



Canadian International
Trade Tribunal

Tribunal canadien du
commerce extérieur

CANADIAN
INTERNATIONAL
TRADE TRIBUNAL

Dumping and Subsidizing

ORDERS AND REASONS

Expiry Review No. RR-2007-001

Hot-rolled Carbon Steel Plate

*Orders and reasons issued
Wednesday, January 9, 2008*

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IN THE MATTER OF an expiry review, under subsection 76.03(3) of the *Special Import Measures Act*, of the order made by the Canadian International Trade Tribunal on January 10, 2003, in Expiry Review No. RR-2001-006, continuing, with amendment, its findings made on October 27, 1997, in Inquiry No. NQ-97-001, concerning:

**HOT-ROLLED CARBON STEEL PLATE ORIGINATING IN OR EXPORTED
FROM THE PEOPLE'S REPUBLIC OF CHINA, THE REPUBLIC OF SOUTH
AFRICA AND THE RUSSIAN FEDERATION**

ORDERS

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 order made on January 10, 2003, in Expiry Review No. RR-2001-006, concerning hot-rolled carbon steel plate originating in or exported from the People's Republic of China, the Republic of South Africa and the Russian Federation.

Pursuant to paragraph 76.03(12)(b) of the *Special Import Measures Act*, the Canadian International Trade Tribunal hereby continues its order in respect of hot-rolled carbon steel plate originating in or exported from the People's Republic of China.

Pursuant to subparagraph 76.03(12)(a)(i) of the *Special Import Measures Act*, the Canadian International Trade Tribunal hereby rescinds its order in respect of hot-rolled carbon steel plate originating in or exported from the Republic of South Africa and the Russian Federation.

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Pierre Gosselin
Presiding Member

James A. Ogilvy
James A. Ogilvy
Member

Ellen Fry
Ellen Fry
Member

Hélène Nadeau
Hélène Nadeau
Secretary

Place of Hearing:	Ottawa, Ontario
Dates of Hearing:	November 13 to 15, 2007
Tribunal Members:	Pierre Gosselin, Presiding Member James A. Ogilvy, Member Ellen Fry, Member
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IPSCO Inc.

Importers/Exporters/Others

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STATEMENT OF REASONS

1. This is an expiry review, under subsection 76.03(3) of the *Special Import Measures Act*,¹ of the order made by the Canadian International Trade Tribunal (the Tribunal) on January 10, 2003, in Expiry Review No. RR-2001-006, continuing, with amendment, its findings made on October 27, 1997, in Inquiry No. NQ-97-001, concerning hot-rolled carbon steel plate originating in or exported from the People's Republic of China (China), the Republic of South Africa (South Africa) and the Russian Federation (Russia) (subject goods).
2. The goods that are subject to this expiry review are defined as hot-rolled carbon steel plate and high-strength low-alloy 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 thicknesses from 0.187 in. (+/- 4.75 mm) to 4.0 in. (+/- 101.6 mm) inclusive, but excluding plate for use in the manufacture of pipe and tube (also known as skelp), plate in coil form, plate having a rolled, raised figure at regular intervals on the surface (also known as floor plate) and plate produced to American Society for Testing and Materials specifications A515 and A516M/A516, grade 70 (also known as pressure vessel quality plate) in thicknesses greater than 3.125 in. (+/- 79.3 mm).
3. As will be discussed below, the Tribunal concludes that the plate produced by domestic producers, defined in the same manner as the subject goods, constitutes like goods to the subject goods.
4. On April 25, 2007, the Tribunal decided to initiate an expiry review and sent a notice of expiry review to known interested parties.² The Tribunal also sent letters requesting the Canadian producers, importers and exporters/foreign producers to complete an expiry review questionnaire. These questionnaires and the replies thereto formed part of the Tribunal's expiry review record.
5. On April 26, 2007, the Canada Border Services Agency (CBSA) initiated an expiry review investigation to determine whether the expiry of the order was likely to result in the continuation or resumption of dumping of the subject goods.
6. On August 23, 2007, the CBSA determined, pursuant to subsection 76.03(7) of *SIMA*, that the expiry of the order was likely to result in the continuation or resumption of dumping of the subject goods.
7. On August 24, 2007, following the CBSA's determination, the Tribunal proceeded with its expiry review to determine, pursuant to subsection 76.03(10) of *SIMA*, whether the expiry of the order respecting the subject goods was likely to result in injury or retardation. As part of this process, the Tribunal requested domestic producers, importers and exporters/foreign producers to update their responses to questionnaires submitted to the CBSA to include data for the first six months of 2006 and 2007.
8. The Tribunal held a hearing, with public and *in camera* testimony, in Ottawa, Ontario, from November 13 to 15, 2007.
9. The domestic producers, namely, Algoma Steel Inc. (Algoma) and IPSCO Inc. (IPSCO), submitted evidence and made arguments in support of a continuation of the order. Both parties were represented by counsel and presented witnesses at the hearing.

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

2. C. Gaz. 2007.1.1149.

10. Baosteel Group Corporation (Baosteel), a Chinese producer, and J.S.C. Severstal (Severstal), a Russian producer, submitted evidence and made arguments in support of a rescission of the order. Both parties were represented by counsel at the hearing, but did not present witnesses.

11. The Tribunal invited Mr. James May, President, May Commodity Associates, to testify at the hearing.

12. The record of these proceedings consists of the following: 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; the public and protected pre-hearing staff reports prepared for this expiry review; requests for information and parties' replies in accordance with the Tribunal's directions; witness statements and exhibits filed by the parties throughout the expiry review; the Tribunal's order and notice of expiry review; and the public and protected pre-hearing staff reports prepared for Expiry Review No. RR-2001-006. All public exhibits were made available to the 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.

13. There is evidence on the record, including trade publications, national and international statistics and the testimony of witnesses, with respect to the production, consumption and prices of plate, which does not correspond exactly to the precise definitions of the subject goods and the like goods, i.e. the plate may include a somewhat broader range of dimensions, it may encompass different alloys or it may be intended for use in the manufacture of pipe and tube. Nonetheless, the Tribunal considers the information on this broader range of plate to be highly relevant to this expiry review.

PRODUCT

Production Process

14. 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 vary from mill to mill, the process by which plate is produced from liquid steel generally consists of the following steps: slab production and heating, descaling, rolling, levelling and cutting to size. Plate may be heat-treated in processes that may include annealing, normalizing, stress relieving, quenching, tempering or combinations of these treatments.

15. 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. The rectangular shapes can also be produced by unwinding plate that has been formed into coils and cutting it into separate lengths. Such plate is referred to as "plate from coil" or "cut-to-length plate" and is generally produced to a maximum thickness of 3/4 in. Cut-to-length plate is included in the product definitions for the subject goods and the like goods.

Product Applications

16. The most common applications for the subject goods and the like goods are in the production of rail cars, oil and gas storage tanks, heavy construction machinery, agricultural equipment, bridges, industrial buildings, highrise office towers, automobile and truck parts, ships and barges, and pressure vessels.

Marketing and Distribution

17. Like goods are sold directly to end users, such as large fabricators or equipment manufacturers, or to service centres that may resell it in standard sizes or offer custom cutting services. A major proportion of Canadian mill shipments of like goods is sold to end users through service centres. The balance of shipments goes directly to end users.

18. The vast majority of the subject goods and other imported plate is sold to service centres, not directly to end users. Importers may either source the product following a request from a customer or source the product and then contact customers to secure orders.

DOMESTIC PRODUCERS

19. There are currently two domestic steel mills that produce the like goods: Algoma of Sault Ste. Marie, Ontario, and IPSCO of Regina, Saskatchewan.

20. Stelco Inc. (Stelco) formerly produced the like goods, but idled its Hamilton, Ontario, plate mill in April 2003 and subsequently closed the facility in June 2004. Stelco no longer produces the like goods.

Algoma

21. Algoma was incorporated on June 1, 1992, and, on January 29, 2002, the company was re-organized under a plan of arrangement and reorganization pursuant to the *Companies' Creditors Arrangement Act*.³ On June 20, 2007, Algoma became part of Essar Steel Holdings Limited, an Indian steelmaker, as a wholly owned subsidiary of Algoma Holdings B.V.

22. Algoma is a primary iron and steel producer. It has a capacity to produce 2.6 million metric tonnes of raw steel annually. Its annual production in 2006, expressed in terms of finished steel production, was 2.2 million metric tonnes, consisting of the like goods and other products, such as hot-rolled sheet, cold-rolled sheet, welded wide flange and unfinished parts. These products primarily serve Canada's construction, transportation, automotive, tubular goods and energy industries.

23. Algoma produces the like goods in thicknesses up to 3 1/2 in. on its 166-in. plate mill. For lighter gauge like goods, 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. These coils are then uncoiled, levelled and cut to length to produce the like goods.

IPSCO

24. IPSCO was incorporated in 1956 under the name of Prairie Pipe Manufacturing Co. Ltd. It commenced operations in 1957 with the completion of construction of an electric resistance weld pipe mill in Regina. In 1959, the company acquired the assets of Interprovincial Steel Corp. Ltd. and, in 1960, it commenced production of its own flat-rolled steel, including the like goods. Since that time, it has expanded its manufacturing capabilities through acquisition and plant construction. On July 18, 2007, IPSCO was purchased by a Swedish steelmaker, SSAB Svenskt Stål AB.

