



Canadian International  
Trade Tribunal

Tribunal canadien du  
commerce extérieur

CANADIAN  
INTERNATIONAL  
TRADE TRIBUNAL

# Dumping and Subsidizing

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## DETERMINATION AND REASONS

Preliminary Injury Inquiry  
No. PI-2018-005

Corrosion-resistant Steel Sheet

*Determination issued  
Monday, September 24, 2018*

*Reasons issued  
Tuesday, October 9, 2018*

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

## **CORROSION-RESISTANT STEEL SHEET**

### **PRELIMINARY DETERMINATION OF INJURY**

The Canadian International Trade Tribunal, pursuant to the provisions of subsection 34(2) of the *Special Import Measures Act*, has conducted a preliminary injury inquiry into whether the evidence discloses a reasonable indication that the alleged injurious dumping of corrosion-resistant flat-rolled steel sheet products of carbon steel, including products alloyed with the following elements:

- Boron (B) not more than 0.01%,
- Niobium (Nb) not more than 0.100%,
- Titanium (Ti) not more than 0.08%, or
- Vanadium (V) not more than 0.300%,

in coils or cut lengths, in thicknesses up to 0.168 in. (4.267 mm) and widths up to 72 in. (1,828.8 mm) with all dimensions being plus or minus allowable tolerances contained in the applicable standards, chemically passivated, originating in or exported from the People's Republic of China, Chinese Taipei, the Republic of India and the Republic of Korea, and excluding:

- unpassivated corrosion-resistant steel sheet products;
- corrosion-resistant steel sheet products for use in the manufacture of passenger automobiles, buses, trucks, ambulances or hearses or chassis therefor, or parts thereof, or accessories or parts thereof;
- steel products for use in the manufacture of aeronautic products;
- steel sheet that is coated or plated with tin, lead, nickel, copper, chromium, chromium oxides, both tin and lead ("terne plate"), or both chromium and chromium oxides ("tin-free steel");
- stainless flat-rolled steel products;
- corrosion-resistant steel sheet products that have been pre-painted or coated with organic (non-metallic) coatings, including lacquers or varnishes;
- 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;
- and tool steel;
- has caused injury or retardation or is threatening to cause injury to the domestic industry.

This preliminary injury inquiry follows the notification, on July 26, 2018, that the President of the Canada Border Services Agency had initiated an investigation into the alleged injurious dumping of the above-mentioned goods.

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

Peter Burn

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Peter Burn  
Presiding Member

Serge Fréchette

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Serge Fréchette  
Member

Randolph W. Heggart

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Randolph W. Heggart  
Member

The statement of reasons will be issued within 15 days.

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## STATEMENT OF REASONS

### INTRODUCTION

[1] On June 5, 2018, ArcelorMittal Dofasco G.P. (AMD) filed a complaint with the Canada Border Services Agency (CBSA) alleging that the dumping of certain corrosion-resistant steel sheet (COR) originating in or exported from the People's Republic of China (China), Chinese Taipei, the Republic of India (India) and the Republic of Korea (Korea) (the subject goods) has caused injury or is threatening to cause injury to the domestic industry.<sup>1</sup>

[2] On July 26, 2018, the President of the CBSA initiated an investigation respecting the dumping of the subject goods, pursuant to subsection 31(1) of *Special Import Measures Act*.<sup>2</sup>

[3] On July 27, 2018, the Canadian International Trade Tribunal (the Tribunal) began its preliminary injury inquiry pursuant to subsection 37.1(1) of *SIMA*.

[4] The complaint is supported by Stelco Inc. (Stelco). The Tribunal received submissions opposing the complaint from Indian Steel Corporation Limited (ISCL), an Indian manufacturer of COR, and Ideal Roofing Company Limited, a non-party importer and distributor. AMD filed a reply to both submissions.

[5] On September 24, 2018, the Tribunal determined that there was evidence disclosing a reasonable indication that the subject goods have caused injury or are threatening to cause injury to the domestic industry, for the reasons that follow.

