



Canadian International
Trade Tribunal

Tribunal canadien du
commerce extérieur

CANADIAN
INTERNATIONAL
TRADE TRIBUNAL

Dumping and Subsidizing

ORDER AND REASONS

Expiry Review No. RR-2004-004

Certain Hot-rolled
Carbon Steel Plate

*Order and reasons issued
Monday, June 27, 2005*

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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 June 27, 2000, in Inquiry No. NQ-99-004, as amended on August 23, 2004, in Interim Review No. RD-2004-002, concerning:

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

ORDER

The Canadian International Trade Tribunal, pursuant to subsection 76.03(3) of the *Special Import Measures Act*, has conducted an expiry review of its finding made on June 27, 2000, in Inquiry No. NQ-99-004, as amended on August 23, 2004, in Interim Review No. RD-2004-002, concerning the dumping of certain hot-rolled carbon steel plate originating in or exported from Brazil, Finland, India, Indonesia, Thailand and Ukraine, and the subsidizing of certain hot-rolled carbon steel plate originating in or exported from India, Indonesia and Thailand.

Pursuant to paragraph 76.03(12)(a) of the *Special Import Measures Act*, the Canadian International Trade Tribunal hereby rescinds its finding concerning the above-mentioned goods.

Pierre Gosselin
Pierre Gosselin
Presiding Member

Richard Lafontaine
Richard Lafontaine
Member

Zdenek Kvarda
Zdenek Kvarda
Member

Hélène Nadeau
Hélène Nadeau
Secretary

Place of Hearing: Ottawa, Ontario
Dates of Hearing: May 2 and 3, 2005

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STATEMENT OF REASONS

BACKGROUND

1. This is an expiry review, pursuant to subsection 76.03(3) of the *Special Import Measures Act*,¹ of the finding made by the Canadian International Trade Tribunal (the Tribunal) on June 27, 2000, in Inquiry No. NQ-99-004 (the finding), as amended on August 23, 2004, in Interim Review No. RD-2004-002, concerning the dumping of certain hot-rolled carbon steel plate (plate) originating in or exported from Brazil, Finland, India, Indonesia, Thailand and Ukraine, and the subsidizing of plate originating in or exported from India, Indonesia and Thailand.

2. On October 13, 2004, the Tribunal issued a notice of expiry review² to all interested parties. In addition, the Tribunal and the Canada Border Services Agency (CBSA) sent questionnaires to Canadian producers, importers, exporters and foreign producers of plate.

3. On October 14, 2004, the CBSA initiated an investigation to determine whether the expiry of the finding was likely to result in the continuation or resumption of dumping and subsidizing of plate originating in the subject countries.

4. On February 10, 2005, the CBSA concluded its investigation and determined, pursuant to subsection 76.03(7) of *SIMA*, that the expiry of the finding was likely to result in the continuation or resumption of dumping of plate from Brazil, India, Indonesia and Ukraine, was unlikely to result in the continuation or resumption of dumping of plate from Finland and Thailand, and was likely to result in the continuation or resumption of subsidizing of plate from India, Indonesia and Thailand.

5. On February 11, 2005, the Tribunal initiated an inquiry, pursuant to subsection 76.03(10) of *SIMA*, to determine whether the expiry of the finding was likely to result in injury or retardation to the domestic industry.

6. The record of these proceedings consists of the following: the transcript of the testimony heard during the public and *in camera* portions of the hearing (collectively, the hearing) held in Ottawa, Ontario, on May 2 and 3, 2005; all relevant documents from the CBSA, including its 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 in accordance with the Tribunal's directions; the finding; the notice of expiry review; the public and protected pre-hearing staff reports prepared for Inquiry No. NQ-99-004, 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 a declaration and undertaking with the Tribunal in respect of protected information.

7. Algoma Steel Inc. (Algoma) and IPSCO Inc. (IPSCO) were represented by counsel at the hearing. They submitted evidence and made arguments in support of a continuation of the finding.

8. Azovstal Iron & Steel Works (Azovstal), a foreign producer in Ukraine, was represented by counsel at the hearing and made a submission in support of a rescission of the finding.

9. A Tribunal witness, Mr. James May from May Commodity Associates, also testified at the hearing. Mr. May's biography and two of his articles form part of the record.

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

2. C. Gaz. 2004.I.2880.

PRODUCT

Product Definition and Description

10. The product subject to the expiry review is defined as hot-rolled carbon steel plate and high-strength low-alloy steel plate (HSLA plate) not further manufactured than hot-rolled, heat-treated or not, in cut lengths, in widths from 24 in. (+/- 610 mm) to 152 in. (+/- 3,860 mm) inclusive, and:

- in thicknesses from 0.187 in. (+/- 4.75 mm) to 5.25 in. (+/- 133 mm) inclusive, excluding plate produced to American Society for Testing & Materials (ASTM) specifications A515 and A516M/A516 Grade 70 in thicknesses greater than 3.125 in. (+/- 79.3 mm), originating in or exported from Brazil, Finland, India, Indonesia and Thailand,
- in thicknesses from 4.0 in. (+/- 101 mm) to 5.25 in. (+/- 133 mm) inclusive, excluding plate produced to ASTM specifications A515 and A516M/A516 Grade 70, originating in or exported from Ukraine,³
- in thicknesses from 0.187 in. (+/- 4.75 mm) to 3.125 in. (+/- 79.3 mm) inclusive originating in or exported from Ukraine, produced to ASTM specifications A515 and A516M/A516 Grade 70 which meet the following carbon equivalent as per American Society of Mechanical Engineers (ASME) specification SA-20:
 - carbon equivalent equal to or less than 0.40 for plate equal to or less than 1.5 in. (38.1 mm) in thickness; or
 - carbon equivalent equal to or less than 0.42 for plate greater than 1.5 in. (38.1 mm) in thickness; or
 - carbon equivalent equal to or less than 0.42, with maximum hydrogen and oxygen contents of 2 parts per million and 10 parts per million respectively, for plate equal to or less than 1.5 in. (38.1 mm)⁴ in thickness,

originating in or exported from Brazil, Finland, India, Indonesia, Thailand and Ukraine.