3. R.S.C. 1985, c. C-36.

25. IPSCO produces a variety of flat-rolled steel, including hot-rolled carbon and alloy steel sheet products, oil-country tubular goods, standard pipe, piling pipe and hollow structural sections. IPSCO produces the like goods in its facility in Regina, in thicknesses ranging from 3/8 in. to 4 1/4 in. and in widths ranging from 40 in. to 76 in. IPSCO also produces cut-to-length like goods in Regina and Surrey, British Columbia, in thicknesses ranging from 3/16 in. to 1/2 in. and in widths ranging from 48 in. to 96 in. IPSCO produces cut-to-length like goods at its Toronto, Ontario, facility, in thicknesses ranging from 3/16 in. to 3/4 in. and in widths ranging from 48 in. to 96 in.

IMPORTERS AND EXPORTERS

26. Importers' questionnaires were sent to 13 firms that import the subject goods and plate from non-subject countries. Responses were received from 2 firms, Salzgitter Mannesmann International and Stencor USA Inc., both importer-brokers. The Tribunal issued supplementary questionnaires to the remaining 11 firms to seek information on their import volumes, landed costs and selling prices. Replies were received from the following: 3 importer-brokers, Earle M. Jorgensen (Canada) Inc., Olbert Metal Sales Ltd. and Acier Wirth Steel; 3 steel service centres, Price Steel Ltd., Russel Metals Inc. and Samuel, Son and Co. Ltd; and 1 end user, TrentonWorks Limited. These responses were used to prepare the staff report.

27. Exporters' questionnaires were sent to 46 producers of the subject goods. Replies were received from Angang Steel Company Limited and Baosteel, both Chinese producers, and from Severstal, a Russian producer. No replies were received from producers in South Africa. Baosteel provided separate data for two of its subsidiary companies: Baosteel Group Shanghai Pudong Iron & Steel Co., Ltd. and Baoshan Iron & Steel Co., Ltd.

SUMMARY OF PREVIOUS FINDINGS AND ORDERS

28. Since 1992, the Tribunal has conducted five inquiries concerning similar plate products, each resulting initially in the imposition of either anti-dumping measures or both anti-dumping and countervailing measures on imports from different named countries. The cases are referred to below as Plate I through Plate V. The case currently under review is referred to below as Plate III.

Inquiry—Plate III

29. On October 27, 1997, in Inquiry No. NQ-97-001, the Tribunal found that the dumping of the subject goods, which then were defined to include goods from Mexico, had not caused material injury to the domestic industry, but was threatening to cause material injury.⁴

30. The Tribunal was of the view that downward pricing pressure and the industry's inability to raise its prices in 1996 and 1997 were injurious. However, the Tribunal was also of the view that the injury suffered had "...not been for such a duration or to such an extent as to constitute 'material injury' within the meaning of SIMA ...". The Tribunal concluded that, in the absence of anti-dumping duties, the domestic industry would likely continue to suffer price erosion and suppression, with consequent negative effects on gross margins and net revenues.

4. In Inquiry No. NQ-97-001 Remand, pursuant to the remand by the Binational Panel (Canadian Secretariat File No. CDA-97-1904-02), the Tribunal issued a separate finding with respect to Mexico.

Review—Plate III

31. On January 10, 2003, in Expiry Review No. RR-2001-006, the Tribunal continued its finding concerning the subject goods from China, Russia and South Africa, but rescinded its finding with respect to Mexico.

32. The Tribunal made an assessment of the cumulative effect of the dumping of goods from China, South Africa and Russia because they were similar in terms of price, quality and mode of transportation and were sold through the same distribution channels. The Tribunal did not cumulate goods from Mexico, as they used a different mode of transportation, complemented domestic production and competed directly with imports from the United States.

33. The Tribunal was of the view that rescinding the finding against the cumulated countries would make Canada an attractive market for the subject goods from those countries. Furthermore, the Tribunal was of the view that, if the finding against the cumulated countries had been rescinded, imports from the subject countries would have been priced as low as, or lower than, the lowest prices in the market, which were as much as 40 percent lower than the domestic industry's average prices. However, the Tribunal concluded that Mexico would export only limited volumes of goods to Canada over the following few years, using practices and channels of distribution similar to those used by U.S. exporters. Moreover, Mexican goods would have been imported at prices equal to, or above, Canadian market prices.

Other Plate Findings and OrdersPlate I

34. On May 6, 1993, in Inquiry No. NQ-92-007, the Tribunal found that dumped imports from Belgium, Brazil, the Czech Republic, Denmark, the Federal Republic of Germany, Romania, the United Kingdom and the former Yugoslav Republic of Macedonia were injuring the domestic industry. At the same time, the Tribunal found that dumped imports from the United States were not injuring the domestic industry. On May 5, 1998, in Review No. RR-97-006, the Tribunal concluded that there was no likelihood of resumed dumping from the named countries and, therefore, rescinded its finding.

Plate II

35. On May 17, 1994, in Inquiry No. NQ-93-004, the Tribunal found that dumped imports from Italy, the Republic of Korea (Korea), Spain and Ukraine were injuring the domestic industry. On May 17, 1999, in Review No. RR-98-004, the Tribunal issued an order continuing its finding. On May 17, 2004, in Expiry Review No. RR-2003-001, the Tribunal rescinded the order.

Plate IV

36. On June 27, 2000, in Inquiry No. NQ-99-004, the Tribunal found that dumped imports from Brazil, Finland, India, Indonesia, Thailand and Ukraine and subsidized imports from India, Indonesia and Thailand had caused material injury to the domestic industry. On June 27, 2005, in Expiry Review No. RR-2004-004, the Tribunal rescinded the finding.

Plate V

37. On January 9, 2004, in Inquiry No. NQ-2003-002, the Tribunal found that dumped imports from the Republic of Bulgaria, the Czech Republic and Romania had caused material injury to the domestic industry. The finding is scheduled to expire in 2009, unless it is continued.

ANALYSIS

38. On August 23, 2007, the CBSA determined that, pursuant to paragraph 76.03(7)(a) of *SIMA*, the expiry of the order was likely to result in the continuation or resumption of dumping of the subject goods. Consequently, the Tribunal is required, pursuant to subsection 76.03(10), to determine whether the expiry of the order is likely to result in injury or retardation, as the case may be, to the domestic industry.⁵

39. Therefore, the Tribunal is required, pursuant to subsection 76.03(12) of *SIMA*, to make an order either rescinding the order issued in 2003, if it determines that the expiry of that order is unlikely to result in injury, or continuing that order, with or without amendment, if it determines that its expiry is likely to result in injury.

40. Before proceeding with its analysis concerning the likelihood of injury, the Tribunal will first determine (1) what domestically produced goods are “like goods” in relation to the subject goods, (2) what constitutes the “domestic industry” for the purposes of its analysis and (3) whether the analysis must be done separately for each subject country or cumulatively for all countries.

Like Goods

41. Subsection 2(1) of *SIMA* defines “like goods” in relation to any other goods as follows: “... (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.” In considering the issue of like goods, the Tribunal typically looks at a number of factors, including the physical characteristics of the goods, their market characteristics and whether the domestic goods fulfill the same customer needs as the goods imported from the subject countries.

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

... carbon steel plate is produced to meet various specifications. The evidence in this inquiry 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 Deputy Minister. Therefore, the Tribunal is of the view that all domestically produced carbon steel plate . . . is “like goods” to the subject goods.⁶

...

43. The Tribunal notes that these conclusions were maintained in Expiry Review No. RR-2001-006 and that, in the current expiry review, it heard no evidence or argument that warrants departing from them. Accordingly, the Tribunal concludes that plate produced by the domestic producers, defined in the same manner as the subject goods, constitutes like goods to the subject goods.

5. Subsection 2(1) of *SIMA* defines “injury” as “... material injury to a domestic industry” and “retardation” as “... material retardation of the *establishment* of a domestic industry” [emphasis added]. Given that there is currently an established domestic industry, the issue of whether the expiry of the order is likely to result in retardation does not arise in this expiry review.

6. (27 October 1997), NQ-97-001 (CITT) at 9-10.

Domestic Industry

44. 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”

45. Therefore, since Algoma and IPSCO account for the vast majority of the total domestic production of like goods, they constitute the domestic industry for the purpose of this expiry review.⁷

Cumulation

46. 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 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 goods imported into Canada from any of the countries and the goods from any other of the countries or between those goods and the like goods. If the Tribunal is not satisfied that an assessment of the cumulative effect of the dumping of goods from more than one country would be appropriate, based on its assessment of the relevant conditions of competition, then it must assess the effects of dumping for each country separately.

47. The conditions of competition that the Tribunal has taken into account in the past include price, quality, mode of transportation, distribution channels and geographic markets. As the Tribunal has stated in other cases, there may be other factors that it can consider in deciding whether the exports of a particular country should be cumulated, and no single factor may necessarily be determinative.⁸

48. In the context of expiry reviews, the Tribunal has also stated that the effect of continued or resumed dumping must be looked at prospectively⁹ and that, therefore, its assessment of the conditions of competition must be prospective.

