



Ottawa, Wednesday, July 28, 1999

Review No.: RR-98-007

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, 1994, in Inquiry No. NQ-93-007, concerning:

**CERTAIN CORROSION-RESISTANT STEEL SHEET PRODUCTS
ORIGINATING IN OR EXPORTED FROM AUSTRALIA, BRAZIL, FRANCE,
THE FEDERAL REPUBLIC OF GERMANY, JAPAN, THE REPUBLIC OF
KOREA, NEW ZEALAND, SPAIN, SWEDEN, THE UNITED KINGDOM AND
THE UNITED STATES OF AMERICA**

ORDERS

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, 1994, in Inquiry No. NQ-93-007.

Pursuant to subsection 76(4) of the *Special Import Measures Act*, the Canadian International Trade Tribunal hereby continues the finding in respect of certain corrosion-resistant steel sheet products originating in or exported from Brazil, the Federal Republic of Germany, Japan and the Republic of Korea, with an amendment to exclude corrosion-resistant steel sheet products imported under tariff item No. 9959.00.00 for use in the manufacture of passenger automobiles, buses, trucks, ambulances or hearses, or chassis therefor, or parts, accessories or parts thereof.

Pursuant to subsection 76(4) of the *Special Import Measures Act*, the Canadian International Trade Tribunal hereby continues the finding in respect of certain corrosion-resistant steel sheet products originating in or exported from the United States of America, with an amendment to exclude corrosion-resistant steel sheet products imported under tariff item No. 9959.00.00 for use in the manufacture of passenger automobiles, buses, trucks, ambulances or hearses, or chassis therefor, or parts, accessories or parts thereof.

Pursuant to subsection 76(4) of the *Special Import Measures Act*, the Canadian International Trade Tribunal hereby rescinds the finding in respect of certain corrosion-resistant steel sheet products originating in or exported from Australia, France, New Zealand, Spain, Sweden and the United Kingdom.

Pierre Gosselin
Pierre Gosselin
Presiding Member

Patricia M. Close
Patricia M. Close
Member

Richard Lafontaine
Richard Lafontaine
Member

Michel P. Granger
Michel P. Granger
Secretary



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KOREA, NEW ZEALAND, SPAIN, SWEDEN, THE UNITED KINGDOM AND
THE UNITED STATES OF AMERICA**

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, 1994, in Inquiry No. NQ-93-007.

Place of Hearing:	Ottawa, Ontario
Dates of Hearing:	May 10 to 17, 1999
Date of Orders and Reasons:	July 28, 1999
Tribunal Members:	Pierre Gosselin, Presiding Member Patricia M. Close, Member Richard Lafontaine, Member
Director of Research:	Sandy Greig
Lead Researcher:	Ken Campbell
Researchers:	W. Douglas Kemp Shiu-Yeu Li Manon Carpentier
Economist:	Perpetua Katepa-Kalala
Statistical Officers:	Margaret Saumweber Julie Charlebois Joël J. Joyal Marion Buchmeier
Counsel for the Tribunal:	Gerry Stobo Philippe Cellard
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LTV Steel Company, Inc.
Bethlehem Steel Export Corporation
National Steel Corporation
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Magna International Inc.
Krupp Fabco Inc.
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A.G. Simpson Co. Ltd.

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Ottawa, Wednesday, July 28, 1999

Review No.: RR-98-007

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KOREA, NEW ZEALAND, SPAIN, SWEDEN, THE UNITED KINGDOM AND
THE UNITED STATES OF AMERICA**

TRIBUNAL: PIERRE GOSSELIN, Presiding Member
PATRICIA M. CLOSE, Member
RICHARD LAFONTAINE, Member

STATEMENT OF REASONS

BACKGROUND

This is a review, under subsection 76(2) of the *Special Import Measures Act*¹ (SIMA), of the findings made by the Canadian International Trade Tribunal (the Tribunal) on July 29, 1994, in Inquiry No. NQ-93-007,² concerning certain corrosion-resistant steel sheet products originating in or exported from: (1) Australia, Brazil, France, the Federal Republic of Germany (Germany), Japan, the Republic of Korea (Korea), New Zealand, Spain, Sweden and the United Kingdom; and (2) the United States of America (United States).

Pursuant to subsection 76(2) of SIMA, the Tribunal initiated a review of its findings and issued a notice of review³ on January 15, 1999. This notice was forwarded to all known interested parties.

As part of this review, the Tribunal sent questionnaires to Canadian producers, importers, purchasers and foreign manufacturers of certain corrosion-resistant steel sheet products. From the replies to these questionnaires and other sources, the Tribunal's research staff prepared public and protected pre-hearing staff reports. Tribunal members visited the facilities of Dofasco Inc. (Dofasco) and Stelco Inc.

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1. R.S.C. 1985, c. S-15, as amended by S.C. 1994, c. 47.
 2. *Certain Corrosion-resistant Steel Sheet Products Originating in or Exported from Australia, Brazil, France, the Federal Republic of Germany, Japan, the Republic of Korea, New Zealand, Spain, Sweden, the United Kingdom and the United States of America, Finding* (July 29, 1994), *Statement of Reasons* (August 15, 1994) (C.I.T.T.), Tribunal Exhibit RR-98-007-1, Administrative Record, Vol. 1 at 2.
 3. *Canada Gazette* Part I, Vol. 133, No. 4, January 23, 1999, at 152.

(Stelco) to view the production process.⁴ A report describing the visits was prepared and distributed to counsel.

The record of this review consists of all relevant documents, including the findings in Inquiry No. NQ-93-007, the notice of review, public and confidential replies to the questionnaires, requests for information and replies thereto, the transcript of the proceedings, as well as the public and protected pre-hearing staff reports prepared for the 1993 inquiry and those prepared for this review. All public exhibits were made available to interested parties, while protected exhibits were provided only to independent counsel who had filed a declaration and confidentiality undertaking with the Tribunal.

Public and *in camera* hearings were held in Ottawa, Ontario, from May 10 to 17, 1999.

The domestic producers, Dofasco, Stelco and Sorevco Inc. (Sorevco), were represented by counsel at the hearing. Counsel submitted evidence and made arguments in support of a continuation of the findings and agreed to an exclusion for corrosion-resistant steel sheet products originating in the United States and imported under tariff item No. 9959.00.00 for use in the manufacture of passenger automobiles, buses, trucks, ambulances or hearses, or chassis therefor, or parts, accessories or parts thereof (hereinafter referred to as the “automotive end-use exclusion”).⁵

Several importers and exporters were represented by counsel at the hearing. Counsel submitted evidence and made arguments in support of a rescission of the findings. Automotive stampers were also represented by counsel at the hearing and requested a rescission of the finding with respect to corrosion-resistant steel sheet products originating in the United States and imported for use in the manufacture of motor vehicles or parts thereof.⁶

SUMMARY OF THE INJURY FINDINGS IN INQUIRY NO. NQ-93-007

On July 29, 1994, the Tribunal found that the dumping in Canada of certain corrosion-resistant steel sheet products originating in or exported from (1) Australia, Brazil, France, Germany, Japan, Korea, New Zealand, Spain, Sweden and the United Kingdom and (2) the United States had caused, was causing and was likely to cause material injury to the production in Canada of like goods.

The Tribunal found that the domestic industry had suffered and continued to suffer price erosion and price suppression causing material injury, primarily in the form of financial injury on sales of like goods. The Tribunal accepted that dumping was not the only factor at play that affected prices and that caused injury to the domestic production of like goods. However, the Tribunal was not convinced that the other factors, including the recession, capacity additions by the industry, sales of non-prime corrosion-resistant steel sheet products by the industry and exchange rate variations, explained the magnitude of the price erosion and suppression that resulted in the reduced profitability experienced by the domestic industry. Consequently, the Tribunal was persuaded that there was a clear causal link between the dumping of certain corrosion-resistant steel sheet products and the material injury suffered by the domestic industry.

4. Tribunal Member Guay visited the facilities of Dofasco and Stelco with Members Gosselin and Lafontaine, but was unable to participate in the hearing for medical reasons.

5. Tribunal Exhibit RR-98-007-55, Administrative Record, Vol. 1B at 30-31.

6. *Transcript of Public Argument*, May 17, 1999, at 230-31.

The Tribunal concluded that, in the absence of injury findings, the dumping of certain corrosion-resistant steel sheet products from the subject countries would continue to cause material injury to the production in Canada of like goods. The Tribunal noted the availability of capacity to produce certain corrosion-resistant steel sheet products in many of the subject countries and the high levels of exports from these countries. Imports of certain corrosion-resistant steel sheet products increased by 25 percent in the first quarter of 1994, compared to the first quarter of 1993. This factor, along with evidence of persistent underselling of imported products and generally high margins of dumping, revealed a risk of continued instability in the Canadian market in the absence of price discipline imposed by anti-dumping duties.

The Tribunal excluded from its injury findings corrosion-resistant steel sheet products that were not made by the domestic producers, including products known as Tribrite, Triclear and Trichrome produced by Triumph Industries, A Division of The Triumph Group Operations, Inc. of the United States, and flash-coated corrosion-resistant steel sheet products known as Durgrip-E and Durexcelite produced by Nippon Steel Corporation of Japan. The Tribunal also excluded from its findings corrosion-resistant steel sheet products produced by the electrogalvanizing process for use in the manufacture of motor vehicles. This exclusion was made on the basis that automotive parts manufacturers were not able to source these products from Canadian mills in the required specifications for automotive uses. In addition, Continuous Colour Coat Limited (Continuous Colour) received an exclusion for corrosion-resistant steel sheet products exported from the United States that are painted or printed by it and re-exported from Canada, provided title to such goods as imported, further processed and re-exported from Canada remains with the US exporters and provided such goods are not sold in Canada, but re-exported.

PRODUCTS

The products that are the subject of this review are defined as flat rolled steel sheet products of a thickness not exceeding 0.176 in. (4.47 mm), coated or plated with zinc or an alloy wherein zinc and iron are the predominant metals, excluding automotive-exposed qualities designed for and used in the manufacture of outer body components for motor vehicles, hereinafter referred to as “corrosion-resistant steel sheet products”, originating in or exported from Australia, Brazil, France, Germany, Japan, Korea, New Zealand, Spain, Sweden, the United Kingdom and the United States.

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

Corrosion-resistant steel sheet is usually produced from cold-rolled carbon steel sheet and, sometimes, from hot-rolled carbon steel sheet. However, minor additions of certain elements, such as titanium or boron, during the steelmaking process enable the steel to be classified as an alloy steel. Therefore, corrosion-resistant steel produced from either carbon steel or alloy steel is considered to be subject to this review.

For greater clarity, the following products do not form part of the product definition:

- steel sheet that is coated or plated with zinc in combination with nickel, silicon or aluminum;
- galvanized products that have been pre-painted or coated with other finishes, such as lacquers or varnishes; and

- galvanized armouring tape, which is narrow flat steel tape of 3 in. or less, that has been coated by a final operation with zinc by either the hot-dip galvanizing or the electrogalvanizing process so that all surfaces, including the edges, are coated.

Also not forming part of the product definition are products of automotive-exposed qualities, which are of “surface critical auto-exposed qualities”, designed for and used in the manufacture of outer body components for motor vehicles. However, corrosion-resistant steel sheet products for use in unexposed automotive applications, such as inner door and tailgate panels, floors and inner trunk lids, are included in the product definition.

DOMESTIC PRODUCERS

Five companies produce corrosion-resistant steel sheet products in Canada. Dofasco, Stelco, Sorevco and National Steel Corporation (National Steel) were represented by counsel at the hearing.⁷ Continuous Colour did not attend the hearing.

Dofasco, located in Hamilton, Ontario, was incorporated in 1917 and is one of Canada’s largest integrated steel producers. Dofasco’s facilities produce hot-rolled, cold-rolled, galvanized, galvanized, Galvalume®,⁸ tinplate, chromium-coated and pre-painted flat rolled steel, as well as tubular products. Dofasco produces corrosion-resistant steel sheet products on five lines in Hamilton, one of which is the DoSol Galva Limited Partnership line (DSG line), and on the DNN Galvanizing Limited Partnership line (DNN line) in Windsor, Ontario. The DNN line, which began operations in January 1993, is a joint venture owned by Dofasco (50 percent), NKK Corporation of Japan (40 percent) and National Steel (10 percent). The DNN line functions as a tolling operation, coating, for a fee, steel substrate provided by its owners. Dofasco is entitled to 50 percent of the available line time of the facility. The DSG line, which was expected to begin operations in June 1999, is a limited partnership owned by Dofasco (80 percent) and Sollac, Aciers d’Usinor (Sollac) (20 percent). The DSG line is designed to manufacture products suitable for exposed and unexposed automotive applications, as well as for the construction market. At full capacity, Dofasco will supply 80 percent of the substrate to the DSG line, with Sollac providing the balance. However, all production from the DSG line will be marketed and sold by Dofasco.

