



Ottawa, Friday, November 28, 2003

Interim Review No. RD-2002-008

IN THE MATTER OF an interim review, under subsection 76.01(1) of the *Special Import Measures Act*, of the finding made by the Canadian International Trade Tribunal on June 27, 2000, in Inquiry No. NQ-99-004, concerning:

**THE DUMPING OF CERTAIN HOT-ROLLED CARBON STEEL PLATE
ORIGINATING IN OR EXPORTED FROM BRAZIL, FINLAND, INDIA,
INDONESIA, THAILAND AND THE UKRAINE, AND THE SUBSIDIZING OF
CERTAIN HOT-ROLLED CARBON STEEL PLATE ORIGINATING IN OR
EXPORTED FROM INDIA, INDONESIA AND THAILAND**

ORDER

The Canadian International Trade Tribunal, under the provisions of subsection 76.01(1) of the *Special Import Measures Act*, has conducted an interim review of its finding made on June 27, 2000, in Inquiry No. NQ-99-004.

Pursuant to paragraph 76.01(5)(b) of the *Special Import Measures Act*, the Canadian International Trade Tribunal hereby makes no amendment to its finding concerning the dumping of certain hot-rolled carbon steel plate, in widths from 24 inches (+/-610 mm) to 152 inches (+/-3,860 mm) inclusive and in thicknesses from 0.187 inch (+/-4.75 mm) to 5.25 inches (+/-133 mm) inclusive, originating in or exported from Brazil, Finland, India, Indonesia, Thailand and the Ukraine, and the subsidizing of the aforementioned goods originating in or exported from India, Indonesia and Thailand.

Pierre Gosselin
Pierre Gosselin
Presiding Member

Ellen Fry
Ellen Fry
Member

Meriel V.M. Bradford
Meriel V.M. Bradford
Member

Michel P. Granger
Michel P. Granger
Secretary

Date of Order and Reasons: November 28, 2003

Tribunal Members: Pierre Gosselin, Presiding Member
Ellen Fry, Member
Meriel V.M. Bradford, Member

Director of Research: Selik Shainfarber

Lead Researcher: Joël J. Joyal

Counsel for the Tribunal: John Dodsworth

Assistant Registrar: Gillian Burnett

Participants:

Donald J. Goodwin
Evgeny Pavlenko
for Wirth Steel, A General Partnership

Igor V. Nizov
for Azovstal Iron & Steel Works

(Importer/Other)

Lawrence L. Herman
Craig S. Logie
for Stelco Inc.

Dalton J. Albrecht
for IPSCO Inc.

Ronald C. Cheng
Benjamin P. Bedard
for Algoma Steel Inc.

(Domestic Producers)



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TRIBUNAL: PIERRE GOSSELIN, Presiding Member
ELLEN FRY, Member
MERIEL V.M. BRADFORD, Member

STATEMENT OF REASONS

BACKGROUND

On March 5, 2003, the Canadian International Trade Tribunal (the Tribunal) received a request for an interim review of its finding made on June 27, 2000, in Inquiry No. NQ-99-004 (the finding), concerning the dumping of certain hot-rolled carbon steel plate, in widths from 24 inches (+/-610 mm) to 152 inches (+/-3,860 mm) inclusive and in thicknesses from 0.187 inch (+/-4.75 mm) to 5.25 inches (+/-133 mm) inclusive, originating in or exported from Brazil, Finland, India, Indonesia, Thailand and the Ukraine, and the subsidizing of the aforementioned goods originating in or exported from India, Indonesia and Thailand.

Wirth Steel, A General Partnership (Wirth), an international steel trading company, requested an interim review to obtain a revision of the finding to “reflect a maximum thickness of 2.75 inches (or equivalent) except for plate less than or equal to 72 inches wide where the maximum thickness would be 3 inches” (hereinafter thick plate). Wirth based its request for an interim review on the fact that there had been a change in the structure of the industry since the finding, namely, that Stelco Inc. (Stelco) had announced on February 24, 2003, that it would “idle its Hamilton [Ontario] plate mill in April”. According to Wirth, following the idling of Stelco’s mill, thick plate would no longer be produced in Canada.

The Tribunal decided that the request was properly documented. On April 7, 2003, pursuant to subrule 70(2) of the *Canadian International Trade Tribunal Rules*,¹ the parties to Inquiry No. NQ-99-004 were provided with a copy of Wirth’s request and given an opportunity to make representations. On April 22, 2003, Stelco, Algoma Steel Inc. (Algoma) and IPSCO Inc., three domestic producers of certain carbon steel plate,² filed submissions opposing the request for an interim review. Furthermore, on

1. S.O.R./91-499.

2. Stelco, Algoma and IPSCO Inc. are, hereinafter, collectively referred to as the domestic producers.

April 23, 2003, the Embassy of Indonesia, on behalf of Indonesian steel exporters, filed a letter supporting the request made by Wirth. Wirth filed a reply to the domestic producers' submissions on April 29, 2003.

Pursuant to subsection 76.01(1) of the *Special Import Measures Act*,³ the Tribunal initiated an interim review in accordance with the request made by Wirth. On May 7, 2003, a notice of commencement of interim review was issued. The notice indicated that the Tribunal would make its decision no later than June 26, 2003, solely on the basis of written submissions.

