



Canadian International  
Trade Tribunal

Tribunal canadien du  
commerce extérieur

CANADIAN  
INTERNATIONAL  
TRADE TRIBUNAL

# Dumping and Subsidizing

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## ORDER AND REASONS

Expiry Review No. RR-2003-002

Certain Flat Hot-rolled Carbon and  
Alloy Steel Sheet Products

*Order and reasons issued  
Wednesday, June 30, 2004*

**TABLE OF CONTENTS**

ORDER .....	i
STATEMENT OF REASONS .....	1
BACKGROUND .....	1
PRODUCT .....	3
Product Definition and Description .....	3
Production Process .....	3
Product Applications .....	4
DOMESTIC PRODUCERS .....	4
Dofasco .....	4
Stelco .....	5
Algoma .....	5
Ispat .....	5
IPSCO .....	5
FOREIGN PRODUCERS .....	6
IMPORTERS .....	6
PRODUCT DISTRIBUTION .....	6
SUMMARY OF FINDING IN INQUIRY NO. NQ-98-004 .....	7
POSITIONS OF PARTIES .....	8
Domestic Industry .....	8
Exporters .....	8
ANALYSIS .....	9
Like Goods .....	9
Domestic Industry .....	10
Cumulation .....	10
Likelihood of Injury .....	10
REQUESTS FOR EXCLUSIONS .....	23
CONCLUSION .....	23

IN THE MATTER OF an expiry review, under subsection 76.03(3) of the *Special Import Measures Act*, of the finding made by the Canadian International Trade Tribunal on July 2, 1999, in Inquiry No. NQ-98-004, concerning:

**CERTAIN FLAT HOT-ROLLED CARBON AND ALLOY STEEL SHEET  
PRODUCTS ORIGINATING IN OR EXPORTED FROM FRANCE, ROMANIA,  
THE RUSSIAN FEDERATION AND THE SLOVAK REPUBLIC**

**ORDER**

The Canadian International Trade Tribunal, under the provisions of subsection 76.03(3) of the *Special Import Measures Act*, has conducted an expiry review of its finding made on July 2, 1999, in Inquiry No. NQ-98-004 (as amended on January 17, 2003, in Interim Review No. RD-2002-003), concerning flat hot-rolled carbon and alloy steel sheet and strip, including secondary or non-prime material, originating in or exported from France, Romania, the Russian Federation and the Slovak Republic, in various widths from 0.75 in. (19 mm) and wider, and (a) for product in coil form, in thicknesses from 0.054 in. to 0.625 in. (1.37 mm to 15.88 mm) inclusive, (b) for product that is cut-to-length, in thicknesses from 0.054 in. up to but not including 0.187 in. (1.37 mm up to but not including 4.75 mm), excluding stainless steel sheet and strip and excluding flat hot-rolled, cut-to-length alloy steel products containing no less than 11.5 percent manganese, in thicknesses from 3 mm to 4.75 mm.

Pursuant to subparagraph 76.03(12)(a)(ii) of the *Special Import Measures Act*, the Canadian International Trade Tribunal hereby rescinds its finding in respect of the above-mentioned products originating in or exported from Romania, the Russian Federation and the Slovak Republic.

Pursuant to subparagraph 76.03(12)(a)(i) of the *Special Import Measures Act*, the Canadian International Trade Tribunal hereby rescinds its finding made in respect of the above-mentioned products originating in or exported from France.

James A. Ogilvy  
James A. Ogilvy  
Presiding Member

Patricia M. Close  
Patricia M. Close  
Member

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

Hélène Nadeau  
Hélène Nadeau  
Secretary

Place of Hearing: Ottawa, Ontario  
Dates of Hearing: April 26 to 29, 2004

Tribunal Members: James A. Ogilvy, Presiding Member  
Patricia M. Close, Member  
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**PARTICIPANTS:****Domestic Producers**

Stelco Inc.

Dofasco Inc.

Algoma Steel Inc.  
Ispat Sidbec Inc.

IPSCO Inc.

**Exporters**JSC Magnitogorsk Iron and Steel Works  
JSC Severstal

U.S. Steel Kosice, S.R.O.

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## STATEMENT OF REASONS

### BACKGROUND

1. This is an expiry review, under subsection 76.03(3) of the *Special Import Measures Act*,<sup>1</sup> of the finding made by the Canadian International Trade Tribunal (the Tribunal) on July 2, 1999, in Inquiry No. NQ-98-004, as amended on January 17, 2003, in Interim Review No. RD-2002-003, concerning certain flat hot-rolled carbon and alloy steel sheet products (hot-rolled sheet) originating in or exported from France, Romania, the Russian Federation and the Slovak Republic.
2. On September 24, 2003, the Tribunal issued a notice of expiry review<sup>2</sup> to all known interested parties. As part of these proceedings, the Tribunal and the Canada Customs and Revenue Agency (CCRA) sent questionnaires to the Canadian producers, importers and exporters/foreign producers of hot-rolled sheet. These questionnaires and the replies thereto formed part of the expiry review records of both the CCRA and the Tribunal.
3. On September 25, 2003, the Commissioner of the CCRA initiated an expiry review investigation to determine whether the expiry of the finding was likely to result in the continuation or resumption of dumping of hot-rolled sheet from France, Romania, the Russian Federation and the Slovak Republic.
4. On January 22, 2004, the Canada Border Services Agency (CBSA) (formerly the CCRA) determined that, pursuant to subsection 76.03(7) of *SIMA*, the expiry of the finding was not likely to result in the continuation or resumption of dumping of hot-rolled sheet originating in or exported from France, but that the expiry of the finding was likely to result in the continuation or resumption of dumping of hot-rolled sheet originating in or exported from Romania, the Russian Federation and the Slovak Republic.
5. On January 23, 2004, following the CBSA's determination, the Tribunal initiated an inquiry to determine whether the expiry of the finding respecting hot-rolled sheet originating in or exported from Romania, the Russian Federation and the Slovak Republic (the subject goods) was likely to result in injury or retardation to the domestic industry. The Tribunal sent supplementary questionnaires to the domestic producers, importers and purchasers in order to obtain additional information for the full year 2003.
6. The record of these proceedings consists of the following: the testimony heard during the hearing, which had public and *in camera* components, held in Ottawa, Ontario, from April 26 to 29, 2004; all relevant documents, including the CBSA's protected *Expiry Review Report*, statement of reasons, index of background information and related documents; the protected and public replies to the expiry review questionnaires; requests for information and parties' replies provided in accordance with the Tribunal's directions; the finding; the notice of expiry review; and the public and protected pre-hearing staff reports prepared for Inquiry No. NQ-98-004, as well as those prepared for these proceedings. All public exhibits were made available to interested parties, while protected exhibits were provided only to counsel who had filed declarations and undertakings with the Tribunal in respect of confidential information.

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

2. C. Gaz. 2003.I.3121.

7. The domestic producers, Stelco Inc. (Stelco), Algoma Steel Inc. (Algoma), Dofasco Inc. (Dofasco), IPSCO Inc. (IPSCO) and Ispat Sidbec Inc. (Ispat), were represented by counsel at the hearing. They submitted evidence and made arguments in support of a continuation of the finding. Samuel, Son & Co. (Samuel), a distributor of hot-rolled sheet, and Atlas Tube Inc., a manufacturer of tubular products, were represented by witnesses at the hearing and submitted evidence in support of a continuation of the finding.

8. Two producers/exporters of hot-rolled sheet in the Russian Federation, JSC Magnitogorsk Iron and Steel Works (Magnitogorsk) and JSC Severstal (Severstal), and one producer/exporter in the Slovak Republic, U.S. Steel Kosice, S.R.O. (USSK), were also represented by counsel at the hearing and submitted evidence and made arguments in support of a rescission of the finding.

9. Ms. Beverley Snyder, Purchasing Manager, Metallic & GM Steel Resale, General Motors of Canada Limited, appeared as a witness at the Tribunal's request.

10. On April 14, 2004, the Tribunal invited Mr. James May, President of May Commodity Associates, to appear at the hearing as an expert witness for the Tribunal. The Tribunal informed parties that it intended to qualify Mr. May as an expert in the area of international steel markets. It sent counsel a copy of his biography and two articles he had authored, and indicated that any objections to the proposed designation would have to be filed with the Tribunal by April 16, 2004.

11. On April 16, 2004, Dofasco and Stelco requested additional information regarding Mr. May's work history, qualifications and related matters. On April 20, 2004, the information requested of and provided by Mr. May was sent to parties with a revised biography. The Tribunal extended the deadline for parties to oppose Mr. May's designation as an expert to April 22, 2004.

12. On April 22, 2004, Dofasco and IPSCO objected to the appearance of Mr. May as an expert witness on the basis, among other things, that they had no knowledge of Mr. May's position and would not have such until he testified at the hearing. As a result, they submitted, parties would not have an opportunity to call an expert to rebut such evidence. Reference was made to subrule 22(1) of the *Canadian International Trade Tribunal Rules*,<sup>3</sup> which provides that a party who intends to call an expert witness at the hearing shall, 20 days prior to the commencement of the hearing, file with the Secretary of the Tribunal a report setting out the expert's name, address, qualifications and areas of expertise and a detailed outline of the expert's testimony.

13. The Tribunal reiterated the statement from its letter of April 20, 2004, that it did not intend to ask Mr. May to provide a detailed outline of his expert testimony prior to the hearing. The Tribunal first noted that Mr. May was appearing as an expert witness for the Tribunal and was neutral to the interests of parties. The Tribunal emphasized that the primary purpose of Mr. May's appearance was to answer the Tribunal's questions, and most of these questions would be developed in the course of the hearing. The Tribunal noted that it had nevertheless provided parties with an outline of the areas of questioning that it intended to explore with Mr. May. While acknowledging that, if a party were to call an expert witness at the hearing, an expert report containing a detailed outline of the expert's testimony would be required pursuant to rule 22 of the *Rules*, the Tribunal noted that the requirement applied to parties and not to the Tribunal. The Tribunal pointed out that rule 22 was there to ensure that parties had the opportunity to rebut evidence presented by an expert witness called on behalf of an opposing party.