Stelco, located in Hamilton, was established in 1910 and is also one of Canada’s largest integrated steel companies that produce flat rolled steel, bars and rods, as well as wire, wire products and pipes and tubes. Corrosion-resistant steel sheet products are manufactured on three lines at Hilton Works in Hamilton. Two lines are conventional hot-dip galvanizing lines, while the third, the Z-Line Company, manufactures both hot-dip galvanized and galvanized steel. The Z-Line Company, which began operations in 1991 and was upgraded in 1998, is a joint venture owned by Stelco (60 percent) and Mitsubishi Corporation (40 percent).

Sorevco, located in Côteau-du-Lac, Quebec, the third largest producer of corrosion-resistant steel sheet products, was incorporated in 1989 and commenced producing corrosion-resistant steel sheet products primarily for the construction sector on one continuous hot-dip galvanizing line in April 1991. It is a joint venture between Dofasco and Ispat Sidbec Inc. of Montréal, Quebec, in which each partner owns 50 percent of the company. Unlike Dofasco and Stelco, Sorevco purchases all of its cold-rolled substrate material from

7. National Steel was represented as a US integrated mill.

8. Corrosion-resistant steel sheet with an aluminum and zinc coating. Galvalume® products are not subject to this review.

other steel producers, principally its two owners. In February 1999, Sorevco introduced a new manufacturing process to produce galvanized products.

Continuous Colour, located in Rexdale, Ontario, and which represents a very small proportion of domestic production, was incorporated in 1965 and operates two lines: a painting, printing and laminating line since 1966 and an electrogalvanizing line since 1967. Continuous Colour is an independent company, not owned by any of the other Canadian producers.

National Steel, located in Mishawaka, Indiana, is one of the owners of the DNN line. National Steel is committed to utilize 50 percent of the available line time of the DNN line and to pay a tolling fee designed to cover fixed and variable costs. National Steel's substrate requirements are provided to the DNN line by one of National Steel's divisions, Great Lakes Steel, located in Ecorse and River Rouge, Michigan. However, corrosion-resistant steel sheet products manufactured on the DNN line for National Steel are almost exclusively shipped back to the United States for end-use consumption.

IMPORTERS AND EXPORTERS

Two importers were represented by counsel at the hearing: Aciers Francosteel Canada Inc. (Francosteel) and British Steel Canada Inc. (BSC). Exporters that were represented by counsel at the hearing include: Sollac, with mills in France and Spain; United States Steel International, Inc. (USSI), LTV Steel Company, Inc. (LTV Steel), Bethlehem Steel Export Corporation (Bethlehem Steel), National Steel, Ispat Inland, Inc. (Ispat Inland) and AK Steel Corporation (AK Steel), US mills; Thyssen Krupp Stahl AG (Thyssen Krupp Stahl), EKO Stahl GmbH (EKO Stahl), Salzgitter AG (Salzgitter) and STAHLwerke BREMEN GmbH (STAHLwerke BREMEN), German mills; Pohang Iron & Steel Co., Ltd. (POSCO) and Union Steel Mfg. Co., Ltd. (Union Steel), Korean mills; Aceralia Corporación Siderúrgica (Aceralia), a Spanish mill; and Companhia Siderúrgica Nacional (CSN), a Brazilian mill. Automotive stampers represented at the hearing include: Maksteel Inc., Titan Tool & Die Ltd., Magna International Inc., Krupp Fabco Inc., Narmco Group of Companies and A.G. Simpson Co. Ltd.

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 Tribunal rescinds its findings and that such dumping is likely to cause material injury to the domestic industry in the form of severe price erosion, lost sales and reduced profits.

In addressing the question of likelihood of resumed dumping, counsel for Dofasco dealt with the fragile state of the exporters' home markets, massive new production capacity and the cessation of exports of corrosion-resistant steel sheet products to Canada from the subject countries subsequent to the Tribunal's findings.

The fragile state of the home markets in the subject countries has resulted, in the view of counsel for Dofasco, in plummeting export prices. Counsel argued that, in the European Union and the Asian-Pacific region, export prices have fallen further than home market prices. In short, foreign producers have been

required to reduce their export prices in the hope of selling corrosion-resistant sheet⁹ into a world market plagued by excess capacity and supply. Counsel added that the need to export is the result of the production imperative that arises because of the capital-intensive nature of the corrosion-resistant sheet industry. Counsel submitted that Canada has been insulated from these low export prices by the Tribunal's findings.

Counsel for Dofasco submitted that each of the home markets of the subject countries faced an oversupply of corrosion-resistant sheet in 1998 which continued in the first quarter of 1999. It was argued that sharply falling prices in the US, EU and Asian-Pacific markets, a sharp drop in utilization rates, increased dependency on exports to maintain utilization rates in the United States, as well as in EU and non-EU countries, and a drop in profits for corrosion-resistant sheet in the United States, the European Union and other countries are all indicators of oversupply.

Counsel for Dofasco argued that, instead of reducing production in an attempt to bring the supply and demand for corrosion-resistant sheet into balance, producers throughout the industrialized world are adding staggering capacity. Counsel submitted that a number of witnesses attempted to downplay the impact that this massive new capacity will have on their respective markets by discussing the ramping up of new mills. However, the facts are that a significant portion of the new capacity in the United States and Western Europe was added in 1998 or will be added in 1999 and that, during the ramp-up stage of plants designed to produce for the automotive sector, corrosion-resistant steel sheet products not qualified to supply the automotive sector will be sold into the non-automotive sector. Without protection, Canada will be the recipient of a significant portion of the goods produced with this new excess capacity.

Concerning the cessation of exports of corrosion-resistant steel sheet products to Canada from the subject countries subsequent to the Tribunal's findings, counsel for Dofasco argued that the subject countries, other than the United States, did not export corrosion-resistant steel sheet products to Canada after the Tribunal's findings. In counsel's view, this is evidence that the subject countries cannot compete in the Canadian market unless they sell at dumped prices.

Turning to the question of vulnerability of the domestic industry to renewed dumping, counsel for Dofasco argued that the domestic producers accept that they have done well financially since the Tribunal's findings, but that it is essential that they remain competitive in the highly capital-intensive North American market to recoup investments that they have made or will make. In fact, the industry's well-being has become increasingly tied to corrosion-resistant steel sheet products, as they have become one of the most important product lines in terms of sales and financial contribution. It was argued that the products that the domestic producers sell in the service centre and construction sectors are mainly commodity-type products. They are produced to recognized specifications, making domestic and foreign products interchangeable in virtually all applications. The prices at which these products are sold have a ripple effect throughout the whole market. For all these reasons, counsel argued that, if dumping resumes, the domestic producers will definitely suffer material injury in the form of severe price erosion and reduced profits.

On the issue of the domestic industry's ability to supply domestic demand in the automotive and non-automotive sectors of the market, counsel for Dofasco and counsel for Stelco argued that, with the additional capacity generated by both companies for automotive applications, there is no doubt that demand will be met in that sector of the market. In the non-automotive sector, counsel submitted that there is no credible evidence of an inability of domestic producers to supply the demand in the Canadian market.

9. Where used, the term "corrosion-resistant sheet" is not intended to correspond to the exact product definition herein.

Counsel for Stelco addressed the question of likelihood of resumed dumping by dealing with each of the regions of the world separately. First, on the US situation, counsel argued that there are staggering capacity additions, that spot prices are falling precipitously and having an impact in the construction and steel service centre segments of the market, that demand is far less than the capacity coming on and that oversupply is exacerbated by continuing imports. In respect of the European Union, counsel submitted that the amount of capacity coming on is similar in size to the US capacity additions, but will come at a later stage than the US capacity, that spot prices are rapidly declining and that export quotes are lower than home market prices. These circumstances have prevented EU producers from increasing prices for their contract business. Moreover, imports are surging into the EU market, exacerbating the excess supply conditions in the construction and automotive markets. As far as Asia is concerned, counsel submitted that the situation can be described as being very fragile at this point in time; capacity is being added in the midst of the financial crisis, capacity utilization has been falling, the level of exports as a proportion of sales is quite significant, and no significant upturn is forecast for the Asian economy. In counsel's submission, all of these factors point to a likelihood of resumed dumping.

Counsel for Stelco addressed the issue of vulnerability with three main arguments. First, counsel argued that investments in high value-added products are particularly vulnerable. Price and volume reductions transmit through the financial statements from corrosion-resistant to cold-rolled to hot-rolled steel. Second, counsel submitted that corrosion-resistant steel sheet products are commodity products. Price impacts are felt from dumped imports, first in the service centres, then in the non-automotive end-use segment and eventually in the automotive segment. Third, counsel raised the fact that the foreign producers that were active in the market prior to 1994 have continued to be active through their agents or related companies that have, for example, imported corrosion-resistant sheet from non-subject countries.

Counsel for Stelco also addressed the question of non-represented countries, namely, Japan, Australia and New Zealand. They submitted that there is clear evidence of a severe economic downturn in Southeast Asia and of excessive capacity building up in that region. Counsel noted that a preliminary determination of dumping respecting cold-rolled steel sheet exported from New Zealand to Canada was made in April 1999. All subject countries except the United States have exited the market and that, in counsel's view, is very indicative of the propensity to dump on the part of non-represented and represented countries.

On the matter of the product exclusion, counsel for the domestic industry agreed to the automotive end-use exclusion. Counsel for Stelco submitted that the domestic industry is agreeable to such an exclusion because automotive stampers have typically been able to get drawback or remission of anti-dumping duties in order to meet temporary market shortages. It is on those very narrow factual grounds that the domestic industry is agreeable to the exclusion. In respect of the exclusion being extended to the other subject countries, counsel for Stelco argued that there is simply no factual basis for such an exclusion. There is no indication that the suppliers in the other subject countries will be able to export corrosion-resistant sheet destined for the automotive industry other than at dumped prices.

Counsel for Sorevco noted that the company produces and markets only non-automotive corrosion-resistant steel sheet products. As such, if the automotive end-use exclusion is granted, an analysis of Sorevco's market performance becomes the prime indicator of whether the domestic industry is vulnerable to a resumption of dumping, absent the findings. In counsel's submission, the subject countries have been unable to compete at normal value levels for non-automotive products and, if the findings are

rescinded, these countries will resume dumping in order to compete with price levels currently being offered by non-subject countries.

In addressing the likelihood of material injury from any resumed dumping, counsel for Sorevco noted: (1) the commodity nature of non-automotive galvanized steel where sales are made on the basis of price; (2) the need to maintain production volumes in order to control production costs; (3) the uncertainty regarding future domestic demand; and (4) the current underutilization of production capacity by the domestic producers. Counsel also argued that the industry is already being injured by the low pricing from non-subject countries and that the impact on Sorevco's selling prices, volumes and financial performance is clear from the evidence.

Parties in Favour of a Rescission of the Findings

Counsel for the importers and exporters argued in favour of a rescission of the findings, since there is no likelihood of resumed dumping and no likelihood of material injury to the domestic industry if dumping resumes. In the case of Brazil, the United Kingdom and the United States, counsel, in the alternative, argued in favour of a rescission of the finding against the company or companies that they represented at the hearing. In addition, counsel for the automotive stampers argued in favour of a rescission of the finding with respect to corrosion-resistant steel sheet products originating in the United States and imported for use in the manufacture of motor vehicles or parts thereof.

Francosteel and Sollac

In addressing the question of likelihood of resumed dumping, counsel for Francosteel and Sollac submitted that exports of galvanized steel from France and the European Union have dropped since 1996. Prices have decreased in the European Union due to the worldwide financial turmoil, but this decrease has not caused an increase in galvanized steel exports outside the European Union. Moreover, export prices in March and April 1999 were higher than the domestic prices in the EU market. Counsel argued that Sollac has no available capacity for the Canadian market, that it is operating at full capacity in France and Spain, that demand for galvanized steel is strong and increasing in the EU market and that Sollac is adding capacity to meet this demand in specific markets. Imports into the European Union from third countries have started to slow down and, if there is a problem with them, anti-dumping actions will be considered. Furthermore, counsel pointed out that Sollac's business strategy is a clear indication that it has no propensity to dump; it focuses on value-added products, on an international presence through investments in downstream operations, such as its partnership with Dofasco in the DSG line, and on profitability. Counsel argued that it would be irrational for Sollac to resume dumping in Canada, given its investment in the DSG line.

In addressing the question of likelihood of injury, counsel for Francosteel and Sollac argued that the situation that existed at the beginning of the 1990s in Canada has changed dramatically. The present situation, counsel argued, does not translate into vulnerability. There is no longer a situation of economic downturn, low demand, declining capacity utilization rates, decreasing production and sales volumes, reduced market shares, declining prices and low profits. The Canadian producers have benefited from five years of protection to restore their industry and have become very profitable. If there is a problem of profitability for certain producers, it is a problem of costs, not of revenue.

As regards the automotive end-use exclusion, counsel for Francosteel and Sollac argued that there are no technical or supply reasons that would justify its limitation to the United States.

BSC

Counsel for BSC argued that factors that indicate a likelihood of resumed dumping from the subject countries, as submitted by Dofasco, do not apply to British Steel plc (British Steel). These factors include: the fragility of the home market of each subject country; the declining export prices from the subject countries; the addition of production capacity in the subject countries; the high dependency of the subject countries on exports; the cessation of exports to Canada from the subject countries after the findings; and the naming of the subject countries in other injury findings.