11. Specifically excluded from the definition of the goods subject to this expiry review are: universal mill plate, plate for use in the manufacture of pipe and plate having a rolled, raised figure at regular intervals on the surface (also known as floor plate), originating in or exported from Brazil, Finland, India, Indonesia, Thailand and Ukraine.

12. For greater clarity, the Canadian Standards Association (CSA) specifications covered by the product definition represent different grades within the broad specification G40.21 that covers steel for general construction purposes.

13. ASTM specifications A283M/A283 and A36M/A36 include structural plate; specifications A572M/A572, A588M/A588 and A242M/A242 include HSLA plate; and specifications A515M/A515 and A516M/A516 include pressure vessel quality (PVQ) plate. ASTM specification A36M/A36 is considered to

3. Plate imported from Ukraine in thicknesses from 0.187 in. to 4.0 in., excluding plate made to ASTM specifications A515 and A516M/A516, grade 70 in thicknesses greater than 3.125 in., was covered in *Hot-rolled Carbon Steel Plate and High-strength Low-alloy Plate* (17 May 2004), RR-2003-001 (CITT) (*Plate II*). The order was rescinded, and goods meeting this description from Ukraine are no longer subject to anti-dumping duties.

4. For ease of reading, all further references to the thicknesses and widths of carbon steel plate or to the dimensions of the different mills on which carbon steel plate is produced will be made using imperial measurements only.

be equivalent to CSA specification G40.21 Grade 300W/44W, and, together, these are the most common specifications of structural quality plate sold in Canada. The most common specification of PVQ plate sold in Canada is ASTM A516M/A516 Grade 70.

14. In Interim Review No. RD-2004-002, the Tribunal excluded from the finding desulphurized PVQ plate ASTM A516 grade 60 modified. Anchor Lamina Inc., of Windsor, Ontario, had requested the exclusion on the ground that the product was not produced in Canada. Algoma consented to the exclusion and noted that it did not have the capability to produce an identical or substitutable product. IPSCO stated that it could manufacture the product, but that it was commercially inefficient to produce only a few tonnes. IPSCO further noted that it had never received a request for this particular product.

Production Process

15. Algoma produces liquid steel using blast furnaces and basic oxygen furnaces (integrated mill). IPSCO produces liquid steel by melting scrap in electric arc furnaces (mini-mill). While details may vary from mill to mill, the process by which plate is produced from liquid steel in Canada is essentially the same for all producers and entails producing and heating a slab, which is then descaled, rolled, levelled, cut to size, inspected and tested. Plate may be heat-treated, which may include annealing, normalizing, stress relieving, quenching, tempering or combinations of these treatments.

16. Plate formed directly into rectangular shapes is referred to in the steel industry as “discrete plate” and may be produced in any thickness covered by the product definition. Flat plate can also be cut from plate that has been formed into coils. This plate is referred to as “plate from coil”. Such plate is generally produced to a maximum thickness of 0.75 in.

Product Applications

17. The most common applications for plate are in the production of rail cars, oil and gas storage tanks, pressure vessels, heavy construction machinery, agricultural equipment, bridges, ships and barges, automobile and truck parts and in industrial buildings.

DOMESTIC PRODUCERS

18. Until 2003, the plate industry in Canada consisted of Algoma, IPSCO and Stelco Inc. (Stelco). In August 2002, Stelco reduced the operating rate at its Hamilton, Ontario, plate mill to 25 percent of capacity and, in April 2003, Stelco idled its plate mill. The Hamilton mill was capable of producing the full range of plate, including thick plate. Today, Algoma and IPSCO account for the majority of plate produced in Canada.

19. Some Canadian steel service centres also cut to length plate from plate in coil form. On the basis of data obtained in earlier inquiries, it has been estimated that sales of plate cut from coil by steel service centres account for about 15 percent of the market for plate.

Algoma

20. Algoma, located in Sault Ste. Marie, Ontario, was incorporated on June 1, 1992, under the Ontario *Business Corporations Act*.⁵ It acquired all the assets and some of the liabilities of The Algoma Steel

5. R.S.O. 1990, c. B.16.

Corporation Limited. On January 29, 2002, the company was further re-organized under a plan of arrangement and reorganization pursuant to the *Companies' Creditors Arrangement Act*.⁶

21. Algoma is a vertically integrated primary iron and steel producer that makes, among other things, plate and hot-rolled sheet in Sault Ste. Marie, Ontario. It has the capacity to produce approximately 2.7 million tonnes of raw steel annually.

22. Algoma produces plate up to 4 in. thick on its 166-in. plate mill. For lighter gauge plates, the 166-in. plate mill acts as a breakdown mill, and the reduced gauge slab proceeds to the 106-in. wide strip mill where it is reduced to its final thickness and then coiled. In 1997, Algoma installed its Direct Strip Production Complex. This freed up extra capacity for plate on Algoma's plate complex.

IPSCO

23. IPSCO, located in Regina, Saskatchewan, was incorporated in 1956 under the name of Prairie Pipe Manufacturing Company Ltd. It commenced operations in 1957 with the completion of construction of an electric resistance weld pipe mill in Regina. In 1959, IPSCO acquired the assets of Interprovincial Steel Corp. Ltd. and, in 1960, it commenced production of its own flat-rolled steel, including plate. Since that time, it has expanded its manufacturing capabilities through acquisitions and plant construction in both Canada and the United States.

24. IPSCO's Canadian operations are divided into the following operating units: Raw Materials and Coil Processing, Canadian Steel Mill Products and Tubular Products. The first two operating units manufacture and sell plate. IPSCO manufactures discrete plate at its steel mill in Regina, and cut-to-length plate in Regina, Toronto, Ontario and Surrey, British Columbia. Recently, IPSCO changed its slab reduction process from a 3:1 reduction/rolling ratio to a 2:1 ratio. This has enabled IPSCO to increase the thickness of the plate that it produces in its Regina facility.

25. Other products manufactured by IPSCO include hot-rolled sheet, hollow structural sections, line pipe, standard pipe, piling pipe, oil country tubular goods (OCTG), waterwell casing and OCTG casing.

