088.

66. *Transcript of Public Hearing*, Vol. 5, May 26, 1998, at 1024.

67. *Transcript of Public Hearing*, Vol. 5, May 26, 1998, at 1067.

68. *Transcript of Public Hearing*, Vol. 5, May 26, 1998, at 1079 and 1080.

69. *Transcript of Public Hearing*, Vol. 5, May 26, 1998, at 1103.

70. *Transcript of Public Hearing*, Vol. 5, May 26, 1998, at 1103 and 1104.

71. *Transcript of Public Hearing*, Vol. 5, May 26, 1998, at 1120 and 1121.

72. *Transcript of Public Hearing*, Vol. 5, May 26, 1998, at 1012.

information on the record to lead the Tribunal to conclude that any of the additional production capacity introduced by producers, other than those that attended the hearing, will have an impact different from that demonstrated during the Tribunal proceedings.

It was argued by the domestic producers that, average prices for cold-rolled steel sheet are lagging behind the prices for all of the other flat-rolled steel products and that price increases attempted by the US mills are not being accepted in the market, indicating a softening of demand. The Tribunal finds that the evidence does not support this conclusion. First, although cold-rolled steel sheet prices have been increasing at a slower rate than those for other flat-rolled products, there has still been a steady upward trend in 1997 and into early 1998. The Tribunal notes that, while not all US mills have attempted price increases, the evidence indicates that there has been at least partial acceptance of those that were initiated.⁷³ The Tribunal also notes that the evidence demonstrates that, since the finding, US mills have invested in upgrades that have reduced their costs and/or improved quality.

It was further argued by the domestic producers that US prices are declining due to increasing import penetration. In the Tribunal's view, the evidence does not support that conclusion. The witness for Inland testified that supply and demand conditions are generally in balance in the US market and indicated that Inland announced a price increase in the second quarter of 1998 and that it has been successful in getting a portion of that increase from the market.⁷⁴ The witness for Inland attributed any downward pressure on prices principally to the purchasing power of large customers⁷⁵ and noted that consolidation in the US customer base is the company's main concern respecting price levels.⁷⁶

The evidence demonstrates that, between 1996 and 1997, total imports into the United States increased from 2.3 million to 3.2 million tons, rising from 14.6 to 20 percent of the US market.⁷⁷ This rise in imports coincided with a period of growing demand for cold-rolled steel sheet in the United States which, as indicated previously, outpaced the growth in capacity.

Respecting US imports from Asia, imports from the Republic of Korea accounted for 0.02 percent of the US market in 1997, having declined to about one third of their level in 1995. The Tribunal heard testimony that US imports of cold-rolled steel sheet from the Republic of Korea are subject to an anti-dumping order in the United States.⁷⁸ In cross-examining the witness for US Steel, counsel for the domestic producers described the US import data as showing a surge in imports from Japan and the People's Republic of China in 1997.⁷⁹ The evidence shows that, in 1997, imports from Japan and the People's Republic of China made considerable gains on a volume basis, increasing by 19 percent and about 250 percent respectively. However, these increases resulted in their combined share of the US market increasing from 2.03 percent in 1996 to only 2.75 percent in 1997. The Tribunal notes that the only other Asian countries listed in the US import data were Indonesia and Thailand which, together, accounted for 26,000 tons in 1997, or 0.17 percent of the US market. In total, increases in Asian imports into the United States between 1996 and 1997 resulted in the combined Asian share of the total US market

73. *Transcript of Public Hearing*, Vol. 5, May 26, 1998, at 1128.

74. *Transcript of Public Hearing*, Vol. 5, May 26, 1998, at 1128.

75. *Transcript of Public Hearing*, Vol. 5, May 26, 1998, at 1121.

76. *Transcript of Public Hearing*, Vol. 5, May 26, 1998, at 1122.