In addressing these factors, it was recognized that current demand and prices are not advantageous in the United Kingdom. However, counsel for BSC argued that British Steel will continue to focus on its home market and will increase sales there through import replacement. Counsel acknowledged that British Steel's home market prices are falling, but argued that a decline in home market prices suggests that export prices may fall as well without resulting in dumping. British Steel, it was submitted, has been operating at full capacity and has been doing so without searching out foreign markets. Counsel noted that British Steel has not introduced additional production capacity for corrosion-resistant steel sheet products and has no plans to do so. Further, counsel underlined the fact that, even though British Steel was not named in the US finding on corrosion-resistant carbon steel flat products, the company has not increased its exports to the United States because it is focused on serving the European market. With respect to Canada, counsel questioned why British Steel should go through a normal value review when it has no steel to sell nor any interest in the Canadian market. Counsel argued that, although British Steel has been named in other dumping cases, such cases are over 10 years old, are for products unrelated to corrosion-resistant steel sheet products, were recently terminated or were found not to have caused injury. Finally, with respect to the automotive end-use exclusion, counsel submitted that there is no justification to limit it to the United States.

USSI, LTV Steel, Bethlehem Steel, National Steel, Ispat Inland and AK Steel

Counsel for the US mills argued that their clients account for a significant portion of the US production of corrosion-resistant steel sheet products and for the majority of exports to Canada and that the market conditions in which non-represented US exporters operate are not different from those observed by their clients. Counsel submitted that US market demand has been strong and is expected to remain healthy in light of continuing growth in automotive demand and new opportunities in the construction sector. The strong US demand is reflected in the production volumes of the mills and their very respectable capacity utilization levels.

Counsel for the US mills submitted that their clients conduct business in Canada on the basis of long-term contracts and are not active in the spot market in Canada, where prices tend to be less stable. Counsel argued that the weak Canadian dollar, coupled with strong US demand and stable or increasing prices, does not indicate a likelihood of resumed dumping from the United States. Counsel noted that the United States continues to be a net importer of corrosion-resistant sheet and that exports as a percentage of total sales are minuscule. Moreover, US exports to Canada are largely to automotive customers, and the industry has agreed to exclude such exports from the finding. With respect to capacity addition, counsel argued that the US market will absorb any new capacity and that there is nothing to indicate that the US producers will be inclined to increase exports to Canada in the foreseeable future.

Thyssen Krupp Stahl, EKO Stahl, Salzgitter and STAHLwerke BREMEN

In addressing the question of likelihood of resumed dumping, counsel for the German mills reviewed the factors which led the Tribunal to rescind its finding in Review No. RR-97-006.¹⁰ Counsel suggested that a consideration of these factors will lead the Tribunal to the same conclusion in this review. Counsel noted that shipments to Canada by German mills were made at high prices in comparison to other prices in the Canadian market. With respect to other export markets, counsel noted that the German producers are anticipating significant potential for automotive end-use sales in Eastern Europe, which was described as a highly priced sector with increasing demand.

Counsel for the German mills argued that German home market demand and prices, including demand and prices in the European Union, have been increasing, which is reflected in the very high capacity utilization rates for the German mills. Moreover, demand in the European Union is forecast to increase further, as the use of galvanized steel in automotive production is scheduled to grow. Counsel also noted that, although Germany was found to be dumping in the United States in 1993, that finding is not representative of current German export prices.

In addressing the likelihood of material injury if the finding is rescinded, counsel for the German mills pointed to the strong and growing North American demand for corrosion-resistant sheet. In counsel's submission, prices and demand in Canada are increasing, which will mean higher profits for the domestic industry that had been doing very well in the past. With respect to the automotive end-use exclusion, counsel questioned why this exclusion should apply only to US products, in view of the fact that the German mills also produce for the automotive industry. Counsel also questioned how imports from one country can be causing injury, while imports of the same products from another country are not causing injury.

POSCO and Union Steel

In addressing the same issues raised for their German clients, counsel for the Korean mills submitted that shipments to Canada by the Korean mills have not been dumped and have been made at prices which exceed normal values determined by the Department of National Revenue (Revenue Canada) by \$100 per metric ton. Counsel noted that witnesses for the Canadian industry described the Korean prices as "untouchable" and "fairly traded". While counsel acknowledged that the US injury finding on corrosion-resistant carbon steel flat products includes Korea, they submitted that the dumping margin of 0.16 percent recently determined for POSCO is *de minimis* and, therefore, indicates that there is no propensity to dump.

Counsel for the Korean mills also noted that POSCO is a highly profit-driven company that earned in excess of \$1 billion in 1997 and 1998. Although recognizing that the Korean economy has not performed well recently, counsel suggested that the economy is now turning around, as evidenced by industrial growth and strong demand in the automotive sector. Counsel also described Korean capacity utilization as remarkable, and this, coupled with increasing home market demand, will leave very little product available for export to Canada. Finally, with respect to the automotive end-use exclusion, counsel noted that the

10. *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) (C.I.T.T.).

Korean mills also produce for the automotive industry and, therefore, should be eligible for the same exclusion proposed for the United States.

Aceralia

In argument, counsel for Aceralia reviewed the same factors that they applied for the German and Korean mills in assessing the likelihood of resumed dumping. Counsel noted that Aceralia has not shipped to Canada since the finding and is not likely to do so, since it is committed to supplying the Spanish market. It was submitted that Aceralia only participates in markets where the return is acceptable and that it has not dumped galvanized sheet in any market. Spain is neither subject to the US injury finding nor subject to any other finding on corrosion-resistant sheet.

Counsel for Aceralia argued that demand in the Spanish automotive market, as well as in the European Union, has resulted in high capacity utilization by Aceralia and that the company will not have any additional capacity to supply other markets. Further, counsel claimed that Spanish prices are increasing and pointed to recent price increases instituted by Aceralia, as well as to plans for further increases in 1999. Counsel also noted that the Spanish mills produce galvanized steel for the automotive industry and, therefore, should be eligible for the same automotive end-use exclusion proposed for the United States.

CSN

Counsel for CSN submitted that, on the basis of Brazilian domestic prices, CSN could easily have shipped to Canada at undumped prices. Counsel noted that the Brazilian economy has been recovering since the currency devaluation in January 1999 and that forecasts suggest continued growth through the year 2000. Moreover, Brazilian demand for galvanized steel increased sharply during the 1990s and is expected to double between 1998 and 2003.

Counsel for CSN submitted that new capacity additions by CSN will not take effect until 2001 and that any increase in capacity at that time will be absorbed by growing Brazilian demand. CSN, it was argued, has been operating at full capacity to supply its home market and, as a result, its exports declined by 19 percent between 1996 and 1998 and its exports in 1999 are expected to be minimal. Counsel noted that CSN did not ship to Canada in the last five years and that its shipments to the United States also declined during this period, even though the injury finding in that country does not apply to Brazil. There are no other injury findings against CSN's corrosion-resistant sheet. On the likelihood of injury if the finding is rescinded, counsel observed that the domestic industry is prosperous. It is so healthy that it is adding 450,000 tons of new capacity, knowing that anti-dumping protection in the future is not certain.

Concerning the automotive end-use exclusion, counsel for CSN argued that the requested exclusion should be extended to all qualifying corrosion-resistant steel sheet products regardless of national origin. Counsel noted that CSN produces automotive grade corrosion-resistant sheet and supplies numerous Brazilian automotive manufacturers. In counsel's view, there was no evidence to suggest that CSN could not qualify to supply the North American automotive industry.

Automotive Stampers

Counsel for the automotive stampers argued in favour of a rescission of the finding with respect to corrosion-resistant steel sheet products originating in the United States and imported for use in the manufacture of motor vehicles or parts thereof. In counsel's view, subsection 76(4) of SIMA allows the

Tribunal considerable scope to amend a finding by limiting the product and/or the geographic coverage. Counsel also claimed that the Tribunal has established precedents which would allow it to amend a finding where there is production in Canada, but where the amendment is unopposed by the domestic industry. In this instance, counsel suggested that considerable weight should be attached to the fact that the domestic industry supports the automotive stampers' request.

In the submission of counsel for the automotive stampers, the Canadian steel producers can supply most of the stampers' requirements for corrosion-resistant steel sheet products. However, in certain circumstances, there is a limited need for the stampers to have access to corrosion-resistant steel sheet products manufactured in the United States. Counsel noted that the domestic producers can still seek remedy through another dumping complaint if they are exposed to injurious dumping in the future. Counsel argued that the scope of the rescission should be limited to US products because the stampers are North American supply focused, have just-in-time delivery requirements and have no current experience with other countries that could supply galvanized steel for automotive end uses. Counsel argued that there is a natural discipline between the Canadian and US automotive markets because, if steel prices get out of line in Canada, then parts and blanks can be imported from the United States with adverse implications for both the automotive stampers and their Canadian steel suppliers.

PRELIMINARY ISSUES

In the last weeks before the hearing and throughout the hearing, a number of procedural issues arose with which the Tribunal was obliged to deal. While the rulings with respect to these matters have already been made, the Tribunal would like to explain its reasoning in order to provide guidance to counsel and parties in future cases.

On April 30, 1999, counsel for Stelco requested the production of five confidential reports and studies referred to in the submissions of POSCO and Aceralia. A flurry of correspondence then followed, in which counsel debated whether all those documents needed to be filed and whether they should have been produced earlier in response to the Tribunal's questionnaires or the domestic producers' requests for information (RFIs). While the Tribunal concluded that these documents had not been specifically requested by counsel for the domestic producers in their RFIs nor in the foreign manufacturer's questionnaire, the Tribunal felt that these reports and studies appeared to be useful and should, therefore, be produced. On May 6, 1999, it so ordered.

Following the Tribunal's direction to produce these documents, counsel for POSCO and Aceralia advised it that, with one exception, the complete studies and reports were not in their possession. It seems that counsel had received only excerpts of the complete documents and that it was to these excerpts that counsel made reference in their submissions. The complete studies remained with their overseas clients. In the case of POSCO, the complete report was brought into Canada by its witnesses from Korea who were scheduled to give evidence on Thursday, May 13, 1999, and who, according to counsel, were expected to arrive the evening of May 12, 1999.¹¹

The Tribunal is mindful of the obstacles that counsel may face when representing foreign clients. Language differences, translation problems, time zone differences, geographical separation and little opportunity to meet with clients face to face are all part and parcel of trade counsel's daily challenges. In some cases, these obstacles can be daunting. However, where counsel make reference in their

11. As a result of scheduling difficulties, the witnesses for POSCO did not give their testimony until May 14, 1999.

submissions to studies or reports such as these, they should know that other counsel or the Tribunal will likely want to review the entire documents. Only by looking at a document in full can one determine the context of the reference and whether the reference is qualified by other data or comments. Therefore, as a matter of practice, counsel should have the complete document available if they intend to rely on excerpts from the document in their case.

Several times during the hearing, counsel requested permission to file, or make reference to, documents not previously disclosed. Before referring to those requests individually, the Tribunal wishes to put its approach to late filings into context.

The Tribunal has historically been deluged with new documents on the first day of a hearing and continuing throughout the hearing. This practice has caused the parties, counsel and the Tribunal untold difficulties. Documents produced at such a late hour simply cannot be given the attention that they deserve. Neither counsel nor the Tribunal can digest the contents of these documents in a manner which makes them useful to anyone during the course of the hearing.

The Tribunal does not feel that it is necessary to catalogue the reasons why these documents were being submitted so late; however, it was a practice that both counsel who regularly appear before it and the Tribunal wanted to change. To avoid this problem, the Tribunal has begun to direct that parties file documents on which they want to rely before the hearing starts. In this case, the Tribunal sent a letter to counsel on May 5, 1999, stating, in part:

Given the extensive documentation already on file, the Panel wishes to advise counsel that it will not, except in exceptional circumstances, permit the filing of documentation at the hearing. Recent SIMA cases have seen some counsel table documents at the hearing which should have been disclosed earlier. In view of the prejudice and inconvenience this causes to other counsel and the Tribunal, the Panel wants to ensure this is not repeated in this case.¹²

It is important to recall that, when a SIMA hearing starts, there are normally thousands of pages of documents already on file, many submitted by counsel and their clients. Typically, a hearing occupies the full day and may last from one day to several weeks. All the while, the clock is ticking toward an established deadline.

The Tribunal feels that taking a firm stand, which does permit flexibility in appropriate cases, is needed to control the quality and fairness of its proceedings.

The Tribunal will now turn to the individual requests and rulings.