### PRODUCT DEFINITION<sup>3</sup>

[6] For the purposes of the CBSA's investigation and this preliminary injury inquiry, the subject goods are defined as follows:

Corrosion-resistant flat-rolled steel sheet products of carbon steel, including products alloyed with the following elements:

Boron (B) not more than 0.01%,

Niobium (Nb) not more than 0.100%,

Titanium (Ti) not more than 0.08%, or

Vanadium (V) not more than 0.300%,

in coils or cut lengths, in thicknesses up to 0.168 in. (4.267 mm) and widths up to 72 in. (1,828.8 mm) with all dimensions being plus or minus allowable tolerances contained in the applicable standards, chemically passivated, originating in or exported from China, Chinese Taipei, India, and South Korea, and excluding:

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1. As a domestic industry is already established, the Tribunal need not consider the question of retardation.  
2. R.S.C., 1985, c. S-15 [*SIMA*].  
3. Exhibit PI-2018-005-05, Vol. 1F at 80.

unpassivated corrosion-resistant steel sheet products;

corrosion-resistant steel sheet products for use in the manufacture of passenger automobiles, buses, trucks, ambulances or hearses or chassis therefor, or parts thereof, or accessories or parts thereof;

steel products for use in the manufacture of aeronautic products;

steel sheet that is coated or plated with tin, lead, nickel, copper, chromium, chromium oxides, both tin and lead (“terne plate”), or both chromium and chromium oxides (“tin-free steel”);

stainless flat-rolled steel products;

corrosion-resistant steel sheet products that have been pre-painted or coated with organic (non-metallic) coatings, including lacquers or varnishes;

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;

and tool steel.

## **CBSA’S DECISION TO INITIATE THE INVESTIGATION**

[7] For the period of April 1, 2017, to March 31, 2018, the CBSA estimated that the subject goods were dumped by the following margins of dumping: 27.1 percent for China, 3.5 percent for Chinese Taipei, 35.8 percent for India and 21.9 percent for Korea, expressed as a percentage of the export price.<sup>4</sup>

## **LEGISLATIVE FRAMEWORK**

### **Reasonable Indication Standard**

[8] The Tribunal’s mandate in a preliminary injury inquiry is set out in subsection 34(2) of *SIMA*, which requires it to determine whether the evidence discloses a reasonable indication that the dumping of the subject goods has caused injury or is threatening to cause injury.

[9] The term “reasonable indication” is not defined in *SIMA*, but is understood to mean that the evidence need not be “. . . conclusive, or probative on a balance of probabilities . . . .”<sup>5</sup>

[10] The reasonable indication standard is lower than the standard that applies in a final injury inquiry under section 42 of *SIMA*.<sup>6</sup>

[11] The Tribunal expects that the evidence at the preliminary phase of proceedings will be significantly less detailed and comprehensive than the evidence in a final injury inquiry. Not all the

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4. *Ibid.* at 90.

5. *Ronald A. Chisholm Ltd. v. Deputy M.N.R.C.E.* (1986), 11 CER 309 (FCTD).

6. *Grain Corn* (10 October 2000), PI-2000-001 (CITT) at 7.

evidence is available at the preliminary phase, and there is no oral hearing to fully probe what is available. As a result, the evidence cannot be tested to the same extent as it would be during a final injury inquiry.

[12] Because the standard of evidence at this stage of the inquiry is lower than at the final stage, complaints will be read generously. However, the outcome of preliminary inquiries must not be taken for granted.<sup>7</sup> Simple assertions are not sufficient.<sup>8</sup> Complaints, as well as the cases of parties opposed, must be supported by positive evidence that is both relevant and sufficient, in that it addresses the necessary requirements in *SIMA* and the relevant factors of the *Special Import Measures Regulations*<sup>9</sup> and does so in a manner that is sufficiently convincing at this stage of the inquiry.