26. IPSCO's subsidiary, IPSCO Ontario Inc., began operating a new facility in January 1999, in Toronto. The IPSCO Ontario Inc. Temper Levelled Coil line, representing the first four-high temper level cut-to-length line in Canada, is designed to improve flatness and physical properties and can produce plate from a coil in widths of up to 96 in. and in thicknesses ranging from 0.10 in. to 0.75 in.

FOREIGN PRODUCERS

27. The Tribunal received only two responses to its expiry review questionnaire sent to foreign producers and exporters. The firms that responded were Steel Authority of India Limited (SAIL) and Azovstal. Of these two firms, only Azovstal participated in the expiry review.

IMPORTERS

28. The Tribunal sent expiry review questionnaires to 23 importers; however, only Salzgitter Trade responded to the expiry review questionnaire. In the absence of more complete questionnaire responses from the importers, the Tribunal used the volume and value of imports of plate as estimated by the CBSA from its Facility for Information Retrieval Management reports.

6. R.S.C. 1985, c. C-36 [CC44].

PRODUCT DISTRIBUTION

Domestic Product

29. The Canadian producers sell plate directly to either fabricators or steel service centres. Steel service centres distribute plate to end users and other smaller steel service centres. Sales to steel service centres represent the largest portion of the Canadian plate market. The Canadian mills sell to their customers either on a freight prepaid (delivered) basis or free on board (FOB) the Canadian mill, whichever the customer prefers. The Canadian mills market their products, including plate, through their sales forces that contact their respective customers on a regular basis.

Imported Product

30. Importers of plate also sell to fabricators and steel service centres. Importers sell their products in a variety of ways. Some importers utilize sales agents or a dedicated sales force to contact customers. Others respond to customer inquiries and source the products when they receive a request or seek orders from customers when they learn of an available quantity of plate. Some importers ship the products directly to their customers from the source mill, while others sell FOB the unloading dock in Canada.

SUMMARY OF PAST PROCEEDING

Finding

31. On June 27, 2000, in Inquiry No. NQ-99-004, the Tribunal found that the dumping in Canada of certain hot-rolled plate originating in or exported from Brazil, Finland, India, Indonesia, Thailand and Ukraine, and the subsidizing of plate originating in or exported from India, Indonesia and Thailand had caused material injury to the domestic industry.

POSITIONS OF THE PARTIES⁷

Domestic Industry's Position

32. Algoma submitted that the domestic industry is significantly more vulnerable to material injury from resumed dumping and subsidizing since the rescission of the Tribunal's order in *Plate II*.

33. Algoma argued that its ability to modernize installations in order to ensure continued competitiveness depends on the Tribunal continuing the finding, particularly in light of price undercutting by import competition from certain "emerging" sources (e.g. Belgium, Malaysia and Poland). Algoma underlined significant production overcapacity and underutilization for plate, which is a commodity product that is purchased mainly on price.

34. It submitted that the domestic industry had benefited, in 2004, from a significant worldwide price and demand upswing. Earnings that Algoma hoped to direct to facility improvement will be exhausted in responding to import competition if the finding is not continued. Over the period of review, Algoma was unprofitable.

35. Algoma stated that it is facing price declines, lower demand and increased costs for 2005 and 2006, which will be reflected in declining gross margins and net income as it heads towards a steel cycle trough. A

7. This section outlines a number of key submissions made by parties. It is not intended to be exhaustive.

rescission of the finding will exacerbate the problems of an already vulnerable industry. The domestic industry will also be negatively impacted by the end of high import demand in the People's Republic of China (China) and the fact that several jurisdictions have findings in place against plate from several of the subject countries.

36. Algoma also argued that the Tribunal should apply subsection 76.03(11) of *SIMA* and cumulate the subject countries in its assessment of the likelihood of material injury, because plate from all of these countries competes with each other through the same channels of distribution.

37. IPSCO added that imports of plate, from Ukraine in particular, will quickly find their way to Canada if the finding is not continued, as was the case shortly after the rescission of the order in *Plate II*. Exporters in Ukraine and other subject countries will move to match the price of non-subject imports, which are significantly below current domestic prices, resulting in even further domestic price erosion. Eroding prices coupled with increased costs will spell material injury for the domestic industry.

38. IPSCO also submitted that the Tribunal should apply the relevant cumulation provisions of *SIMA*, arguing that the imports of plate from the subject countries are comparable in quality, interchangeable, arrive in Canada by sea-going vessel and are sold via the same channels of distribution (i.e. service centres). In reference to thick plate, it submitted that there was only one class of plate in this expiry review and that the Tribunal had never applied the cumulation test on a subcategory of goods.

39. IPSCO underlined that the domestic steel market is currently facing falling prices, increased costs and declining demand, with certain customers even cancelling their purchasing commitments. It underscored the fact that, even with various trade remedy measures in place, imports of plate are increasing their market share and that recent trends will continue if the finding is not continued.

40. IPSCO submitted that general current and forecasted market conditions are not favourable to the domestic industry, pointing, in particular, to evidence on the record with respect to China and to unused capacity in Brazil, India and member countries of the Association of Southeast Asian Nations, as well as in the Czech Republic, Romania and Bulgaria. It was IPSCO's submission that the high-priced North American market will attract this foreign excess production.

Foreign Manufacturer's Position

41. Azovstal, the sole party opposed to the continuation of the finding that appeared in these proceedings, submitted that the only sales from Ukraine covered by this expiry review are those of plate in thicknesses above 4 in. and up to 5.25 in. (thick plate). As such, it argued that those sales should not be cumulated with other sales of plate because the domestic industry does not currently, nor is it planning to, produce thick plate.

42. Azovstal requested the rescission of the finding with respect to Ukraine or, failing that, an exclusion for thick plate from Ukraine.

43. In the alternative, Azovstal argued that there is no evidence of any likelihood of injury from any of the subject countries in this matter and pointed to several factors that it views as demonstrating this fact; consequently, it requested that the finding be rescinded.