Request by Counsel for CSN to Submit a CSN Flat Rolled Market Study Dated March 1999

On May 12, 1999, three days after the hearing began, counsel for CSN made a request to submit a CSN market study dated March 1999. Counsel indicated that the report, which was of a substantial size, had only come into their hands after the hearing began. Tribunal staff and counsel for the domestic producers were given a copy of the report to review on the evening of Wednesday, May 12, 1999. When the hearing resumed on Thursday morning, counsel for the domestic producers objected to the introduction of the report, saying that it should have been produced by CSN earlier, in response either to the Tribunal's questionnaire or

12. Related Correspondence, Administrative Record, Vol. 23B.

to the RFIs. Given the information contained in it, counsel for the domestic producers would not be able to make any meaningful use of it.

While counsel for CSN argued that the study only came into their possession on the morning of May 12, 1999, they could have advised the Tribunal that a report was being prepared by or for their clients which would address issues germane to the hearing. Had this been done, the Tribunal and other counsel would have been alerted to its existence. While such notice would not have guaranteed acceptance of the material at the hearing, at least other counsel and the Tribunal would not have been taken by surprise.

Weighing the prejudice to other counsel and the Tribunal were it to accept the study, against the reasons put forward by counsel for CSN, the Tribunal decided not to allow it onto the record. In declining to accept the study, the Tribunal indicated that there was already considerable documentary evidence on the record with respect to CSN's view of the market.¹³

Request by Counsel for Stelco to Introduce the May 1999 Edition of the *CRU Monitor*

On May 13, 1999, counsel for Stelco stated that they wanted to file the May 1999 edition of the *CRU Monitor* in order to cross-examine witnesses for Sollac and Francosteel who were scheduled to give evidence that morning. They indicated that the document had only come into their possession at 11:00 p.m. the previous night and that, as it was dated May 13, 1999, they could not possibly have produced it any earlier than they did. Counsel stated that they wanted to put the document to the witnesses and say, "[h]ere [is] what analysts are saying in respect of your market. Can you tell us what your position is in light of this document?"¹⁴ Counsel did allow that it would be appropriate for the witnesses to read the relevant portions of the document before being questioned on its contents.

Counsel for Sollac and Francosteel objected to the use and acceptance onto the record of the document, saying that it was something that their clients had not seen and would not have time to properly prepare for in order to be in a position to respond to questions in cross-examination. The Tribunal notes that the witnesses for Francosteel and Sollac both testified in French, that their witness statements were in French and that much of their counsel's submissions were also in French. To the Tribunal's knowledge, there was no French translation of the *CRU Monitor* available for the witnesses to review.

The Tribunal notes that Sollac and Francosteel's position was well known to all counsel well in advance of the hearing. Counsel for the domestic producers had ample opportunity to respond to the position taken by those parties. Counsel did not say that the articles in the May 1999 edition of the *CRU Monitor* raised novel points or presented information which was not previously known.

The Tribunal must look very carefully at the reasons why counsel wants to file a new document or evidence in cross-examination. Certainly, there are circumstances when new and unfiled information can be put on the record and used when cross-examining a witness. However, this should be limited to those cases where, for example, the witness says something which contradicts a previous statement that he or she made, where the witness makes reference to a document which is not on the record, when a witness makes what counsel feels are inaccurate or misleading comments about a document which may already be on the record or where something is said by the witness in his or her testimony which takes counsel by surprise. This is not

13. Exporter's Exhibits V-1 and V-3, Administrative Record, Vol. 13.10; and Exporter's Exhibits V-2 (protected) and V-4 (protected), Administrative Record, Vol. 14.10.

14. *Transcript of Public Hearing*, Vol. 4, May 13, 1999, at 665.

intended to be an exhaustive list, but merely illustrative of the kinds of circumstances which might persuade the Tribunal to permit counsel to file a new document during the cross-examination of a witness.

The Tribunal notes that the record was already replete with many previous editions of the monthly *CRU Monitor*, including the April 1999 edition.¹⁵ In addition, given the fact that no one had the opportunity to read the May 1999 edition, that it was available in English only, that counsel were not alleging that it contained new or novel information, the purpose for which it was going to be used and the extensive documentary evidence already on file, the Tribunal decided against allowing it to be filed on the record.

Request by Counsel for CSN to Tender a Newspaper Article from the *Financial Times* dated May 14, 1999

On May 14, 1999, one of the witnesses for CSN began to make reference to a newspaper article in that morning's *Financial Times* when giving his testimony. The article made reference to economic indicators relative to Brazil. The witness read several paragraphs from that article before counsel for CSN were asked if they planned to put the article on the record. They replied that they wanted to do so but that it had been impossible to prefile the article, given the date on which it was published. Counsel for Dofasco objected to the acceptance of this article onto the record, saying that they were not aware of it and did not have an opportunity to review it.

Counsel for CSN responded by saying that information about the Brazilian economy was "on the front page of the newspaper and it has been [there] almost daily for the past eight weeks at least",¹⁶ implying that it should come as no surprise.

While the Tribunal will be more flexible about permitting counsel to file documents which are only published after the hearing begins, it will have to be persuaded that the need for this information outweighs the prejudice and disruption to the proceedings that such late filings inevitably cause. In this case, the information was in the public domain for weeks before the hearing. If counsel for CSN felt that it was important for their case, they could have easily included previous articles in their submissions and information filed. Counsel also did not indicate that the article contained new information not previously available. Considering that evidence was already on the record with respect to the current state of the Brazilian economy, including recent positive economic data, the Tribunal did not permit the filing of this newspaper article.

Request by Counsel for Sollac to File the Transcript of a Document Quoted in Part During the Testimony of a Witness for Stelco

While responding to questions from counsel for Sollac and Francosteel, one of the witnesses for Stelco made reference to a statement allegedly made by the President of Sollac and printed in *J'accuse!*, a report by Credit Lyonnais Securities Europe which was filed by Dofasco.¹⁷

15. Manufacturer's Exhibit A-1B, Annexes 5 to 11, Administrative Record, Vol. 11A; and Tribunal Exhibit RR-98-007-RI-1C, Administrative Record, Vol. 9.

16. *Transcript of Public Hearing*, Vol. 5, May 14, 1999, at 1014.

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

The witness for Stelco referred to comments attributed to the President of Sollac and drew a conclusion from them. Counsel for Sollac asked the witness if he had read the entire transcript of the document which was referred to in *J'accuse!*. The witness indicated that he had not read the transcript.

Counsel for Sollac then asked the Tribunal for permission to enter into the record the entire transcript of the public statements made by the President of Sollac and from which the excerpts were taken. According to counsel for Sollac, the transcript was not filed before the hearing because they did not think that anyone would take a comment from it and draw inaccurate conclusions or use it out of context. Counsel for Stelco objected to the proposed filing of this new information. They stated that the transcript was available before the hearing and should have been filed if counsel for Sollac had wanted to make reference to it.

Counsel for Sollac responded by saying:

Getting this [transcript] on the record is to provide the Tribunal with a complete picture of what this whole statement is about. [The witness for Stelco] used a statement to draw from it a conclusion regarding what was my client's intention, what was my client's behaviour regarding capacity utilization.

The document does not say so. To cite that document in support of that proposition is not the truth, and the purpose of having the document on the record is for you to have the truth on the record, on your record, in these proceedings.¹⁸

The Tribunal agrees. If a witness, during the hearing, is alleged to have taken the contents of a document out of context, or to have drawn from it conclusions which do not flow from what was said, the Tribunal will allow a new document relevant to the statement allegedly taken out of context to be entered.

This exception should only arise in rare cases and, when it does, the Tribunal will have to carefully review the facts to determine whether it is proper to allow the information to be filed. Given the concern that the comments of the President of Sollac may not have been accurately quoted in *J'accuse!* or that the witness for Stelco may have drawn an inaccurate conclusion based on information contained in that report, the Tribunal concluded that the transcript should be filed.

ANALYSIS

Section 76 of SIMA provides that, on completion of a review, the Tribunal shall rescind or continue an order or finding, with or without amendment. In making this decision, the Tribunal deals with two fundamental questions. First, it determines whether there is a likelihood of resumed dumping if the finding is rescinded. If the Tribunal finds that there is a likelihood of resumed dumping, it then determines whether such dumping is likely to cause material injury to the domestic industry.

Before addressing the question of likelihood of resumed dumping, the Tribunal notes the submissions made by counsel on the issue of cumulation with respect to the likelihood of resumed dumping.

18. *Transcript of Public Hearing*, Vol. 3, May 12, 1999, at 587.

The Tribunal finds that this issue has been adequately addressed in recent cases¹⁹ and, therefore, concludes that a country-by-country analysis of the question of likelihood of resumed dumping is also correct in the present case.

In determining whether there is a likelihood of resumed dumping and, if so, whether such dumping is likely to cause material injury to the domestic industry, the Tribunal is of the view that the focus must be on circumstances that can reasonably be expected to exist in the near or medium term.

Likelihood of Resumed Dumping

In examining whether there is a likelihood of resumed dumping, the Tribunal may consider a broad range of factors. In this review, the Tribunal considered the following factors with respect to each of the 11 countries: (1) the volume of imports into Canada of corrosion-resistant steel sheet products from each of the subject countries and their exports to other countries; (2) developments in the demand, supply and pricing of corrosion-resistant steel sheet products in the subject countries and other markets; (3) the economic situation in the home market of each subject country; (4) the availability of excess production capacity and the addition of new production capacity in the subject countries; and (5) the existence of anti-dumping actions against imports of corrosion-resistant sheet in other jurisdictions.

Brazil

Demand for corrosion-resistant sheet showed considerable growth in Brazil in the early and mid-1990s, fuelled largely by growth in automotive production.²⁰ However, the economic turmoil encountered in the Far East in 1997, which subsequently affected Brazil, had a major negative impact on the performance of the Brazilian economy.²¹ This impact was particularly acute in 1998 and was evidenced by sharply declining demand in the automotive sector that saw output fall from 2 million units in 1997 to 1.6 million units in 1998, with a further forecast decline to 1.2 to 1.4 million units in 1999.²² As a result of the economic difficulties, domestic demand for corrosion-resistant sheet fell by 5.6 percent in 1998, and a further decline of 1.5 percent is forecast for 1999.²³ Although the Brazilian economy began to show signs of improvement in the first quarter of 1999, partly due to the devaluation of the real, CSN forecasts only a modest growth in demand for corrosion-resistant sheet in 2000 and 2001, with a slight increase in prices over the two years.²⁴

Against the backdrop of these demand and price projections, the Tribunal notes that significant new production capacity will come on stream in Brazil over the next couple of years. The evidence indicates that new production facilities, planned in joint ventures by CSN at Galvasud and CISA, and new production by

19. *Supra* note 10, *Statement of Reasons* at 15-16; *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* (July 28, 1998), RR-97-007 (C.I.T.T.) at 12-13; and *Certain Hot-rolled Carbon Steel Plate and High-strength Low-alloy Plate Originating in or Exported from Italy, the Republic of Korea, Spain and the Ukraine, Order* (May 17, 1999), *Statement of Reasons* (May 25, 1999) at 11-12, RR-98-004 (C.I.T.T.).

20. Exporter's Exhibit V-3 at para. 7 and 16, Administrative Record, Vol. 13.10.

21. *Transcript of Public Hearing*, Vol. 5, May 14, 1999, at 1010-11.

22. *Ibid.* at 1064-65.

23. Tribunal Exhibit RR-98-007-RI-23, Tab 1 at 7, Administrative Record, Vol. 9.22.

24. Tribunal Exhibit RR-98-007-31.9 (protected), Administrative Record, Vol. 6.3 at 19.

Usiminas will see Brazilian capacity increase by at least 600,000 metric tons by 2001, most of which will be devoted to automotive applications.^{25,26} In the long run, these investments may be justified. However, given the current weakness of the home market, the Tribunal believes that these investments will lead to excess production capacity in the near term, particularly for non-automotive end-use products which will be produced during the ramp-up phases of the new facilities.

The testimony of one of the witnesses for CSN clearly indicated the importance of exports in maintaining high capacity utilization rates by the company. It was taken in evidence that CSN exports in order to utilize available production capacity that is not used to supply domestic demand.²⁷ The record indicates that, in 1998, 12 percent of CSN's production of corrosion-resistant sheet was exported, up from 2 percent of production in 1997. The evidence also shows that virtually all the exports were commodity-type products destined for non-automotive end uses.²⁸ Brazil did not export corrosion-resistant steel sheet products to Canada during the review period 1996-98.²⁹ A significant proportion of CSN's exports in 1998 were made to certain European countries, countries that it had not supplied in the previous two years.³⁰

In view of the instability of the Brazilian economy, the expectation for modest growth in the demand for corrosion-resistant sheet, the industry's development of new production capacity and CSN's export marketing philosophy designed to maintain high utilization levels of production, the Tribunal finds that there is a likelihood of resumed dumping from Brazil. Although not found to be injurious, the Tribunal notes that, in 1993, exports of corrosion-resistant carbon steel flat products from Brazil to the United States were found to be dumped.³¹

Germany

During the review period 1996-98, German exports maintained a presence in the Canadian market, with shipments ranging from a high of 13,519 net tons in 1997 to a low of 6,395 net tons in 1998.³² The data indicate that these shipments have been made at the high end of the price spectrum.³³ The Tribunal notes that the United States found injury against the dumping and subsidizing of corrosion-resistant carbon steel flat products from Germany in 1993 and that the US finding continues to be in place.³⁴

25. *Transcript of Public Hearing*, Vol. 5, May 14, 1999, at 1018-23.

