



Canadian International  
Trade Tribunal

Tribunal canadien du  
commerce extérieur

CANADIAN  
INTERNATIONAL  
TRADE TRIBUNAL

# Dumping and Subsidizing

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## ORDER AND REASONS

Request for Interim Review  
No. RD-2005-002

Concrete Reinforcing Bar

*Order and reasons issued  
Wednesday, November 9, 2005*

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IN THE MATTER OF a request for 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 1, 2001, in Inquiry No. NQ-2000-007, concerning:

**CONCRETE REINFORCING BAR ORIGINATING IN OR EXPORTED FROM THE  
REPUBLIC OF INDONESIA, JAPAN, THE REPUBLIC OF LATVIA, THE REPUBLIC OF  
MOLDOVA, THE REPUBLIC OF POLAND, CHINESE TAIPEI AND UKRAINE**

**ORDER**

On September 20, 2005, Krivorozhstal Mining & Metallurgical Integrated Works filed a request for an interim review of the finding made by the Canadian International Trade Tribunal in Inquiry No. NQ-2000-007 concerning the above-noted goods.

Pursuant to subsection 76.01(4) of the *Special Import Measures Act*, the Canadian International Trade Tribunal has decided not to conduct an interim review of the above finding.

Ellen Fry

Ellen Fry  
Presiding Member

Pierre Gosselin

Pierre Gosselin  
Member

James A. Ogilvy

James A. Ogilvy  
Member

Hélène Nadeau

Hélène Nadeau  
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## STATEMENT OF REASONS

### BACKGROUND

1. On June 1, 2001, the Canadian International Trade Tribunal (the Tribunal), in Inquiry No. NQ-2000-007, made a finding of injury, pursuant to subsection 43(1) of the *Special Import Measures Act*,<sup>1</sup> concerning hot-rolled deformed carbon or low alloy steel concrete reinforcing bar in straight lengths or coils (rebar) originating in or exported from the Republic of Indonesia, Japan, the Republic of Latvia, the Republic of Moldova, the Republic of Poland, Chinese Taipei and Ukraine.

2. On July 26, 2005, the Tribunal issued Notice of Expiry No. LE-2005-002 to inform parties that its finding in Inquiry No. NQ-2000-007 was due to expire on May 31, 2006, and to invite parties to file submissions on whether an expiry review of the finding was warranted pursuant to subsection 76.03(2) of *SIMA*. The Tribunal received submissions from the following Canadian producers: Stelco Inc., AltaSteel Ltd. and Norambar Inc. (collectively referred to as the Stelco companies); and Gerdau Ameristeel Corporation, Whitby Plant and Cambridge Plant, and Gerdau MRM Specialty Sections Inc. (collectively referred to as the Gerdau companies). A Ukrainian producer, Krivorozhstal Mining & Metallurgical Integrated Works (Krivorozhstal), and the Government of Indonesia also filed submissions. No party argued for a continuation of the finding.

3. On September 14, 2005, the Tribunal issued a notice indicating that it had received no submissions in support of a review and continuation of the finding and that, consequently, no expiry review would be initiated. It gave notice that, pursuant to paragraph 76.03(1)(b) of *SIMA*, the finding made on June 1, 2001, in Inquiry No. NQ-2000-007 would expire on May 31, 2006.

4. On September 20, 2005, Krivorozhstal filed a request for an interim review of the Tribunal's finding.

### KRIVOROZHSTAL'S POSITION

5. In its request, Krivorozhstal argued that the following facts are sufficient justification for an interim review: during the proceedings in Expiry No. LE-2005-002, no Canadian producer supported a review of the finding, and no claims of injury were offered against any imports or potential imports from Ukraine. It submitted that such a review is needed to remove immediately the unnecessary barrier to trade that the finding has imposed on exports of rebar from Ukraine to Canada. In the Tribunal's view, Krivorozhstal has submitted a properly documented request in accordance with the requirements of subrule 70(1) of the *Canadian International Trade Tribunal Rules*.<sup>2</sup>

### ANALYSIS

6. Subsection 76.01(1) of *SIMA* provides that the Tribunal may conduct an interim review of a finding or an order. Such an interim review may concern the whole finding or order or any aspect of it. Pursuant to subsection 76.01(3), the Tribunal shall not conduct an interim review unless the requester satisfies the Tribunal that the review is warranted.

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

2. S.O.R. 91/499 [*Rules*].

7. Before addressing the question of whether an interim review is warranted, the Tribunal will address one procedural matter in connection with the request for interim review. Subrule 70(2) of the *Rules* requires the Tribunal to give all other parties to the original inquiry an opportunity to make representations to the Tribunal concerning the request. However, rule 6 allows the Tribunal to dispense with, vary or supplement any of the *Rules* if it is fair and equitable to do so or to provide for a more expeditious or informal process, as the circumstances and considerations of fairness permit.

8. In this case, the Tribunal decided, in accordance with rule 6 of the *Rules*, not to distribute the request to the parties for comments, as would ordinarily be the case pursuant to subrule 70(2). The Gerdau companies, during the proceedings of Expiry No. LE-2005-002, already requested that the finding in Inquiry No. NQ-2000-007 remain in place until its expiry. In light of this submission and the Tribunal's determination as outlined below, the Tribunal is of the view that no parties will be treated unfairly or be adversely affected by its decision not to distribute the request for comments.

9. Having determined that the request is properly documented, the Tribunal must decide if an interim review is warranted. In light of subsection 76.01(3) of *SIMA*, interim reviews should only be undertaken when there are sufficiently compelling reasons to persuade the Tribunal to do so. New facts or changes of circumstances are not, in and of themselves, enough to warrant an interim review. It is reasonably expected that new facts will arise and circumstances will change over the course of a finding.

10. However, as indicated in the Tribunal's *Guideline on Interim Reviews*, the question is whether there are sufficient new facts or changes of circumstances to warrant an interim review, or whether an interim review is warranted due to facts that were not put into evidence during the original inquiry and not discoverable by the exercise of reasonable diligence at the time. For example, since the finding, the domestic industry might have ceased production or foreign subsidies might have been terminated.

11. After having considered the request, it is the Tribunal's view that Krivorozhstal has not provided evidence of sufficient new facts or changes of circumstances to warrant an interim review. The Tribunal notes that Krivorozhstal provided no evidence to indicate that dumped imports from Ukraine will not injure domestic producers in the final months of the finding.

12. The Tribunal also notes that subsection 76.03(1) of *SIMA* provides that, "[i]f the Tribunal has not initiated an expiry review . . . with respect to an order or finding . . . before the expiry of five years . . . , the order or finding is deemed to have been rescinded as of the expiry of the five years . . . ." The Tribunal considers that the fact that the domestic industry is not seeking a review of the finding in Inquiry No. NQ-2000-007 does not warrant the domestic industry being accorded any treatment that is different from that contemplated in subsection 76.03(1).

13. Based on the Tribunal's injury finding in Inquiry No. NQ-2000-007, the domestic industry is entitled to expect that the remedy will not be disturbed for the full five years provided for in *SIMA*.

**CONCLUSION**

14. For the foregoing reasons, the Tribunal determines that an interim review of the finding in Inquiry No. NQ-2000-007 is not warranted. Consequently, pursuant to subsection 76.01(4) of *SIMA*, the Tribunal has decided not to conduct an interim review.

Ellen Fry  
Ellen Fry  
Presiding Member

Pierre Gosselin  
Pierre Gosselin  
Member

James A. Ogilvy  
James A. Ogilvy  
Member