49. Algoma and IPSCO submitted that goods from the three subject countries should be cumulated, given that the goods are comparable in quality and terms of sale, are sold in similar channels of distribution through traders, arrive by common transportation mode, by sea, in large quantities, and are primarily sold to the market through traders and steel service centres.

50. At the hearing, Algoma added that, in its view, none of the determinative facts in the few instances where the Tribunal has not cumulated is present in this expiry review. In particular, Algoma argued that the circumstances in this expiry review are not similar to those in Expiry Review No. RR-2000-002, where the Tribunal decided that imports from one of the seven named countries, Venezuela, could not be cumulated because the evidence demonstrated that imports from that country were not likely to reappear in the Canadian market if the order were to be rescinded.¹⁰ Algoma argued that, in this expiry review, unlike the situation in Expiry Review No. RR-2000-002, the Tribunal had received no evidence contradicting the CBSA's decision that dumping from all the subject countries was likely to continue or resume if the order expired. According to Algoma, the Tribunal's decision in Expiry Review No. RR-2000-002 is therefore not an applicable precedent.

7. Service centres that cut plate from coil account for the remaining volume of the domestic production of like goods.

8. See, for example, *Laminate Flooring* (16 June 2005), NQ-2004-006 (CITT) at 12.

9. See *Carbon Steel Welded Pipe* (24 July 2001), RR-2000-002 (CITT) at 6-7.

10. *Ibid.*

51. Severstal submitted that the evidence on the record does not allow the Tribunal to be satisfied that an assessment of the cumulative effect of dumping from more than one country would be appropriate. According to Severstal, the evidence in respect of Russia, including the evidence of industry publications and the evidence of the Tribunal's witness, establishes that, in the near future, given the state of the Russian steel industry and projected demand in Russia, there will be limited exports of the subject goods from Russia, which will, in any event, go to the European market.

52. Baosteel did not specifically address the issue of cumulation, but it argued that the conditions of competition globally and in Canada have changed substantially since the last expiry review.

53. When the Tribunal makes an assessment of the prospective conditions of competition in expiry reviews, as noted in Expiry Review No. RR-2000-002, "... [i]t is obvious that any examination of conditions of competition presupposes that competition will actually exist, i.e. that goods from competing producers will be in the same market at the same time ..."¹¹

54. Consequently, in order to examine the conditions of competition and determine whether it is appropriate to cumulate goods from the three subject countries in this expiry review, the Tribunal must first be persuaded that goods from China, South Africa and Russia are likely to be present and compete in the Canadian market if the order is rescinded.

55. The Tribunal notes that, in Expiry Review No. RR-2001-006, it assessed the cumulative effect of dumping from China, South Africa and Russia and concluded that "... [subject] 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 source country to another ..." [footnote omitted].¹² However, the Tribunal's decision in that expiry review was notably predicated on the conclusion that goods from all three subject countries would be present and would compete in the Canadian market. In fact, when the Tribunal examined the likely volumes of dumped goods, it concluded that the volume of dumped goods from China, South Africa and Russia was likely to be significant if the finding were to be rescinded.

56. In contrast, in this expiry review, as will be elaborated upon below, the Tribunal is of the view that, while goods from China are likely to be present in the Canadian market, goods from South Africa and Russia are not likely to reappear in the Canadian market in the near term, if the order is rescinded. In making its assessment, the Tribunal has focused on circumstances that can reasonably be expected to exist in the near term, i.e. the next 18 to 24 months.¹³

57. The Tribunal does not accept the argument that, in view of the CBSA's determination, it is not possible for the Tribunal to conclude that the subject goods from South Africa and Russia are not likely to reappear in the Canadian market in the near term.

11. *Ibid.* at 7.

12. *Hot-rolled Carbon Steel Plate* (10 January 2003), RR-2001-006 (CITT) at 10.

13. 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. See *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.

58. In making its determination on whether it is appropriate to assess the cumulative effects of the dumping of goods from the subject countries, the Tribunal considers all the evidence on the record of its proceedings and is not confined to the facts and opinions upon which the CBSA's determination of the likelihood of resumed or continued dumping is based. The evidence on the record of the Tribunal's expiry review typically includes more recent information than that available to the CBSA. In this expiry review, the Tribunal's conclusion that goods from South Africa and Russia are not likely to reappear in the Canadian market in the near term is based on the totality of the evidence presented.

59. In summary, as will be explained below, given the current and expected conditions in the global, South African and Russian markets, the Tribunal is of the view that goods from these sources will likely not compete either between themselves or with like goods in the Canadian market in the near term. It would therefore not be appropriate to assess the cumulative effect of dumping of goods from China, Russia and South Africa. Accordingly, the Tribunal concludes that a separate analysis of the likelihood of injury for each subject country is required.

Likelihood of Injury

60. Subsection 37.2(2) of the *Special Import Measures Regulations*¹⁴ 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. The Tribunal has conducted a separate analysis of the likelihood of injury for each of the three subject countries, as indicated above. However, because its assessment of changes in international and Canadian market conditions is relevant to all three analyses, the Tribunal discusses these factors only once in the paragraphs that follow.

Changes in Market Conditions

61. The Tribunal first reviewed changes in international and domestic market conditions.

International Market Conditions

62. Since the expiry review in 2003, the world market for steel in general, and for plate in particular, has undergone fundamental changes. The most noteworthy developments include the emergence of China as a dominant global steel producer and consumer and significant increases in input costs due to shortfalls in the supply of raw materials, as well as increases in energy and freight costs. Also, the European Union has recently overtaken North America as the highest-priced market in the world. These changes are not likely to reverse themselves within the time horizon that is relevant to the Tribunal's deliberations in this expiry review.

63. China is now the world's largest steel producer, accounting for approximately 420 million metric tonnes, or approximately 35 percent of total global steel production in 2006.¹⁵

64. As for plate, China also accounted for about 35 percent of total world production in 2006, with an output of 39 million to 40 million metric tonnes.¹⁶

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

15. Tribunal Exhibit RR-2007-001-13.09 (protected), Administrative Record, Vol. 2.4A at 70.

16. Tribunal Exhibit RR-2007-001-28.23, Administrative Record, Vol. 1.01 at 337, 340; *Transcript of Public Hearing*, Vol. 2, 14 November 2007 at 171.

65. In recent years, China has seen a dramatic increase in plate capacity, which increased by more than 60 percent between 2004 and 2006, to a level of more than 46 million metric tonnes.¹⁷ In step with this extraordinary growth in capacity, China's production of plate increased by some 11 million metric tonnes during this same period.¹⁸ In comparison, the evidence indicates that China's consumption of plate increased at a slower pace between 2004 and 2006, reaching a level by the latter year that has been reported variously as 31 million and 36 million metric tonnes.¹⁹

66. The above trends in capacity, production and consumption have led to a very large exportable surplus of Chinese plate. Since 2002, China has gone from being a net importer to being a net exporter of plate. The Tribunal's witness testified that, in his view, China had net exports of 7.5 million metric tonnes of plate in 2006. Other evidence on the record indicates estimates of China's net exports as 3 million to 4 million metric tonnes in 2006.²⁰

67. The Tribunal notes that the Government of the People's Republic of China (GPRC) has taken a number of measures to curtail growth in the steel sector. The GPRC recently levied export taxes of 5 percent on plate²¹ and abolished the rebate on the 17 percent value-added tax (VAT).²² Further, in May 2007, the GPRC implemented an export licensing system on steel products.²³

68. Another significant development affecting the global market is the increase in input costs. The evidence on the record is that the supply of raw materials, such as iron ore and coking coal, has not kept pace with the increasing demand for such materials resulting from the rapid expansion of global steel production. This has led to significant increases in costs worldwide.²⁴ For example, global benchmark prices for iron ore increased by as much as 90 percent between 2004 and 2005, while those for coking coal increased by more than 100 percent over the same period.²⁵ The Tribunal heard that the massive increases in iron ore and coking coal costs that have occurred in recent years should cease at some point in the future when new supplies are brought on stream.²⁶ As to when new supplies might become available, the Tribunal's witness testified that the tight supply situation and, hence, pressure on costs might abate as early as 2009.²⁷ Other evidence on the record also predicts an easing of raw material costs by 2009.²⁸ However, the Tribunal notes that raw material costs are predicted to remain significantly higher than they were prior to the dramatic run-up in 2004.²⁹

17. *Transcript of Public Hearing*, Vol. 2, 14 November 2007 at 165; Tribunal Exhibit RR-2007-001-28.25, Administrative Record, Vol. 1.01 at 384.

18. Tribunal Exhibit RR-2007-001-28.23, Administrative Record, Vol. 1.01 at 340, 359; Tribunal Exhibit RR-2007-001-28.31, Administrative Record, Vol. 1.01 at 409-11.

19. Tribunal Exhibit RR-2007-001-28.23, Administrative Record, Vol. 1.01 at 342, 360; Tribunal Exhibit RR-2007-001-28.31, Administrative Record, Vol. 1.01 at 409-11; Exporter's Exhibit C-06 (protected) at 17, Administrative Record, Vol. 14.