ANALYSIS

44. On February 10, 2005, the CBSA determined that, pursuant to subsection 76.03(7) of *SIMA*, the expiry of the finding was likely to result in the continuation or resumption of dumping of plate from Brazil, India, Indonesia and Ukraine, was unlikely to result in the continuation or resumption of dumping of plate from Finland and Thailand, and was likely to result in the continuation or resumption of subsidizing of plate from India, Indonesia and Thailand. 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, as the case may be, to the domestic industry. Given that there is currently an established domestic industry, the issue of whether the expiry of the finding is likely to result in retardation does not arise in this expiry review.⁸

45. Therefore, the Tribunal is required, pursuant to subsection 76.03(12) of *SIMA*, to make an order either rescinding the finding, if it determines that the expiry of the finding is unlikely to result in injury, or continuing the finding, with or without amendment, if it determines that the expiry of the finding is likely to result in injury.

46. The CBSA also determined that the expiry of the finding was unlikely to result in the continuation or resumption of dumping of plate from Finland and Thailand.

47. Accordingly, pursuant to subsection 76.03(8) of *SIMA*, the Tribunal shall not take those goods into account in assessing the cumulative effect of dumping or subsidizing under subsection 76.03(11). The issue of cumulation is examined below.

48. Also, pursuant to subparagraph 76.03(12)(a)(i) of *SIMA*, the Tribunal shall make an order rescinding the finding in respect of plate from Finland and Thailand for which the CBSA determined that the expiry of the finding is unlikely to result in continued or resumed dumping in Canada.

Like Goods and Classes of Goods

49. Subsection 2(1) of *SIMA* defines “like goods” in relation to any other goods in part as: “(a) goods that are identical in all respects to the other goods, or (b) in the absence of any [such] goods . . . goods the uses and other characteristics of which closely resemble those of the other goods”.

50. 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 and whether the domestic goods fulfil the same customer needs as the goods imported from the subject countries. Also, when goods subject to an inquiry or an expiry review are not like goods in relation to one another, separate classes of goods are established.

51. In its statement of reasons in the original inquiry, the Tribunal stated the following:

[C]arbon steel plate is produced to meet various specifications. The evidence indicates that, for each specification, carbon steel plate produced domestically competes with, has the same end uses as and can be substituted for the subject goods, as defined by the Commissioner. Therefore, the Tribunal is of the view that all domestically produced carbon steel plate as described in the Commissioner’s definition of the subject goods, including structural plate, PVQ plate, discrete plate and plate cut from coil, is “like goods” to the subject goods.

8. Subsection 2(1) of *SIMA* defines retardation as the material retardation of the establishment of a domestic industry.

...

It is clear to the Tribunal that, generally, there are different end uses for plate of different thicknesses and/or specifications. That being said, all plate is subject to common methods of production and has similar market characteristics, such as pricing structures and channels of distribution. In this regard, the Tribunal notes evidence adduced at the hearing that indicated that the price of plate with a particular thickness or specification, such as PVQ, is derived from the base price set for standard structural plate. Specific dollar amount extras are then charged for different thicknesses and chemical or mechanical properties. The Tribunal is of the view that plate meeting a particular specification can be substituted in applications requiring less demanding specifications. Such substitution is more likely to happen when this plate is being offered at prices that are competitive with those of other plate.⁹

Therefore, the Tribunal finds that there is one class of goods for the purposes of this expiry review.

52. The Tribunal heard no evidence in this expiry review that warrants departing from the conclusions on “like goods” and “classes of goods” that were made at the time of the inquiry. Accordingly, the Tribunal is of the view that there is one class of goods in this expiry review and that plate produced by the domestic industry that corresponds to the product definition closely resembles the plate imported from the subject countries in physical characteristics and end uses, can be substituted for it and is therefore like goods to the goods imported from the subject countries.

Domestic Industry

53. Subsection 2(1) of *SIMA* defines “domestic industry” in part as follows: “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”.

54. The domestic producers that participated in this expiry review, taken together, represent approximately 85 percent of the total domestic production of like goods. Some service centres that cut plate from coil account for the remaining 15 percent of domestic production. Therefore, the Tribunal finds that, for the purposes of this expiry review, the domestic producers that participated in the proceedings account for a major proportion of the total domestic production of like goods.

Cumulation

55. In accordance with subsection 76.03(11) of *SIMA*, the Tribunal shall make an assessment of the cumulative effect of the dumping or subsidizing of goods from more than one country if it is satisfied that such an assessment would be appropriate, taking into account the conditions of competition between the goods imported from any of the countries and the goods from any other of those countries, or like goods of domestic producers.¹⁰

56. As mentioned above, by reason of the operation of subsection 76.03(8) of *SIMA*, if the Tribunal is satisfied that it is appropriate to cumulate, it can do so only in respect of those goods for which the CBSA determined that there was a likelihood of continued or resumed dumping (from Brazil, India, Indonesia and Ukraine) or subsidizing (from India, Indonesia and Thailand).

9. At 17-18.

10. Subsection 76.03(11) of *SIMA*.

57. If the Tribunal is not satisfied that an assessment would be appropriate, then it must assess the effects of dumping and subsidizing for each country separately.

58. The conditions of competition that the Tribunal has taken into account in the past include price, quality, modes of transportation, distribution channels and geographic markets.

59. The evidence indicates that plate is a commodity product. Price is therefore a key driving factor in capturing sales, regardless of the source of the product. As a commodity, plate imported from each subject country is interchangeable, and the Tribunal considers this to be a strong indicator that its quality is similar. In addition, plate from each subject country is shipped to Canada using the same mode of transportation (i.e. ocean vessel) and is distributed in Canada through the same type of distribution channel (i.e. brokers and service centres). Nothing indicates that these conditions of competition will change in the foreseeable future.

60. The Tribunal notes that, on several occasions, including at the time of the original inquiry into this matter, it has made a cumulative assessment of the injurious effects of both dumped and subsidized goods (“cross-cumulation”).¹¹

61. Taking into account the conditions of competition discussed above, and the intertwined effects of dumping and subsidizing when present together, the Tribunal is satisfied that it would be appropriate to make an assessment of the cumulative effects of both the dumping of plate from Brazil, India, Indonesia and Ukraine, and the subsidizing of plate from India, Indonesia and Thailand.