### **Injury and Threat of Injury Factors**

[13] In making its preliminary determination of injury, the Tribunal takes into account the factors prescribed in section 37.1 of the *Regulations*, including the import volumes of the dumped goods, the effect of the dumped goods on the price of like goods, the resulting economic impact of the dumped goods on the domestic industry and, if injury or threat of injury<sup>10</sup> is found to exist, whether a causal relationship exists between the dumping of the goods and the injury or threat of injury.

[14] However, before examining the allegations of injury and threat of injury, the Tribunal must identify the domestically produced goods that are “like goods” in relation to the subject goods, whether there is more than one class of like goods, as well as the domestic industry that produces those like goods. This preliminary analysis is required because subsection 2(1) of *SIMA* defines “injury” as “. . . material injury to a domestic industry”<sup>11</sup> and “domestic industry” as “. . . the domestic producers as a whole of the like goods or those domestic producers whose collective production of the like goods constitutes a major proportion of the total domestic production of the like goods . . . .”

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7. *Reinforcing Bar* (12 August 2014), PI-2014-001 (CITT) at para. 19.

8. Article 5 of the World Trade Organization (WTO) *Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994* [the *Anti-dumping Agreement*] and Article 11 of the WTO *Agreement on Subsidies and Countervailing Measures* [the *SCM Agreement*] require an investigating authority to examine the accuracy and adequacy of the evidence provided in a dumping and subsidizing complaint to determine whether there is sufficient evidence to justify the initiation of an investigation, and to reject a complaint or to terminate an investigation as soon as an investigating authority is satisfied that there is not sufficient evidence of dumping and subsidizing or injury. Article 5 of the *Anti-dumping Agreement* and Article 11 of the *SCM Agreement* also specify that simple assertions that are not substantiated with relevant evidence cannot be considered sufficient to meet the requirements of the articles.

9. S.O.R./84-927 [*Regulations*].

10. In its consideration of whether there is a reasonable indication that the dumping and subsidizing of the subject goods is threatening to cause injury, the Tribunal is guided by subsection 37.1(2) of the *Regulations*, which prescribes factors to be taken into account for the purposes of its threat of injury analysis.

11. It is not sufficient that dumping or subsidizing contribute to material injury to a domestic industry or to a threat of material injury. There must be evidence that discloses a reasonable indication that the dumping or subsidizing has caused, or is threatening to cause, material injury. See *Unitized Wall Modules* (3 May 2013), PI-2012-006 (CITT) at para. 23.



## LIKE GOODS AND CLASSES OF GOODS

[15] Subsection 2(1) of *SIMA* defines “like goods”, in relation to any other goods, as “(a) goods that are identical in all respects to the other goods, or (b) in the absence of any goods described in paragraph (a), goods the uses and other characteristics of which closely resemble those of the other goods.”

[16] AMD submitted that domestically produced COR are like goods in relation to the subject goods and that there is a single class of goods, based on the undisputed fact that they are commodity products that compete with one another in the domestic market, and are fully interchangeable.<sup>12</sup> AMD also noted that the Tribunal made a similar determination in a previous finding concerning corrosion-resistant steel sheet.<sup>13</sup> No other submissions regarding like goods or classes of goods were made. The evidence reasonably supports AMD’s argument.

[17] Accordingly, the Tribunal will conduct its analysis on the basis that domestically produced COR of the same description as the subject goods are “like goods” in relation to the subject goods and that there is one class of goods.

## DOMESTIC INDUSTRY

[18] In its decision to initiate the investigation, the CBSA found that AMD and Stelco account for “nearly all of the domestic production of like goods”, with the remainder being attributable to Material Sciences Corp. (MSC).<sup>14</sup> This conclusion was undisputed and supported by evidence on the Tribunal’s record.

[19] Therefore, the Tribunal is satisfied that the collective production of AMD and Stelco constitutes a major proportion of the total domestic production of like goods.