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3. S.O.R./91-499 [*Rules*].

14. The Tribunal was therefore satisfied that by giving an opportunity to all parties to cross-examine Mr. May, and to present argument on his testimony, it would ensure that rules of natural justice were respected. In light of these reasons, and taking into account that no objection had been raised regarding Mr. May's expertise, the Tribunal stated that it would qualify him as an expert in the area of international steel markets.

## PRODUCT

### Product Definition and Description

15. Hot-rolled sheet is defined as flat hot-rolled carbon and alloy steel sheet and strip, including secondary or non-prime material, in various widths from 0.75 in. (19 mm) and wider, and (a) for product in coil form, in thicknesses from 0.054 in. to 0.625 in. (1.37 mm to 15.88 mm) inclusive, (b) for product that is cut-to-length, in thicknesses from 0.054 in. up to but not including 0.187 in. (1.37 mm up to but not including 4.75 mm), excluding stainless steel sheet and strip and excluding flat hot-rolled, cut-to-length alloy steel products containing no less than 11.5 percent manganese, in thicknesses from 3 mm to 4.75 mm.

16. Also excluded is hot-rolled steel sheet in coil, mill-edge/slit-edge, with hardenable manganese-boron steel for heat treatment, manufactured to the "Solbor 30MnB5" specification, or equivalent, and imported into Canada under classification Nos. 7226.91.90.90 and 7225.30.90.00, for use in the manufacture of agricultural disks and sweeps.<sup>4</sup>

17. Hot-rolled sheet includes strip and sheet, but does not include floor plate. Strip is usually produced in widths of up to 12 in. (305 mm). Sheet is usually produced in widths of more than 12 in. Hot-rolled stainless steel sheet and strip are excluded from the product definition.

18. Hot-rolled sheet is normally produced to a specification of the American Society for Testing and Materials (ASTM) standard or some other international standard or to proprietary specifications. ASTM specifications for hot-rolled sheet include, but are not limited to, A505, A506, A507, A568, A569, A570, A606, A607, A621, A622, A635, A659, A715, A749, A907, A935 and A936. Hot-rolled sheet is usually classified as either a carbon-manganese or a high-strength low-alloy (HSLA) steel and is available in several qualities and grades that are usually reflected in the ASTM or equivalent specifications or standards.

### Production Process

19. Hot-rolled sheet is rolled on a continuous strip mill<sup>5</sup> at temperatures above 1600°F (870°C) from an incoming hot slab up to 9 in. (229 mm) thick. The slabs can be produced from steel produced in a basic oxygen furnace or an electric arc furnace. The slab is progressively reduced to a sheet of the required thickness, 0.625 in. (15.88 mm) or less. The edges can be slit to remove minor edge imperfections and to provide closer width tolerances. Processing on the mill may include slitting or shearing to remove tongues and tails from the sheet. During hot-rolling, surface oxide (scale) forms, which is not acceptable for some applications. This scale may be removed by acid pickling. After pickling, rinsing and drying, an oil can be applied as a temporary protection against rust.

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4. For the precise chemical requirements of the "Solbor 30MnB5" specification, see *Flat Hot-rolled Carbon and Alloy Steel Sheet* (17 January 2003), RD-2002-003 (CITT) [*Hot-rolled Sheet*].

5. Hot-rolled sheet is also produced in combined plate/sheet complexes.

## Product Applications

20. Hot-rolled sheet is used in the automotive industry in the manufacture of frames, bumpers, wheels and some powertrain components. Hot-rolled sheet is also used in the manufacture of sheet piling and guard rails for use in construction. As well, hot-rolled sheet is consumed by non-automotive stampers, steel fabricators and producers of agricultural and other machinery.

21. Hot-rolled sheet may be sold in the open market or used by domestic producers as feedstock for further internal processing into cold-rolled steel sheet and tubular products, including pipe, tube and hollow structural products. The sheet used in the manufacture of pipe and tube is often referred to as “skelp”.

## DOMESTIC PRODUCERS

22. There are five Canadian producers of hot-rolled sheet: Dofasco, of Hamilton, Ontario; Stelco, of Hamilton, Ontario; Algoma, of Sault Ste. Marie, Ontario; Ispat, of Montréal, Quebec; and IPSCO, of Regina, Saskatchewan. In 1998, these five producers manufactured just over 11 million tonnes of hot-rolled sheet, of which 44 percent was available for sale to the domestic and export merchant markets.<sup>6</sup> In 2003, these five producers manufactured 1 million tonnes less, of which 47 percent was available for sale to the domestic and export merchant markets. The remaining production, for the most part, went into feedstock for higher-value added products.

### Dofasco

23. Dofasco produces hot-rolled sheet on a 7-stand hot mill and is the largest producer of hot-rolled sheet in Canada.

24. Dofasco is a fully integrated steelmaker. It produces slabs using both the basic oxygen furnace and the electric arc furnace methods. Dofasco produces a wide range of steel products which are sold to customers in the automotive, construction, energy, manufacturing, pipe and tube, appliance and container industries. Steelmaking and processing facilities are located at Dofasco’s Hamilton plant.

25. Products manufactured by Dofasco in its Hamilton facilities include: flat hot-rolled sheet and cold-rolled sheet; tin mill products; galvanized, galvaneal and Galvalume™ sheet; Extragal™, chromium-coated and prepainted flat rolled steel in coils; cut lengths and strip; and welded tubular steel products and Zyplex™, a proprietary laminate. Associated companies involved in Dofasco’s hot-rolled sheet business include its joint venture, Gallatin Steel located in Ghent, Kentucky, which produces and sells hot-rolled sheet. Almost all the output from the Gallatin Steel plant stays in the United States, although small shipments may be made to Canada from time to time. Wholly owned subsidiaries in Monterrey, Mexico, and Marion, Ohio, purchase hot-rolled sheet for use in the production of high-quality steel tubing for hydroformed auto parts. In Canada, Dofasco owns Powerlasers, which produces blanks for auto parts, and it has joint ventures with a number of steel processing operations for which it provides feedstock, including Baycoat Limited, DJ Galvanizing Limited Partnership, Sorevco Inc. and DoSol Galva. Dofasco is part owner of Wabush Mines, which provides iron ore pellets to Dofasco. During the review period, Dofasco was also part owner of Quebec Cartier Mining.<sup>7</sup>

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6. *Certain Flat Hot-rolled Carbon and Alloy Steel Sheet Products* (2 July 1999), NQ-98-004 (CITT) at 5.

7. Dofasco terminated its interest in Quebec Cartier Mining on December 31, 2003.

## Stelco

26. Stelco is the second largest producer of hot-rolled sheet in Canada. Hot-rolled sheet is produced at Hilton Works, in Hamilton. Most of the hot-rolled sheet produced at Hilton Works is sold on the merchant market. Stelco also produces hot-rolled sheet at its Lake Erie Steel Co. plant at Nanticoke, Ontario, which produces hot-rolled sheet primarily for use as feedstock at Hilton Works and Lake Erie Steel Co., but also for sale to the market.

27. Stelco owns Stelpipe Ltd., in Welland, Ontario, and is also part owner of Camrose Pipe Co., in Camrose, Alberta, both of which produce pipe and tube using hot-rolled sheet produced by Stelco.

28. On January 29, 2004, Stelco obtained an order from the Superior Court of Justice of Ontario that provided creditor protection under the *Companies' Creditors Arrangement Act*.<sup>8</sup>

## Algoma

29. Algoma,<sup>9</sup> located in Sault Ste. Marie, is a vertically integrated primary iron and steel producer and is the third largest domestic producer of hot-rolled sheet. Algoma produces raw steel and finished steel products, including carbon steel hot-rolled plate, hot-rolled sheet, cold-rolled sheet and unfinished parts. These products primarily serve the construction, transportation and energy industries.

30. In 1998, Algoma began producing hot-rolled sheet on its new Direct Strip Production Complex (DSPC). Formerly, it had produced all its hot-rolled sheet on a combined plate/sheet complex. The DSPC expanded Algoma's capacity, thickness range and capabilities in HSLA and formable grades of hot-rolled sheet.

## Ispat

31. In 2003, Ispat was Canada's fourth largest producer of hot-rolled sheet. Ispat is wholly owned by Ispat International N.V., Rotterdam, the Netherlands, having been purchased by that company in August 1994. Ispat International N.V. has several other steel companies throughout the world, in particular in Kazakhstan and Romania.<sup>10</sup>

32. Ispat produces steel from slab produced at its Primary Operation unit (with electric arc and ladle furnaces). It manufactures hot-rolled sheet, strip and plate and cold-rolled steel sheet at its plant in Contrecoeur, Quebec. Ispat is a joint owner with Dofasco of Sorevco Inc., which produces galvanized sheet. Other steel products produced by Ispat include pipe and tube, wire, bars and rod.

## IPSCO

33. In 2003, IPSCO was the smallest domestic producer of hot-rolled sheet. IPSCO's Canadian steelmaking facilities are in Regina. These facilities produce hot-rolled sheet in both coil and cut-to-length forms, as well as carbon steel plate and HSLA plate. In addition, cut-to-length hot-rolled sheet is produced in IPSCO's coil processing facilities in Toronto, Ontario, and Surrey, British Columbia. These facilities also produce cut-to-length plate. In addition to flat products, IPSCO produces tubular goods at its facilities in

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8. R.S.C. 1985, c. C-36 [CCAA].

9. Algoma was incorporated on June 1, 1992. The company was re-organized on January 29, 2002, under a plan of arrangement and reorganization pursuant to the CCAA.

10. Ipsat Sidex, the sole producer of hot-rolled sheet in Romania, is also wholly owned by Ispat International N.V.

Regina, and Calgary and Red Deer, Alberta. These tubular products include standard pipe, line pipe, piling pipe and hollow structural sections.