26. The evidence suggests that this new capacity may be expanded further, as the Gerdau Group has announced plans to construct a 500,000 metric ton facility. However, the Tribunal notes that these plans by the Gerdau Group have been put on hold. *Ibid.* at 1024; and Manufacturer's Exhibit A-IN, Administrative Record, Vol. 11.

27. *Transcript of Public Hearing*, Vol. 5, May 14, 1999, at 1054.

28. *Ibid.* at 1070.

29. *Public Pre-hearing Staff Report*, revised May 6, 1999, Tribunal Exhibit RR-98-007-5B, Administrative Record, Vol. 1A at 120.27.

30. Tribunal Exhibit RR-98-007-31.9 (protected), Administrative Record, Vol. 6.3 at 23.

31. *Certain Flat-Rolled Carbon Steel Products From Argentina, Australia, Austria, Belgium, Brazil, Canada, Finland, France, Germany, Italy, Japan, Korea, Mexico, the Netherlands, New Zealand, Poland, Romania, Spain, Sweden, and the United Kingdom* (August 1993), 701-TA-319-332, 334, 336-342, 344, and 347-353 (Final) and 731-TA-573-579, 581-592, 594-597, 599-609, and 612-619 (Final) (U.S.I.T.C.) *Volume I: Determinations and Views of the Commission*, Pub. 2664.

32. *Supra* note 29.

33. *Ibid.* at 120.31.

34. *Supra* note 31.

In considering market conditions faced by German suppliers, the Tribunal also looked at the current and prospective demand and supply situation in the European Union, which represents an integral part of the equation affecting the performance of German mills. The evidence indicates that demand and prices for steel in the European Union were strong throughout 1996 and 1997. However, in 1998, the Asian financial crisis caused a surge in steel imports into the European Union from Southeast Asia and a decline in exports from the European Union to that region.³⁵ While demand in the European Union remained relatively healthy for corrosion-resistant sheet in 1998, the evidence suggests that growth will slow down in 1999 and 2000, as automotive production is expected to show little, if any, increase.³⁶ Moreover, the evidence indicates that construction activity in the European Union, and particularly in Germany, has not shown the same level of growth as witnessed by automotive demand. The Tribunal notes that German construction demand fell by 3 percent in 1997 and that the contraction continued into 1998.³⁷

The unstable supply and demand situation in the European Union has been manifested by the steep decline in European and German prices for corrosion-resistant sheet. In the 12-month period ending March 1999, EU export prices fell by US\$230 per metric ton, a decline of 35 percent.³⁸ The Tribunal notes the export orientation of the German mills that rely on sales to third-country and EU markets. During the review period 1996-98, the German mills exported about 40 percent of their corrosion-resistant steel sheet products, a significant portion of which was destined for countries outside the European Union. The Tribunal also notes the inventory buildup by the German producers and the decline in capacity utilization for corrosion-resistant steel sheet products in the latter part of 1998.³⁹

The evidence indicates that German producers plan to increase production capacity by up to 1.5 million metric tons over the next couple of years. Production from this new capacity will have to compete with substantial capacity increases planned by other EU producers.⁴⁰ In the Tribunal's view, demand in the European Union will not be sufficient to consume this new capacity and, therefore, the German mills will have little choice but to step up their export sales efforts in order to maintain plant loading.

For these reasons, the Tribunal finds that there is a likelihood of resumed dumping from Germany.

Japan

Imports of corrosion-resistant steel sheet products from Japan during the review period 1996-98 were minimal.⁴¹ The Tribunal notes that, in 1993, the United States found that imports of corrosion-resistant carbon steel flat products from Japan were dumped and subsidized and that such imports caused injury to the domestic industry.⁴² This finding continues to be in place.

35. *OECD Steel Committee – Global steel demand hit by the crisis*, November 20, 1998, Manufacturer's Exhibit A-1A at 3-4, Administrative Record, Vol. 11.

36. Tribunal Exhibit RR-98-007-RI-1C at 4, Administrative Record, Vol. 9; and Manufacturer's Exhibit A-1M at 13 and 16, Administrative Record, Vol. 11.

37. Tribunal Exhibit RR-98-007-30.20, Appendix 2, Administrative Record, Vol. 5.3C at 30.

38. Manufacturer's Exhibit A-1 at para. 50, Administrative Record, Vol. 11.

39. Tribunal Exhibits RR-98-007-31.18A (protected), RR-98-007-31.19 (protected), RR-98-007-31.20A (protected) and RR-98-007-31.21A (protected), Administrative Record, Vol. 6.3 at 140.2, 147, 157.2 and 165.2 respectively.

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

41. *Supra* note 29.

42. *Supra* note 31.

The evidence in this review clearly shows the impact of the Asian financial crisis on the performance of the Japanese economy in general and on the demand and pricing for corrosion-resistant sheet in particular. The evidence suggests that the Japanese economy suffered a gross domestic product (GDP) decline of 2.8 percent in 1998, with a further decline of 0.9 percent forecast for 1999.⁴³ In addition, capital spending in Japan is forecast to decrease by 10 percent in 1999, which will have a negative impact on steel consumption.⁴⁴ With respect to corrosion-resistant sheet, the evidence indicates that Japanese consumption of hot-dip galvanized steel fell by 5.4 percent in 1998, with a further decline of 15.1 percent in the first quarter of 1999.⁴⁵

The Tribunal notes that the Japanese mills export a significant proportion of their corrosion-resistant sheet, accounting for roughly 25 percent of total output in 1998.⁴⁶ The evidence suggests that these exports have been made at prices which fell by US\$120 per metric ton, or some 20 percent during the 12 months ending March 1999.⁴⁷ Moreover, a review of Japanese selling prices shows that export price declines accelerated in the latter part of 1998 and that, by March 1999, export prices were up to US\$300 per metric ton lower than domestic Japanese prices.⁴⁸

In view of the continuing weakness of the Japanese economy, the apparent export imperative of Japanese corrosion-resistant sheet producers and export selling prices at levels substantially below home market prices, the Tribunal finds that there is a likelihood of resumed dumping from Japan.

Korea

In late 1998, a small volume of corrosion-resistant steel sheet products was imported from POSCO at undumped prices.⁴⁹ No imports were made from Korea in 1996 and 1997.⁵⁰ The Tribunal notes that Korea was found to be dumping in the United States and subsidizing corrosion-resistant carbon steel flat products in 1993 and that such imports were found to have caused injury to the US industry.⁵¹ This finding continues to be in place.

The evidence in this review reveals the severe impact of the Asian financial crisis on the Korean economy commencing in the second half of 1997. These economic difficulties, described as the most severe in the country's history, led to massive unemployment and a dramatic decline in GDP, consumption and investment expenditures in 1998.⁵² The impact of the economic crisis on Korean production and consumption of corrosion-resistant sheet has been telling. In 1998, domestic demand for corrosion-resistant sheet declined by 30 percent due to the shrinkage in the construction and durable goods markets. Although the Korean economy stabilized somewhat in the first quarter of 1999, domestic demand for

43. Manufacturer's Exhibit A-1B, Annex 3 at 48, Administrative Record, Vol. 11A.

44. Manufacturer's Exhibit A-1B, Annex 4 at 23, Administrative Record, Vol. 11A.

45. Tribunal Exhibit RR-98-007-RI-1C at 9, Administrative Record, Vol. 9.

46. *Ibid.*

47. Manufacturer's Exhibit A-1 at para. 52, Administrative Record, Vol. 11.

48. Manufacturer's Exhibit A-1B, Annex 4 at 32-34, Administrative Record, Vol. 11A.

49. *Transcript of Public Hearing*, Vol. 5, May 14, 1999, at 992-93.

50. *Protected Pre-hearing Staff Report*, revised May 6, 1999, Tribunal Exhibit RR-98-007-6B (protected), Administrative Record, Vol. 2 at 135.42.

51. *Supra* note 31.

52. *OECD Steel Committee – Global steel demand hit by the crisis*, November 20, 1998, Manufacturer's Exhibit A-1A at 5, Administrative Record, Vol. 11.

corrosion-resistant sheet is expected to grow by only 0.4 percent for the year.⁵³ In addition, industry capacity utilization rates have been declining since 1997, falling to 80 percent in 1998, and are forecast to decline to 71 percent in 1999.⁵⁴

The collapse in steel demand in the Pacific Basin region has led to a 24 percent decline in selling prices for corrosion-resistant sheet since the beginning of 1998.⁵⁵ The evidence suggests that the Korean producers, in an attempt to maintain production levels, began to focus their efforts on the European and North American markets. The Tribunal notes that, between 1996 and 1998, the percentage of POSCO's and Union Steel's production destined for export markets increased sharply. Over the three-year period, the evidence reveals that the Korean mills increased export sales by 116 percent, with substantial increases in exports to Europe and North America.⁵⁶ POSCO's export orientation is clearly revealed in its marketing strategy which seeks "to increase its export sales to maximize the use of its production capacity, to lessen its dependence on demand from local customers, to expand its international market presence and to earn foreign exchange to help meet foreign currency obligations for its debt and raw material purchases".⁵⁷

In spite of the depressed economic conditions in Asia, the record indicates that large new production capacity for corrosion-resistant sheet has recently been added, or will soon be added, in many Asian countries. The record also indicates that, of the new capacity of 2.5 million metric tons in Asia, approximately 1.5 million metric tons will be added in Korea.⁵⁸ In view of these capacity additions, the Tribunal has no doubt that the Korean mills will be forced to export an ever-increasing volume of their production in order to maintain plant loading.

Although POSCO obtained normal values from Revenue Canada in 1998, the Tribunal notes that only a very small volume of corrosion-resistant steel sheet products has been shipped to date. In the Tribunal's opinion, this does not provide conclusive evidence that POSCO is able to compete in the Canadian market without resorting to dumping. Moreover, the Tribunal also notes that Union Steel and Dongbu Steel Co., Ltd. have not obtained normal value rulings and that these Korean producers account for a significant proportion of total Korean production.⁵⁹

In view of the strong and growing reliance of the Korean producers on exporting in the face of depressed home market demand and in light of declining prices, excess production capacity and the addition of substantial new production capacity, the Tribunal is persuaded that there is a likelihood of resumed dumping from Korea, absent the finding.

United States

During the review period 1996-98, the United States accounted for the lion's share of imports of corrosion-resistant steel sheet products from the subject countries. During that period, imports from the United States more than doubled, increasing from 52,000 tons in 1996 to 109,000 tons in 1998, and

53. *Transcript of Public Hearing*, Vol. 5, May 14, 1999, at 969-70.

54. Tribunal Exhibit RR-98-007-30.25, Administrative Record, Vol. 5.3E at 349.

55. Manufacturer's Exhibit A-1 at para. 47, Administrative Record, Vol. 11.

56. Manufacturer's Exhibit B-5, Administrative Record, Vol. 11.1.

57. Tribunal Exhibit RR-98-007-30.25A, Administrative Record, Vol. 5.3E-1 at 266.

58. Manufacturer's Exhibit A-1N, Administrative Record, Vol. 11; and Tribunal Exhibit RR-98-007-31.25 (protected), Administrative Record, Vol. 6.3 at 199.

59. *Transcript of Public Hearing*, Vol. 5, May 14, 1999, at 941-42.

represented over 90 percent of subject country imports in the latter year.⁶⁰ However, the evidence suggests that virtually all these imports were for automotive end uses and that US suppliers have been unable to export construction grade sheet at normal value price levels.⁶¹ The Tribunal notes that Mexico also has an injury finding in place against imports of coated flat steel products originating in the United States.⁶²

Five integrated mills submitted evidence and gave testimony at the review hearing.⁶³ In addition, four integrated mills provided information by way of questionnaire responses.⁶⁴ In total, these nine mills accounted for the majority of imports into Canada in 1998⁶⁵ and represented over 50 percent of total US production of corrosion-resistant sheet in 1997.⁶⁶ The evidence submitted by these companies indicates that US demand for corrosion-resistant sheet was buoyant throughout the review period 1996-98, with home market sales of slightly over 8 million tons annually.⁶⁷ Moreover, forecasts suggest that demand will remain strong over the near term, with projected annual increases of about 5 percent. This demand has been, and will continue to be, fuelled by growth in the automotive sector and, to a somewhat lesser extent, in construction.⁶⁸

While US demand has been strong, the evidence clearly indicates that prices for corrosion-resistant sheet weakened in 1998 and into 1999 due, in part, to an influx of imports from Asia.⁶⁹ During the period 1998 through the first quarter of 1999, data show that spot prices fell in all regions of the United States by as much as US\$150 per ton.⁷⁰ In the crucial midwest region, spot prices fell by US\$115 per ton, a decline of 22 percent over the period.⁷¹ Current price levels were described as the lowest in 10 years, and price competition was characterized as volatile.⁷² Further, the evidence suggests that prices in March 1999 fell sharply, by over 6 percent, and that the price declines for corrosion-resistant sheet exceeded price declines witnessed for both hot-rolled and cold-rolled steel.⁷³

While growing imports contributed to declining prices, the evidence suggests that price pressures were exacerbated by substantial new capacity which came on stream in 1998. The Tribunal notes that upwards of 3 million tons of new production capacity was added by US producers in 1998 and that a further

60. *Supra* note 29.