## CUMULATION

[20] In the context of a final injury inquiry, subsection 42(3) of *SIMA* requires the Tribunal to make an assessment of the cumulative effect the dumping of goods that are imported into Canada from more than one subject country if the Tribunal is satisfied that certain conditions are met. Specifically, the Tribunal must be satisfied that:<sup>15</sup>

1. the margin of dumping or the amount of subsidy in relation to the goods from each of the countries is not insignificant and the volume of goods imported into Canada from any of those countries is not negligible, and
2. an assessment of the cumulative effect of the subject goods would be appropriate taking into account the conditions of competition between the goods from any of the subject countries, the other dumped or subsidized goods, and like goods.

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12. Exhibit PI-2018-005-02.01, Vol. 1 at 33.

13. *Corrosion-resistant Steel Sheet* (3 July 2001), NQ-2000-008 (CITT) at 10.

14. Exhibit PI-2018-005-05, Vol. 1F at 83-84.

15. *Galvanized Steel Wire* (22 March 2013), PI-2012-005 (CITT) at para. 39.

[21] While subsection 42(3) of *SIMA* deals with final injury inquiries, the Tribunal normally considers that it is exceptional not to cumulate the subject goods in a preliminary injury inquiry when the available evidence appears to justify cumulation.<sup>16</sup>

[22] AMD submitted that it is appropriate for the Tribunal to make a cumulative assessment of the injurious effects of the dumped goods from the subject countries. No other parties made submissions regarding cumulation.

[23] The CBSA's estimated margins of dumping for each of the subject countries are not insignificant, and its estimated volumes of dumped imports are not negligible.<sup>17</sup> As a result, the Tribunal finds that the first condition under subsection 42(3) of *SIMA* is met.

[24] In assessing the conditions of competition, the Tribunal has previously taken into consideration such factors as whether the goods from each country (in relation to each other and in relation to the like goods) are interchangeable, whether they are present in the same geographic market at the same time and whether they are distributed through the same channels or using the same means of transportation.<sup>18</sup>

[25] The evidence reasonably indicates that COR from each of the subject countries is a commodity product that can generally be produced to meet the same specifications. According to the written statement of Mr. A. Connor, Vice-President, Commercial at AMD, COR "products made to a particular specification by any manufacturer, whether domestic or foreign, are interchangeable, in virtually any given application, with those made to the same specification by another manufacturer".<sup>19</sup>

[26] In terms of customers and distribution in the Canadian market, AMD provided evidence that provides a reasonable indication that subject goods from each of the named source countries and the like goods are purchased by the same customers (e.g. service centres and end users) and are sold through the same channels of distribution to end users (e.g. manufacturers).<sup>20</sup> In particular, steel service centres are described as "large volume purchasers of (domestic and offshore) COR with distribution networks across Canada".<sup>21</sup> There is also evidence that subject goods from each of the source countries are shipped to Canada by vessel.<sup>22</sup>

[27] In addition, AMD and Stelco provided customer account-specific allegations and supporting evidence that reasonably indicate direct competition in the same geographical markets, at the same

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16. *Corrosion-resistant Steel Sheet* (2 February 2001), PI-2000-005 (CITT) at 4, 5.

17. Exhibit PI-2018-005-05, Vol. 1F at 85, 90.

18. A decision to de-cumulate on the basis of conditions of competition must turn on positive evidence of sufficiently differing conditions of competition among the subject goods, or between subject goods and like goods. This is essentially a question of fact for the Tribunal's consideration. See, for example, *Concrete Reinforcing Bar* (12 August 2014), PI-2014-001 (CITT) at para. 47; *Flat Hot-rolled Carbon and Alloy Steel Sheet and Strip* (17 August 2001), NQ-2001-001 (CITT) at 16.

19. Exhibit PI-2018-005-02.01, Vol. 1 at 323.

20. *Ibid.* at 198, 204, 323.

21. *Ibid.* at 204.