34. IPSCO also has a number of facilities in the United States. It produces steel in Montpelier, Iowa, where hot-rolled sheet and a number of other products are manufactured. IPSCO facilities in Mobile, Alabama, produce hot-rolled sheet in both coil and cut-to-length forms, while those in St. Paul, Minnesota, and Houston, Texas, produce cut-to-length sheet from coil. Tubular goods are produced at IPSCO's plant in Camanche, Iowa.

## FOREIGN PRODUCERS

35. Expiry review questionnaires were sent to 23 foreign producers and exporters. Information on the subject goods was provided by three producers from the Russian Federation, Severstal, Magnitogorsk and Novolipetsk Iron & Steel Corporation (Novolipetsk). These three are the largest producers of hot-rolled sheet in the Russian Federation, accounting for over 60 percent of total hot-rolled sheet production in the Russian Federation and almost all its exports of hot-rolled sheet.<sup>11</sup> All three are integrated steel producers which, in addition to producing and selling hot-rolled sheet, produce and sell cold-rolled and coated steel sheet products.

36. Information was also provided by USSK, the sole producer of hot-rolled sheet in the Slovak Republic. No response was received from any Romanian producer or exporter or, in particular, from Ispat Sidex, Romania's sole producer of hot-rolled sheet, although some evidence was provided by its Canadian sister company, Ispat.

## IMPORTERS

37. Expiry review questionnaires were sent to a sample of 50 importers in Canada, of which 24 responded. Of these, 1 reported imports from a subject country (the Russian Federation), 9 reported imports from non-subject countries, and the balance of the respondents reported no imports of hot-rolled sheet from any source. There were no imports of hot-rolled sheet reported from Romania or the Slovak Republic. The United States was the largest source of imports of hot-rolled sheet over the period of review. The combined imports from the United States reported by importer respondents and domestic producers in 2003 accounted for 47 percent of the total volume of imports of hot-rolled sheet from the United States reported by Statistics Canada in that year.

## PRODUCT DISTRIBUTION

38. Hot-rolled sheet is sold directly to end users, steel service centres, and pipe and tube manufacturers. Steel service centres may further process the steel and supply smaller end users and contractors. These steel service centres may also supply small volumes of specialized products to accounts that would normally purchase directly from mills. For 2003, the distribution of producers' sales from production among the three market segments noted above was as follows: 34 percent to end users, 29 percent to pipe and tube producers and 37 percent to steel service centres. Sales of hot-rolled sheet are frequently made on a spot price basis. Each sale made on a spot price basis is negotiated individually with the client. Depending on the domestic producer, a significant amount of hot-rolled sheet is sold on a contract basis.

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11. Tribunal Exhibit RR-2003-002-06C (protected), Administrative Record, Vol. 2A at 231; Tribunal Exhibit RR-2003-002-42.14, Administrative Record, Vol. 1 at 392.41.

39. Hot-rolled sheet is imported by end users, steel service centres, and pipe and tube manufacturers. Traders receive inquiries from potential customers, or they call customers directly to offer imported hot-rolled sheet. Direct importers obtain price and availability information from foreign suppliers or their representatives.

40. Generally, sales of imports are made on a spot price basis. Historically, certain pipe and tube manufacturers have had longer-term supply agreements or arrangements with importers. In most cases, transaction prices are negotiated on the basis of prevailing market prices of hot-rolled sheet.

#### **SUMMARY OF FINDING IN INQUIRY NO. NQ-98-004**

41. The domestic industry consisted of the same five producers: Stelco, Algoma, Dofasco, IPSCO and Ispat.

42. The Tribunal found that the domestic producers had experienced a significant loss of market share, as well as serious price declines. The lower prices resulted in a significant negative impact on the revenues and profitability of the domestic producers, especially in the latter part of 1998 and in the first quarter of 1999. The Tribunal concluded that the magnitude of the price declines and the resulting financial injury were such that the domestic producers had been materially injured.

43. The Tribunal considered whether there was a causal link between the material injury suffered by the domestic industry and the dumped imports. It noted that, during 1996, 1997 and the first half of 1998, the Canadian market was buoyant with a strong demand for hot-rolled sheet, resulting in high prices and a tight supply situation. The tight supply situation was heightened by the strategic plans of domestic mills to produce more value-added products, which led to increases in the growth of production of hot-rolled sheet for use as feedstock. The Tribunal was of the opinion that the loss of market share by the domestic industry was, in part, the result of its unwillingness to meet the low prices of dumped imports and, in part, the result of supply constraints in 1997 and the first two quarters of 1998.

44. The full impact of the substantial quantities of dumped imports on prices in the market became apparent in the fourth quarter of 1998 and in the first quarter of 1999, as the domestic industry's production capacity utilization declined. In the third quarter of 1998, with the beginning of a General Motors strike and a continuing softness of the oil country tubular goods market and certain other markets, the domestic industry began discounting the price of like goods and continued to do so through the first quarter of 1999 to meet the dumped import competition. In some instances, this reaction was too late, as end users and steel service centres had already purchased large volumes of the dumped product and were unwilling or unable to take on more inventory. Consequently, the domestic producers severely discounted their prices in the last quarter of 1998 and in the first quarter of 1999, to the point of selling below the dumped prices.

45. The Tribunal concluded that the material injury suffered by the domestic industry in the form of price erosion was caused primarily by the low prices at which dumped imports were being sold in the Canadian market and that this price erosion accounted for a significant part of the financial losses incurred by the domestic producers. The Tribunal did not accept arguments that other factors (e.g. prices of goods from non-subject countries, developments in the world market for steel) caused the injury suffered by the domestic producers.

46. On January 17, 2003, following an interim review, the 1999 finding was amended to exclude hot-rolled sheet manufactured to the "Solbor 30MnB5" specification or its equivalent.

## POSITIONS OF PARTIES

### Domestic Industry

47. The domestic industry requested the continuation of the Tribunal's finding and submitted that, while demand for hot-rolled sheet is currently strong, in Canada and in the world, it will not remain at current levels. In the industry's view, as demand softens, particularly in the People's Republic of China (China), other markets will be unable to fully absorb the excess supply, and Canada will once again become the target of choice for exporters. Moreover, even with current strong demand in Asia, there remains huge hot-rolled steel overcapacity in the world in general and in the subject countries in particular. It submitted that the recent price increases and surcharges in North America are aimed at recovering costs and do not reflect significantly improving demand or significantly improving margins and profitability over the longer term.

48. With respect to the demand in Asia, reference was made to the World Steel Dynamics<sup>12</sup> report that forecast that the underlying annual growth rate of Chinese demand for hot-rolled steel band, which was about 22 percent, might slow down to about 6 percent, beginning about mid-2004. In the domestic industry's view, the circumstances in China constituted a "bubble" in the Chinese market that is certain to burst. With respect to export prices, the report forecasts that world steel sheet export prices would peak by May 2004 and move downward substantially for much of the remainder of this year. It was the domestic producers' position that the impact of a price reduction of \$60 to \$100 a tonne would be significant. They argued that only a small volume of imports, which would be the equivalent of a boatload or about 20,000 tonnes, was required to destabilize pricing in the Canadian market and that the role of traders in seeking to find a ready market for dumped product was also a major concern.

49. In the domestic producers' view, renewed dumping will undercut cost recovery efforts, destroy whatever order and price stability that exist and wreak immediate harm on the Canadian industry. The domestic industry will be materially injured through price erosion and suppression. Renewed dumping will frustrate the domestic industry's efforts to recover costs and remain profitable in what is a chronically volatile market. In addition, the domestic industry submitted that dumped goods, whether priced at the domestic level or below it, will take sales from domestic producers, thereby lowering revenues, margins and net income. With respect to Stelco, the industry pointed out that hot-rolled sheet is critical to Stelco's restructuring under the *CCAA* and to its future financial viability.

50. The domestic producers argued that, since 1998, they have been hammered by two waves of low-priced imports that have prevented them from fully participating in the upswing of the business cycle. They emphasized that, despite current high prices for the subject goods and their stronger current financial situation, the dramatic increase in the costs of raw materials and other inputs has made the industry more vulnerable than ever. Ispat requested that the finding be continued to cover imports from the Russian Federation and the Slovak Republic, but was ambivalent with respect to imports from Romania.

### Exporters

51. The Russian exporters submitted that they are operating at what is effectively full capacity and that a larger volume of production is being allocated to their domestic market. In addition, they argued that growth for the Russian Federation is projected at 6 percent in 2004 and 5.4 percent in 2005; that none of the producers intends to increase hot-rolled sheet capacity in the near to medium term; and that producers are

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12. Manufacturer's Exhibit D-11C at 99, Administrative Record, Vol. 11.01.

experiencing raw material shortages. Reference was made to the decision in *Corrosion-resistant Steel Sheet*<sup>13</sup> after which, despite the finding of no injury by the Tribunal, no corrosion-resistant steel sheet has entered the Canadian market from the Russian Federation.

52. Regarding the likely performance of the domestic industry, the Russian exporters argued that Canadian growth will continue; that three of the domestic producers have excellent results for the first quarter of 2004; that demand exceeds supply, which requires suppliers to put their customers on allocation; and that scrap prices are falling.

53. As to the demand in China, the Russian exporters submitted that the evidence on the record shows that, given the massive infrastructure projects that are currently underway, no bursting of the “bubble” can be expected until 2008 or 2009, at the earliest. Several factors, among them the shortage of raw materials and government limitations on access to capital, will act as a severe constraint on capacity utilization or the current rate of continuing expansion of Chinese steel plants.

54. USSK argued, among other things, that following the acquisition of the Slovak facilities by U.S. Steel in 2000, it made a conscious decision to maximize its sales to end users, focus on contract business and essentially eliminate the use of traders. Reference was made to the very high level of USSK’s capacity utilization and to the fact that it has been mandated by the European Union to reduce its production. It submitted that, given the accession of the Slovak Republic to the European Union on May 1, 2004, production caps for the European Union and, in particular, USSK, are now in effect. USSK now plans to move away from commodity products and focus on sales to markets within the enlarged European Union and other nearby markets. Accordingly, USSK submitted, there is no likelihood of recurrence of injury from USSK and the Slovak Republic.