61. Exporter's Exhibit D-1 (protected) at para. 3, Administrative Record, Vol. 14; Exporter's Exhibit E-2 at para. 13, Administrative Record, Vol. 13.1; Exporter's Exhibit H-1 (protected) at para. 7, Administrative Record, Vol. 14.4; Exporter's Exhibit K-1 (protected) at para. 4, Administrative Record, Vol. 14.6; and Exporter's Exhibit L-2 at para. 13, Administrative Record, Vol. 13.6.

62. Tribunal Exhibit RR-98-007-49, Administrative Record, Vol. 1A at 238.

63. Those mills are USSI, LTV Steel, Bethlehem Steel, National Steel and AK Steel.

64. Those mills are Ispat Inland, California Steel Industries, Inc., Pro-Tec Coating Co. and I/N Kote.

65. *Transcript of Public Argument*, May 17, 1999, at 182.

66. *Public Pre-hearing Staff Report – Pricing and Foreign Markets*, revised May 3, 1999, Tribunal Exhibit RR-98-007-5.1E, Administrative Record, Vol. 1A at 195.27.

67. *Ibid.* at 195.35.

68. See, for example, Exporter's Exhibit D-2 at para. 15, Administrative Record, Vol. 13; and Tribunal Exhibit RR-98-007-30.23, Administrative Record, Vol. 5.3E at 173.

69. *Transcript of Public Hearing*, Vol. 3, May 12, 1999, at 524-25; and Tribunal Exhibit RR-98-007-30.6, Administrative Record, Vol. 5.3 at 65.

70. Manufacturer's Exhibit A-6, Administrative Record, Vol. 11.

71. Manufacturer's Exhibit A-1 at para. 33, Administrative Record, Vol. 11.

72. Tribunal Exhibit RR-98-007-31.6 (protected), Administrative Record, Vol. 6.3 at 3; and *Transcript of In Camera Hearing*, Vol. 2, May 11, 1999, at 90.

73. *Transcript of Public Hearing*, Vol. 3, May 12, 1999, at 614-15.

2.2 million tons are to come on stream between 1999 and 2000.⁷⁴ If all these additions are made, US production capacity will have increased by close to 50 percent, an amount which will far exceed demand forecasts. The Tribunal notes that, in the second half of 1998, industry utilization rates, although still high, began to decline.⁷⁵ In addition, the evidence indicates that the financial results for a number of the participating mills deteriorated in 1998.⁷⁶

The evidence and testimony of witnesses indicate that, although a considerable proportion of the new capacity will be devoted to automotive end uses, a significant increase in construction grade sheet is also planned.⁷⁷ In the Tribunal's view, in the short term, much of the production from this new automotive end-use capacity will also be destined for the construction sector. The testimony of the witnesses clearly indicates that, during the ramp-up period, which typically takes 12 to 18 months,⁷⁸ the majority of production is sold for non-automotive end uses until such time as the galvanizing lines are able to meet the stringent requirements of the automotive industry.⁷⁹ While forecasts for the construction market are positive in the United States, the Tribunal notes that part of this optimism is based on new applications which have yet to be realized.⁸⁰ Moreover, the evidence suggests that the new capacity for automotive end uses will free up additional capacity for the production of construction end-use products, as some lines currently producing automotive products are phased out.⁸¹

The Tribunal is persuaded that excess production capacity, particularly for construction grade sheet, will be available in the United States over the next few years. The evidence demonstrates that construction grade sheet is a commodity product which is sold on the basis of the best available price.

Finally, the Tribunal notes that Revenue Canada identified 122 US exporters during its 1993 investigation period.⁸² As noted, only 9 US mills submitted information in this review. Most of the remaining non-participants consist of steel service centres that generally purchase steel at spot prices. Given the proximity of the Canadian market and the expected excess supply of corrosion-resistant steel sheet products in the United States, the Tribunal has no doubt that dumping would resume by many of these suppliers, absent the finding.

For these reasons, the Tribunal finds that there is a likelihood of resumed dumping of corrosion-resistant steel sheet products from the United States.

74. Dofasco's Aid to Argument, Exhibit A-25, Administrative Record, Vol. 17.

75. *Public Pre-hearing Staff Report – Pricing and Foreign Markets*, revised May 4, 1999, Tribunal Exhibit RR-98-007-5.1G, Administrative Record, Vol. 1A at 195.47.

76. See, for example, Tribunal Exhibit RR-98-007-RI-8, Tab 3 at 8, Administrative Record, Vol. 9.7; Tribunal Exhibit RR-98-007-30.14B, Administrative Record, Vol. 5.3A-1 at 218; and Tribunal Exhibit RR-98-007-30.22, Administrative Record, Vol. 5.3E at 37.

77. See, for example, *Transcript of In Camera Hearing*, Vol. 3, May 12, 1999, at 171-73.

78. *Transcript of Public Hearing*, Vol. 3, May 12, 1999, at 514-15. The Tribunal recognizes that there are exceptions to the typical ramp-up period, as evidenced by the testimony of the witness for AK Steel, *Transcript of Public Hearing*, Vol. 3, May 12, 1999, at 496.

79. *Transcript of Public Hearing*, Vol. 3, May 12, 1999, at 630-31.

80. *Ibid.* at 502.

81. *Transcript of In Camera Hearing*, Vol. 3, May 12, 1999, at 170-71.

82. Tribunal Exhibit RR-98-007-1, Administrative Record, Vol. 1 at 18.

Australia

In considering the likelihood of resumed dumping, the Tribunal notes that the record contains very little information on Australia, notwithstanding the Tribunal's questionnaire to BHP Steel (JLA) Pty. Ltd. (BHP Australia), the only known producer of corrosion-resistant steel sheet products, and requests to parties to bring forward information. What the record does show is that Australia was not a major player in the Canadian market during the period leading up to the Tribunal's 1994 finding⁸³ and did not export to Canada during the review period 1996-98.⁸⁴ However, BHP Steel Canada, a subsidiary of BHP Australia, is sourcing small quantities of corrosion-resistant sheet for the BC market from the Far East. In addition to the Canadian finding, the United States found injury in 1993 against the dumping and subsidizing of corrosion-resistant carbon steel flat products from Australia, and that finding continues to be in place.⁸⁵

The Tribunal finds that there is insufficient positive evidence in the record to conclude that Australia is likely to resume dumping.

France

During the review period 1996-98, France did not export corrosion-resistant steel sheet products to Canada.⁸⁶ The record also shows that the United States found injury against the dumping and subsidizing of corrosion-resistant carbon steel flat products from France in 1993.⁸⁷ That finding continues to be in place. Since that finding, Sollac has continued to ship small volumes of galvanized steel into the US market.⁸⁸

Sollac, the major producer of galvanized steel in France, indicated that it had no intention of exporting to Canada in 1999 and 2000, due to the unavailability of capacity for markets other than France and Europe. It further indicated that it had no propensity to dump, due to its new business strategy based on: (1) high value-added products; (2) internationalization by way of its investments, for example, in the DSG line; and (3) profitability.⁸⁹

The record shows that, in 1998, Sollac entered into a joint venture with Dofasco to develop a new galvanizing line in Canada with output destined for the automotive sector. The DSG line is owned by Sollac (20 percent) and by Dofasco (80 percent).⁹⁰ This partnership is a firm indication that Sollac's participation in the Canadian market for galvanized steel will be through this investment rather than through exports. This investment is the first major one for Sollac in the North American market. The evidence indicates that Sollac has no intention of jeopardizing its investment by resuming its dumping in Canada, thereby threatening the viability of its investment.⁹¹

83. *Protected Pre-hearing Staff Report* from Inquiry No. NQ-93-007, revised June 20, 1994, Tribunal Exhibit RR-98-007-9A (protected), Administrative Record, Vol. 2.1 at 122.

84. *Supra* note 29.

85. *Supra* note 31.

86. *Supra* note 29.

87. *Supra* note 31.

88. Tribunal Exhibit RR-98-007-31.15 (protected), Administrative Record, Vol. 6.3 at 93.

89. Exporter's Exhibit P-3 at para. 9 and 15, Administrative Record, Vol. 13.8; and *Transcript of Public Hearing*, Vol. 4, May 13, 1999, at 679.

90. Exporter's Exhibit P-3 at para. 24, Administrative Record, Vol. 13.8; and Tribunal Exhibit RR-98-007-11.1, Administrative Record, Vol. 3 at 48.

91. Exporter's Exhibit P-3 at para. 26 and 29, Administrative Record, Vol. 13.8.

The capacity additions in France since 1994 have been described as “mostly logical”.⁹² Sollac has had to continuously increase its production capacity and capacity utilization rates to meet the growing demand in the automotive and construction sectors of the EU market and has had to absorb the switch from uncoated steel sheet to hot-dip galvanized steel sheet in the EU automotive market. In 1998, Sollac added a new galvanizing line in Mardyck, France, to serve this growth in demand and provide improved quality products.⁹³ However, the record shows that this capacity addition is mainly for automotive-exposed products, which are not subject to this review.⁹⁴ The information on the record indicates that Sollac is operating at virtually full capacity.⁹⁵ It does not appear that Sollac will have additional capacity to increase exports to markets outside the European Union over the near term.⁹⁶ The data indicate that, in 1998, only 7.1 percent of France’s total exports were shipped outside the Western European market.⁹⁷

For all the foregoing reasons and given principally Sollac’s participation in the Canadian market through its joint venture with Dofasco, the Tribunal finds that there is no likelihood of resumed dumping from France.

New Zealand

As is the case for Australia, the Tribunal notes that the record contains little information on New Zealand, notwithstanding the Tribunal’s questionnaire to BHP New Zealand Steel Limited, the only known producer of corrosion-resistant steel sheet products, and requests to parties to bring forward information. The record does show, however, that New Zealand was not a major participant in the Canadian market during the 1990-93 period, accounting for only a small percentage of the total imports into Canada at that time,⁹⁸ and did not export to Canada during the review period 1996-98.⁹⁹ In addition, while New Zealand was included in the 1993 US investigation into corrosion-resistant carbon steel flat products, it was not found to be materially injuring or threatening to materially injure the US domestic industry.¹⁰⁰

The Tribunal finds, as with Australia, that there is insufficient positive evidence in the record to conclude that New Zealand is likely to resume dumping.

Spain

During the review period 1996-98, Spain made no shipments to Canada.¹⁰¹ Furthermore, Spain does not have any other injury finding against it on corrosion-resistant sheet. Notwithstanding the fact that the US finding does not apply to Spain, the record indicates that Spanish shipments to the United States were

92. Manufacturer’s Exhibit A-1M at 11, Administrative Record, Vol. 11.

93. *Ibid.*

94. Exporter’s Exhibit P-3 at para. 80, Administrative Record, Vol. 13.8.

95. Tribunal Exhibit RR-98-007-31.15 (protected), Administrative Record, Vol. 6.3 at 93.

96. *Transcript of Public Hearing*, Vol. 4, May 13, 1999, at 678.

97. Exporter’s Exhibit P-3 at para. 99, Administrative Record, Vol. 13.8.

98. *Protected Pre-hearing Staff Report* from Inquiry No. NQ-93-007, revised June 20, 1994, Tribunal Exhibit RR-98-007-9A (protected), Administrative Record, Vol. 2.1 at 122.

99. *Supra* note 29.

100. *Supra* note 31.

101. *Supra* note 29.

minimal in 1998.¹⁰² From the evidence submitted, it is clear that Spain focuses on its home market and sells very little outside the European Union.