77. Exporter's Exhibit E-4, Administrative Record, Vol. 13.

78. *Transcript of Public Hearing*, Vol. 5, May 26, 1998, at 1051.

79. *Transcript of Public Hearing*, Vol. 5, May 26, 1998, at 1050.

increasing from 2 to 3 percent. In the Tribunal's view, the effect of Asian imports into the US market is not of a magnitude that would force US production out of that market into Canada, nor would it provide an impetus for renewed dumping of US cold-rolled steel sheet in Canada.

Counsel for the domestic producers also pointed to increases in imports from Russia and Slovakia. The evidence demonstrates that, in 1997, imports from Russia into the United States increased three-fold over the volume imported in 1996. Imports from Russia increased to approximately 630,000 tons, which increased their share of the US market from 1.5 to about 4 percent. Also, in 1997, imports from Slovakia increased from about 58,000 to 129,000 tons, raising their share of the US market from 0.37 to 0.82 percent. Thus, between 1996 and 1997, the combined US market share held by imports from Russia and Slovakia increased from approximately 2 to 5 percent. While this is more significant than the increase in imports from Asia, the Tribunal is not persuaded that this level of import penetration will lead to a resumption of dumping from the United States. In the event that this growth in imports continued at prices which are undercutting US producers' prices, the Tribunal has little doubt that US producers will seek trade sanctions against these countries.

The evidence indicates that, since the finding, the volume of US exports to Canada has not been substantial. The Tribunal heard testimony that, on average, US export prices have increased over the review period. The appreciation of the US currency was a contributing factor to rising prices. The evidence shows that between 1993 and the end of the first quarter of 1998, the value of the US dollar increased from about CAN\$1.23 to CAN\$1.43. The Tribunal heard testimony that imports into Canada are largely to the automotive sector and are long-term supply agreements negotiated with OEMs. The evidence also indicates that, during 1996 and 1997, some domestic producers imported from US mills in order to offset shortfalls in domestically produced cold-rolled steel sheet. Most of these imports entered Canada at or above normal values. The Tribunal heard testimony of instances in 1996 and 1997 when shortfalls in domestic cold-rolled steel sheet caused automotive stampers to import the subject goods from US service centres in order to meet production and delivery schedules. These unplanned imports were subject to the maximum anti-dumping duty of 87.3 percent, which is the advance applied to the export price of imports for which normal values have not been obtained from Revenue Canada.⁸⁰

The evidence demonstrates that the prevailing conditions in the US market for cold-rolled steel sheet are highly favourable. In the Tribunal's view, the evidence and testimony citing the high demand and prices, coupled with near full capacity utilization levels and recent price increases, support the conclusion that there is no economic incentive for US producers to export the subject goods at reduced prices. The evidence indicates that Mexico has become an important customer for US producers and, for some of the integrated mills, it is their largest export market. Although certain of these mills were included in anti-dumping actions initiated by Mexico, none were found to be dumping.

For these reasons, the Tribunal finds that there is no likelihood of resumed dumping of the subject goods from the United States.

80. As a result of Revenue Canada's review of normal values completed on March 14, 1997, an export price advance of 87.3 percent has applied to all imports of the subject goods for which a normal value has not been determined.

For all of the preceding reasons, the Tribunal concludes that there is no likelihood of resumed dumping from the named countries. In light of this conclusion, it is not necessary for the Tribunal to consider the issue of the likelihood of injury.

CONCLUSION

Because it has concluded that there is no likelihood of resumed dumping from the named countries, the Tribunal hereby rescinds its finding concerning certain cold-rolled steel sheet originating in or exported from Germany, France, Italy and the United Kingdom.

Similarly, the Tribunal hereby rescinds its finding concerning certain cold-rolled steel sheet originating in or exported from the United States.

Robert C. Coates, Q.C.

Robert C. Coates, Q.C.
Presiding Member

Raynald Guay

Raynald Guay
Member

Patricia M. Close

Patricia M. Close
Member