## ANALYSIS

55. As noted earlier, the CBSA determined, on January 22, 2004, pursuant to subsection 76.03(7) of *SIMA*, that the expiry of the finding in respect of the subject goods was likely to result in the continuation or resumption of dumping. Consequently, the Tribunal is required, pursuant to subsection 76.03(10), to determine whether the expiry of the finding is likely to result in injury or retardation to the domestic industry.

### Like Goods

56. Subsection 2(1) of *SIMA* defines “like goods”, in relation to 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.

57. In considering the issue of like goods, the Tribunal typically looks at a number of factors, including the physical characteristics of the goods, their method of manufacture, their market characteristics (such as substitutability, pricing and distribution) and whether the goods fulfil the same customer needs.

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13. (3 July 2001), NQ-2000-008 (CITT).

58. The evidence indicates that, for each specification, the domestic industry's hot-rolled sheet is produced according to standards similar to those that apply to the subject goods and that these products are substitutable. Further, the evidence shows that the domestic industry's hot-rolled sheet and all the subject goods have similar market characteristics, that they compete in the same markets and that they fulfil the same customer needs as the subject goods.

59. Therefore, the Tribunal concludes that hot-rolled sheet produced by the domestic industry, defined in the same manner as the subject goods, constitutes like goods to the subject goods.

### **Domestic Industry**

60. The domestic industry is defined in subsection 2(1) of *SIMA* 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 except that, where a domestic producer is related to an exporter or importer of dumped or subsidized goods, or is an importer of such goods, 'domestic industry' may be interpreted as meaning the rest of those domestic producers".

61. Therefore, since Dofasco, Stelco, Algoma, Ispat and IPSCO account for 100 percent of the total domestic production of like goods, they constitute the domestic industry for the purpose of this review.

### **Cumulation**

62. Subsection 76.03(11) of *SIMA* provides that, for the purpose of its determination, the Tribunal shall make an assessment of the cumulative effect of the dumping of the subject goods "that are imported into Canada from more than one country if the Tribunal is satisfied that an assessment of the cumulative effect would be appropriate taking into account the conditions of competition" between the subject goods that are imported into Canada or between the subject goods and the like goods. In the event that the Tribunal determines that it would not be appropriate to cumulate the goods from any subject country, based on its assessment of the conditions of competition of the goods from that country, the Tribunal is required to conduct a separate injury analysis for that country.

63. In this regard, the Tribunal finds that it is appropriate to cumulate the goods from Romania, the Russian Federation and the Slovak Republic in its analysis of likelihood of injury. The goods from these countries are likely to be similar in terms of price, quality and mode of transportation and are sold through the same distribution channels. The manner in which the goods will compete in the Canadian market will be indistinguishable from one subject country to another, such that the Tribunal is of the view that a single injury assessment of the goods from these countries, on a cumulated basis, is appropriate.

### **Likelihood of Injury**

64. Subsection 37.2(2) of the *Special Import Measures Regulations*<sup>14</sup> lists the factors that the Tribunal may consider in addressing the question of likelihood of injury in cases where the CBSA has determined that there is a likelihood of continued or resumed dumping if the finding is allowed to expire. The Tribunal reviewed all these factors and considered several to be relevant to the circumstances of this expiry review. In particular, it examined changes in international and domestic market conditions, the likely performance of the foreign industry, the likely performance of the domestic industry, the likely volumes of dumped imports, the likely prices of dumped imports and the likely impact of dumped imports on the domestic industry,

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

including returns on investment. The Tribunal's analysis, while being predicated on the factors listed in subsection 37.2(2), varies the order of its assessment of the factors in accordance with how the evidence evolved during the course of the review. Accordingly, the first factors examined by the Tribunal are changes in international and domestic market conditions.

65. In making its assessment of the likelihood of injury, the Tribunal has consistently taken the view that the focus must be on circumstances that can reasonably be expected to exist in the near to medium term, generally 18 to 24 months, as opposed to more remote circumstances.<sup>15</sup>

66. Some participants of the domestic industry argued that, if the Tribunal were to review questions or alter or vary findings of fact made by the CBSA in its statements of reasons, it would in effect be exercising an appellate jurisdiction that it does not possess.

67. Under subsection 76.03(7) of *SIMA*, the bifurcated expiry review regime mandates the CBSA to make a determination as to whether the expiry of the order is likely to result in the continuation or resumption of dumping and subsidizing. If the CBSA makes this determination, the Tribunal shall, pursuant to subsection 76.03(10), determine whether the expiry of the order or finding is likely to result in injury or retardation. For this purpose, subsection 37.2(1) of the *Regulations* provides for a non-exhaustive list of factors that the CBSA may consider in rendering its dumping determination. In the same manner, factors that the Tribunal may consider in making its injury determination are listed under subsection 37.1(2).

68. The Tribunal clearly has no jurisdiction to review the CBSA's determination of likelihood of resumed dumping. However, it wishes to make clear that it is not bound by all the facts and opinions upon which the CBSA's determination is based, and can give them the weight it finds appropriate. Under paragraphs 37.2(1)(d) and 37.2(2)(d) of the *Regulations*, both the CBSA and the Tribunal may consider evidence relating to the likely performance of the foreign industry, including trends in production, capacity utilization, prices, inventories, market share, exports and profits. Given the overlap in the factors that may be considered by each body, as well as the differences in methodology employed by the CBSA and the Tribunal to gather evidence, it is very likely that the two may come to different or, in some cases, contradictory conclusions regarding some of the factors. The Tribunal has the benefit of adversarial proceedings, and questions are put directly to witnesses by way of cross-examination or questions from the Tribunal. This can help in corroborating the information collected by way of questionnaires. Further, the evidence to which the Tribunal has access is typically more recent than that available to the CBSA and may reflect changes in the industry or the marketplace since the CBSA's determination.

69. Other factors, such as the likely volume of dumped or subsidized goods, and whether there is likely to be a significant increase in the volume of those goods, go to the core of the Tribunal's mandate in the context of an expiry review. For example, although the CBSA may be satisfied that there is a likelihood of resumed dumping and that the imports will come to Canada at dumped prices, the Tribunal can be of the opinion that the volume of dumped imports will be insufficient to cause injury. The Tribunal is neither bound by the factual findings made by the CBSA, nor by the opinions that support its determination, except for the very determination of likelihood of resumed dumping itself or other factual determinations that rest entirely within the CBSA's jurisdiction. Such other factual determinations would include the margins of dumping and volumes of any dumped goods while a finding was in place.

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15. *Preformed Fibreglass Pipe Insulation* (17 November 2003), RR-2002-005 (CITT) at 11; *Prepared Baby Foods* (28 April 2003), RR-2002-002 (CITT) at 8; *Solder Joint Pressure Pipe Fittings* (16 October 1998), RR-97-008 (CITT) at 10.

### Changes in International Market Conditions

70. In late 2003 and, particularly, in early 2004, there were significant changes in world market conditions. There was a strong recovery in North American economic growth, and the economy in Europe also recovered. At the same time, countries outside North America and Europe enjoyed continued high levels of economic growth driven primarily by investment demand. China and India are two countries that have achieved growth rates that significantly exceed the world average. Very rapid increases in economic growth in China have had the greatest influence on demand for steel and input commodities. The International Monetary Fund (IMF) *World Economic Outlook* published in April 2004 reported that China's average annual growth rate for real gross domestic product for the 10-year period from 1996 to 2005 was estimated to be 8.2 percent, compared with the world average of 3.8 percent.<sup>16</sup> In 2003, China's economy grew by 9.1 percent, compared with the world growth rate of 3.9 percent.<sup>17</sup> China currently accounts for 6.0 percent of world trade, is ranked as the fourth largest trader and is the sixth largest economy. According to the IMF, China's rapidly rising imports have supported the strong performance of neighbouring economies and contributed to the recent strength in world commodity prices.<sup>18</sup> The IMF forecasts that China's economic weight and its integration into the world economy are likely to continue to increase rapidly, assuming certain necessary structural reforms are implemented.<sup>19</sup>

71. Turning to the case at hand, China has become the world's largest importer of steel, currently consuming 30 percent of the world's supply. China's voracious and growing demand for steel has recently caused an extremely tight supply worldwide, not only of steel, but also of the inputs required for its production. During the latter part of the period of inquiry, the global supply of iron ore, steel scrap, coke and coking coal became increasingly constrained, and the prices of these raw materials rose sharply.<sup>20</sup> Energy costs were on the rise as well. In Canada, natural gas, electricity and bunker C oil all became more expensive.<sup>21</sup>

72. These steel market conditions began to develop in late 2003. They continued in the first quarter of 2004, despite a drop in steel demand in China in that period, compared to the first quarter of 2003.<sup>22</sup> A brief interruption in the orderly movement of imports into China occurred early in 2004, as Chinese ports became overburdened during the Chinese New Year.<sup>23</sup> It appears that this problem was cleared away by March 2004,<sup>24</sup> when China's monthly consumption of hot-rolled sheet rose to 3.6 million tonnes, a level that was higher than that of any month in 2003.<sup>25</sup> Around the world, prices for hot-rolled sheet and inputs increased rapidly through the first quarter and into the second quarter of 2004. With respect to the international and domestic market conditions starting in late 2003, witnesses with more than 30 years'

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16. Tribunal Exhibit RR-2003-002-42.13, Administrative Record, Vol. 1 at 392.32, 392.35.

17. *Ibid.*

18. *Ibid.* at 392.11.

19. *Ibid.*

20. Manufacturer's Exhibit E-03 at 5, Administrative Record, Vol. 11A; *Transcript of Public Hearing*, Vol. 2, 27 April 2004 at 369-70, 449-51.

21. Manufacturer's Exhibit E-03 at 5, Administrative Record, Vol. 11A; *Transcript of Public Hearing*, Vol. 1, 26 April 2004 at 98-99; *Transcript of Public Hearing*, Vol. 2, 27 April 2004 at 449.

22. Manufacturer's Exhibit D-11C at 99, Administrative Record, Vol. 11.01.

23. *Transcript of In Camera Hearing*, Vol. 2, 27 April 2004 at 136.

