



Canadian International  
Trade Tribunal

Tribunal canadien du  
commerce extérieur

CANADIAN  
INTERNATIONAL  
TRADE TRIBUNAL

# Dumping and Subsidizing

---

## ORDERS AND REASONS

Expiry Review No. RR-2010-001

Flat Hot-rolled Carbon and Alloy  
Steel Sheet and Strip

*Orders and reasons issued  
Monday, August 15, 2011*

## TABLE OF CONTENTS

ORDERS.....	i
STATEMENT OF REASONS .....	1
BACKGROUND.....	1
PRODUCT .....	3
Product Definition .....	3
Additional Product Information.....	3
Production Process .....	3
Product Applications .....	4
Marketing and Distribution.....	4
DOMESTIC PRODUCERS .....	6
ArcelorMittal Dofasco.....	6
Essar Algoma.....	6
Evraz.....	7
U.S. Steel Canada .....	7
IMPORTERS AND EXPORTERS .....	7
SUMMARY OF PREVIOUS FINDING AND ORDERS .....	8
Inquiry No. NQ-2001-001 .....	8
Review No. RR-2005-002 .....	9
Other Hot-rolled Steel Sheet Findings and Orders.....	10
ANALYSIS .....	10
Like Goods.....	11
Domestic Industry.....	11
Cumulation.....	12
Dissenting Opinion of Member Vincent on the Cumulation of Imports From Brazil.....	14
Likelihood of Injury.....	15
Changes in International and Domestic Market Conditions.....	16
Likely Volumes of Dumped and Subsidized Goods.....	28
Likely Prices of Dumped and Subsidized Goods and Effects on Prices of Like Goods .....	52
Likely Performance of the Domestic Industry and Likely Impact of Dumped and Subsidized Goods.....	59
CONCLUSION.....	64

IN THE MATTER OF an expiry review, pursuant to subsection 76.03(3) of the *Special Import Measures Act*, of the order made by the Canadian International Trade Tribunal on August 16, 2006, in Expiry Review No. RR-2005-002, continuing its finding made on August 17, 2001, in Inquiry No. NQ-2001-001, concerning:

**THE DUMPING OF FLAT HOT-ROLLED CARBON AND ALLOY STEEL SHEET AND STRIP ORIGINATING IN OR EXPORTED FROM BRAZIL, THE PEOPLE'S REPUBLIC OF CHINA, CHINESE TAIPEI, INDIA, SOUTH AFRICA AND UKRAINE, AND THE SUBSIDIZING OF FLAT HOT-ROLLED CARBON AND ALLOY STEEL SHEET AND STRIP ORIGINATING IN OR EXPORTED FROM INDIA**

**ORDERS**

The Canadian International Trade Tribunal, pursuant to subsection 76.03(3) of the *Special Import Measures Act*, has conducted an expiry review of its order made on August 16, 2006, in Expiry Review No. RR-2005-002, continuing its finding made on August 17, 2001, in Inquiry No. NQ-2001-001, concerning the dumping of flat hot-rolled carbon and alloy steel sheet and strip, including secondary or non-prime material, in various widths from 0.75 in. (19 mm) and wider, and (a) for product in coil form, in thicknesses from 0.054 in. to 0.625 in. (1.37 mm to 15.875 mm) inclusive, and (b) for product that is cut to length, in thicknesses from 0.054 in. up to but not including 0.187 in. (1.37 mm up to but not including 4.75 mm), excluding (i) flat-rolled stainless steel sheet and strip and (ii) flat hot-rolled, cut-to-length alloy steel products containing no less than 11.5 percent manganese, in thicknesses from 0.12 in. to 0.19 in. (3 mm to 4.75 mm), originating in or exported from Brazil, the People's Republic of China, Chinese Taipei, India, South Africa and Ukraine, and the subsidizing of such products originating in or exported from India.

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 the aforementioned flat hot-rolled carbon and alloy steel sheet and strip originating in or exported from Brazil, the People's Republic of China, Chinese Taipei, India and Ukraine (Member Vincent dissenting in part).

Pursuant to subparagraph 76.03(12)(a)(i) of the *Special Import Measures Act*, and following the determination of the President of the Canada Border Services Agency that the expiry of the order was unlikely to result in the continuation or resumption of dumping of the aforementioned flat hot-rolled carbon and alloy steel sheet and strip originating in or exported from South Africa, the Canadian International Trade Tribunal hereby rescinds its order in respect of these goods.