62. The Tribunal was not persuaded by the arguments made by Azovstal regarding cumulation as it relates to thick plate from Ukraine, given that it is of the view that there is one class of goods in this expiry review.

Likelihood of Injury

63. Subsection 37.2(2) of the *Special Import Measures Regulations*¹² enumerates a number of factors that the Tribunal may consider in addressing the question of likelihood of injury. These factors are analyzed under the following general headings: international and domestic market conditions; the likely volumes of dumped or subsidized goods; the likely prices of dumped or subsidized imports; and the likely effects of dumped or subsidized imports on the domestic industry and likely performance of the domestic industry.

64. In making its assessment of the likelihood of injury, the Tribunal has consistently taken the view that its focus must be on circumstances that can reasonably be expected to exist in the near to medium term, generally 18 to 24 months.¹³

International and Domestic Market Conditions

65. During the Tribunal’s period of review, the domestic and global steel markets changed significantly. Driven by rapidly escalating demand for steel and the raw materials necessary to make steel,

11. *Grain Corn* (7 March 2001), NQ-2000-005 (CITT); *Black Granite Memorials* (20 July 1994), NQ-93-006 (CITT), and (19 July 1999), RR-98-006 (CITT); *Refined Sugar* (6 November 1995), NQ-95-002 (CITT); and *Hot-rolled Carbon Steel Plate* (27 June 2000), NQ-99-004 (CITT).

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

13. *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; and *Solder Joint Pressure Pipe Fittings* (16 October 1998), RR-97-008 (CITT) at 10.

particularly in China, prices for plate have risen dramatically. MEPS data indicate that world hot-rolled plate prices have more than doubled since mid-2002.¹⁴ Similarly, raw material prices have reached historically high levels and are expected to continue to rise as new capacity comes on line.¹⁵

66. The evidence shows that, from 1998 to 2004, China's apparent consumption of crude steel increased on average by 14.4 percent a year. This dwarfed the apparent consumption of raw steel in the rest of the world, which increased by about 2.8 percent a year during the same period.¹⁶ In 2004, however, the demand for steel in all countries increased significantly. Global steel consumption jumped by nearly 9 percent over 2003. The strongest growth was recorded in North America, where consumption increased by over 15 percent, while consumption in the rest of the Organisation for Economic Co-operation and Development grew by 3.4 percent. In the Newly Independent States, steel consumption was up by 13.5 percent, while demand growth was also recorded in Asia, Latin America and the Middle East.¹⁷

67. In 2005, Metal Bulletin Research (MBR) predicts that Asia as a whole will provide most of the growth in world steel consumption. Moreover, it predicts that there will be increases in the prices of most steel products in most Asian markets in both the second and third quarters of 2005.¹⁸

68. The evidence also indicates that, given the enormous additions to capacity that are currently taking place in China, some steel analysts believe that an oversupply of plate will occur in China in 2007.¹⁹

69. In North America, the steel market is forecast to continue to grow, albeit at a subdued rate, and sales of durable goods and equipment are forecast to show steady but not fast growth.²⁰ U.S. expenditures in the non-building construction sector, the major market where plate is used, increased by 9 percent in the first two months of 2005.²¹ In Canada, non residential construction is expected to be relatively strong. Consequently, the demand for plate is also forecast to be relatively strong.²² Under these circumstances, plate prices should be stable.

Likely Volumes of Dumped or Subsidized Goods

70. During the period from January 2001 to December 2004, imports from the subject countries were negligible. However, the domestic industry argued that there is significant unused capacity in the subject countries and, should the finding be rescinded, these countries would use that capacity to ship significant quantities of steel to the Canadian market at dumped prices.

71. In support of this position, the domestic industry submitted that China has become a net exporter of plate and that countries that supplied China in the past are now seeking new markets. Moreover, since steel prices in North America are amongst the highest in the world, it was the domestic industry's position that these high prices would naturally attract imports. The domestic industry claimed that importers and traders that are constantly seeking new sources of low-cost supplies would facilitate these imports. Finally, in order to regain market share from emerging countries, exports from the subject countries would have to undercut the prices offered by the emerging countries.

14. Tribunal Exhibit RR-2004-004-05, Administrative Record, Vol. 1A at 44.

15. *Ibid.* Vol. 1.01C at 363.

16. Tribunal Exhibit RR-2004-004-36.03, Administrative Record, Vol. 1 at 268.

17. Tribunal Exhibit RR-2004-004-32.16, Administrative Record, Vol. 1.01C at 295.

18. Tribunal Exhibit RR-2004-004-32.07, Administrative Record, Vol. 1.01 at 359.

19. Tribunal Exhibit RR-2004-004-32.15, Administrative Record, Vol. 1.01C at 259.

20. Tribunal Exhibit RR-2004-004-32.20, Administrative Record, Vol. 1.01D at 14.

21. Tribunal Exhibit RR-2004-004-36.01, Administrative Record, Vol. 1 at 244.

22. *Transcript of Public Hearing*, Vol. 2, 3 May 2005, at 203.

72. Based on the evidence on the record, the Tribunal has a different view of the manner in which plate producers in the subject countries might compete in the event that the finding is rescinded.

73. Ukraine, for example, is a large producer of plate and a major source of concern for the domestic industry. During the period of review,²³ producers in Ukraine exported virtually no plate to Canada. However, it is important to note that, following the rescission of the order in *Plate II*, plate from Ukraine forms a narrow subset of the total range of plate, including only plate from 4.0 in. to 5.25 in. thick and certain low-carbon PVQ plate from 0.187 in. to 3.125 in. thick.²⁴

74. The domestic producers acknowledged that, for the most part, they cannot produce or are not interested in producing plate over 4.0 in. thick. A witness from Algoma stated that it has produced and sold plate from 3/16 in. up to 4 in. thick.²⁵ According to the evidence, IPSCO can produce structural plate up to 4 in. thick using a 2 to 1 reduction ratio; it has made plate up to 4.25 in. thick but only in alloy grades.²⁶ A witness from IPSCO noted that production of plate over 3 in. thick is generally specialized, premium non-structural alloy grades.²⁷ Further, the Tribunal heard testimony that IPSCO's 4.25-in. alloy plate was sold exclusively in the export market.²⁸

75. Strictly speaking, the evidence indicates that IPSCO can produce plate over 4.0 in. thick. However, the evidence also indicates that this plate is special premium non-structural plate that is not intended to compete with dumped plate in the domestic market.²⁹ Based on this evidence, the Tribunal is of the view that the domestic producers do not truly compete in the domestic market with regard to plate over 4.0 in. thick. Therefore, while the Tribunal expects that Ukraine will ship thick plate to Canada in the event that the finding is rescinded, it is not of the view that such imports are likely to be injurious.