20. *Transcript of Public Hearing*, Vol. 2, 14 November 2007 at 171; Tribunal Exhibit RR-2007-001-28.23, Administrative Record, Vol. 1.01 at 341.

21. *Transcript of Public Hearing*, Vol. 2, 14 November 2007 at 236.

22. Tribunal Exhibit RR-2007-001-13.05 (protected), Administrative Record, Vol. 2.4 at 202; *Transcript of Public Hearing*, Vol. 2, 14 November 2007 at 171.

23. Tribunal Exhibit RR-2007-001-12.16, Administrative Record, Vol. 1.4 at 129.

24. Tribunal Exhibit RR-2007-001-28.18, Administrative Record, Vol. 1.01 at 254; Tribunal Exhibit RR-2007-001-28.25, Administrative Record, Vol. 1.01 at 372.

25. Tribunal Exhibit RR-2007-001-13.05 (protected), Administrative Record, Vol. 2.4 at 372.

26. *Transcript of Public Hearing*, Vol. 2, 14 November 2007 at 204.

27. *Ibid.* at 203-205.

28. Tribunal Exhibit RR-2007-001-13.08 (protected), Administrative Record, Vol. 2.4 at 372.

29. *Ibid.*; *Transcript of Public Hearing*, Vol. 2, 14 November 2007 at 204.

69. The Tribunal also heard that the cost of scrap, although volatile on a month-to-month basis, has increased over the last two years.³⁰ Likewise, freight costs have risen substantially in recent years, and the Tribunal's witness referred to a doubling of freight rates in 2007.³¹ Finally, the Tribunal notes that natural gas and other energy costs have also experienced important increases in many countries since the last expiry review.³²

70. Average global prices for plate have changed significantly since the last expiry review. In 2004, average global prices escalated sharply, from approximately US\$375 per metric tonne in January 2004 to US\$700 per metric tonne in December 2004, an increase of 87 percent. For the next two years, prices were more stable, gradually trending upward to reach approximately US\$780 per metric tonne in December 2006. Average global prices continued to rise in 2007 and, by October 2007, had reached a level of nearly US\$850 per metric tonne.³³

71. In the Tribunal's view, the increasing demand for plate in China, India and the rest of the developing world for infrastructure, energy equipment, heavy engineering and the shipbuilding sector, particularly in Asia, has been the main driver of price in the global market. The tight supply of raw materials and resultant increases in costs, as well as increases in freight costs and other input costs, have also had a significant impact on average global prices for plate in recent years.

72. Finally, the Tribunal notes that, in terms of domestic market pricing, the European Union is currently the highest-priced market in the world, with prices approaching US\$1,000 per metric tonne in October 2007. In comparison, the North American price was US\$845 per metric tonne during the same period. Asia is one of the lowest-priced markets, with an October 2007 domestic market price of approximately US\$650 per metric tonne. Within Asia, China had the lowest domestic price, at approximately US\$500 per metric tonne in October 2007.³⁴

Domestic Market Conditions

73. One of the most significant changes in domestic market conditions since the last expiry review is that the Canadian dollar has appreciated relative to the U.S. dollar to levels not seen for 30 years.³⁵ The strengthening Canadian dollar has made imports of U.S. plate into Canada relatively less expensive, while rendering Canadian exports of the like goods less competitive in the U.S. market. The Canadian dollar has also appreciated against the currencies of the subject countries.³⁶

30. *Transcript of Public Hearing*, Vol. 1, 13 November 2007 at 34; *Transcript of Public Hearing*, Vol. 2, 14 November 2007 at 209.

31. *Transcript of Public Hearing*, Vol. 2, 14 November 2007 at 158.

32. *Transcript of Public Hearing*, Vol. 1, 13 November 2007 at 95; *Transcript of Public Hearing*, Vol. 2, 14 November 2007 at 210-13; Tribunal Exhibit RR-2007-001-12.18, Administrative Record, Vol. 1.4A at 68; Tribunal Exhibit RR-2007-001-15.01, Administrative Record, Vol. 3 at 69, 117.

33. *Protected Pre-hearing Staff Report*, Tribunal Exhibit RR-2007-001-06 (protected), Administrative Record, Vol. 2.1 at 119; Tribunal Exhibit RR-2007-001-28.29, Administrative Record, Vol. 1.01 at 403. These prices are from MEPS International Steel Review. Global prices are an average of three regions, the European Union, Asia and North America, and are converted into U.S. dollars. The transaction prices relate to those paid by consumers and stockholders for prime material. Delivery charges and local taxes are not included.

34. Tribunal Exhibit RR-2007-001-28.29, Administrative Record, Vol. 1.01 at 394, 403.

35. *Pre-hearing Staff Report*, Tribunal Exhibit RR-2007-001-05, Administrative Record, Vol. 1.1 at 64; *Pre-hearing Staff Report* from Expiry Review No. RR-2001-006, Tribunal Exhibit RR-2007-001-10, Administrative Record, Vol. 1.3 at 132.

36. *Pre-hearing Staff Report*, Tribunal Exhibit RR-2007-001-05, Administrative Record, Vol. 1.1 at 61-63.

74. Further, there have been important changes in the supply composition of the domestic market. Most notably, the United States, whose exports grew by approximately 20 percent between 2004 and 2006, is now the single largest supplier of plate to the Canadian market, surpassing the sales of the like goods. During the period of review, the market share held by imports from other non-subject countries was extremely volatile, with substantial swings in the volumes for individual countries, particularly certain named countries in Plate II and Plate IV.³⁷

75. Another important change is the dramatic increase in input costs for domestic producers, which mirrored the increases in the global market discussed above.³⁸ The Tribunal notes that the appreciating Canadian dollar may have helped to mitigate the cost increases for domestic producers to the extent that their inputs were denominated in U.S. dollars.

76. Finally, as noted above, the corporate structure of the domestic industry changed, as both Algoma and IPSCO were purchased by international steel conglomerates. In addition, Stelco did not restart its like goods operations after idling them in 2003.

Likelihood of Injury from China

77. The Tribunal will now consider the likelihood of injury to the domestic industry from the resumed or continued dumping of the subject goods from China. The factors that the Tribunal considers relevant to this analysis are discussed below under the following headings: likely volumes of dumped goods, likely prices of dumped goods, and likely impact of dumped goods and likely performance of the domestic industry.

Likely Volumes of Dumped Goods From China

78. The Tribunal's assessment of the likely volumes of dumped goods³⁹ from China takes into account its assessment of the performance of the foreign industry⁴⁰ and evidence of the imposition of anti-dumping measures on Chinese plate in other jurisdictions.⁴¹

79. The domestic producers cited continuing overcapacity in China, the country's status as a net exporter of the subject goods and the fact that Chinese plate is subject to anti-dumping duties in the United States as factors indicating that there will be an increase in imports of the subject goods from China if the order is rescinded. They noted that imports from China fell after the CBSA issued revised normal values for Chinese subject goods in 2006 and contended that, if the order is rescinded, imports from China will increase, as exporters will not be restrained by normal value requirements.

80. Baosteel argued that, if the order is rescinded, Chinese producers will have no incentive to export to Canada because of strong home market demand for subject goods, favourable pricing conditions in Europe and lower freight costs to neighbouring countries in Asia. Further, Baosteel submitted that efforts taken by the GPRC to close inefficient steel mills and reduce steel exports will discourage the export of the subject goods to Canada.

37. *Protected Pre-hearing Staff Report*, revised 14 November 2007, Tribunal Exhibit RR-2007-001-06B (protected), Administrative Record, Vol. 2.1 at 138, 140.

38. *Transcript of Public Hearing*, Vol. 1, 13 November 2007 at 35.

39. Paragraph 37.2(2)(a) of the *Regulations*.

40. Paragraph 37.2(2)(d) of the *Regulations*.

41. Paragraph 37.2(2)(h) of the *Regulations*.

81. None of the parties disputed that China will continue to be the world's largest producer of plate, with the largest production capacity.

82. The Tribunal's witness testified that 8 million metric tonnes of plate capacity will be added in China in 2007, with another 11 million metric tonnes in 2008 and a further 4 million metric tonnes in 2009, for a total increase of 50 percent to the current capacity of 46 million metric tonnes in only three years.⁴² Other evidence on the record also projects a significant increase in Chinese capacity in the near term.⁴³ In this context, the Tribunal notes the GPRC's recent steel policy advocating an increase in the proportion of flat steel products of up to 50 percent of China's total steel production by 2010.⁴⁴

83. Given the substantial increases forecast for plate capacity, it is not surprising that Chinese plate production is also forecast to increase significantly in the near term.⁴⁵

84. As for Chinese consumption of plate, the Tribunal's witness testified that it will increase by 12 to 14 percent per year over the next two to three years. In particular, he noted increases in demand for plate for shipbuilding and the manufacture of industrial machinery. The Tribunal also heard that demand in the oil and gas sector will be strong, even though this will be largely for the production of tubular goods and will not involve plate included in the product definition for the subject goods, except to the extent that it generates additional demand for such plate for storage facilities.⁴⁶ Other evidence on the record corroborates the view that there will be substantial annual increases in Chinese consumption of plate in the near term.⁴⁷ None of the projections for growth in consumption suggest that plate consumption will overtake plate production or significantly reduce the size of China's exportable surplus.