Jason W. Downey

Jason W. Downey  
Presiding Member

Diane Vincent

Diane Vincent  
Member  
(Dissenting in part)

Stephen A. Leach

Stephen A. Leach  
Member

Dominique Laporte

Dominique Laporte  
Secretary

Place of Hearing: Ottawa, Ontario  
Dates of Hearing: June 20 to 24, 2011

Tribunal Members: Jason W. Downey, President Member  
Diane Vincent, Member  
Stephen A. Leach, Member

Research Director: Matthew Sreter

Lead Researcher: Martin Giroux

Senior Research Officers: Manon Carpentier  
Rhonda Heintzman

Senior Statistical Research Officer: Julie Charlebois

Statistical Research Officers: Marie-Josée Monette  
Dominique Thibault

Counsel for the Tribunal: Georges Bujold  
Alain Xatruch

Manager, Registrar Office: Michel Parent

Registrar Officer: Cheryl Unitt

Registrar Support Officer: Ekaterina Pavlova

**PARTICIPANTS:****Domestic Producers**

ArcelorMittal Dofasco Inc.

Essar Steel Algoma Inc.

Evraz Inc. NA Canada

U.S. Steel Canada Inc.

**Counsel/Representatives**Paul Conlin  
Benjamin P. Bedard  
Denis Gascon  
Alison G. FitzGerald  
Stephen Natrass  
Emily VilleneuveRonald C. Cheng  
Drew Tyler  
Amardeep SinghDalton Albrecht  
Rahul V. Sharma  
Tarsem S. BasraonGeoffrey C. Kubrick  
J. Peter Jarosz  
Ruba El-Sayegh  
Thomas Slade

**Importer/Exporter/Other**

Usinas Siderurgicas de Minas Gerais S.A.

**Counsel/Representatives**

Peter Clark  
Renée Clark  
Emilie Paquette

**WITNESSES:**

Brad L. Davey  
Vice-President, Sales & Marketing  
ArcelorMittal Dofasco Inc.

Henry Wegiel  
Director, Trade & Government Relations  
ArcelorMittal Dofasco Inc.

Wayne K. Bassett  
President and Chief Executive Officer  
Samuel, Son & Co. Limited

Rory Brandow  
Director of Sales – Canada  
Essar Steel Algoma Inc.

Michael A. McQuade  
Vice-President and Chief Financial Officer  
U.S. Steel Canada Inc.

Joshua B. Jory  
Senior Tax Accountant  
U.S. Steel Canada Inc.

Paul Vandevent  
International Trade Attorney  
Office of the General Counsel  
Ford Motor Company

Howard L. Woods  
General Manager, Packaging and Tubular Sales  
ArcelorMittal Dofasco Inc.

Mark Wilson  
Manager, Internal Assurance  
ArcelorMittal Dofasco Inc.

Robert A. Clark  
Trade Consultant  
Essar Steel Algoma Inc.

Robert J. Schutzman  
Director, Environmental Affairs & Trade  
Evraz Canadian Operations  
Evraz Inc. NA Canada

Gregory J. Anderson  
Sales Manager  
U.S. Steel Canada Inc.

Barry Zekelman  
Chief Executive Officer and Chairman of the Board  
Atlas Tube Inc.

Roy Vieira Vivian  
Director, Foreign Trade Exterior  
Usinas Siderurgicas de Minas Gerais S.A.

Please address all communications to:

The Secretary  
Canadian International Trade Tribunal  
Standard Life Centre  
333 Laurier Avenue West  
15th Floor  
Ottawa, Ontario  
K1A 0G7

Telephone: 613-993-3595  
Fax: 613-990-2439  
E-mail: [secretary@citt-tcce.gc.ca](mailto:secretary@citt-tcce.gc.ca)

## STATEMENT OF REASONS

### BACKGROUND

1. This is an expiry review, pursuant to subsection 76.03(3) of the *Special Import Measures Act*,<sup>1</sup> of the order made by the Canadian International Trade Tribunal (the Tribunal) on August 16, 2006, in Expiry Review No. RR-2005-002 (the first expiry review), continuing its finding made on August 17, 2001, in Inquiry No. NQ-2001-001 (the inquiry), concerning the dumping of flat hot-rolled carbon and alloy steel sheet and strip (hot-rolled steel sheet) originating in or exported from Brazil, the People's Republic of China (China), Chinese Taipei, India, South Africa and Ukraine, and the subsidizing of hot-rolled steel sheet originating in or exported from India.

2. The Tribunal initiated this expiry review on December 1, 2010,<sup>2</sup> notifying the Canada Border Services Agency (CBSA), and sent letters to domestic producers, importers, foreign producers and exporters, requesting that they complete expiry review questionnaires. The Tribunal requested that, if the CBSA found a likelihood of continued or resumed dumping and/or subsidizing, domestic producers, importers, foreign producers and exporters update their responses to questionnaires submitted to the CBSA to include data for the full year 2010, and for the first quarters of 2010 and 2011. The Tribunal also requested that domestic producers complete Part E of the expiry review questionnaire for producers.