76. With respect to low-carbon PVQ plate, the domestic producers have argued that, in the past, Ukraine had exported this plate to Canada in an attempt to circumvent an earlier Tribunal finding with respect to certain structural plate. However, that finding has since been rescinded, and Ukraine is free to export structural plate in thicknesses of up to 4 in. to Canada.³⁰ Insofar as exports from Ukraine are now free of Canadian anti-dumping restraints and Ukraine is competing in the domestic market by supplying lower-value plate, the Tribunal is of the view that, due to the high degree of price competition in the domestic plate market,³¹ it is unlikely that Ukraine will continue to ship higher-value PVQ plate to Canada as another means of competing with lower-value structural plate.³²

77. With regard to the potential volume of imports from India, the Tribunal heard testimony that, although the country's capacity to produce galvanized steel and hot-rolled coil for strip products is rising sharply, there has not been a corresponding increase in India's capacity to produce plate.³³ According to the Tribunal's witness, India is not likely to see a major expansion in its capacity to produce plate until 2007. This statement is supported by data that the Tribunal received from Steel Authority of India Limited (SAIL),

23. Tribunal Exhibit RR-2004-004-06 (protected), Administrative Record, Vol. 2A at 23.

24. Tribunal Exhibit RR-2004-004-05, Administrative Record, Vol. 1A at 15-16.

25. Manufacturer's Exhibit A-03, Tab 3 at 2, Administrative Record Vol. 11.

26. *Transcript of Public Hearing*, Vol. 1, 2 May 2005, at 143.

27. Manufacturer's Exhibit B-05 at 1, Administrative Record Vol. 11.

28. *Transcript of Public Hearing*, Vol. 1, 2 May 2005, at 143.

29. Manufacturer's Exhibit B-05 at 1, Administrative Record Vol. 11.

30. *Transcript of Public Hearing*, Vol. 1, 2 May 2005, at 15.

31. Manufacturer's Exhibit A-01 at 6, Administrative Record, Vol. 11.

32. Manufacturer's Exhibit B-03 at 2, Administrative Record, Vol. 11.

33. *Transcript of Public Hearing*, Vol. 2, 3 May 2005, at 260-61.

one of the largest producers of hot-rolled steel plate in India, if not the largest.³⁴ SAIL's capacity for plate production has remained unchanged since 2001. Moreover, the company's utilization rate has increased each year to the point where, at present, its capacity is virtually fully utilized.³⁵

78. In addition to these indications that India's capacity to produce plate is not expected to increase in the near future, the Tribunal also saw evidence that the demand for steel in India is growing rapidly and that steel that was once directed to the export market is now being used internally.³⁶ For these reasons, the Tribunal is of the view that, should India export any plate to Canada if the finding were rescinded, the volumes would likely be small.

79. Although Brazil contributes less than 5 percent of global crude steel output, it is an important global player. Its growth rates in steel consumption have recently exceeded the global growth rate. Furthermore, steel consumption in Brazil is expected to continue to exceed global growth rates in the near term, as its construction boom continues and its automotive output grows.³⁷ According to the evidence, the demand generated by the construction and automotive industries will help keep flat-rolled steel in Brazil. Despite this considerable growth in consumption, Brazilian mills, which were operating at full capacity in 2004, have avoided major expansions to flat-rolled capacity.³⁸

80. The Tribunal has seen some evidence that the steel market in Brazil weakened in early 2005 and that flat product exports from Brazil have increased somewhat.³⁹ However, the Tribunal also heard testimony that the market in Brazil for plate is tight, and its exports consist mostly of slab and cold-rolled steel.⁴⁰ In the Tribunal's view, the evidence of increased economic activity in Brazil, particularly in those sectors that use plate, supports the proposition that plate produced in Brazil is more likely to be consumed internally, to satisfy its growing domestic demand, than dumped in Canada.

81. There was some evidence that Indonesia plans to expand its steel production capacity by 2.5 million tonnes by 2008.⁴¹ However, there seemed to be little in the way of planned plate production, according to the Tribunal's witness.⁴² There was also evidence that Australia had imposed anti-dumping duties on imports of hot-rolled plate from Indonesia in April 2004.⁴³ Since then, however, a tsunami in the Indian Ocean has caused widespread damage to the infrastructure of Indonesia and neighbouring countries, including Thailand and India. According to MBR,⁴⁴ the damage inflicted by the tsunami has created a significant demand for steel to be used in repairs to infrastructure, culverts, roads, bridges and ports. Moreover, the new "constructions" will likely contain far more steel than those that are being replaced, thereby intensifying the countries' demand for steel.

82. The Tribunal cannot forecast the time needed to restore the infrastructure in areas that were devastated by the tsunami; however, it is persuaded that, given that Indonesia did not ship any plate to Canada during the Tribunal's period of review and that its steel industry is likely to concentrate on

34. Tribunal Exhibit RR-2004-004-6.1A (protected), Administrative Record, Vol. 6.1A at 17.

35. Tribunal Exhibit RR-2004-004-06A (protected), Administrative Record, Vol. 2A at 88.

36. Tribunal Exhibit RR-2004-004-10.29, Administrative Record, Vol. 1.2C at 356.

37. Tribunal Exhibit RR-2004-004-32.18, Administrative Record, Vol. 1.01C at 392; Tribunal Exhibit RR-2004-004-36.01, Administrative Record, Vol. 1 at 255.