The submissions that had been made by parties prior to the initiation of the interim review were placed on the record of the interim review. Any further submissions by interested parties and any subsequent reply submissions were requested by no later than May 27 and June 4, 2003, respectively. Both Wirth and the domestic producers filed further submissions and reply submissions. Russel Metals⁴ also filed a submission supporting the request made by Wirth. In addition, the Steel Authority of India Limited filed a letter with the Tribunal in which it indicated that it had not recently exported plate to Canada, but it made no substantive submissions with regard to Wirth's request.

On June 13, 2003, the Commissioner of the Canada Customs and Revenue Agency initiated a new investigation into the alleged injurious dumping of certain hot-rolled carbon steel plate and high-strength low-alloy steel plate.⁵ On June 16, 2003, the Tribunal issued a notice of commencement of preliminary injury inquiry into the matter.⁶ Subsequently, on June 19, 2003, the Tribunal issued supplementary instructions and invited parties to make submissions to address the issue of the current and prospective plans by the domestic producers for the production and sale of carbon steel plate in thicknesses greater than 3 inches. The parties in the preliminary injury inquiry include, among others, both Wirth and the domestic producers. Moreover, Wirth made substantially the same request for exclusion of thick plate in that case that it has made in this interim review.

Given that the issue in this interim review was being substantially addressed in the context of other proceedings before it, the Tribunal decided to suspend its interim review. A notice of suspension of interim review was issued on June 26, 2003. As the Tribunal has now concluded the preliminary injury inquiry, it is now issuing its decision in this interim review.

POSITIONS OF PARTIES

Party Supporting the Request

Wirth

Wirth submitted that, with the idling of Stelco's Hamilton plate mill, thick plate was no longer made in Canada. Although Algoma claimed that, in 2003, it had produced and sold some thick plate, Wirth argued that Algoma had not provided credible proof to support this contention. Accordingly, Wirth submitted that thick plate should be excluded from the finding "until such time that the Canadian mills provide satisfactory evidence of production".

3. R.S.C. 1985, c. S-15 [*SIMA*].

4. Russel Metals is the principal partner in the Wirth partnership.

5. This case involves the subject goods originating in or exported from Bulgaria, the Czech Republic and Romania and includes thick plate.

6. Preliminary Injury Inquiry No. PI-2003-002.

In addressing certain other arguments made by the domestic producers, Wirth also argued, among other things, that plate is comprised of various sub-classes, that plate of one thickness is not substitutable for plate of another thickness and that the price of thick plate does not affect the price of thinner plate.

Parties Opposing the Request

Domestic Producers

The domestic producers submitted that the Tribunal and its predecessor bodies have only granted product exclusions when circumstances were exceptional. Wirth failed to meet the burden of justifying the requested exclusions.

Stelco submitted that it had not irrevocably ceased its production of plate. On the contrary, it intended to resume its plate operations when economic conditions justified such production. Algoma submitted that, in 2003, it had produced and sold some 3-inch plate to a customer, and it provided an invoice which documented this transaction. Algoma also contended that, in the future, it planned to expand its present size range to include the production and sale of plate in thicknesses of 3.5 inches and greater.

The domestic producers also argued, among other things, that the Tribunal had consistently found in past cases that plate comprises a single class of goods. Moreover, in the domestic producers' view, thicker plate could be substituted for thinner plate, and the price of the former could affect the price of the latter. In other words, if thick plate were excluded and subsequently dumped, this would affect the price of plate of all dimensions.

ANALYSIS

The Tribunal has, on occasion, granted requests for exclusions from findings made pursuant to section 43 of *SIMA* and from orders made pursuant to subsection 76.03(10) of *SIMA*. In arriving at its decision on a request for exclusion, one of the main factors that the Tribunal considers is whether the product is manufactured or is about to be manufactured in Canada. In the Tribunal's opinion, it would be appropriate to apply the same rationale to requests for amendments to an order or a finding in the context of an interim review.

However, in the present case, the evidence on the record suggests that, while Stelco is not producing thick plate at the present time, it has ceased production on a temporary basis only. In its press release of February 24, 2003, Stelco referred to the "idling" of its Hamilton plant, not permanent closure. Furthermore, Stelco has taken the position, during this interim review, that it will resume its production of plate, including thick plate, when economic conditions justify such production. In addition, Algoma has indicated that, in 2003, it produced and sold some 3-inch plate and that it has plans to produce and sell a broader range of thick plate in the future. In its statement of reasons in Preliminary Injury Inquiry No. PI-2003-002, the Tribunal indicated that the evidence on the record was clearly insufficient to establish the absence of recent or imminent production of like goods for reasons unrelated to dumping.

Consequently, the Tribunal does not consider that there is sufficient evidence to support the granting of the exclusion requested in this case, and the Tribunal is of the view that its finding should not be amended in the manner requested.

CONCLUSION

For the foregoing reasons, the Tribunal determines that, pursuant to paragraph 76.01(5)(b) of *SIMA*, the finding should not be amended.

Pierre Gosselin
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Presiding Member

Ellen Fry
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Member

Meriel V.M. Bradford
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Member