24. *Ibid.*; *Transcript of In Camera Hearing*, Vol. 3, 28 April 2004 at 242-43; Manufacturer's Exhibit D-11C at 99, Administrative Record, Vol. 11.01.

25. Manufacturer's Exhibit D-11C at 99, Administrative Record, Vol. 11.01.

experience in the steel industry spoke of the unprecedented tightness of supply and the rapidity of price increases.<sup>26</sup>

73. During this period, the world shortage of inputs reduced the ability of mills to serve customers. Evidence indicates that mills in North America are running at the fullest capacity possible,<sup>27</sup> given the constraints on inputs. In Canada, producers have had to put customers on allocation.<sup>28</sup> Allocation continued into the second quarter of 2004 and is expected to continue into the second half of the year.<sup>29</sup> For several years, the Canadian market has received the majority of its imported hot-rolled sheet from the United States. But U.S. steel, like domestic steel, was also in short supply and difficult to obtain in early 2004.

74. Under these conditions, U.S. and Canadian hot-rolled sheet prices rose at unprecedented rates and to very high levels.<sup>30</sup> A witness testified that, in early 2004, North American prices for hot-rolled sheet were the highest globally.<sup>31</sup> By May, however, Chinese hot-rolled sheet prices may well have been the highest in the world.<sup>32</sup> In Canada, the price increases to consumers took two forms: from late 2003, increasingly frequent rises in the base price to take advantage of the opportunity presented by rising world prices and, from January 2004 onward, surcharges on these adjusted base prices calculated, and applied monthly to recoup the increases in the costs of inputs.

75. Much was made of the existence of a Chinese “bubble,” the inevitability of it bursting and the timing of that event. The Tribunal’s view is that the overall economy in China is likely to continue to grow, albeit not at the rates seen in 2003. As a result, the fears of the bubble bursting are perhaps excessive. The Tribunal notes, in this regard, that recent economic forecasts for China are for continued strong economic growth through 2005 and beyond,<sup>33</sup> which will be fuelled, in part, by major infrastructure projects required for the 2008 Olympic Games in Beijing and Expo 2010 in Shanghai.<sup>34</sup> These large-scale projects for international events will draw heavily on the steel supply, and it is likely that the Chinese Government will ensure that nothing stands in the way of their successful preparation.<sup>35</sup> In particular, the demand for hot-rolled sheet in China, fuelled by this sustained economic growth, is also projected to continue to increase, although at lower rates than in 2003, when apparent consumption increased by 38 percent.<sup>36</sup>

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26. *Transcript of Public Hearing*, Vol. 1, 26 April 2004 at 16-17; *Transcript of Public Hearing*, Vol. 2, 27 April 2004 at 248-49; *Transcript of In Camera Hearing*, Vol. 1, 26 April 2004 at 75-76.

27. Tribunal Exhibit RR-2003-002-05, Administrative Record, Vol. 1A at 51-52; Tribunal Exhibit RR-2003-002-39, Administrative Record, Vol. 1 at 301; Tribunal Exhibit RR-2003-002-42.09, Administrative Record, Vol. 1.01 at 226, 228; Tribunal Exhibit RR-2003-002-42.10, Administrative Record, Vol. 1.01 at 241, 247.

28. *Transcript of Public Hearing*, Vol. 1, 26 April 2004 at 92, 148-49; *Transcript of Public Hearing*, Vol. 2, 27 April 2004 at 273; *Transcript of In Camera Hearing*, Vol. 2, 27 April 2004 at 159-60.

29. *Ibid.* at 160-62.

30. *Transcript of Public Hearing*, Vol. 3, 28 April 2004 at 601.

31. *Ibid.* at 600-601.

32. *Transcript of In Camera Hearing*, Vol. 2, 27 April 2004 at 134-36, 167.

33. Tribunal Exhibit RR-2003-002-42.13, Administrative Record, Vol. 1 at 392.27.

34. Exporter’s Exhibit I/J-01 (protected) at 18, Administrative Record, Vol. 14.

35. *Transcript of Public Hearing*, Vol. 3, 28 April 2004 at 642.

36. Manufacturer’s Exhibit D-11C at 99, Administrative Record, Vol. 11.01; *Transcript of Public Hearing*, Vol. 3, 28 April 2004 at 602-603; Tribunal Exhibit RR-2003-002-48, Administrative Record, Vol. 1 at 458.

76. It is the Tribunal's view that, rather than the steel "bubble" bursting, it is more likely that Chinese production will gradually replace portions of import volumes over a period of years. There was extensive evidence that Chinese domestic steel-making capacity will continue to grow in order to feed China's continuing growth in demand for steel.<sup>37</sup> Throughout this period, it is likely that there will be corrections to the market from time to time. However, the impact of these corrections is more likely to result in volume declines of steel imports that are slow and steady rather than dramatic.

77. There were differing views at the hearing and in the trade literature on the likely timing of any significant decrease in Chinese imports of hot-rolled sheet. The views differed according to projections of continuing demand in China, on which the Tribunal has expressed its views above, and also differed on the timing of increased Chinese production coming on-stream. The report of World Steel Dynamics Inc. projects a decrease in Chinese imports in 2004 of 2.67 million tonnes.<sup>38</sup> However, in the Tribunal's view, the demand for imported hot-rolled sheet is not likely to decrease that severely. The Tribunal bases its view on the fact that, while there is a significant volume of new capacity planned and actually being constructed, there remain uncertainties as to when it will effectively come on-stream. The uncertainties result not only from the usual time needed to ramp up new mills but also from the fact that new production of hot-rolled sheet is likely to be constrained in the near to medium term by the continuing shortage of inputs,<sup>39</sup> notwithstanding major projects undertaken to increase the supply of raw materials.<sup>40</sup> The Tribunal notes the continuing shortage of coke in China, which has already switched from being a net exporter of coke to being a net importer. There are other factors that may affect the timing of the start-up of new capacity, such as the potential effect of any Chinese economic policies designed to ensure orderly economic growth. In addition, production of hot-rolled sheet from new capacity may not directly replace imports. The evidence shows that, in addition to new capacity for hot-rolled sheet, there are new projects in China to increase the production of cold-rolled and coated sheet,<sup>41</sup> which use hot-rolled sheet as a substrate.

#### Likely Performance of Foreign Industry

78. Each of the subject countries has recently enjoyed relatively high rates of economic growth. While this growth has not been at the rates recorded by developing countries, such as China and India, it has been at rates well above those for mature economies, such as those of the European Union, North America and Japan. Forecasts are for continuing strong growth in the remainder of 2004 and in 2005. The steel industry in the subject countries is operating at high rates of capacity utilization, and the evidence suggests that it will continue to do so, taking advantage of rising domestic demand. The Tribunal, nevertheless, notes that the industry in all three countries continues to rely heavily on exports, though at reduced levels, and benefits from current high world prices.

79. The Russian economy grew by 7.3 percent in 2003 and is forecast to increase by 5.9 percent in 2004 and 5.0 percent in 2005.<sup>42</sup> The hot-rolled sheet industry was operating at over 90 percent capacity utilization in 2003.<sup>43</sup> Domestic demand for hot-rolled sheet grew from 2001 to 2003. According to testimony, domestic demand is expected to increase from 51 percent of production in 2003 to 60 percent over the next two to three years, even taking into account possible increases in production. Domestic market

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37. Manufacturer's Exhibit D-11C at 33, Administrative Record, Vol. 11.01.

38. *Ibid.* at 99.

39. *Transcript of Public Hearing*, Vol. 1, 26 April 2004 at 57-58.

40. *Transcript of Public Hearing*, Vol. 2, 27 April 2004 at 372-374.

41. Manufacturer's Exhibit D-11C at 36, 38, 40, Administrative Record, Vol. 11.01.

42. Tribunal Exhibit RR-2003-002-42.05, Administrative Record, Vol. 1 at 361; Tribunal Exhibit RR-2003-002-42.13, Administrative Record, Vol. 1 at 392.35.

43. Tribunal Exhibit RR-2003-002-06C, Administrative Record, Vol. 1A at 230.

prices are high.<sup>44</sup> The evidence also shows that the Russian producers have increased their capacity to process hot-rolled sheet into higher-value-added steel products.<sup>45</sup> This is likely to limit or reduce the volume of hot-rolled sheet available for sale in the merchant market. This, combined with the fact that high world prices for petroleum products are driving large investments in oil and gas projects in Russia with consequential large requirements for tubular products, has meant that, in recent months, downstream industries, such as tube producers, have had difficulties filling their requirements for hot-rolled coil.<sup>46</sup> Consequently, they are considering investments to supply themselves. The Tribunal also notes that additions to hot-rolled sheet capacity are not expected to occur in the immediate future and that investment in new capacity that is currently under way is not expected to come on-stream until 2007-2008.<sup>47</sup>

80. In 2003, the economy in the Slovak Republic grew by 4 percent and is forecast to increase at the same rate in 2004.<sup>48</sup> As in the case of the Russian producers, USSK, the sole producer of hot-rolled sheet in the Slovak Republic, was operating at over 90 percent capacity utilization in 2003. The evidence indicates that domestic market prices are high. As well, under its new ownership, USSK is increasing the proportion of its hot-rolled sheet production that it uses as feedstock for further processing in response to the new investment that it made in equipment for manufacturing downstream products.<sup>49</sup> In the case of the Slovak Republic, the Tribunal also notes that a significant portion of its exports is sold in neighbouring markets, such as the expanded European Union and the Middle East, where current and projected demand for steel goods is strong.