85. In view of the above, the Tribunal agrees with the domestic producers that the sizeable gap between plate supply and demand in China will persist in the near term and that large volumes of the subject goods will continue to be available for export. Although the evidence on the record is not entirely consistent as to the tonnage that will be available, the Tribunal notes that even the most conservative projections are for volumes that are several times larger than the entire Canadian market.⁴⁸

86. The Tribunal's witness suggested that the recent series of measures implemented by the GPRC, i.e. the abolition of the rebate on the 17 percent VAT and the imposition of a 5 percent export tax, might dampen exports of Chinese plate. In this regard, he noted that the volume of exports fell slightly in the second half of 2007.⁴⁹

87. However, given the magnitude of the forecast oversupply situation in China, the Tribunal is not convinced that these measures will lead to a substantial reduction in the volume of exports of the subject goods from China. Likewise, the Tribunal notes that the newly implemented steel export licensing system focuses on monitoring steel export prices, destination and product mix and is of the view that it will not

42. *Transcript of Public Hearing*, Vol. 2, 14 November 2007 at 165-66.

43. Tribunal Exhibit RR-2007-001-28.25, Administrative Record, Vol. 1.01 at 384.

44. Tribunal Exhibit RR-2007-001-13.09 (protected), Administrative Record, Vol. 2.4A at 15.

45. Tribunal Exhibit RR-2007-001-28.23, Administrative Record, Vol. 1.01 at 340; *Transcript of Public Hearing*, Vol. 2, 14 November 2007 at 166.

46. *Transcript of Public Hearing*, Vol. 2, 14 November 2007 at 161-62.

47. Tribunal Exhibit RR-2007-001-28.23, Administrative Record, Vol. 1.01 at 342.

48. *Transcript of Public Hearing*, Vol. 2, 14 November 2007 at 171, 178, 251; Tribunal Exhibit RR-2007-001-28.23, Administrative Record, Vol. 1.01 at 341.

49. *Transcript of Public Hearing*, Vol. 2, 14 November 2007 at 172.

significantly reduce the volume of exports.⁵⁰ As for the GPRC's other initiatives, for example, steel industry consolidation, the Tribunal is not persuaded that they will meaningfully limit the volume of the subject goods available for export from China in the next 18 to 24 months. In this regard, the Tribunal's witness questioned whether the GPRC would be able to enforce its consolidation initiatives with provincial governments.⁵¹

88. The issue for the Tribunal to consider is whether Canada will be an attractive export destination for the substantial volumes of Chinese subject goods that will be available in the near term.

89. In this regard, the Tribunal notes that Chinese exporters demonstrated an interest in the Canadian market throughout the period of review, exporting more than 36,000 metric tonnes of the subject goods in 2005.⁵² Virtually all imports of Chinese subject goods during the period of review were at normal values. Only five Chinese exporters have normal values and, in February 2006, the CBSA revised these normal values upward. Despite this adjustment, some of these Chinese exporters continued to maintain a presence in the Canadian market. This indicates to the Tribunal that Chinese exporters have well-established marketing and distribution channels and that they are highly competitive in the Canadian market. The Tribunal notes that the fact that only five Chinese exporters have been assigned specific normal values by the CBSA means that imports of subject goods manufactured by all other Chinese producers are currently subject to an 80.2 percent anti-dumping duty on the export price. This is a strong disincentive to export subject goods to the Canadian marketplace. The Tribunal is of the view that, if the order is rescinded, those other Chinese producers that have decided not to export to Canada as a result of the 80.2 percent anti-dumping duty will also export the subject goods to Canada, resulting in significantly increased volumes of imports.

90. Testimony and documentary evidence on the record indicate that there should continue to be a substantial gap between Asian prices and North American and European prices in 2008 and 2009.⁵³ There is no evidence on the record to suggest that Asia will overtake North America or Europe and establish itself among the highest-priced markets for plate in the near term. As a result, the Tribunal is convinced that Canada will be an attractive destination for the subject goods from China if the order is rescinded.

91. Baosteel argued that other markets, particularly those in Asia and Europe, will be more attractive than Canada and that, hence, exports of the subject goods from China will not pose a threat to the Canadian market. The Tribunal acknowledges that these two regions have traditionally accounted for the majority of China's plate exports. However, the Tribunal is not convinced that these traditional markets will be capable of absorbing the growing exportable surplus of the subject goods. For example, Korea, which is a prime market for exports of Chinese shipbuilding plate, is building capacity for this type of plate that will displace Chinese plate.⁵⁴ Given the size of the Canadian market, only a fraction of China's exportable surplus would need to come to Canada in order for the volumes to be significant in relative terms.

50. Tribunal Exhibit RR-2007-001-12.14 (protected), Administrative Record, Vol. 1.4 at 143.

51. *Transcript of Public Hearing*, Vol. 2, 14 November 2007 at 176-77.

52. *Pre-hearing Staff Report*, Tribunal Exhibit RR-2007-001-05, Administrative Record, Vol. 1.1 at 21; *Protected Pre-hearing Staff Report*, Tribunal Exhibit RR-2007-001-06 (protected), Administrative Record, Vol. 2.1 at 21.

53. *Transcript of Public Hearing*, Vol. 2, 14 November 2007 at 268; Tribunal Exhibit RR-2007-001-28.08, Administrative Record, Vol. 1.01 at 86; Manufacturer's Exhibit A-01 (protected) at 184, Administrative Record, Vol. 12.

54. *Transcript of Public Hearing*, Vol. 2, 14 November 2007 at 171; Tribunal Exhibit RR-2007-001-12.17 Administrative Record, Vol. 1.4A at 12.

92. The Tribunal acknowledges that plate from China is subject to anti-dumping measures in both the United States and Australia. However, the Tribunal notes that the U.S. measures were last reviewed beginning in 2002 and that the Australian measures were put in place in 2004. In the Tribunal's view, current circumstances in China and the global market are different from when these measures were put in place or last reviewed. Accordingly, the Tribunal does not give much weight to these measures as a factor in its assessment of whether there would be significant exports of the subject goods from China to Canada in the absence of the order.

93. In summary, the Tribunal is of the view that, if the order is rescinded, there will likely be an increase in the volume of imports of the subject goods from China that will be very significant in relation to the size of the Canadian market.

Likely Prices of Dumped Goods From China

94. The domestic producers argued that, if the order is rescinded, imports of the subject goods from China will need to undercut the price of the current lowest-priced imports in the Canadian marketplace to gain market share.

95. Baosteel argued that any Chinese exports that might come to Canada would be at higher prices than in the past due to the increased export charges applied by the GPRC, increased freight rates to Canada and increased input costs for Chinese producers. Baosteel argued that Chinese producers would not target the low end of the Canadian market, as it would be unprofitable to do so.

96. In the last expiry review, the Tribunal concluded that "... carbon steel plate is a commodity product and, as with most commodities, it is price sensitive. ..." ⁵⁵ The Tribunal continues to be of this view and considers that the subject goods from China would compete in the Canadian market with like goods and other imported plate largely on the basis of price.

97. The Tribunal notes that the average unit selling price of the like goods was essentially the same in 2006 as it had been in 2004, but decreased by 3 percent between the first half of 2006 and the first half of 2007. ⁵⁶ The Tribunal heard that domestic selling prices continued to fall in the latter part of 2007. ⁵⁷

98. The Tribunal heard from its witness that Chinese producers would be able to sell plate profitably into the Canadian market at very low prices, potentially even as low as US\$700 to US\$770 per metric tonne. ⁵⁸ Based on evidence on the record concerning the price of the like goods, ⁵⁹ the Tribunal is of the view that imports of the subject goods from China at these prices would substantially undercut the prices of the domestic producers.

55. *Hot-rolled Carbon Steel Plate* (10 January 2003), RR-2001-006 (CITT) at 14.

56. *Pre-hearing Staff Report*, revised 14 November 2007, Tribunal Exhibit RR-2007-001-05B, Administrative Record, Vol. 1.1 at 129.

57. Manufacturer's Exhibit A-03 (protected) at 50-53, Administrative Record, Vol. 12; Manufacturer's Exhibit B-05 at 3, Administrative Record, Vol. 11.

58. *Transcript of Public Hearing*, Vol. 2, 14 November 2007 at 256-57.

59. Tribunal Exhibit RR-2007-001-28.29, Administrative Record, Vol. 1.01 at 394; Manufacturer's Aid to Argument (protected) at 27, Administrative Record, Vol. 18; Manufacturer's Exhibit B-05 at 5, Administrative Record, Vol. 11.

