

November 5, 2020

SENT BY EMAIL

PUBLIC

SIMA Registry and Disclosure Unit
Anti-Dumping and Countervailing Directorate
Canada Border Services Agency
100 Metcalfe Street, 11th Floor
Ottawa, ON K1A 0L8

Dear Sir/Madam

**RE: Corrosion-Resistant Steel Sheet
Request for Normal Value Review – COR 2018 IN
KG Dongbu Steel Co., Ltd.**

We represent Stelco Inc. (“**Stelco**”), a domestic producer of corrosion-resistant steel sheet and a participant in the Canada Border Services Agency’s (“**CBSA**”) investigation into dumped Corrosion-Resistant Steel Sheet (“**COR**”) from South Korea. We file this letter on behalf of Stelco in response to the request for a normal value review (“**NVR**”) filed by KG Dongbu Steel Co., Ltd. (“**Dongbu**”).

Stelco submits that CBSA should decline to initiate an NVR, as doing so would undermine the enforcement of the Canadian International Trade Tribunal’s (“**CITT**”) finding, contrary to the purpose of NVRs as established by the SIMA Handbook and Memorandum D14-1-8.

I. Considerations for Initiating a Normal Value Review

A. The Purpose of Normal Value Reviews

NVRs are not provided for by statute. Rather, they are administrative proceedings executed in accordance with policy guidance, including the SIMA handbook and Memorandum D14-1-8.

With respect to the purpose of NVRs, the SIMA Handbook provides:

The CBSA recognizes the importance of keeping prospective normal values, export prices and amounts of subsidy (also collectively referred to as “values”) up-to-date in order to



ensure effective enforcement of the Canadian International Trade Tribunal's (CITT) orders and findings. If there is reason to believe that the values in place are outdated (e.g. where domestic prices have changed considerably because of changing market conditions and/or changes in the exporter's costs), it may be necessary to update these values through a re-investigation or normal value review.¹

Memo D14-1-8 provides states a similar purpose.²

The focus on the terms “up-to-date”, “outdated” and “update” in the policy guidance make it clear that CBSA is to compare the prices and costs at the time normal values were granted to prices and costs at the time that the request is being considered. This is further supported by the list of factors that CBSA is directed to take into account, which includes:

- e) changes in the selling prices in the exporter's home market;
- f) changes in the selling prices in the exporter's third country export markets;
- g) changes in the exporter's costs;³

Normal values are updated in an NVR in order to achieve the purpose of ensuring “effective enforcement of the Canadian International Trade Tribunal's (CITT) orders and findings”. If updating the normal values would not achieve this objective, CBSA should not initiate.

Based on the above, CBSA should decline to initiate a review where available evidence suggests that doing so would likely increase rather than narrow the gap between normal values and prevailing prices.

¹ SIMA Handbook (September 2019) at s. 4.15.1, Re-Investigations and Normal Value Reviews, Introduction.

² *Re-investigation and Normal Value Review Policy – Special Import Measures Act (SIMA)*, Memorandum D14-1-8, Issued July 19, 2019, available online: <https://www.cbsa-asfc.gc.ca/publications/dm-md/d14/d14-1-8-eng.html> at paras. 1-2.

³ *Re-investigation and Normal Value Review Policy – Special Import Measures Act (SIMA)*, Memorandum D14-1-8, Issued July 19, 2019, available online: <https://www.cbsa-asfc.gc.ca/publications/dm-md/d14/d14-1-8-eng.html>, at para. 12.

B. Normal value reviews are discretionary proceedings

Normal value reviews are initiated at the discretion of CBSA. CBSA's policy guidance on NVRs explicitly provides that NVRs are subordinate in priority to proceedings legislated by SIMA, which have statutory deadlines.

Based on the extraordinary legislation passed to extend mandatory SIMA deadlines and the four-month delay in CBSA's final determination in the COR2 2019 IN proceeding, Stelco understands that CBSA has an exceptionally high workload.

CBSA has finite resources with which to conduct administrative proceedings such as NVRs. The discretionary nature of NVRs, and their subordinate priority to other SIMA proceedings, means that CBSA should only initiate an NVR where doing so would clearly achieve the purpose set out in the policy guidance.

II. Updated Normal Values Would Undermine Enforcement of the Finding

If CBSA were to initiate an NVR, available historical pricing data suggests that the new normal values would be further removed from current pricing than the normal values presently in force. These new normal values would undercut market pricing, undermining the effectiveness of the COR1 finding.

Neither Stelco nor Stelco's counsel have access to the normal values granted to Dongbu by CBSA in the original inquiry. As such, the final 60-day period of the original POI (February and March 2018) is the best available indicator of pricing levels at the time those normal values were calculated.

Similarly, Stelco has assumed that any updated normal values would be based on the final 60-day period of the most likely POI if an NVR were initiated this quarter, being August and September 2020.

Average pricing for these 60-day periods has been compared to current prices, released by CRU on November 3, 2020.

The pricing that Stelco has used in this analysis is CRU benchmark pricing for Hot-dipped Galvanized ("HDG") coil, USA FOB Midwest and HDG coil China Ex-Warehouse. These are leading price benchmarks and are therefore indicative of global trends at the relevant times, including those prevailing in Korea. Stelco does not have access to Korean pricing data.

The analysis below shows that normal values based on August and September 2020 would be well below current prices. In fact, current prices are closer to those in the final 60 days of the original POI (February and March 2018):

Table 1:
Average CRU Pricing for Original POI vs. Likely POIs in an NVR (USD/MT)⁴

	Original 60-day period (likely)	NVR 60- day period (likely)	Current (Nov 3)		Original 60 days vs. Current	NVR 60 days vs. Current
US Midwest (FOB)	[]	\$	62	-\$ 215
China (Domestic, EXW)	[]	\$	22	-\$ 60

The table above strongly indicates that holding an NVR at this time would result in “updated” normal values that are in fact further removed from current pricing than the normal values presently in force.

As noted above, it is important to consider whether updated normal values would ensure effective enforcement of the underlying SIMA finding. The data above shows that updated normal values would allow Dongbu to significantly undercut market pricing, thereby undermining the remedial effect of the CITT finding. Pricing in the final 60 days of a likely POI for this review would be \$215/MT below current pricing using the US benchmark and \$60/MT below current pricing using the Chinese benchmark. This would provide Dongbu with an artificial and unwarranted advantage in the Canadian market.

III. Conclusion

Dongbu’s request is a clear attempt to capitalize on a period of globally low pricing. CRU data shows that pricing for HDG coil in both the US and China has steadily recovered from the end of September 2020 to present. Because of this price recovery trend, any new normal values granted to Dongbu would be immediately out of date.

⁴ Confidential Attachment 1: Excerpts from CRU Steel Sheet Products Monitor, November 2020.



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Based on the above and the submissions made by ArcelorMittal Dofasco G.P. in this matter, Stelco requests that CBSA exercise its discretion to reject Dongbu's request for a normal value review.

Yours truly,

Linden Dales
Conlin Bedard LLP

Enclosure

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Corrosion-Resistant Steel Sheet
Request for Normal Value Review –
COR 2018 IN
KG Dongbu Steel Co., Ltd.

**Public Summary of
Confidential Attachment 1**

**to the Response to Request for Normal Value
Review from Stelco Inc.**

Confidential Attachment 1 is an excerpt from *CRU Steel Sheet Products Monitor* pricing released November 3, 2020. This data is published by CRU, which is a subscription-based, copyright protected publication. The disclosure of this data would cause financial harm to Stelco Inc.

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