81. There was relatively little evidence on the record regarding the activities of the only Romanian producer of hot-rolled sheet, Ispat Sidex. The available evidence indicates that the economy of Romania, like the economies of the Russian Federation and the Slovak Republic, has been experiencing relatively strong economic growth. Romania's economy grew by 4.7 percent in 2003 and is forecast to increase by 5 percent in 2004. Strong growth can be expected to continue through 2005 based on favourable economic forecasts for Central and Eastern Europe.<sup>50</sup> This trend suggests that it is reasonable to assume that the industry in Romania is experiencing conditions similar to those found in the Russian Federation and the Slovak Republic, including high domestic market demand and prices. While recognizing that Romania exports a significant part of its domestic production of steel,<sup>51</sup> the Tribunal also notes the testimony of the witness for Ispat, a sister firm of Ispat Sidex, that suggests that Ispat International N.V. would not allow any exports by Ispat Sidex to Canada to disrupt the Canadian market.<sup>52</sup>

82. The producers in the Russian Federation and the Slovak Republic submitted that the volume of steel available for export from the subject countries is significantly reduced from the levels available when the finding was made in 1999. The Tribunal notes that rising domestic demand, high domestic market prices, the increasing proportion of hot-rolled sheet production being further processed in the Russian Federation

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44. *Transcript of Public Hearing*, Vol. 3, 28 April 2004 at 611.

45. Exporter's Exhibit I-02, paras. 6(a)(iv), 14, Administrative Record, Vol. 13; *Transcript of Public Hearing*, Vol. 3, 28 April 2004 at 668-69.

46. *Ibid.* at 610-11.

47. *Ibid.* at 609-10.

48. Tribunal Exhibit RR-2003-002-42.05, Administrative Record, Vol. 1 at 361; Tribunal Exhibit RR-2003-002-42.13, Administrative Record, Vol. 1 at 392.35.

49. Exporter's Exhibit H-01, paras. 9, 37, Administrative Record, Vol. 13; and Tribunal Exhibit RR-2003-002-31.02 (protected), Administrative Record, Vol. 6.3B at 1-6, 14-16.

50. Tribunal Exhibit RR-2003-002-42.05, Administrative Record, Vol. 1 at 361; *Transcript of Public Hearing*, Vol. 3, 28 April 2004 at 614-16; Tribunal Exhibit RR-2003-002-42.13, Administrative Record, Vol. 1 at 392.35.

51. Manufacturer's Exhibit A-01, paras. 27-30, Administrative Record, Vol. 11.

52. *Transcript of Public Hearing*, Vol. 3, 28 April 2004 at 703.

and the Slovak Republic, and the production and sales caps established by the treaty concerning the Slovak Republic's accession to the European Union (Treaty of Accession) support this submission. The evidence also indicates that the subject countries are focussing their exports on markets outside North America, where demand is particularly strong and prices are attractive. For example, the tremendous growth in demand for steel in China, as previously discussed, has provided great export potential for the subject countries, a potential that the Tribunal does not anticipate will decrease drastically in the foreseeable future. In this regard, the evidence shows that China is a significant market for Russian hot-rolled sheet. The Slovak Republic's accession to the European Union, despite the cap on production and sales permitted under the Treaty of Accession, allows for annual growth in the volume of exports to the European Union. Markets in the Middle East and India are also large, growing and relatively accessible.

#### Likely Performance of Domestic Industry

83. The Tribunal examined trends and forecasts concerning the supply of and demand for hot-rolled sheet in the Canadian market. Domestic demand has been relatively stable since 2001 and is forecast to remain stable at just over 5 million tonnes per year.<sup>53</sup> There appears to be an established need for imports that has remained constant at about 1 million tonnes, as domestic supply traditionally satisfies only 80 percent of demand. The Tribunal notes that domestic producers testified that they are comfortable with this share of the market.<sup>54</sup> The evidence shows that, from 2001 to 2003, U.S. products clearly dominated imports in the Canadian market, accounting for 75 percent of total imports in 2001, 74 percent in 2002, and 87 percent in 2003.<sup>55</sup> Although, in 2000, imports from non-North American sources accounted for 13 percent of the total market, by 2003, they accounted for only 3 percent. Thus, despite offers and purchases of hot-rolled sheet from other sources throughout this period, the Canadian market has remained largely satisfied by North American suppliers. Moreover, the Tribunal notes that a significant portion of the imports was brought in by domestic producers themselves.<sup>56</sup>

84. In early 2003, prior to the tight supply conditions of early 2004, steel service centres' inventories were very high. Consequently, when these steel service centres reduced their inventories, they stopped placing orders for hot-rolled sheet with the domestic mills, thereby lowering demand during that period.<sup>57</sup> Currently, inventories are below normal or desirable levels, as they have been drawn down in an attempt to meet demand. The Tribunal heard testimony that inventories cannot be fully replenished because of the shortage of supply.<sup>58</sup>

85. Capacity utilization for hot-rolled sheet production across the domestic industry remained at relatively high levels during the period of review.<sup>59</sup> The operation of certain mills below their rolling capacity was attributed to the lack of availability of liquid steel, rather than to any other cause.<sup>60</sup> The Tribunal notes that, during the period of review, a greater percentage of the industry's hot-rolled sheet production was transferred for further processing into value-added products than was made available for

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53. Tribunal Exhibit RR-2003-002-05, Administrative Record, Vol. 1A at 30; Manufacturer's Exhibit E-03, para. 23, Administrative Record, Vol. 11A; *Transcript of Public Hearing*, Vol. 1, 26 April 2004 at 64.

54. *Transcript of Public Hearing*, Vol. 2, 27 April 2004 at 380; Manufacturer's Exhibit E-03 paras. 35-36, Administrative Record, Vol. 11A.

55. Tribunal Exhibit RR-2003-002-05, Administrative Record, Vol. 1A at 24.

56. Tribunal Exhibit RR-2003-002-06 (protected), Administrative Record, Vol. 2A at 22.

57. *Transcript of Public Hearing*, Vol. 2, 27 April 2004 at 312.

58. *Ibid.* at 316.

59. Tribunal Exhibit RR-2003-002-05, Administrative Record, Vol. 1A at 51-52.

60. *Transcript of Public Hearing*, Vol. 1, 26 April 2004 at 38; *Transcript of In Camera Hearing*, Vol. 2, 27 April 2004 at 108-109, 114.

sale in the merchant market. The percentage of production available for market sales was stable over the period of review at around 36 percent.<sup>61</sup> Based on this and the traditional 80 percent market share that seems to suit the domestic industry, the Tribunal does not foresee any increases in production or capacity by the domestic industry.

86. Respecting sales performance, the evidence shows that the domestic industry gained 10 percentage points of market share in 2001, recovering market share from imports affected by the 2001 finding.<sup>62</sup> Since then, its share has remained stable at approximately 80 percent.

87. The Tribunal also examined the trends in domestic market pricing. Pricing showed some volatility during the period from 2000 to 2003. For example, in 2001, the average market price fell by \$52 per tonne, or by 9 percent, and then recovered fully in 2002.<sup>63</sup> Although the average price for the year 2003 remained stable,<sup>64</sup> in early 2003, the sell-off of high inventories by steel service centres and the shipment by U.S. mills of substantial volumes to Canada<sup>65</sup> contributed to the erosion of the average price amounting to \$100 per tonne.<sup>66</sup> It is in the nature of markets to have some volatility, and the hot-rolled sheet market is no exception, as is shown by the price declines in the domestic market in late 2002 and early 2003. Further, the evidence demonstrates clearly that the hot-rolled sheet market is a global market, very much subject to influences outside any country's borders. Current conditions have dictated, on the global scale, tight supply and high prices, thus giving suppliers an opportunity to take advantage of improved market conditions to support investments and ongoing operating costs.

88. The evidence also shows that the prices of inputs, particularly those of energy and steel scrap, rose rapidly in the latter part of the period of inquiry. Scrap prices increased rapidly in late 2003 and early 2004, even where scrap was available in adequate quantities. In late 2003, the domestic producers began a series of monthly base price increases, which were projected to continue through May 2004. From January 2004 onward, they also applied surcharges and adjusted them monthly in order to offset the increase in input costs. The producers were successful in applying these input surcharges to spot market prices, but not to all their sales supplied under contract.<sup>67</sup> Producers began to reduce surcharges effective May 2004,<sup>68</sup> and the Tribunal heard evidence that a further decline was expected in June 2004, reflecting declining input costs.<sup>69</sup> The Tribunal notes that the rapid price increases in early 2004 led to the unusual situation of spot prices rising above contract prices, as mills with a high proportion of contract business were less able to take advantage of increasing prices.

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61. Tribunal Exhibit RR-2003-002-05, Administrative Record, Vol. 1A at 52.

62. *Flat Hot-rolled Carbon and Alloy Steel Sheet and Strip* (17 August 2001), NQ-2001-001 (CITT).

63. Tribunal Exhibit RR-2003-002-05, Administrative Record, Vol. 1A at 36-37.

64. *Ibid.*

65. *Transcript of Public Hearing*, Vol. 2, 27 April 2004 at 246, 268; *Transcript of In Camera Hearing*, Vol. 2, 27 April 2004 at 103-105.

66. Manufacturer's Exhibit E-10 (protected) at 3, Administrative Record, Vol. 12A; *Transcript of Public Hearing*, Vol. 1, 26 April 2004 at 91-92; *Transcript of Public Hearing*, Vol. 2, 27 April 2004 at 312-14.

67. *Transcript of In Camera Hearing*, Vol. 3, 28 April 2004 at 213.

68. *Transcript of Public Hearing*, Vol. 1, 26 April 2004 at 164; *Transcript of Public Hearing*, Vol. 3, 28 April 2004 at 554-55; *Transcript of In Camera Hearing*, Vol. 1, 26 April 2004 at 68-69; *Transcript of In Camera Hearing*, Vol. 2, 27 April 2004 at 158-59; *Transcript of In Camera Hearing*, Vol. 3, 28 April 2004 at 244-45.

69. *Ibid.* at 554-55; *Ibid.* at 180-82; *Transcript of In Camera Hearing*, Vol. 1, 26 April 2004 at 69.

89. Witnesses for the domestic producers confirmed that they have recently introduced allocation, referred to as “controlled distribution” or “controlled intake”, to deal with shortfalls in their available supply of hot-rolled sheet for the merchant market.<sup>70</sup> The evidence indicates that, in some instances, products are simply not available to potential buyers and that users are caught in short supply and, in some cases, are seeking alternative sources. According to industry witnesses, worldwide shortages of raw materials used in the production of steel, including iron ore, coke, coking coal and, to some degree, steel scrap, have placed constraints on production and capacity utilization and have been a contributing factor in the introduction of this policy.