22. Exhibit PI-2018-005-02.01, Vol. 1 at 206; Exhibit PI-2018-005-03.01, Vol. 2 (protected) at 259.

time, between subject goods from China, Chinese Taipei and Korea and domestically produced like goods.<sup>23</sup>

[28] On the whole, the Tribunal is satisfied that there is evidence on the record that reasonably indicates that the conditions of competition among the subject goods and between the subject goods and the like goods are similar. The Tribunal therefore considers it appropriate to conduct an assessment of the cumulative effect of the subject goods from all sources for the purposes of this preliminary injury inquiry.

[29] In the event of a final injury inquiry,<sup>24</sup> however, the Tribunal intends to carefully examine the evidence pertaining to the conditions of competition, particularly with respect to the subject goods from India.

## INJURY ANALYSIS

### Import Volume of Subject Goods

[30] The CBSA estimated that imports of the subject goods increased annually from 2015 to 2017. According to the CBSA's confidential import data, total imports of subject goods increased by 56 percent between 2015 and 2017.<sup>25</sup> China accounted for most of this increase, whereas imports from Chinese Taipei, India and Korea decreased overall. During this same time period (i.e. 2015 to 2017), imports of goods from non-subject countries increased by 4 percent, and the total estimated apparent Canadian market increased by 12 percent.

[31] The complaint attributes the decrease in imports from Chinese Taipei, India and Korea, between 2015 and 2017, to the aggressive rise in imports from China into each of those markets during the same time period.<sup>26</sup> Nevertheless, as discussed further below, AMD alleges that the dumped imports from each of the subject countries have had negative price effects on domestically produced like goods.

[32] The Tribunal finds that the CBSA's estimates of imports reasonably indicate a significant increase, in absolute terms, in the volume of subject goods.<sup>27</sup> The confidential record also reasonably indicates a significant increase in the volume of subject goods relative to domestic sales and production.<sup>28</sup>

### Effect on Prices of Like Goods

[33] AMD submitted that the subject goods have significantly undercut the prices of domestically produced like goods, resulting in price depression and/or lost sales.

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23. Exhibit PI-2018-005-03.01, Vol. 2 (protected) at 243-253; Vol. 2A at 0.54.

24. A final inquiry will be held if the CBSA makes a preliminary determination that the subject goods from each of the named source countries are dumped.

25. Exhibit PI-2018-005-03.02 (protected), Vol. 2A at 13, 15.

26. Exhibit PI-2018-005-14 at paras. 32-35 and public attachments cited therein, Vol. 3; Exhibit PI-2018-005-02.01 at paras. 274, 297, Vol. 1; *ibid.* at public attachment 84.

27. The estimates of imports provided in the complaint differ somewhat from the CBSA's estimate, but the general trends are the same. Exhibit PI-2018-005-03.01 (protected), Vol. 2A at 0.2.

28. Exhibit PI-2018-005-03.01 (protected), Vol. 2 at 230-231.

[34] The complaint included average pricing data for the domestic industry (i.e. AMD and Stelco). The evidence shows that the average selling price of like goods increased from 2015 to 2017, year over year, for an overall increase of 25 percent.<sup>29</sup> The aggregated average import unit value of the subject goods also increased from 2015 to 2017 (with a decrease in 2016, year over year), for an overall increase of 11 percent. In 2016 and 2017, the average import unit value of the subject goods was significantly lower than the price of like goods.<sup>30</sup>

[35] In addition, the statements of Mr. W. Butler of AMD and Mr. G. Anderson of Stelco provide a number of account-specific examples of price undercutting that resulted in lost sales.<sup>31</sup> Moreover, Mr. Butler indicated several instances where customers did not give AMD an opportunity to bid because they assumed that AMD would not be able to compete with the low-priced subject goods.<sup>32</sup>

[36] In terms of price depression, despite the annual increase in the average price of domestically produced like goods, the complaint documents several specific instances where the domestic producers were allegedly forced to lower their prices to compete for sales.<sup>33</sup>