While there are three producers of corrosion-resistant sheet in Spain, Aceralia, Sollac and Thyssen, the Tribunal was able to gather information on only the first two companies. The evidence shows that, in 1997, 83 percent of Aceralia's flat rolled production was sold to the home market, while 13 percent went to the European Union and the remaining 4 percent to third-country markets.¹⁰³ The record indicates that this trend continued into 1998. Sollac's presence in the Spanish market is through joint ventures with Aceralia in two automotive coating lines, Galmed and Solmed, whose production is destined for the EU market.¹⁰⁴

Although the Asian crisis has had an impact on the European market as a whole, the witnesses for Aceralia indicated that the impact on Spain was not as severe, since its projections for demand and prices are higher than those of the European market. The record shows that, in 1998, Spanish demand for hot-dip galvanized products increased by 17 percent over 1997 and that the forecast is for an additional 10 percent growth for 1999.¹⁰⁵ In addition, the data indicate that demand in the first quarter of 1999 increased by 6.3 percent in the automotive sector and by 19.1 percent in the construction sector.¹⁰⁶ The record shows that, in recent years, consumption has far outpaced production and that the trend continued in 1999.¹⁰⁷ Further, according to the evidence submitted, there has been a 4 percent increase in prices for hot-dip galvanized products in the first quarter of 1999, and a 5 percent increase is planned for the third quarter.¹⁰⁸

This increasing demand in Spain allowed for continuous and steady growth in capacity utilization. In fact, the evidence indicates that capacity utilization rates in Spain are extremely high, leaving little capacity for outside markets.¹⁰⁹ In order to meet this growing demand, the record shows that Aceralia designed an expansion program that has been described as "mak[ing] sense".¹¹⁰ Through its joint venture with Sollac, Aceralia invested in a new hot-dip galvanizing and galvannealing line, Solmed, whose production will be mainly for non-subject, automotive-exposed products.¹¹¹ This line will be fully operational by the year 2001.¹¹² The witnesses for Aceralia testified that the company was adding new production capacity at its Avilés facility which produces the subject automotive end-use products. The witnesses added that this new capacity will be on stream in the first quarter of the year 2000.¹¹³ Between 100,000 and 150,000 tons of this new capacity will be destined for a pre-paint line in Lesaca, reducing the amount of galvanized products available for resale.¹¹⁴

102. Tribunal Exhibit RR-98-007-31.15 (protected), Administrative Record, Vol. 6.3 at 94; and Tribunal Exhibit RR-98-007-RI-20A (protected) at 50, Administrative Record, Vol. 10.19.

103. Exporter's Exhibit R-1, Appendix E, Administrative Record, Vol. 13.9.

104. Exporter's Exhibit P-2 (protected) at para. 82, Administrative Record, Vol. 14.8.

105. *Transcript of Public Hearing*, Vol. 5, May 14, 1999, at 1079.

106. *Ibid.* at 1079-80.

107. Tribunal Exhibit RR-98-007-RI-1C at 9, Administrative Record, Vol. 9.

108. *Transcript of Public Hearing*, Vol. 5, May 14, 1999, at 1089-90.

109. *Ibid.* at 1089; Tribunal Exhibit RR-98-007-31.11A (protected), Administrative Record, Vol. 6.3 at 57; and Tribunal Exhibit RR-98-007-31.15 (protected), Administrative Record, Vol. 6.3 at 94.

110. Manufacturer's Exhibit A-IM at 11, Administrative Record, Vol. 11.

111. Exporter's Exhibit P-3 at para. 80, Administrative Record, Vol. 13.8.

112. Exporter's Exhibit P-2 (protected) at para. 86, Administrative Record, Vol. 14.8.

113. *Transcript of In Camera Hearing*, Vol. 5, May 14, 1999, at 331.

114. *Transcript of Public Hearing*, Vol. 5, May 14, 1999, at 1092.

Given the strength of the Spanish market, it is likely, in the Tribunal's view, that new production will be readily consumed by the growing Spanish demand and that Spanish products will not be sold at distressed prices. For all the foregoing reasons, the Tribunal finds that there is no likelihood of resumed dumping from Spain.

Sweden

As is the case with Australia and New Zealand, the Tribunal notes that the record contains little information on Sweden, notwithstanding the Tribunal's questionnaire to SSAB Svenskt Stål AB, the only known producer of corrosion-resistant steel sheet products, and requests to parties to bring forward information. The record shows that Sweden has never been a significant player in the Canadian market, having shipped only very small volumes indirectly in the period leading up to the 1994 finding¹¹⁵ and did not export to Canada during the review period 1996-98.¹¹⁶ The Tribunal notes that Sweden was included in the 1993 US investigation into corrosion-resistant carbon steel flat products, but was not found to be materially injuring or threatening to materially injure the US domestic industry.¹¹⁷

In the Tribunal's view, it is unlikely that Sweden will seek to re-enter the Canadian market because it is now a member of the European Union and has open access to that market, free of anti-dumping disciplines. The Tribunal finds that there is insufficient positive evidence in the record to conclude that Sweden is likely to resume dumping.

United Kingdom

The record indicates that, during the review period 1996-98, British Steel, the only UK producer of corrosion-resistant steel sheet products, did not export to Canada.¹¹⁸ The Tribunal notes that, with the exception of the Canadian finding, exports of corrosion-resistant sheet from the United Kingdom are not constrained by anti-dumping actions in any other jurisdiction.

The evidence shows that, since 1994, the UK market for galvanized steel has grown by over 30 percent and that British Steel's capacity utilization increased from 84 percent in 1994 to 97 percent in 1997 and 1998.¹¹⁹ The Tribunal notes that British Steel is focused on the UK and EU markets, where 90 percent of its sales of corrosion-resistant sheet are made.¹²⁰ While there is evidence that increased imports have recently entered the UK market from Asia, British Steel's marketing strategy is to "focus on import replacement rather than ship to more distant countries".¹²¹ Despite pressure from imports, British Steel has made only minimal shipments of galvanized steel products to the United States, where it continues to enjoy unfettered access.¹²² The witness for British Steel stated that it is not the company's policy to achieve high utilization rates by exporting outside the UK and EU markets.¹²³ While it is operating at a high level of

115. *Protected Pre-hearing Staff Report* from Inquiry No. NQ-93-007, revised June 20, 1994, Tribunal Exhibit RR-98-007-9A (protected), Administrative Record, Vol. 2.1 at 122.

116. *Supra* note 29.

117. *Supra* note 31.

118. *Supra* note 29.

119. Tribunal Exhibit RR-98-007-30.24, Administrative Record, Vol. 5.3E at 279.

120. Exporter's Exhibits T-7 (protected) and T-8 (protected), Administrative Record, Vol. 14.7.

121. Exporter's Exhibit T-2 at para. 17, Administrative Record, Vol. 13.7.

122. Exporter's Exhibit T-1 (protected) at para. 44, Administrative Record, Vol. 14.7.

123. *Transcript of Public Hearing*, Vol. 5, May 14, 1999, at 883.

capacity, British Steel indicated that it has not added capacity in recent years and has no plans to add capacity through to 2001,¹²⁴ focusing rather on matching supply and demand in its home market. The record shows that, recognizing the uncertainty of the UK automotive market, British Steel, which is geared towards reducing its costs, chose to focus on profit maximization rather than expansion.¹²⁵

Given the foregoing, the Tribunal finds that there is no likelihood of resumed dumping from the United Kingdom.

Likelihood of Injury

Having found that a rescission of the findings is likely to lead to a resumption of dumping from Brazil, Germany, Japan, Korea, and the United States, the Tribunal now turns to the question of whether the resumption of dumping from those five countries is likely to cause material injury to the domestic industry.

Overall, the current economic indicators describe a buoyant domestic market for corrosion-resistant steel sheet products. After the 1994 findings, the domestic market for corrosion-resistant steel sheet products grew significantly, and average prices rose. Within this market, the domestic industry's performance improved compared to its performance at the time of the original inquiry. The domestic industry saw significant gains in production, capacity utilization, prices, sales revenue and profits. Although the volume of imports grew from 1996 to 1998, they were never able to attain either the volume or the market share that they held at the time of the original inquiry.¹²⁶

In considering whether or not a resumption of dumping of corrosion-resistant steel sheet products from these five countries would likely cause material injury to the domestic industry, which by all measures is performing well, the Tribunal has considered a range of factors.

It is clear to the Tribunal that there is a sizeable volume of corrosion-resistant steel sheet products available for export in those countries that the Tribunal has found likely to resume dumping. This situation will be exacerbated by the substantial new capacity which will be added in these countries over the next couple of years. The Tribunal considers that imports from these countries, made at dumped prices, would likely cause Canadian prices for corrosion-resistant steel sheet products to fall, absent the findings.

In this regard, the Tribunal notes that the industry considers that it has three distinct client sectors: the automotive sector, the non-automotive sector and the service centre sector. The automotive sector includes sales made to motor vehicle manufacturers, fabricators and stampers that produce motor vehicles or parts/components for motor vehicles. The non-automotive sector includes sales to manufacturers, fabricators and stampers that produce any type of non-automotive product (such as for the construction industry, in heating and cooling system applications or as appliance components). The service centre sector includes sales to firms whose main business is to stock and resell a wide variety of sizes and grades of corrosion-resistant steel sheet products. Service centres generally provide additional services, such as slitting, cutting and warehousing steel products for customers.

124. Tribunal Exhibit RR-98-007-RI-15A (protected), Attach. 1, Administrative Record, Vol. 10.14.

125. Manufacturer's Exhibit A-1M at 10, Administrative Record, Vol. 11.

126. *Protected Pre-hearing Staff Report*, March 29, 1999, Tribunal Exhibit RR-98-007-6 (protected), Administrative Record, Vol. 2 at 105; and *Protected Pre-hearing Staff Report*, revised May 6, 1999, Tribunal Exhibit RR-98-007-6B (protected), Administrative Record, Vol. 2 at 135.57.

Automotive end users account for most of the automotive corrosion-resistant steel sheet products demanded in the market, while service centres and non-automotive end users account for most of the non-automotive corrosion-resistant steel sheet products. The evidence suggests that the volume of corrosion-resistant steel sheet products required to supply these sectors in 1998 reached approximately 1.9 million net tons.¹²⁷ Of this volume, non-automotive corrosion-resistant steel sheet products accounted for approximately 1.1 million net tons, or about 60 percent of the total.¹²⁸

Automotive end users usually contract for steel supplies based on a model year or the life cycle of a part. The motor vehicle manufacturer specifies the particular characteristics of the corrosion-resistant steel sheet products, such as the coating weight, grade of steel and nominal thickness. The motor vehicle manufacturer will also require certification that the mill producing the steel can meet its requirements. This certification process can take six months to two years to complete, with the mill providing samples of steel to ensure that the specifications can be met and that the steel has the physical properties that will allow it to be formed into the required part.¹²⁹

Non-automotive end users purchase both in the spot market and through relatively short-term contractual arrangements. Service centres generally purchase their steel supplies in the spot market, usually placing their orders from three weeks to four months in advance of requirements, depending on the location of the mill and the product specifications.¹³⁰ For the most part, the corrosion-resistant steel sheet products destined for non-automotive applications are made to ASTM (American Society for Testing and Materials) standards.¹³¹ These types of corrosion-resistant steel sheet products are essentially commodity products sold largely on the basis of price.¹³² This fact was noted by several witnesses who observed that, for non-automotive steel, price is the principal factor upon which purchasing decisions are made.¹³³

Because non-automotive end users and steel service centres purchase their steel requirements either on a spot price basis or through short-term contracts, they are the first to be affected by changing import prices. Moreover, because steel centres usually purchase and warehouse inventories of non-automotive steel, a commodity which they sell to end users, they prove to be an efficient conduit for transmitting price changes to the marketplace.¹³⁴ The evidence shows that imported corrosion-resistant steel sheet products destined for the non-automotive and service centre sectors compete head-to-head with domestic products for the same markets and will cause a price response on the part of the domestic industry. This is most clearly demonstrated in the evidence of Sorevco.¹³⁵ Price discounts to non-automotive end users and service centres were necessary to compete with imports of corrosion-resistant sheet from non-subject countries. Stelco and Dofasco also indicated in evidence that competitive allowances had to be offered to non-automotive end

127. Manufacturer's Exhibit C-2 at para. 5, Administrative Record, Vol. 11.2.

128. *Ibid.*

129. *Public Pre-hearing Staff Report*, revised April 19, 1999, Tribunal Exhibit RR-98-007-5A, Administrative Record, Vol. 1A at 120.3.

130. *Ibid.*

131. Manufacturer's Exhibit A-1 at para. 90, Administrative Record, Vol. 11.

132. *Ibid.* at para. 95.

133. Manufacturer's Exhibit B-1 at para. 84 and 85, Administrative Record, Vol. 11.1; Manufacturer's Exhibit C-2 at para. 10, Administrative Record, Vol. 11.2; and *Transcript of Public Hearing*, Vol. 1, May 10, 1999, at 31-34.

134. Manufacturer's Exhibit A-3 at para. 31 and 32, Administrative Record, Vol. 11.

135. Manufacturer's Exhibit C-1 (protected) at para. 16 to 36, Administrative Record, Vol. 12.2.

users and service centres to compete with the prices of imports of corrosion-resistant sheet from non-subject countries.¹³⁶

The Tribunal notes that, up until 1990, before imports from the subject countries had become a significant competitive factor in the marketplace, the industry sold its corrosion-resistant steel sheet products at book prices. However, by 1991, as the price pressure from these imports increased, the industry had to offer import competitive allowances exceeding \$100 per net ton. By 1992, as the price pressure continued to grow, import competitive allowances increased to well over \$200 per net ton.¹³⁷ The Tribunal is of the view that a similar downward spiral in prices would occur if the findings were rescinded, especially given the substantial volumes of corrosion-resistant steel sheet products which would likely enter the Canadian market.

It is clear to the Tribunal that Dofasco, Stelco and Sorevco would all suffer from resumed dumping from the five countries. In the Tribunal's view, Sorevco, which only produces non-automotive steel, would probably suffer the most. Also worthy of particular mention is the new DSG line that was scheduled to begin production in June 1999. Although designed to produce automotive corrosion-resistant steel, during the ramp-up phase, it will be producing non-automotive corrosion-resistant steel sheet products that will have to compete head-to-head with dumped imports.