90. The Tribunal notes that shifts in the availability and pricing of inputs do not affect the Canadian steel industry uniquely, as they are moving with world trends. The evidence shows that, as part of the North American industry, Canadian producers actually have better than general world conditions respecting inputs. For example, in Canada, scrap, though expensive, remains available, in contrast with the European Union and elsewhere in the world where producers have faced actual shortages in supply.

#### Likely Volumes of Dumped Imports

91. The producers in the Russian Federation and the Slovak Republic submitted that the volume of hot-rolled sheet available for export is significantly reduced from the levels available at the time of the 1999 finding. The Tribunal notes that rising domestic demand, high domestic market prices, the increasing proportion of hot-rolled sheet production being further processed in the Russian Federation and the Slovak Republic, and the production and sales caps established by the treaty concerning the Slovak Republic’s accession to the European Union support this submission. The evidence also indicates that the subject countries are focussing their exports on markets outside North America, where demand is particularly strong and prices are attractive.

92. The volume of hot-rolled sheet available for export from the subject countries is unlikely to exceed current levels over the next two to three years, particularly as additions to hot-rolled sheet capacity in the Russian Federation are not expected to occur in the near to medium term and investment in new capacity currently underway is not expected to come on-stream until 2007-2008.<sup>71</sup> The subject countries, particularly the Russian Federation, do, however, export significant volumes to China. Therefore, this conclusion is based upon the Tribunal’s view that there will be no sudden reduction in the Chinese market for hot-rolled steel, but rather a gradual slowing down of import demand. Such a reduction in import demand will likely be matched by the increased domestic demand in the subject countries for hot-rolled sheet or demand from other developing country export markets. In the case of the Slovak Republic, its accession to the European Union provides, despite the cap on production and sales permitted under the Treaty of Accession, annual growth in the volume of exports to the European Union. Markets in the Middle East and India are also large, growing and relatively accessible to the subject countries.

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70. *Transcript of Public Hearing*, Vol. 1, 26 April 2004 at 92, 148-49; *Transcript of Public Hearing*, Vol. 2, 27 April 2004 at 273; *Transcript of In Camera Hearing*, Vol. 2, 27 April 2004 at 159-60.

71. *Transcript of Public Hearing*, Vol. 3, 28 April 2004 at 610.

93. At the same time, the Russian Federation is limited or controlled in its access to a number of potential markets. Exports to the United States are limited in accordance with the U.S. suspension agreement on hot-rolled sheet from the Russian Federation that sets quotas and minimum prices.<sup>72</sup> However, according to the evidence,<sup>73</sup> Russian exporters used only a very small part of their 2003 quota, and quota limits have been increased for 2004 in accordance with the terms of the U.S. Suspension Agreement. Although the Partnership and Co-operation Agreement between the Russian Federation and the European Union sets volume constraints on Russian exports,<sup>74</sup> there was no evidence that suggested that these limits were effectively limiting sales of Russian hot-rolled sheet. The Tribunal also notes that certain other countries have injury findings in place respecting imports from the subject countries.<sup>75</sup> However, in the Tribunal's opinion, markets that are currently importing hot-rolled sheet from the subject countries will continue to absorb those goods, as demand is expected to remain steady in the near to medium term.

94. As previously indicated, in its analysis of the performance of producers in the subject countries, the Tribunal found that demand conditions in their domestic and existing export markets were such as to sustain, on the whole, their current levels of total sales in the medium term. However, should any significant capacity become available in the near term, a hypothesis that the Tribunal does not consider to be likely, it is the Tribunal's view that increased exports by producers in the Russian Federation and the Slovak Republic would likely, for the most part, find a home in countries other than Canada. In the case of Ispat Sidex, the sole Romanian producer of hot-rolled sheet, it is clear from the testimony of a witness for Ispat, that no significant volumes of hot-rolled sheet are likely to be sold in Canada. This strongly suggests that there is little likelihood of significant volumes of exports from the subject countries reaching the Canadian market in the near to medium term.

95. The Tribunal, nevertheless, recognizes that the unanticipated sharp cutback in Chinese imports that occurred in the first two months of 2004 could be indicative of what might happen in the future. If there had been no anti-dumping duties in place during those months and if all the displaced subject country exports to China had sought a home in Canada, they would, in the Tribunal's view, not have displaced domestic sales in the Canadian market, but rather would have contributed to the 1 million tonne requirement for imports in the Canadian market, which is not being satisfied at present and is not likely to be satisfied in the near to medium term, as the supply situation remains tight in Canada and demand growth is stronger elsewhere.

96. Although the supply of inputs may be easing, it is likely that Canadian mills will, at least in the near term, keep their customers on allocation, as they did during the first quarter of 2004. This supply shortage is worldwide and also affects supply in the United States, the source of most of the 20 percent of the Canadian market made up by imports.

#### Likely Prices of Dumped Imports

97. The high Canadian prices in early 2004 carried the potential to attract imports into the Canadian market. Buyers who gave evidence at the public hearing agreed that, for offshore imports to be attractive and competitive with domestic products, such imports would have to be priced at \$30 to \$60 per tonne below the domestic producers' prices in a normal market, and by \$100 per tonne in the current extreme

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72. Tribunal Exhibit RR-2003-002-42.15, Administrative Record, Vol. 1 at 392.58-392.70.

73. *Ibid.* at 392.65, 392.67.

74. The Agreement limits have been expanded to take into account the accession of new members to the European Union on May 1, 2004. Tribunal Exhibit RR-2003-002-42.14, Administrative Record, Vol. 1 at 392.41-392.43.

75. Tribunal Exhibit RR-2003-002-05, Administrative Record, Vol. 1A at 13.

market conditions.<sup>76</sup> Another factor that affects the attractiveness of imports is shipping costs for offshore products, which have risen sharply in the recent past. A witness stated that the cost of ocean freight has more than doubled over the past year.<sup>77</sup> The evidence demonstrates that rising freight costs, and possibly a scarcity of vessels, when combined with the worldwide shortage of inputs, will continue exerting upward pressure on the landed prices of offshore imports.

98. The evidence on the record shows that both domestic and export prices of hot-rolled sheet in both the Russian Federation and the Slovak Republic have closely tracked the large increases in hot-rolled sheet prices throughout the world since 2003. There is nothing on the record to suggest that prices of Romanian sales have followed different trends. The Tribunal is of the view that the growth in the Chinese market, which is at the root of the recent and current tightness of the market worldwide and which has led to high hot-rolled sheet prices, will remain strong. Furthermore, the Tribunal is of the view that, although some easing of costs is likely with respect to inputs, the continuing heavy demand for raw materials, such as iron ore and coke, is likely to keep the market tight for the coming 18 months to two years. This will have the effect of maintaining a degree of constraint on supply and keeping prices at higher average levels than was the case during the period from 2000 to 2003. While the situation in China has been a major factor contributing to higher prices, the Tribunal cannot ignore the fact that developments elsewhere in the world have also contributed to current and expected conditions in hot-rolled sheet markets. Economic recovery in mature steel markets and forecasts for strong economic growth in other world markets are also contributing to increased demand for hot-rolled sheet and higher prices.

99. The Tribunal is of the view that, although hot-rolled sheet prices may ease to some degree in the near to medium term, they are likely to remain at levels that are well above those of the recent past. Currently, inventories are below normal or desirable levels, as they have been drawn down in an attempt to meet demand and cannot be fully replenished because of a shortage of supply.<sup>78</sup> In the context of the preceding discussion, and taking into account the high level of demand in Canada and elsewhere in the world, as well as currently low inventories, the Tribunal is of the opinion that any dumped exports of hot-rolled sheet from the subject countries will be sold at prices that are unlikely to undercut, suppress or depress significantly the prices of domestic producers.

#### Likely Impact of Dumped Imports on Domestic Industry

100. Given the preceding analysis regarding the likely volumes and prices of the subject goods, and the recent and forecasted performance of the domestic industry, the Tribunal is of the opinion that, if the finding were not continued, any resumed dumping of the subject goods would not likely cause material injury to the domestic industry.

101. In the Tribunal's view, domestic hot-rolled sheet supply will remain at the levels observed in 2000 to 2003. Domestic capacity utilization rates are likely to remain at their present high levels or even improve, but are unlikely to fall. At least some end users have been forced to look to offshore imports for continuity of supply.<sup>79</sup> Traditionally, such end users prefer domestic sources. These buyers are likely to return to domestic producers as the market opens up and, in doing so, to increase purchases from domestic producers

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76. *Transcript of Public Hearing*, Vol. 2, 27 April 2004 at 242-43, 289, 325.

77. *Ibid.* at 295.

78. *Ibid.* at 315-16.

79. *Transcript of Public Hearing*, Vol. 1, 26 April 2004 at 237; *Transcript of Public Hearing*, Vol. 3, 28 April 2004 at 574-75, 578-79.

for reasons other than mere commodity pricing.<sup>80</sup> Domestic producers will continue to control the sources, volumes and prices of goods that they themselves import, thus maintaining their effective influence over the Canadian market at a level above the “traditional” 80 percent. The majority of imports are likely to continue to come from the United States.

102. In the Tribunal’s view, the existing high market prices, coupled with the evidence respecting the level of discounts required to make offshore imports attractive to buyers, suggest that imports could readily enter Canada at prices that would not provoke a price response from the domestic producers. In addition, the evidence demonstrates a preference by buyers for North American sources. This pattern, which appears to be firmly established and is likely to continue, suggests that additional factors, beyond price, influence buying decisions.<sup>81</sup> It appears to the Tribunal that, should the finding be rescinded, the likely prices and volumes of resumed dumping by the subject countries would not injure the domestic industry.