[37] AMD also relied upon the U.S. Midwest price for COR, as published by CRU. AMD noted that the CRU data includes non-subject automotive COR and that there are no publications that track non-automotive COR separately. Nevertheless, it submitted that the CRU data are indicative of the trends and figures for non-automotive COR in the Canadian market as these are similar products made using the same equipment.<sup>34</sup> The U.S. Midwest price should generally track the spot price of COR in Central Canada.<sup>35</sup> While these prices were similar in 2014 and 2015, they diverged in 2016, 2017 and the first quarter of 2018, with AMD's price dropping significantly below the U.S. Midwest spot price.<sup>36</sup> According to AMD, the price divergence in 2016 corresponded with the U.S. Department of Commerce's dumping determinations with respect to COR originating in or exported from China, Chinese Taipei, Korea and India, which remediated the effects of dumping in the U.S. market, while the Canadian market has continued to experience price distortions as a result of the dumped imports. AMD contends that this is evidence that the dumping of the subject goods has caused significant price depression, but—notwithstanding the price divergence—the selling prices of the like goods actually increased between 2015 and 2017.

[38] However, the price divergence reasonably indicates that the dumping has significantly “suppressed the price of like goods by preventing the price increases for those like goods *that would*

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29. Exhibit PI-2018-002-03.01 (protected), Vol. 2A at 0.3.

30. In 2015, the import unit values for subject goods from China and Korea were, respectively, higher than the average selling price of like goods. In 2016 and 2017, the import unit values for subject goods from India were again higher than the selling price of like goods. Nevertheless, the aggregate import unit values from all four subject countries undercut the like goods in both 2016 and 2017. See Exhibit PI-2018-005-03.02, Vol. 2A (protected) at 25-26; Exhibit PI-2018-005-03.01 (protected), Vol. 2A at 0.3.

31. Exhibit PI-2018-005-03.01, Vol. 2 (protected) at 243-247, 249-253; Exhibit PI-2018-002-03.01, Vol. 2A (protected) at 0.54.

32. Exhibit PI-2018-005-03.01, Vol. 2 (protected) at 244-246.

33. Exhibit PI-2018-005-03.01, Vol. 2 (protected) at 54-55, 247-253; Exhibit PI-2018-002-03.01, Vol. 2A (protected) at 0.54.

34. Exhibit PI-2018-005-02.01, Vol. 1 at 78.

35. Specifically, AMD argued that the North American COR market is integrated and that pricing in the northeastern U.S. should be similar to that in Central Canada.

36. Exhibit PI-2018-005-03.01, Vol. 2 (protected) at 47.

*otherwise likely have occurred*” [emphasis added].<sup>37</sup> According to AMD, it was able to increase prices in 2016 and 2017 “due to a rebound in market conditions, [but] this improvement was less than it should have been as a result of Subject Country imports and import offers”.<sup>38</sup> But for the dumping, the prices of the like goods would reasonably have increased and perhaps converged more closely with the U.S. Midwest price.

[39] In light of the above, the Tribunal finds that the evidence reasonably indicates that the dumping of the subject goods has significantly undercut, depressed and suppressed the price of like goods.

### **Resultant Impact on the Domestic Industry**

[40] As part of its analysis under paragraph 37.1(1)(c) of the *Regulations*, the Tribunal must consider the impact of the dumped goods on the state of the domestic industry and, in particular, all relevant economic factors and indices that have a bearing on the state of the domestic industry.

[41] AMD submitted that the subject goods have caused material injury to the domestic industry in the form of lost sales and market share, which in turn have had a negative impact on financial performance, capacity utilization and employment.

[42] The domestic industry’s consolidated financial performance has been mixed, with both domestic production and sales from domestic production (in terms of volume) increasing from 2015 to 2016, and then decreasing in 2017 (though still above the 2015 level). The quarterly data indicates that while both indicators were stable in the first half of 2017, they were below the production and sales volumes from the first half of 2016 and declined steadily in the second half of 2017. Both indicators further declined in the first quarter of 2018, as compared to the first quarter of 2017.<sup>39</sup>

[43] In terms of domestic market share, the subject goods made significant gains from 2015 to 2017, mostly at the expense of domestically produced like goods.<sup>40</sup> The domestic market share of imports from non-subject countries decreased marginally during the same period.