99. The Tribunal notes that, given current market conditions, it is possible that selling prices for Chinese subject goods into Canada in the absence of the order might be higher than this “trough” level, taking into account average Chinese export prices, transportation costs, broker margins and currency exchange.⁶⁰ However, the Tribunal’s witness testified that he expected the price of Chinese exports to decline in 2008 and that some producers would be exporting at “marginal cost”.⁶¹

100. Further, the domestic producers offered evidence that imports from other offshore sources are currently undercutting domestic prices by up to 10 percent.⁶² Given the commodity nature of plate, the Tribunal is of the opinion that any imports from China would have to be priced to compete with these latter imports, likely forcing Chinese subject goods to be priced at or near its “trough” level and, consequently, undercutting domestic prices. The Tribunal is of the view that the degree of undercutting will depend on market conditions at any given time.

101. Accordingly, after reviewing the evidence on the record, the Tribunal is of the view that, if the order is rescinded, imports of the subject goods from China will enter Canada at prices that will undercut the price of the like goods.

Likely Impact of Dumped Goods From China on the Domestic Industry and Likely Performance of the Domestic Industry

102. The Tribunal will now consider the likely impact of dumped goods from China on the domestic industry if the order is rescinded,⁶³ taking into consideration the domestic industry’s likely performance.⁶⁴

103. The domestic producers submitted that a “perfect storm” of circumstances made them especially vulnerable at this time to injury from resumed dumping. They argued that the outlook for demand in Canada for the type of plate included in the product definition is not positive and that, if the order is rescinded, low-priced imports of the subject goods from China will force them to lower their prices, threatening their profitability, which is already under pressure from rising input costs and falling revenues because of competition from other low-priced imports.

104. Parties opposed argued that the domestic producers are still performing reasonably well and cited several measures of their positive performance, including full capacity utilization and growing employment. Further, Baosteel argued that, if the order is rescinded, Chinese producers will have no incentive to export to Canada and that the domestic producers will not be injured by imports from China.

105. Overall, the Tribunal is of the view that circumstances in the domestic market had worsened by the end of the period of review, especially in comparison to the robust market conditions of 2005.

106. In this regard, the Tribunal notes that several important performance indicators, including production and average unit selling values, as well as gross margins and net profits, were lower in the first half of 2007 than in the first half of 2006. The Tribunal notes in particular the deteriorating financial health

60. *Transcript of Public Hearing*, Vol. 2, 14 November 2007 at 231.

61. *Ibid.* at 235.

62. *Transcript of Public Hearing*, Vol. 1, 13 November 2007 at 14; Manufacturer’s Exhibit A-03 (protected) at 29-49, Administrative Record, Vol. 12.

63. Paragraph 37.2(2)(e) of the *Regulations*.

64. Paragraph 37.2(2)(c) of the *Regulations*.

of the domestic producers during the period of review, as they had to contend with increasing input costs at the same time as their prices were declining. The Tribunal is of the view that the modest improvements seen in certain performance indicators, for example, employment, do not offset the generally worsening condition of the domestic producers.⁶⁵

107. As for the issue of whether the domestic producers are running at full capacity, the Tribunal heard that they are approaching capacity in terms of the quantity of raw steel that they can produce.⁶⁶ The domestic producers testified that they have excess rolling and cutting capacity that could permit them to manufacture more like goods if slabs or coils were procured from outside sources.⁶⁷ As well, the Tribunal heard that the domestic producers are able to sell all the steel that they produce.⁶⁸ The Tribunal is of the view that the domestic producers are operating at near full capacity. However, if market conditions were more favourable, they could buy semi-finished steel as a means to increase like goods production.

108. One of the questions that the Tribunal must consider is whether the resumption or continuation of dumping will have an injurious impact on the financial performance of the domestic industry. The Tribunal is of the view that the likely volumes and prices of dumped imports from China will have a negative impact on the financial performance of the domestic industry over the near term, if the order is rescinded.

109. In the Tribunal's view, the outlook for demand in the Canadian market over the next 18 to 24 months can at best be characterized as flat and, more likely, as softening. Several important end users, for example, railcar producers, are facing significant competitive pressures and are either scaling back or ceasing operation. The Tribunal's witness testified that he expects to see an annual growth in plate demand in North America of 3 to 5 percent over the next couple of years, compared to the double-digit growth of the recent past.⁶⁹ He clarified his view with respect to Canada by noting that there was additional weakness in the manufacturing sector.⁷⁰

110. In the United States, the economic fallout from the difficulties in the subprime mortgage sector is likely to reduce gross domestic product (GDP) growth and will bring about a softening of demand for steel in the North American market.⁷¹ The Tribunal's witness testified that trends in non-residential construction generally follow residential construction with a 12- to 18-month lag; therefore, a downturn in non-residential construction in the United States is expected.⁷² Canada, given its high dependence on exports to the United States, will also be affected. The uncertainty in the domestic oil and gas industry following the Alberta government's reform of its royalty regime and the existing softness of natural gas prices will also contribute to a softening in the demand for steel generally and for the type of plate included in the product definition in particular.

65. *Pre-hearing Staff Report*, revised 14 November 2007, Tribunal Exhibit RR-2007-001-05B, Administrative Record, Vol. 1.1 at 129; *Protected Pre-hearing Staff Report*, revised 14 November 2007, Tribunal Exhibit RR-2007-001-06B (protected), Administrative Record, Vol. 2.1 at 128.

66. *Transcript of Public Hearing*, Vol. 1, 13 November 2007 at 101-102, 128-30, 139.

67. *Ibid.* at 101-102, 128-30, 139, 149-50.

68. *Ibid.* at 101-102.

69. *Transcript of Public Hearing*, Vol. 2, 14 November 2007 at 161.

70. *Ibid.* at 247-48.

71. Tribunal Exhibit RR-2007-001-28.17, Administrative Record, Vol. 1.01 at 243; Tribunal Exhibit RR-2007-001-28.18, Administrative Record, Vol. 1.01 at 247.

72. *Transcript of Public Hearing*, Vol. 2, 14 November 2007 at 159.

111. The Tribunal considers that there will always be a demand for the like goods because purchasers can be assured of its quality, as well as the security of supply and timeliness of delivery. Purchasers of offshore plate are willing to take a risk on quality, long lead times and fluctuations in price and exchange rates only if they receive a sufficient discount in relation to the price of the like goods to compensate for the risks. The Tribunal heard conflicting evidence about the value of the discount required⁷³ and is of the view that it depends on the circumstances of the transaction between the exporter and the importer and whether the plate has already landed in Canada.

112. The Tribunal is of the view that purchasers treat U.S. plate essentially on par with the like goods because, using similar modes of transportation, e.g. railcar or truck, it can be ordered in small quantities, with short lead times, and can be inspected for quality. Accordingly, purchasers do not need a discount to compensate for the risks of offshore importing when they purchase U.S. plate. The domestic producers submitted that they do not view U.S. plate as being injurious and that it competes fairly in the marketplace.⁷⁴

113. While the Tribunal is satisfied that there will continue to be a demand for the like goods, the price at which that plate can be sold is obviously affected by the price of imported plate in the market, including the price of the subject goods from China if the order is rescinded.

114. As discussed above, the Tribunal is of the view that Canada will be an attractive export destination for the subject goods from China if the order is rescinded. The Tribunal is convinced that imports of plate from China will vigorously compete with imports from other offshore countries on the basis of price, which currently undercuts the prices of the domestic producers by up to 10 percent.⁷⁵

115. Chinese producers are able to obtain a higher price on export sales of plate than on domestic sales of plate.⁷⁶ Assuming that Chinese producers are making a profit on their domestic sales, the Tribunal is of the view that they would be able to export the subject goods profitably to Canada at low prices that would undercut domestic producers' prices. To compete with low-priced imports from China, the domestic producers would have to lower their prices.

116. As a result, the Tribunal finds that, if the order is rescinded, the domestic producers will suffer injury in the form of price erosion. Alternatively, if domestic producers did not lower their prices, they would likely lose sales and would suffer injury in the form of reduced sales revenue and market share. In either case, there would be a negative effect on the domestic producers' financial results, as margins would be squeezed. Given that the profit margins of domestic producers are already very thin, this additional pressure will lead to losses.

117. The evidence also shows that input costs increased significantly during the period of review, with further increases forecast for next year. A witness for IPSCO testified that scrap prices have generally increased by 30 percent a year over the past few years. With respect to iron ore, the Tribunal heard that costs increased by 70 percent in 2005 and by 10 to 15 percent in 2006 and 2007, and are forecast to increase by 25 to 35 percent in 2008.⁷⁷ Price undercutting from dumped imports from China could inhibit the domestic producers from raising their prices to recover increases in input costs and cause additional injury in the form of price suppression.

73. *Transcript of Public Hearing*, Vol. 1, 13 November 2007 at 112-13; *Transcript of Public Hearing*, Vol. 2, 14 November 2007 at 222-23.

74. *Transcript of Public Hearing*, Vol. 1, 13 November 2007 at 72, 99-100.

75. *Ibid.* at 11, 13, 144; Manufacturer's Exhibit A-03 (protected) at 29-49, Administrative Record, Vol. 12.

76. Tribunal Exhibit RR-2007-001-13.09 (protected), Administrative Record, Vol. 2.4A at 15, 21.

77. *Transcript of Public Hearing*, Vol. 1, 13 November 2007 at 34-35.