38. Tribunal Exhibit RR-2004-004-32.18, Administrative Record, Vol. 1.01C at 392.

39. Manufacturer's Exhibit B-09 at 4, Administrative Record, Vol. 11.

40. *Transcript of Public Hearing*, Vol. 2, 3 May 2005, at 267-68.

41. Manufacturer's Exhibit A-01 at 34, Administrative Record Vol. 11.

42. *Transcript of Public Hearing*, Vol. 2, 3 May 2005, at 263.

43. Manufacturer's Exhibit A-01 at 52, Administrative Record Vol. 11.

44. Tribunal Exhibit RR-2004-004-32.06, Administrative Record, Vol. 1.01 at 354.

supplying the reconstruction effort in Indonesia in the areas struck by the tsunami, any volumes of plate that it might export to Canada will likely be small.

83. With respect to Thailand, the evidence indicates that there were some increases to capacity in 2004 and that further expansions are being considered for 2006-2007.⁴⁵ Commenting on this expansion, the Tribunal's witness noted that Thailand is a net importer of plate and that any expansion in this area is likely to replace imports of plate.⁴⁶ The witness also noted that a blast furnace with a capacity of 5 million tonnes per year that the Sahaviriya Group is planning to put in will not necessarily supply the company's plate mill, but will supply the coil mill and the billet and re-rolling rod mills.⁴⁷

84. Like Indonesia, Thailand was hit by the tsunami. The Tribunal believes that Thailand's internal demand for steel, over and above normal usage, will definitely increase as repair efforts continue. The Tribunal is convinced that, being a net importer of plate under normal conditions, Thailand will continue to be a net importer of plate and that there is little likelihood of Thailand's plate producers shipping any significant volumes of plate to Canada in the near future.

85. Therefore, on the basis of the above-mentioned evidence and testimony, the Tribunal finds it unlikely that there would be a significant increase in the volume of dumped or subsidized plate from the subject countries if the finding were rescinded, except possibly for an increase in thick plate from Ukraine, in which case there will likely be no impact on the domestic industry as indicated above.

Likely Prices of Dumped or Subsidized Imports

86. The domestic industry argued that prices for plate are now falling from the record high levels achieved in 2004. As causes of the falling prices, the domestic industry points to a softening of demand, de-stocking at service centres and the dumping of plate both by emerging countries and countries that were covered by the now rescinded order in *Plate II*. The domestic industry argued that, if the finding were rescinded, price erosion would worsen, as dumped imports from the subject countries would compete for market share with low-priced plate from emerging countries.

87. The evidence shows that global steel prices have been on the rise since 2001, with particularly steep increases occurring in 2003 and 2004.⁴⁸ Today, steel prices are the highest that they have been in 10 to 15 years.⁴⁹ Steel market analysts now suggest that, in general, steel prices have peaked and will fall in the second quarter of 2005 and into 2006, largely due to the increasing supply of steel, combined with falling demand and the liquidation of inventories that were built up in 2004, when there were concerns about the availability of supply.⁵⁰

88. While there is some indication of softening prices in recent months, the evidence before the Tribunal suggests that, in annual terms, the predicted decline in prices will not be dramatic. By the end of 2004, prices for plate had risen to a level that was nearly double the level that they were in the beginning of 2004 and are expected to remain high due to higher raw material prices.⁵¹ In the United States, for

45. Tribunal Exhibit RR-2004-004-32.01, Administrative Record, Vol. 1.01 at 103.

46. *Transcript of Public Hearing*, Vol. 2, 3 May 2005, at 262-63.

47. *Ibid.* at 263.

48. Tribunal Exhibit RR-2004-004-05, Administrative Record, Vol. 1A at 44.

49. *Transcript of Public Hearing*, Vol. 2, 3 May 2005, at 197.

50. Tribunal Exhibit RR-2004-004-36.02, Administrative Record, Vol. 1A at 261; *Transcript of Public Hearing*, Vol. 2, 3 May 2005, at 200.

51. *Transcript of Public Hearing*, Vol. 2, 3 May 2005, at 241.

example, the estimated transaction price for hot-rolled plate in April 2005 remained about 95 percent higher than the price of plate in the first quarter of 2004.⁵² In the European Union, plate prices continued to rise in the first quarter of 2005 and looked like they would go higher, largely due to sales of high-grade ship plate and high-performance wide plate for oil and gas pipelines.⁵³

89. Moreover, the Tribunal heard testimony that prices in the plate market are typically stronger than they are in the general steel market because the sectors of the global economy that demand plate are showing considerable strength. On a global basis, shipbuilding, for example, is predicted to continue to be a very robust market into 2007, particularly in Asia.⁵⁴ Similarly, the demand from the defence sector is expected to remain sound, as will the demand for railcars and yellow goods.⁵⁵ In Canada, the Canadian construction industry forecasts that the strong growth witnessed in the domestic construction industry in 2004 is expected to continue for at least the next two years.⁵⁶

90. As a result, analysts expect that prices in the plate market will do better than prices in the non-plate sectors. In the European Union, for example, plate prices were expected to decline somewhat in the first quarter of 2005, but are predicted to recover in the third quarter of the year. In North America, plate prices are expected to be stable and to show some gains, while in Asia, plate prices are forecast to rise strongly for the remainder of 2005.⁵⁷

91. In the Tribunal's view, given the current trends in the prices of plate globally and in Canada, there is no reason to believe that, at current and forecast levels of demand, the price of plate in Canada will deviate from the trends in pricing set in the rest of the world. In a global market where plate prices are forecast to rise somewhat or, at least, to maintain their current historically high levels, the Tribunal finds it difficult to accept that the subject countries will sell plate in Canada at less than they are selling it for in other areas of the world.

Likely Effects of Dumped or Subsidized Imports on the Domestic Industry and Likely Performance of the Domestic Industry

92. The domestic industry argued that it had become significantly more vulnerable to resumed dumping and subsidizing since the rescission of the order in *Plate II* in May 2004, prior to which, the domestic industry submitted, its performance had improved due to the relief that it had received from having to compete with dumped and subsidized imports.

