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Trade and Anti-dumping Programs Directorate  
Canada Border Services Agency  
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# Submission received electronically

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# Soumission reçu électroniquement

Submission Date /  
Date de soumission

**May 25, 2022**

May 25, 2022

**SENT BY TITAN FILE**

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

Dear Sir/Madam:

**RE: Corrosion-Resistant Steel Sheet 1 and 2  
Request for Re-Investigation and/or Normal Value Reviews – Stelco Response to  
Knightsbridge International**

On March 23, 2022, ArcelorMittal Dofasco G.P. (“**AMD**”) filed a request with the Canada Border Services Agency’s (“**CBSA**”), supported by Stelco Inc. (“**Stelco**”), to initiate a re-investigation to update the normal values, export prices and amounts of subsidy (collectively, the “**values**”) for all countries subject to the *Corrosion-Resistant Steel Sheet 1* (China, Chinese Taipei, India and South Korea) (“**COR1**”) and *Corrosion-Resistant Steel Sheet 2* (Turkey and Vietnam) (“**COR2**”) findings (“**the Request**”). In this letter, the terms “**COR**” and “**Subject Goods**” refer to goods that are subject to the COR1 and COR2 findings. The term “**Subject Countries**” refers to all countries subject to both findings.

This letter is to respond to Knightsbridge International Corp (“**Knightsbridge**”), which opposed the Request in representations to CBSA dated on May 6, 2022. These representations were posted to CBSA’s website on May 10, 2022. Stelco responds as follows:

**I. Knightsbridge Raises Irrelevant Considerations**

In deciding whether to initiate a reinvestigation or normal value review (“**NVR**”), CBSA is guided by Memorandum D14-1-8 (the “**D-Memo**”).<sup>1</sup> In particular, paragraph 12 of the D-Memo outlines

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<sup>1</sup> *Re-investigation and Normal Value Review Policy – Special Import Measures Act (SIMA)*, Memorandum D14-1-8, July 19, 2019 (“**Memo D14-1-8**”).



16 factors that CBSA is directed to consider when determining whether to initiate. Most of the factors raised by Knightsbridge in its representations are not reflected in this list, including:

1. The alleged impacts of updating normal values on the manufacturing base in Canada and/or Western Canada;<sup>2</sup>
2. Alleged changes in pricing offered by domestic producers;<sup>3</sup>
3. Events in 2020 that allegedly impacted steel production in Canada;<sup>4</sup>
4. Allegations of past supply constraints in the market;<sup>5</sup>
5. Allegations that domestic producers displaced goods away from the Western Canadian market to the United States;<sup>6</sup>
6. The impact on Knightsbridge of applying updated normal values retroactively.<sup>7</sup>

Knightsbridge does not dispute that prices and costs for COR in the Subject Countries have risen well beyond levels prevailing in the original Period of Inquiry (“POI”). Instead, it focuses on what it perceives as a need in the market for access to low-priced Subject Goods in Canada. In other words, Knightsbridge asks CBSA to decline to enforce the COR1 and COR2 findings without regard to its policy as written in Memo D14-1-8.

For the reasons outlined in the Request, Stelco submits that a reinvestigation (or alternatively, a full set of NVRs) is plainly warranted by reference to the appropriate factors in Memo D14-1-8.

## **II. The Normal Values have been Outdated for a Significant Amount of Time**

Knightsbridge refers to the Request as “opportunistic” on the basis that “price levels are much higher than normal and still extremely volatile”. Knightsbridge asks CBSA to wait to update the values until the market stabilizes and claims that the present circumstances resemble those in late 2020, when the Domestic Producers opposed the initiation of a review under the COR1 finding requested by Dongbu Steel.

To respond to these submissions, Stelco has attached pricing published by CRU for the Chinese and Indian markets at Confidential Attachment 1. These are the only two Subject Countries for

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<sup>2</sup> Knightsbridge Representations, p. 2.

<sup>3</sup> *Ibid*, p. 1.

<sup>4</sup> *Ibid*, p. 2.

<sup>5</sup> *Ibid*, p. 2-3.

<sup>6</sup> *Ibid*, p. 2.

<sup>7</sup> *Ibid*, p. 3.



which Stelco has access to pricing. Given that both markets experienced similar trends, Stelco submits that these trends are a reasonable proxy for pricing trends in all Subject Countries. Based on the pricing at Confidential Attachment 1 to this letter, Stelco offers the following comments in response to Knightsbridge.

First, COR pricing in the Subject Countries has been above the levels experienced the last two months of the COR1 POI – February and March of 2018 – since November of 2020 (China) and January of 2021 (India).<sup>8</sup> Pricing has been above the levels experienced in the last two months of the COR2 POI – May and June of 2019 – since August 2020 (China) and December 2020 (India).<sup>9</sup> As such, it cannot be said that the values in either case have only recently become out of date, or that the elevation of prices above 2018/2019 levels is a recent development. Prices in the Subject Countries have been structurally higher than levels prevailing at the end of both POIs for 16-21 months.

Second, circumstances at the time of Dongbu's request in late 2020 were materially different than those in the first half of 2022. As Stelco noted in its response to Dongbu's request, initiating at that time would have resulted in immediately outdated normal values. The likely 60-day period for determining normal values arising from that request, being August-September 2020, would have captured a period of exceptionally low pricing. Critically, prices had already risen significantly from August-September 2020 levels by the time that request was made. Stelco's position was that initiating an NVR in these circumstances would undermine the enforcement of the CITT finding, contrary to the purpose of NVRs.