118. Once domestic producers are faced with negative gross margins, they will likely cut production and utilization to prevent further losses.

119. The witness for Algoma submitted that domestic producers have continued to make capital investments in their production facilities to reduce production costs and improve their international competitiveness. He submitted that these investments clearly have improved the industry's competitiveness in the long term. However, in the short to medium term, the domestic industry must obtain positive returns on a sustained basis to justify any significant capital investment.⁷⁸ The Tribunal is of the view that price erosion and price suppression and the resulting negative impact on the financial results of the domestic producers will make it difficult for the domestic producers to obtain a positive return on their investments and will discourage further investments in the future.

120. In summary, the Tribunal is of the view that the likely impact of the dumped goods from China on the domestic industry will be negative if the order is rescinded.

Conclusion

121. In view of the above, the Tribunal finds that it is likely that the resumed or continued dumping of the subject goods from China will result in injury to the domestic industry.

Likelihood of Injury From Russia

122. The Tribunal will now consider the likelihood of injury from resumed or continued dumping of the subject goods from Russia.

123. The domestic producers argued that Russia has significant and growing excess capacity for the subject goods and that, as a result, it must rely on exports. If the order is rescinded, domestic producers submitted some of this excess supply will be exported to Canada, where it will need to compete with the low-priced imports from other offshore countries. According to the domestic producers, Russian producers remain willing and ready to ship to North America through established relationships with major importers. Finally, the domestic producers contended that the decline in imports of the subject goods from Russia since the finding is evidence that Russian producers cannot compete in the Canadian marketplace without dumping.

124. Severstal submitted that, for the foreseeable future, the Russian steel industry will be focused on meeting home market demand, particularly in the oil and gas sector. It added that strong growth in the Russian economy has led to high capacity utilization, high domestic prices and increasing displacement of export sales by domestic sales. Severstal argued that, for exports to come to Canada, there must be capacity and the desire to export and that the Russian producers have neither. It submitted that the volume of exports of the subject goods from Russia to Canada is likely to be insignificant for the foreseeable future and that any limited exports would be directed to Europe, where prices are higher.

78. Manufacturer's Exhibit A-04 at 18, Administrative Record, Vol. 11.

125. The evidence on the record shows that the Russian economy is currently experiencing strong growth, fuelled in part by the escalation of oil and gas prices.⁷⁹ This growth will foster demand for raw materials and commodities such as steel.

126. The Tribunal's witness testified that demand for plate in Russia doubled last year and will remain strong going forward, with growth of 15 to 20 percent per year over the next two years.⁸⁰

127. Evidence on the record indicates that the main driver of increased demand for Russian plate will be the production of tubular goods. There are several large-scale projects under development for the transmission of oil and gas, both in Europe and in East Asia.⁸¹ While the plate used to produce tubular goods is not subject goods, this oil and gas activity will produce associated demand for oil and gas storage facilities and railcars, which are produced from such plate. In addition, the Tribunal's witness testified that the wealth generated by increased prices for oil and gas will allow the Russian government to invest more heavily in infrastructure, which will consume more of the subject goods.⁸²

128. The Tribunal heard that Russia had a discrete plate capacity of 3.7 million metric tonnes in 2006 and plans to add 500,000 metric tonnes in 2007, 1.6 million metric tonnes in 2008 and 3.2 million metric tonnes in 2009.⁸³ The Tribunal also heard that plate for the production of tubular goods currently accounts for 60 to 70 percent of Russian discrete plate production and that the vast majority of the planned additional capacity is for the production of plate for tubular goods.⁸⁴ Severstal submitted that its production capacity for the subject goods will decrease because of capacity additions to respond to the demand for plate for tubular goods.⁸⁵ The Tribunal is of the view that added capacity in Russia in the next 18 to 24 months will be largely dedicated to the production of plate for tubular goods and not to the production of the subject goods.

129. Imports into Russia of wide plate for tubular goods resulted in the country being a small net importer of plate in 2006, according to the Tribunal's witness. In his opinion, Russia will remain a small net importer until 2009.⁸⁶ The Tribunal notes that there is contradictory evidence on the record that indicates that Russia was a small net exporter of plate in 2006.⁸⁷ In any event, the Tribunal is more concerned with what is likely to happen in the future than resolving this discrepancy.

130. The Tribunal's witness testified that, although the Russian plate market is in overall balance, given the logistics of this large country, there will likely be 200,000 to 400,000 metric tonnes of "commercial grade" plate (likely subject goods to a large extent) available for export during each of the next two years.⁸⁸ However, he also testified that Russian producers have cut their allocations to traders for some export destinations, deciding instead to sell in the domestic market, where the price is typically higher, or to foreign customers with which they have a strong relationship that they wish to maintain.⁸⁹

79. Exporter's Exhibit D-01 at 5, 6, 7, Administrative Record, Vol. 13; Exporter's Exhibit D-03 at 6, Administrative Record, Vol. 13; Tribunal Exhibit RR-2007-001-21.03, Administrative Record, Vol. 5.1A at 19-22; Tribunal Exhibit RR-2007-001-21.23, Administrative Record, Vol. 5.1A at 349.

80. *Transcript of Public Hearing*, Vol. 2, 14 November 2007 at 162-63.

81. *Ibid.* at 162.

82. *Ibid.* at 162-63.

83. *Ibid.* at 166.

84. *Ibid.* at 217, 227-28.

85. Exporter's Exhibit D-01 at 5, Administrative Record, Vol. 13.

86. *Transcript of Public Hearing*, Vol. 2, 14 November 2007 at 168.

87. Tribunal Exhibit RR-2007-001-28.21, Administrative Record, Vol. 1.01 at 298-315; Tribunal Exhibit RR-2007-001-28.26, Administrative Record, Vol. 1.01 at 392.

88. *Transcript of Public Hearing*, Vol. 2, 14 November 2007 at 219.

89. *Ibid.* at 197.

131. Other evidence on the record corroborates the testimony that growing domestic demand, even when coupled with high capacity utilization, is resulting in lower quantities of Russian plate being available for export.⁹⁰ In April and May 2007, it was reported that the "... Russian market for plate is particularly tight ..." with "... [v]ery little plate ... available for export ..." and that "... strong global demand ... [had resulted in] price gains in the region of \$30/tonne over the last month or so ..." Export offers were reported to be sparse.⁹¹ Earlier, in September 2006, Russian exports of plate were described as having "... dwindled to almost nothing ..." because mills were cutting exports due to higher domestic prices, which were 40 percent above export prices.⁹²

132. Exports of Russian plate are currently subject to a quota in the European Union, which is set at 275,000 metric tonnes for 2008.⁹³ The Tribunal expects that Russian plate producers will continue to export the full amount permitted under the quota, given the current high prices in the European Union, leaving less than 125,000 metric tonnes available for export to the rest of the world.

133. Evidence on the record indicates that, in the first half of 2007, Russia exported larger volumes to nearby markets such as Ukraine, Kazakhstan and Turkey, with relatively fewer exports going to more distant markets.⁹⁴ The Tribunal also considers that current high freight rates to Canada will continue to make countries such as Ukraine, Kazakhstan and Turkey, where Russia concentrated its exports during the period of review, more attractive export destinations than Canada. Additionally, as mentioned above, limited volumes of the subject goods available for export are likely to be allocated to countries where Russian producers have an interest in maintaining relationships with importers, such as those countries mentioned above, and not to Canada.

134. The Tribunal notes that there are anti-dumping restrictions on Russian plate in Mexico and the United States. The U.S. measures were last reviewed beginning in 2002, while the Mexican measure was put in place in 2005.⁹⁵ Given the significant changes in the global and Russian markets that have occurred over the last two years, analogous to its reasoning with regard to China, the Tribunal does not give much weight to these measures in its assessment of whether there would be significant exports of the subject goods from Russia to Canada in the absence of the order.

135. The Tribunal's witness testified that Russia could "... target the North American market ..." if the order is rescinded. However, he qualified his view with the caveat that "... [i]t would depend on whether they get better prices elsewhere ...".⁹⁶

136. The Tribunal does not dispute the view that Russian exporters would have the opportunity to sell into the Canadian market absent the order. However, based on the evidence on the record, it is the Tribunal's view that circumstances in the near term will be such that Russian exporters will not do so. The Tribunal heard testimony that, to sell plate into Canada, Russian producers would have to price their plate lower than the current Canadian prices to secure sales. Given the fact that European prices are currently higher than Canadian prices, coupled with lower freight costs to Europe, the Russian producers would have to accept lower profit margins. The Tribunal is of the view that Russian producers will take advantage of

90. Exporter's Exhibit D-03 at 2-3, 6, Administrative Record, Vol. 13.

91. Tribunal Exhibit RR-2007-001-13.08 (protected), Administrative Record, Vol. 2.4 at 451, 460.

92. Tribunal Exhibit RR-2007-001-12.15, Administrative Record, Vol. 1.4 at 233.

93. Tribunal Exhibit RR-2007-001-21.03, Administrative Record, Vol. 5.1A at 19.

94. Tribunal Exhibit RR-2007-001-28.21, Administrative Record, Vol. 1.01 at 298-315.

95. *Pre-hearing Staff Report*, revised 14 November 2007, Tribunal Exhibit RR-2007-001-05A, Administrative Record, Vol. 1.1 at 126.