[44] The domestic industry’s consolidated financial results indicate significant improvements at both the gross margin and net income levels from 2015 to 2017, and also in the first quarter of 2018 as compared to the first quarter of 2017.<sup>41</sup> Rising profitability, particularly in 2016 and 2017, was mainly due to increasing selling prices, with a 25 percent increase in net sales value from 2015 to 2017. During the same period, domestic production and the cost of goods sold only increased by two percent and four percent, respectively.

[45] The decline in domestic sales and market share from 2016 to 2017 coincide with the evidence of adverse price effects and lost sales from the dumping in those years.

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37. Subparagraph 37.1(1)(b)(iii) of the *Regulations*. See, for example, *Cold-rolled Steel* (24 July 2018), PI-2018-002 (CITT) at para. 74; *Carbon and Alloy Steel Line Pipe* (4 January 2018), NQ-2017-002 (CITT) at para. 55; *Certain Hot-rolled Carbon Steel Plate and High-strength Low-alloy Plate* (17 May 1994), NQ-93-004 (CITT) at pp. 20-21; *Polyiso Insulation Board* (6 May 2010), NQ-2009-005 (CITT) at para. 71.

38. Exhibit PI-2018-005-02.01, Vol. 1 at 69.

39. Exhibit PI-2018-005-03.01 (protected), Vol. 2 at 230-231.

40. Exhibit PI-2018-005-03.01 (protected), Vol. 2A at 0.2; Exhibit PI-2018-005-03.02 (protected), Vol. 2A at 16.

41. Exhibit PI-2018-005-03.01 (protected), Vol. 2 at 230.

[46] From 2015 to 2016, the domestic industry's total plant capacity decreased while the production volume of like goods increased, resulting in a modest increase in the capacity utilization rate for the production of like goods. In 2017, as domestic production fell, total plant capacity increased minimally and the capacity utilization rate decreased minimally.<sup>42</sup> The complaint notes that COR is produced on the same equipment as other products (i.e. that are not "like goods"). The domestic industry's overall capacity utilization rate for all goods produced on the same equipment was high and increased modestly from 2015 to 2017.

[47] In terms of employment, however, the number of direct employees involved in the domestic production of like goods fell from 2015 to 2017, resulting in fewer hours worked.<sup>43</sup> Wages declined minimally over the same period. These indicators continued to fall in the first quarter of 2018 as compared to the first quarters of 2016 and 2017. The Tribunal considers that the decline in employment indicators is reasonably linked to the above-mentioned decline in domestic production and sales volumes in 2017 and the first quarter of 2018.

[48] For the foregoing reasons, the Tribunal finds that the evidence on the record discloses a reasonable indication that the dumping of the subject goods has caused material injury to the domestic industry, particularly in the form of lost sales, market share and, to some extent, employment.

[49] As there is a reasonable indication that the dumping of the subject goods has caused injury, the Tribunal will exercise judicial economy and not consider whether there is a reasonable indication that the dumping of the subject goods is threatening to cause injury.

## CONCLUSION

[50] On the basis of the foregoing analysis, the Tribunal finds that the requirement of subsection 37.1(1) of *SIMA* has been met, in that there is evidence that discloses a reasonable indication that the dumping of the subject goods has caused injury or is threatening to cause injury to the domestic industry.

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Peter Burn  
Peter Burn  
Presiding Member

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42. *Ibid.* at 231.

43. Exhibit PI-2018-002-03.01 (protected), Vol. 2A at 0.6. Note: the employment data provided with the complaint only included AMD (not Stelco).

Serge Fréchette

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Serge Fréchette

Member

Randolph W. Heggart

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Randolph W. Heggart

Member