103. The major potential threat of significant volumes of the subject goods re-entering the Canadian market would likely arise from steel diverted from China. Not only does the Tribunal think it unlikely that large volumes will be displaced from the Chinese market but the evidence respecting the past quarter (the first quarter of 2004), where there was a slowdown of imports into China, demonstrated to the Tribunal that such corrections, which it believes will continue, will not disrupt the Canadian market. In the Tribunal’s view, all the displaced imports to China from the subject countries in January and February 2004 would not have disrupted the Canadian market. Indeed, even if there had been no injury finding in place, it is unlikely that much of this tonnage would have come to Canada because of the growing domestic requirement for hot-rolled sheet in the subject countries and high demand in other markets around the world, such as India. Furthermore, it might be expected that, during this two-month downturn in the Chinese market, competing offers would have been made in the Canadian market by other countries against which there are no injury findings. In fact, offers during this period were virtually nonexistent. The Tribunal, therefore, is not convinced that a correction in the market, brought about by a short-term reduction in imports by China, would lead to significant attempts to divert the “free” steel from the subject countries to Canada.

104. As part of its analysis of the potential effects of renewed dumping, the Tribunal examined a scenario in which a drop in China’s imports of 2.67 million tonnes could occur in 2004, a figure suggested by evidence filed by the domestic industry<sup>82</sup> and more pessimistic than that suggested by the Tribunal’s witness. Under this scenario, the proportion of that decrease, which could be accounted for by the subject countries, would be just under 246,000 tonnes, based on their export volumes to China in 2003 and their percent share of total Chinese imports in that year.<sup>83</sup> Taking the worst case, in which all that decrease borne by the subject countries would be diverted to Canada, the total amount would account for only 4.7 percent of the Canadian market, using the 2003 full-year figure for the Canadian market. This scenario is very unlikely to occur, as domestic markets in the subject countries are strong, and there are other developing

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80. *Transcript of Public Hearing*, Vol. 1, 26 April 2004 at 237; *Transcript of Public Hearing*, Vol. 2, 27 April 2004 at 321-22; *Transcript of Public Hearing*, Vol. 3, 28 April 2004 at 574-75, 578-79.

81. *Transcript of Public Hearing*, Vol. 2, 27 April 2004 at 290, 321-22.

82. Manufacturer’s Exhibit D-11C at 99, Administrative Record, Vol. 11.01.

83. Total exports of hot-rolled sheet by the three subject countries to China, in 2003, were estimated to be 919,000 tonnes, or just under 9 percent of China’s total imports in that year. This estimate was based on the responses to the foreign producers’ questionnaire by the three Russian producers and on an estimate of Romanian exports to China in the same period. The latter was based on an assumption that Romania’s exports to China accounted for the same percentage of total production as that for the Russian producers. Manufacturer’s Exhibit D-11C at 99, Administrative Record, Vol. 11.01; Tribunal Exhibit RR-2003-002-42.11, Administrative Record, Vol. 1.02 at 153; Tribunal Exhibit RR-2003-002-06A (protected), Administrative Record, Vol. 2A at 222, 225; Tribunal Exhibit RR-2003-002-06C (protected), Administrative Record, Vol. 2A at 231-34.

markets where the demand is higher than that in Canada, as was evidenced by the fact that there were few offers in the market at the time of the Chinese stagnation of importation in January and February 2004. But, even if all the subject goods were diverted into the Canadian market, it is the Tribunal's view that this volume would displace some of the existing imports within the normal 20 percent of the Canadian market that is supplied by imports. Thus, it would complement domestic production rather than displace it.

105. Nor is the Tribunal convinced that, in this worst case scenario, imports from the subject countries would result in injury. Although they would have been dumped, as determined by the CBSA, the evidence before the Tribunal was that, in this tight market, which is likely to last for the foreseeable future, it would take an offer of \$100 below the Canadian market price to induce the domestic industry to lower its prices. As domestic prices in the Russian Federation and the European Union, which the Slovak Republic has just joined, are higher than this at present and world prices are also high, it is unlikely that the subject goods would enter the Canadian market at a low enough figure to evoke a response from the domestic industry. In addition, the evidence demonstrates a preference by buyers for North American sources, even for the great majority of the 20 percent of the market traditionally supplied by imports.<sup>84</sup> Accordingly, it is the Tribunal's opinion that the prices of any hot-rolled sheet entering the Canadian market from the subject countries, while dumped, would not likely cause injury by undercutting or suppressing or driving down prices in the Canadian market.

106. The evidence indicates that current and projected demand levels create some room for further imports. Indeed, the domestic industry's current inability to satisfy all the needs of its customers would suggest that the current tightness in the market can be attributed, in part, to a shortage of imports, the domestic industry being called on to alleviate that shortfall. In this regard, the Tribunal heard testimony that import offers were scarce in early 2004, but increasing in frequency.<sup>85</sup> Another factor affecting the availability of hot-rolled sheet for the merchant market could be decisions by domestic suppliers regarding the further transformation of hot-rolled sheet into higher-value-added products. In this regard, the Tribunal notes Dofasco's plan for a 200,000-tonne increase in its production of galvanized steel by the middle of 2004.<sup>86</sup> Similarly, the domestic industry's ability to supply the market will be affected by recent decisions by certain producers to increase their exports to the United States.<sup>87</sup>

107. The domestic industry took the position that it is vulnerable to renewed dumping, in that it required a period of price stability at current high prices in order to recover lost revenues and profits incurred in periods of dumping since 2000 and to finance future investments. With respect to investment and the industry's ability to generate the necessary returns, the current buoyant market and the strong demand for hot-rolled sheet are likely to provide the necessary conditions for the domestic industry to recoup its past investments and proceed with its plans for further investment. Indeed, apart from Stelco, which is still under the protection of the *CCAA*, other companies have already announced plans for a number of major investments. In that regard, the Tribunal notes the various news reports and press releases in evidence that were issued by the domestic producers and show that the industry's performance exceeded expectations in the first quarter of 2004. For example, IPSCO's earnings for that quarter were referred to in a press release as being at record levels, and its net income turned out to be more than twice the initial estimates by

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84. Tribunal Exhibit RR-2003-002-05, Administrative Record, Vol. 1 A at 24.

85. *Transcript of Public Hearing*, Vol. 1, 26 April 2004 at 120; *Transcript of Public Hearing*, Vol. 2, 27 April 2004 at 333.

86. *Transcript of In Camera Hearing*, Vol. 2, 27 April 2004 at 149-50.

87. *Transcript of Public Hearing*, Vol. 1, 26 April 2004 at 176; *Transcript of In Camera Hearing*, Vol. 1, 26 April 2004 at 53-56; *Transcript of In Camera Hearing*, Vol. 2, 27 April 2004 at 93; Tribunal Exhibit RR-2003-002-05, Administrative Record Vol. 1A at 40.

analysts.<sup>88</sup> Similarly, Algoma reported first quarter earnings that were triple its earnings in the first quarter of 2003.<sup>89</sup> As well, Dofasco, in its 2003 annual report, forecasted 4 percent growth in its North American market and 2 percent growth in automotive demand.

108. The Tribunal notes that Stelco's present circumstances under the *CCAA* resulted from factors other than the presence of dumped goods that have had a negative influence on margins and profitability. Some examples include the burden of substantial post-retirement benefits and pension costs and evidence that certain of its mills are outdated and inefficient. While Stelco referred to U.S. mills that have shed their liabilities as a "new competitor",<sup>90</sup> the Tribunal notes that Stelco intends and expects to follow the same path.

109. Looking forward, prices, net of surcharges, should remain relatively stable, though not necessarily at current near-record highs. Even if the domestic industry had to lower its prices from their current and expected high levels, they would still likely be well above those experienced in recent years. The Tribunal is of the opinion that, even with some decline from their current very high levels, such prices are still likely to allow the industry to achieve the margins that it has said that it needs in order to invest to remain competitive. Further, given the current high capacity utilization rates of the domestic industry, the positive outlook for the economy generally and for hot-rolled steel in particular, the domestic industry has a reasonable expectation to achieve the financial results to justify these investments. Margins can be expected to improve over those recorded during the period from 2000 to 2003. In the Tribunal's view, it is unlikely that dumped hot-rolled sheet imports from the subject countries will affect these investment plans in a negative way.

110. In conclusion, the Tribunal considers that it is highly unlikely that producers in the subject countries will sell significant volumes of hot-rolled sheet into Canada in 2004 and 2005 or that any such volumes imported will be at such low prices that they will be likely to cause injury to the domestic industry in the near to medium term. Even under the most unlikely scenario that the Tribunal considered, involving a significant diversion of the subject goods from the Chinese market, the effect of the imports on the domestic industry market would likely be limited to a decline in domestic industry prices that the Tribunal would not consider to be materially injurious with respect to either a price effect alone or to the ability of the Canadian industry to recoup its past investments and provide for future ones.

## REQUESTS FOR EXCLUSIONS

111. In light of the foregoing, the Tribunal need not address the requests for exclusions.

## CONCLUSION

112. Based on the foregoing analysis and rationale, and pursuant to subparagraph 76.03(12)(a)(ii) of *SIMA*, the Tribunal rescinds its finding made on July 2, 1999, in Inquiry No. NQ-98-004 (as amended on January 17, 2003, in Interim Review No. RD-2002-003), in respect of hot-rolled sheet originating in or exported from the subject countries.

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88. *Transcript of Public Hearing*, Vol. 3, 28 April 2004 at 491.

89. Exporter's Exhibit I-07 at 1, Administrative Record, Vol. 13.

90. *Transcript of Public Hearing*, Vol. 1, 26 April 2004 at 33.

113. In addition, based on the determination of the CBSA that the expiry of the finding was unlikely to result in the continuation or resumption of the dumping of the goods from France, pursuant to subparagraph 76.03(12)(a)(i) of *SIMA*, the Tribunal rescinds its finding made on July 2, 1999, in Inquiry No. NQ-98-004 (as amended on January 17, 2003 in Interim Review No. RD-2002-003), in respect of hot-rolled sheet originating in or exported from France.

James A. Ogilvy  
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Presiding Member

Patricia M. Close  
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Member

Meriel V. M. Bradford  
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