The evidence also shows that imported corrosion-resistant steel sheet products destined for the non-automotive and service centre sectors will also affect the pricing of corrosion-resistant steel sheet products destined for automotive end uses. As acknowledged, however, there is a lag effect between the two prices.¹³⁸ Import prices affect the domestic spot prices and book prices for corrosion-resistant steel sheet products for non-automotive end uses.¹³⁹ As contracts for automotive steel come up for renewal, the buyers assess the prices in the marketplace and negotiate accordingly. In the Tribunal's view, lower prices for non-automotive grade corrosion-resistant steel sheet products will lead inevitably to lower prices for automotive grade corrosion-resistant steel sheet products.

In sum, dumped imports of corrosion-resistant steel sheet products destined for non-automotive end uses will put downward pressure on prices for domestically produced corrosion-resistant steel sheet products for non-automotive and automotive end uses.

The Tribunal is of the view that, if dumping from these five countries is allowed to resume, the domestic mills essentially will have two options, both of which, given the likely volumes and prices of the dumped imports, are likely to be materially injurious to the domestic industry. They can cut back on production as the dumped imports take market share, or they can reduce prices to competitive levels and maintain production volumes. Under the first response, capacity utilization rates will fall, as will market shares, revenues and profits. The more likely outcome, however, is that given the capital-intensive nature of the production of corrosion-resistant steel sheet products,¹⁴⁰ the Canadian industry will again resort to the use

136. Manufacturer's Exhibit B-1 at para. 97 and 98, Administrative Record, Vol. 11.1; and *Transcript of In Camera Hearing*, Vol. 1, May 10, 1999, at 3-4.

137. Tribunal Exhibit RR-98-007-1, Administrative Record, Vol. 1 at 32.

138. *Transcript of Public Hearing*, Vol. 3, May 12, 1999, at 553-55.

139. *Transcript of In Camera Hearing*, Vol. 1, May 10, 1999, at 3.

140. As with the steel sector generally, the capital-intensive nature of the production of corrosion-resistant steel sheet products dictates that the facilities should be used at full capacity so as to amortize the high fixed-cost component over the maximum number of units. Any reduction in production increases the cost of production of individual units.

of import competitive allowances or general price reductions in order to maintain production and to retain market share, resulting in severely reduced prices, revenues and profits.

The Tribunal notes that the domestic industry has invested heavily in the production of corrosion-resistant steel sheet products. Any damage to market share and prices will endanger its ability to finance capital improvements. This will undermine the industry's ability to compete in this capital-intensive business, making it even more vulnerable to dumping. A resumption of dumping is likely to jeopardize the industry's major strategic thrust into this high value-added end of the steel market. Notably, Dofasco has recently invested \$145 million in the construction of the DSG line.¹⁴¹ An inability to keep up with advances in technology will relegate domestic producers to the low margin commodity end of the market.

For all the above reasons, the Tribunal is of the opinion that a resumption of dumping of corrosion-resistant steel sheet products is likely to cause material injury to the domestic industry in the form of severely reduced prices, revenues and profits. In addition, the reduced financial position will likely limit the ability of the domestic industry to recoup past and planned investments and to maintain its competitive position in the production of these high value-added steel products.

Request for Exclusion

The automotive stampers have requested a rescission of the finding against the United States with respect to corrosion-resistant steel sheet products for use in the manufacture of passenger automobiles, buses, trucks, ambulances or hearses, or chassis therefor, or parts, accessories or parts thereof. The domestic producers have consented to an automotive end-use exclusion from the continuation of the finding against the United States.

Having decided to continue the finding against corrosion-resistant steel sheet products from the United States, the Tribunal must decide whether an exclusion should be granted for corrosion-resistant steel sheet products which are used in the automotive sector. The Tribunal has indicated that exclusions are granted under exceptional circumstances¹⁴² and that the case for an exclusion must be adequately demonstrated.¹⁴³ In Review No. RR-89-006, the Tribunal stated: "If the Tribunal were to exclude goods from a finding it would be on the basis of evidence that imports of these goods would not cause material injury to Canadian production because, for example, they would be unavailable from Canadian

141. Manufacturer's Exhibit A-1 at para. 80, Administrative Record, Vol. 11.

142. Tribunal Exhibit RR-98-007-1, Administrative Record, Vol. 1 at 51; *Stainless Steel Round Bar of Sizes 25 mm Diameter Up to 570 mm Diameter Inclusive, Originating in or Exported from the Federal Republic of Germany, France, India, Italy, Japan, Spain, Sweden, Taiwan and the United Kingdom, Finding* (September 4, 1998), *Statement of Reasons* (September 21, 1998) at 23, NQ-98-001 (C.I.T.T.).

143. *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, the United States of America and the former Yugoslav Republic of Macedonia, Findings* (May 6, 1993), *Statement of Reasons* (May 21, 1993) at 25, NQ-92-007 (C.I.T.T.); and *Machine Tufted Carpeting with Pile Predominantly of Nylon, Other Polyamide, Polyester or Polypropylene Yarns, Excluding Automotive Carpeting and Floor Coverings of an Area Less Than Five Square Metres, Originating in or Exported from the United States of America, Order* (April 21, 1997), *Statement of Reasons* (May 1, 1997) at 20, RR-96-004 (C.I.T.T.).

production”.¹⁴⁴ In past cases, the main criterion relied on by the Tribunal in determining whether to exclude a particular product has been whether the domestic industry produces the product.¹⁴⁵ The Tribunal has also considered such factors as whether there is any domestic production of substitutable or competing goods,¹⁴⁶ whether the domestic industry is an “active supplier” of the product or whether it normally produces the product.¹⁴⁷ All those criteria confirm that the Tribunal will only grant an exclusion when it is of the view that such an exclusion will not cause injury to the domestic industry.

The Tribunal is of the opinion that, in the present review, the requested exclusion is warranted, even though there is substantial production of automotive corrosion-resistant steel sheet products in Canada. The automotive stampers have stated that they require the exclusion only in order to access steel when the domestic producers are unable to supply them, because of shortfalls, deficiencies or an inability to produce certain products.¹⁴⁸ They have also made it clear that the domestic producers are, and will remain, their suppliers of choice.¹⁴⁹ The evidence shows that the relationship that the automotive stampers have with the domestic producers is very important and that they value the quality and service provided by them. Such a close relationship is particularly important in view of the long development process leading up to the production of a part. As well, once the production is under way, the customized nature of automotive products ensures that the initial suppliers of the steel will be favoured over any other, given the costs which have to be incurred in order to make the same part with steel supplied by another producer.¹⁵⁰

The domestic producers, while consenting to the request for exclusion, have indicated that it was not on the basis of an absence of likelihood of resumed dumping or of an absence of likelihood of injury. However, it is the Tribunal’s view that the reasons given by the domestic producers to consent to the exclusion demonstrate that the exclusion is not likely to cause them injury. The domestic producers believe that they will continue to be the principal suppliers to the automotive industry and that automotive corrosion-resistant steel sheet products from the United States will only be imported under specific circumstances.¹⁵¹ They are also comforted by the fact that, at the time of the original finding, the US exporters of automotive corrosion-resistant steel sheet products had amongst the lowest margins of

144. *Certain Carbon and Alloy Steel Plates Originating in or Exported from Belgium, Brazil, Czechoslovakia, the Federal Republic of Germany, France, the Republic of South Africa, the Republic of Korea, Romania, Spain, the United Kingdom and the Netherlands* (May 1, 1990) (C.I.T.T.) at 15.

145. See, for example, *Stainless Steel Round Bar*, *supra* note 142, *Statement of Reasons* at 24-25; and Tribunal Exhibit RR-98-007-1, Administrative Record, Vol. 1 at 51-53.

146. See, for example, *Machine Tufted Carpeting Originating in or Exported from the United States of America*, *Finding* (April 21, 1992), *Statement of Reasons* (May 6, 1992) at 29, NQ-91-006 (C.I.T.T.).

147. See, for example, *Stainless Steel Round Bar*, *supra* note 142, *Statement of Reasons* at 24-26; *Certain Hot-rolled Carbon Steel Plate*, *supra* note 143, *Statement of Reasons* at 25; and *Gypsum Board Originating in or Exported from the United States of America*, *Finding* (January 20, 1993), *Statement of Reasons* (February 4, 1993) at 20, NQ-92-004 (C.I.T.T.).

148. Importer’s Exhibit J-2 at para. 4, Administrative Record, Vol. 13.5; and *Transcript of Public Hearing*, Vol. 4, May 13, 1999, at 775-76.

149. *Public Pre-hearing Staff Report – Pricing and Foreign Markets*, revised April 19, 1999, Tribunal Exhibit RR-98-007-5.1C, Vol. 1A at 195.12; Importer’s Exhibit J-2 at para. 4, Administrative Record, Vol. 13.5; and *Transcript of In Camera Hearing*, Vol. 4, May 13, 1999, at 224.

150. *Transcript of Public Hearing*, Vol. 1, May 10, 1999, at 279-80, and Vol. 4, May 13, 1999, at 783-85.

151. *Transcript of Public Hearing*, Vol. 1, May 10, 1999, at 278-80.

dumping of all producers and that certain US producers of automotive corrosion-resistant steel sheet product obtained normal values.¹⁵²

Given the arguments presented by the stampers, as well as by the domestic producers, it is the Tribunal's view that the volume of automotive corrosion-resistant steel sheet products which may be exported from the United States pursuant to this exclusion would not be disruptive to the Canadian market. In other words, it does not appear that, by permitting this exclusion for product from the United States, the domestic industry is likely to be injured.

The agreement between the automotive stampers and the domestic producers is limited to an exclusion for automotive steel produced in the United States. However, manufacturers of this product in the other subject countries stated that the exclusion should not be limited geographically to the United States. In dealing with that question, it may be noted that only a few of the subject countries can produce automotive corrosion-resistant steel sheet products of a quality which would satisfy the Canadian automotive requirements.¹⁵³ In the Tribunal's view, the certification requirements, the just-in-time requirements and the service requirements should, in particular, restrain the importation of automotive corrosion-resistant steel sheet products from the subject countries other than the United States that are able to produce automotive corrosion-resistant steel sheet products.¹⁵⁴ The Tribunal also notes that the stampers and the domestic industry have indicated that US automotive corrosion-resistant steel sheet products were the only viable alternative to Canadian automotive corrosion-resistant steel sheet products.¹⁵⁵ Hence, there seems to be no reason why the Tribunal should limit the exclusion to products from the United States. The Tribunal does not believe that the resumed dumping of automotive steel from countries other than the United States is likely to cause injury to the domestic industry and, as a consequence, the Tribunal is of the view that the exclusion should not be limited to the United States. Accepting that this exclusion is much broader than one typically sees in SIMA cases, it is justified by the very unique circumstances of this case.

For the foregoing reasons, the Tribunal grants the automotive end-use exclusion for all countries for which the findings are continued.

Even with this exclusion, the Tribunal is of the view that the continuation of the findings remains necessary to prevent the likely resumption of dumping of non-automotive steel from the five countries and the likely material injury to the domestic industry which would ensue.

152. Tribunal Exhibit RR-98-007-55C, Administrative Record, Vol. 1B at 44-45; and *Transcript of Public Hearing*, Vol. 1, May 10, 1999, at 281.

153. Importer's Exhibit I-2 at para. 15, Administrative Record, Vol. 13.5; and Importer's Exhibit M-2 at para. 6, Administrative Record, Vol. 13.7.

154. *Transcript of Public Hearing*, Vol. 4, May 13, 1999, at 776-79, 790-92, 801-xv-xvi.

155. Importer's Exhibit I-2 at para. 15, Administrative Record, Vol. 13.5; *Transcript of Public Hearing*, Vol. 4, May 13, 1999, at 776-79 and 790-92; and Tribunal Exhibit RR-98-007-55C, Administrative Record, Vol. 1B at 49-50.

CONCLUSION

For the foregoing reasons, the Tribunal hereby: (1) continues its finding concerning certain corrosion-resistant steel sheet products originating in or exported from Brazil, Germany, Japan and Korea, with an amendment to exclude corrosion-resistant steel sheet products imported under tariff item No. 9959.00.00 for use in the manufacture of passenger automobiles, buses, trucks, ambulances or hearses, or chassis therefor, or parts, accessories or parts thereof; (2) continues its finding concerning the above-mentioned goods originating in or exported from the United States, with an amendment to exclude corrosion-resistant steel sheet products imported under tariff item No. 9959.00.00 for use in the manufacture of passenger automobiles, buses, trucks, ambulances or hearses, or chassis therefor, or parts, accessories or parts thereof; and (3) rescinds its finding concerning the above-mentioned goods originating in or exported from Australia, France, New Zealand, Spain, Sweden and the United Kingdom.

Pierre Gosselin

Pierre Gosselin
Presiding Member

Patricia M. Close

Patricia M. Close
Member

Richard Lafontaine

Richard Lafontaine
Member