### **III. Low Prices Caused the Increase in Import Volumes**

Knightsbridge argues that a supply shortage in Canada caused the increase in imports from the Subject Countries as of late 2020. What Knightsbridge describes was an economy-wide phenomenon pursuant to which demand rebounded from the first stage of the pandemic more quickly and to a greater extent than expected. There is no doubt that this put pressure on supply chains. Nonetheless, it is misleading to frame this as the primary explanation for increased imports from these sources. As CBSA is aware, there are other sources of imports that are not covered by a SIMA finding and which were available to Knightsbridge. Stelco submits that the reason Knightsbridge and others turned to the Subject Countries in 2021 was the very low prices

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<sup>8</sup> Confidential Attachment 1: Excerpts from the CRU Pricing Monitor, May 2022.

<sup>9</sup> *Ibid.*

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that exporters in those countries were able to offer as normal values became progressively more outdated.

#### **IV. Knightsbridge has not Supported its Claims with Evidence**

The claims made in Knightsbridge's letter are unsupported by evidence. The only evidence that Knightsbridge has filed are limited excerpts from a 6-months old MEPS article regarding North American market conditions.

Further, Knightsbridge is an importer of COR that, to Stelco's knowledge, does not purchase COR from Canadian sources. As such, Knightsbridge's direct knowledge of supply and pricing dynamics in the Canadian market is necessarily limited.

In this context, CBSA should attach little to no weight to Knightsbridge's unsupported statements.

#### **V. Retroactivity and the Obligation to Inform CBSA**

The Request asked CBSA to apply updated normal values retroactively. Knightsbridge opposes retroactive application on the basis that it "poses a potential risk to the importer as goods would already be booked and in production at the time a review announcement would be made".

Stelco submits that this argument misunderstands the purpose of CBSA's policy on retroactivity as well as the nature of Canada's duty enforcement system.

First, the imposition of financial consequences on importers that have failed to ensure that imports are responsibly priced is an intended consequence of CBSA's policy. Exporters are required to notify CBSA in writing of "changes to domestic prices, costs, market conditions or terms of sale associated with the production and sales of the goods."<sup>10</sup> The issuance of "retroactive assessments to the exporter's Canadian importers"<sup>11</sup> is the explicit consequence of having failed to do so. This is a tool to incentivize exporters to comply with their obligation and to deter unfairly priced imports of goods under a SIMA finding.

Second, CBSA does not guarantee that prospective normal values are final for all future shipments of Subject Goods. The SIMA provides that anti-dumping duty is to be levied "in an amount equal to the margin of dumping of the imported goods."<sup>12</sup> Canada has chosen as a matter of policy to

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<sup>10</sup> Memo D-14-1-8, para 29.

<sup>11</sup> *Ibid*, para 31.

<sup>12</sup> *Special Import Measures Act*, R.S.C., 1985, c. S-15, s. 3(a).



adopt a prospective duty enforcement system, whereby normal values are granted to cooperative exporters. This provides exporters and importers in Canada with a measure of predictability.<sup>13</sup> However, sections 55-59 of the SIMA are retrospective in nature, consistent with section 3 of the SIMA, and may result in the calculation of a specific normal value and export price for any given shipment.<sup>14</sup> As noted by the Tribunal in the recent *Acierco KSE* appeal,

*[45] ... when subject goods are imported, subsection 56(1) of SIMA allows for a designated officer to make a determination of the NVs of those goods. This aligns with the requirement in section 3, stated above, that duties are to be levied in an amount “equal to” the margin of dumping of the goods that are imported into Canada in that it allows the officer to establish an NV and export price for each individual importation of subject goods...<sup>15</sup>*

Finally, Knightsbridge’s submission itself supports that updating normal values and applying them retroactively is warranted. On page 3 of its submission Knightsbridge refers to “escalating costs” for manufacturers due to “supply chain issues with so many materials (seriously delayed shipments), huge increase in steel costs, trucking costs, shortage of workers, COVID impact to their employees etc.”.<sup>16</sup> This broad-based increase in costs tends to support not only that there has been a structural change in the market, but also that exporters have failed to notify CBSA of material changes to prices and costs.

## VI. Conclusion

For all of the reasons above and as set out in the Request, Stelco requests that CBSA initiate a re-investigation of the COR1 and COR2 findings or, alternatively, 15 NVRs for the COR1 and COR2 exporters with normal values.

Yours truly,

Linden Dales  
Conlin Bedard LLP

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<sup>13</sup> See *Acierco KSE Inc. v. President of the Canada Border Services Agency*, Appeal No. EA-2019-005, Statement of Reasons (March 16, 2022) at para. 41.

<sup>14</sup> *Ibid*, para. 47-49.

<sup>15</sup> *Acierco*, para 45.

<sup>16</sup> Knightsbridge Representations, p. 3.

**List of Attachments**

<b>Attachment #</b>	<b>Description</b>
Confidential Attachment 1	Excerpts from the CRU Pricing Monitor, May 2022



Corrosion-Resistant Steel Sheet 1 and 2  
Request for Re-Investigation / Normal  
Value Reviews

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**Public Summary of  
Confidential Attachment 1  
to the Response Letter dated May 25<sup>th</sup>, 2022 of  
Stelco Inc.**

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**Confidential Attachment 1** contains historical monthly spot pricing for the Chinese and Indian markets, as published by CRU, covering the period from January 2018 to May 2022. Page 2 of this attachment contains graphs showing the price trend in both markets over this period. This is subscription-based, copyright-protected data that cannot be disclosed publicly.

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