93. The evidence before the Tribunal indicates that both IPSCO and Algoma are currently operating at or near practical capacity. The Tribunal heard testimony that Algoma is limited in the amount of liquid steel that it can produce and that this liquid steel is allocated to both sheet and plate production. Sheet is normally a more profitable product for Algoma and, as long as sheet remains more profitable, there is little motivation for the company to reduce the volume of liquid steel that it directs to its sheet business simply to increase its plate production.⁵⁸ According to testimony, in the last two or three years, excluding 2004, plate did not perform as well as sheet; therefore, Algoma did not allocate extra liquid steel to the production of plate at

52. Tribunal Exhibit RR-2004-004-32.20, Administrative Record, Vol. 1.01D at 16.

53. Tribunal Exhibit RR-2004-004-32.07, Administrative Record, Vol. 1.01 at 367.

54. *Transcript of Public Hearing*, Vol. 2, 3 May 2005, at 201.

55. Tribunal Exhibit RR-2004-004-36.01, Administrative Record, Vol. 1 at 244.

56. Tribunal Exhibit RR-2004-004-32.17, Administrative Record, Vol. 1.01C at 377.

57. Tribunal Exhibit RR-2004-004-32.20, Administrative Record, Vol. 1.01D at 14.

58. *Transcript of Public Hearing*, Vol. 1, 2 May 2005, at 86-87.

the expense of producing steel sheet. It would do so only if plate were a more profitable product over a significant period of time.⁵⁹

94. Similarly, data provided by IPSCO indicated that it had steadily increased its utilization of capacity during the years from 2001 to 2004 inclusive.⁶⁰ Moreover, IPSCO's first quarter report for 2004 noted that, at that time, all of its steel mill facilities were producing at or near capacity, with demand from existing and new customers exceeding its capacity.⁶¹ According to an IPSCO witness, IPSCO continued to produce at or near capacity in the first quarter of 2005, and it had to import plate from its operations in the United States to meet certain demand that was in excess of its steelmaking capacity.⁶²

95. Further, when Stelco idled its plate facilities in April 2003, neither Algoma nor IPSCO moved to fill the vacuum left in the market. Algoma decided against supplying Stelco's customers, largely because producing plate to supply their needs would have necessitated a reduction of its own sheet business.⁶³ On the other hand, IPSCO was unable to supply Stelco's customers because it did not produce many of the plate dimensions offered by Stelco.⁶⁴

96. In the Tribunal's opinion, neither Algoma nor IPSCO found it attractive financially to supply Stelco's customers. Since the likely cessation of Stelco's operations could be foreseen well ahead of time,⁶⁵ the Tribunal feels that some accommodation could have been made if an expansion of either company's plate operation had been in their best interest. To the extent that neither company opted to compete for the business that became available when Stelco stopped producing plate, it is clear to the Tribunal that both Algoma and IPSCO were prepared to let imports service Stelco's former customers and that neither company was interested in expanding its plate production in lieu of producing other products.

97. The Tribunal notes that the domestic industry did very well in 2004 despite its apparent unwillingness to increase its plate production to supply a new source of demand in the market.⁶⁶ Moreover, it appears that, despite some softening in prices, the industry will continue to do well in 2005 and 2006. The Tribunal heard testimony that the global plate market is, by and large, a stronger market than the general steel market and that the industry can expect strong global demand in the major market sectors that it supplies, such as shipbuilding (particularly in Asia), oil and gas, defence, agriculture and construction. In North America, a strong demand for plate is also expected in the agricultural and non-residential construction sectors.⁶⁷

98. Raw material and energy costs are one area over which the industry does not have much control. Prices are set on a global basis for the major inputs such as iron ore and coking coal and, for 2005-2006 contracts, iron ore prices rose by over 70 percent, while the price for coking coal nearly doubled.⁶⁸ The Tribunal believes that Algoma may fare better on certain input costs, since its coal costs are fixed by contracts that extend into 2006.⁶⁹ IPSCO, being a mini-mill, is more affected by the price of scrap.

59. *Ibid.* at 86-87.

60. Tribunal Exhibit RR-2004-004-06 (protected), Administrative Record, Vol. 2A at 57.

61. Tribunal Exhibit RR-2004-004-13.02, Administrative Record, Vol. 3.A at 289.

62. *Transcript of Public Hearing*, Vol. 1, 2 May 2005, at 165, 185.

63. *Ibid.* at 86.

64. *Ibid.* at 183.

65. Stelco reduced the operating rate at its Hamilton plate mill to 25 percent of capacity in August 2002 and idled the mill completely in April 2003.

66. Tribunal Exhibit RR-2004-004-06 (protected), Administrative Record, Vol. 2A at 69-70.

67. *Transcript of Public Hearing*, Vol. 2, 3 May 2005, at 202.

68. *Ibid.* at 242.

69. *Transcript of Public Hearing*, Vol. 1, 2 May 2005, at 78.

According to testimony, scrap prices have recently fallen, which should provide a cost advantage to IPSCO.⁷⁰

99. In summary, it is clear to the Tribunal that the domestic industry is currently producing about as much plate as it can and does not intend to significantly increase the volume of plate that it produces for sale in the domestic market. Further, considering that the market sectors that use plate, both globally and in North America, are doing well and are expected to continue to do well in the near to medium term, the Tribunal is of the opinion that plate prices will remain relatively high and that the domestic industry will continue to be profitable.

CONCLUSION

100. Based on the foregoing, the Tribunal does not consider that the expiry of the finding will likely result in material injury to the domestic industry in the near to medium term. Therefore, pursuant to paragraph 76.03(12)(a) of *SIMA*, the Tribunal hereby rescinds its finding concerning the dumping of plate originating in or exported from Brazil, Finland, India, Indonesia, Thailand and Ukraine, and the subsidizing of plate originating in or exported from India, Indonesia and Thailand.

Pierre Gosselin
Pierre Gosselin
Presiding Member

Richard Lafontaine
Richard Lafontaine
Member

Zdenek Kvarda
Zdenek Kvarda
Member

70. *Ibid.* at 66.