96. *Transcript of Public Hearing*, Vol. 2, 14 November 2007 at 221.

more attractive pricing opportunities outside the Canadian market in the near term. In this regard, the Tribunal notes that the domestic producers made no claims of recent offers from Russian producers and that their submissions related to offers made in the fall of 2006, with delivery planned for early 2007. There is no evidence on the record to persuade the Tribunal that this current situation is likely to change in the near term. Further, the Tribunal is of the view that there are no imminent changes forecast in the Russian, Canadian or other markets that would entice Russian producers to export to Canada.

137. In summary, the Tribunal is of the view that, if the order is rescinded, imports of the subject goods from Russia are not likely to reappear in the Canadian market in the near term. Accordingly, the Tribunal finds that it is not likely that the resumed or continued dumping of goods from Russia will result in injury to the domestic industry.

Likelihood of Injury From South Africa

138. The Tribunal will now address the likelihood of injury from the resumed or continued dumping of the subject goods from South Africa.

139. The domestic producers alleged that South African mills have significant production capacity and are dependent on exports to maintain capacity utilization. They submitted that, if the order is rescinded, South Africa will resume exporting the subject goods to Canada at pricing that will have to compete with the lowest-priced imports in the market, which will have injurious effects.

140. Mittal Steel South Africa Ltd. (Mittal Steel) and Highveld Steel and Vanadium Corp. (Highveld Steel) are the only two South African producers of the subject goods. Mittal Steel is the dominant domestic steel producer and produces 7.3 million metric tonnes of steel per year, making it the largest producer on the African continent.⁹⁷ Highveld Steel is a smaller player, producing roughly 860,000 metric tonnes of steel per year.⁹⁸ Together, their production of plate was approximately 530,000 metric tonnes in 2006.⁹⁹ Evidence on the record shows that South Africa's plate capacity, which is roughly comparable to that of Canada, is only one quarter that of Russia and only 2 to 3 percent that of China.¹⁰⁰

141. According to the Iron and Steel Statistics Bureau (ISSB), South Africa's plate exports were stable at approximately 230,000 metric tonnes for the period from 2004 to 2006.¹⁰¹ This corroborates testimony by the Tribunal's witness that South Africa consumes half of the plate that it produces, which leaves approximately 250,000 metric tonnes available for export.¹⁰²

142. Data from the ISSB indicate that, from January to June 2007, the most recent period for which data are available, the volume of exports was less than one third of the volume for the same period in 2006. The United States accounted for only about 7,000 metric tonnes.¹⁰³ Historically, South Africa has focused on Africa for its export sales and, more recently, on emerging markets such as the Indian subcontinent, which is

97. Tribunal Exhibit RR-2007-001-12.16, Administrative Record, Vol. 1.4 at 442.

98. Tribunal Exhibit RR-2007-001-12.19, Administrative Record, Vol. 1.4A at 378.

99. *Transcript of Public Hearing*, Vol. 2, 14 November 2007 at 167.

100. Tribunal Exhibit RR-2007-001-16.01A (protected), Administrative Record, Vol. 4 at 170-71; *Transcript of Public Hearing*, Vol. 2, 14 November 2007 at 166; Tribunal Exhibit RR-2007-001-28.25, Administrative Record, Vol. 1.01 at 384; *Protected Pre-hearing Staff Report*, Tribunal Exhibit RR-2007-001-06 (protected), Administrative Record, Vol. 2.1 at 51.

101. Tribunal Exhibit RR-2007-001-28.22, Administrative Record, Vol. 1.01 at 317-24.

102. *Transcript of Public Hearing*, Vol. 2, 14 November 2007 at 163, 167.

103. Tribunal Exhibit RR-2007-001-28.22, Administrative Record, Vol. 1.01 at 317-24.

experiencing strong growth, particularly in the area of infrastructure development.¹⁰⁴ The export volume shipped to these markets, which may offer better returns because of lower transportation costs, represented about 75 percent of total exports during the period of review.¹⁰⁵

143. The Tribunal sees no reason why South Africa's current export patterns would not continue, given that South African producers appear to have ample opportunities to achieve sales in traditional markets.

144. The South African economy experienced significant growth during the period of review, and that growth is projected to continue in the near term. According to the South Africa Steel Institute, annual average GDP growth was 5 percent between 2004 and 2006.¹⁰⁶ The steel industry within South Africa has experienced high growth, sustained by demand resulting from extensive capital expenditure programs, and demand from the mining and chemical sectors. As well, there has been high demand for steel from the construction sector, which has been stimulated by the preparation for the World Cup of Soccer to be held in South Africa in 2010.¹⁰⁷ The Tribunal's witness testified that there is a need to invest in physical infrastructure, such as port, rail, mining and social facilities, and that consumption of plate should continue to grow by 7 to 10 percent over the next two years.¹⁰⁸

145. In the Tribunal's view, the evidence on the record does not indicate that South Africa will have a substantially greater exportable surplus of the subject goods in the near term.

146. The Tribunal's witness testified that South African exporters could ship plate to Canada absent the order. However, he also testified that it was unlikely that they would ship plate to Canada "right now" because of better opportunities in other markets.¹⁰⁹

147. The Tribunal does not dispute the fact that it will be feasible for South African exporters to ship the subject goods to Canada in the 18 to 24 months following an expiry of the order. However, it is of the view that South African subject goods are not likely to reappear in the Canadian market for the reasons discussed above. Moreover, the Tribunal is of the opinion that, if South Africa departed from its traditional export markets, it would be more likely to be attracted by prices in the European market, rather than those in the Canadian market.

148. The Tribunal observes that there are no countries that maintain anti-dumping or countervailing measures against plate from South Africa.

149. The Tribunal also heard the argument that South African producers may shift from the production of sheet to greater plate production in order to export more subject goods if the order is rescinded because there is still a finding in place on sheet from South Africa.¹¹⁰ The Tribunal's witness testified that, from a technical perspective, this was likely a possibility only for Highveld, the smaller of the two South African producers.¹¹¹ In any event, the Tribunal does not consider that either South African producer is likely to choose Canada as an export destination for the subject goods for the reasons outlined above.

104. *Transcript of Public Hearing*, Vol. 2, 14 November 2007 at 157; Tribunal Exhibit RR-2007-001-28.22, Administrative Record, Vol. 1.01 at 317-24.

105. Tribunal Exhibit RR-2007-001-28.22, Administrative Record, Vol. 1.01 at 317-24.

106. Tribunal Exhibit RR-2007-001-12.16, Administrative Record, Vol. 1.4 at 335.

107. Tribunal Exhibit RR-2007-001-15.02A, Administrative Record, Vol. 3.B at 143; Tribunal Exhibit RR-2007-001-12.16, Administrative Record, Vol. 1.4 at 465; Tribunal Exhibit RR-2007-001-13.07 (protected), Administrative Record, Vol. 2.4 at 283.

108. *Transcript of Public Hearing*, Vol. 2, 14 November 2007 at 163.

109. *Ibid.* at 221-22.

110. See *Flat Hot-rolled Carbon and Alloy Steel Sheet and Strip* (16 August 2006), RR-2005-002 (CITT).

111. *Transcript of Public Hearing*, Vol. 2, 14 November 2007 at 261-63.

150. In summary, the Tribunal is of the view that, if the order is rescinded, imports of the subject goods from South Africa are not likely to reappear in the Canadian market in the near term. Accordingly, the Tribunal finds that it is not likely that the resumed or continued dumping of the subject goods from South Africa will result in injury to the domestic industry.

Requests for Exclusions

151. Baosteel and Severstal requested that the Tribunal rescind its order in its entirety. In the alternative, they each requested that the order be rescinded against their countries, arguing that the subject goods from their countries would not cause injury to the domestic industry. In the further alternative, in the event that the order is continued and Russia is not excluded, Severstal requested that the Tribunal limit the scope of the order to "... goods actually produced in Canada ..."¹¹²

152. The Tribunal only grants country exclusions under exceptional circumstances where the evidence indicates that the goods from a particular country are not likely to cause injury. Based on the preceding analysis, the Tribunal does not consider that China merits being the subject of a country exclusion.

153. Given the Tribunal's decision to rescind its order in respect of the subject goods originating in or exported from Russia, it is not necessary to address Severstal's requests for exclusions.

CONCLUSION

154. Based on the foregoing analysis, and pursuant to paragraph 76.03(12)(b) of *SIMA*, the Tribunal hereby continues its order in respect of hot-rolled carbon steel plate originating in or exported from China.

155. In addition, pursuant to subparagraph 76.03(12)(a)(i) of *SIMA*, the Tribunal hereby rescinds its order in respect of hot-rolled carbon steel plate originating in or exported from South Africa and Russia.

Pierre Gosselin
Pierre Gosselin
Presiding Member

James A. Ogilvy
James A. Ogilvy
Member

Ellen Fry
Ellen Fry
Member

112. Exporter's Exhibit D-01 at 12, Administrative Record, Vol. 13.