3. On December 2, 2010, the CBSA initiated an investigation to determine whether the expiry of the order was likely to result in the continuation or resumption of dumping and/or subsidizing.

4. On March 31, 2011, the CBSA determined that, pursuant to paragraph 76.03(7)(a) of *SIMA*, the expiry of the order would likely result in the continuation or resumption of dumping of hot-rolled steel sheet originating in or exported from Brazil, China, Chinese Taipei, India and Ukraine (the subject countries) and in the continuation or resumption of subsidizing of hot-rolled steel sheet originating in or exported from India (collectively the subject goods).

5. Also on March 31, 2011, the CBSA determined that, pursuant to paragraph 76.03(7)(a) of *SIMA*, the expiry of the order would unlikely result in the continuation or resumption of dumping of hot-rolled steel sheet originating in or exported from South Africa. Pursuant to subparagraph 76.03(12)(a)(i), the Tribunal is required to rescind its order in respect of hot-rolled steel sheet originating in or exported from South Africa.

6. On April 1, 2011, following the CBSA's determinations, the Tribunal began its expiry review to determine, pursuant to subsection 76.03(10) of *SIMA*, whether the expiry of the order with respect to the dumping and/or subsidizing of the subject goods was likely to cause injury or retardation to the domestic industry. As part of these proceedings, the Tribunal sent short-form questionnaires to major importers of hot-rolled steel sheet.

7. The Tribunal held a hearing in Ottawa, Ontario, from June 20 to 24, 2011, which included both public and *in camera* testimony.

8. ArcelorMittal Dofasco Inc. (ArcelorMittal Dofasco), Essar Steel Algoma Inc. (Essar Algoma), Evraz Inc. NA Canada (Evraz) and U.S. Steel Canada Inc. (U.S. Steel Canada) submitted evidence and made arguments in support of a continuation of the order. These parties were represented by counsel and presented several witnesses at the hearing.

---

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

2. C. Gaz. 2010.I.3161.

9. ArcelorMittal Dofasco presented the following witnesses from its company: Mr. Brad L. Davey, Vice-President, Sales & Marketing; Mr. Howard L. Woods, General Manager, Packaging and Tubular Sales; Mr. Henry Wegiel, Director, Trade & Government Relations; and Mr. Mark Wilson, Manager, Internal Assurance. ArcelorMittal Dofasco also presented as a witness Mr. Wayne K. Bassett, President and Chief Executive Officer of Samuel, Son & Co. Limited (Samuel), an importer of hot-rolled steel sheet and one of the largest purchasers of flat-rolled products in Canada.
10. Essar Algoma presented as witnesses Mr. Robert A. Clark, Trade Consultant, Essar Algoma, and Mr. Rory Brandow, Director of Sales – Canada, Essar Algoma.
11. Evraz presented as a witness Mr. Robert J. Schutzman, Director, Environmental Affairs & Trade, Evraz Canadian Operations.
12. U.S. Steel Canada presented the following witnesses from its company: Mr. Michael A. McQuade, Vice-President and Chief Financial Officer; Mr. Gregory J. Anderson, Sales Manager; and Mr. Joshua B. Jory, Senior Tax Accountant. U.S. Steel Canada also presented as a witness Mr. Barry Zekelman, Chief Executive Officer and Chairman of the Board of Atlas Tube Inc., an importer of hot-rolled steel sheet and the largest producer of structural tubing in North America.
13. Usinas Siderurgicas de Minas Gerais S.A. (USIMINAS) submitted evidence and made arguments in support of a rescission of the order with respect to Brazil. USIMINAS was represented by counsel and presented Mr. Roy Vieira Vivian, Director, Foreign Trade Exterior, USIMINAS, as a witness at the hearing.
14. Mr. Paul Vandevent, International Trade Attorney, Office of the General Counsel, Ford Motor Company (Ford), accepted an invitation from the Tribunal to appear at the hearing and testified as a Tribunal witness.
15. The Tribunal did not receive any product or country exclusion requests.
16. The record of these proceedings consists of all relevant documents filed or accepted for filing by the Tribunal, including the following: the CBSA's protected expiry review report, public statement of reasons, index of background information and related documents; the Tribunal's notice of expiry review; the protected and public replies to the expiry review questionnaires; the public and protected pre-hearing staff reports prepared for this expiry review;<sup>3</sup> requests for information and replies thereto; witness statements and other exhibits; the transcript of the hearing; the exhibit list and the Tribunal's orders, statement of reasons, and public and protected pre-hearing staff reports prepared for Expiry Review No. RR-2005-002.
17. Protected exhibits were provided only to counsel who had filed a declaration and undertaking with the Tribunal in respect of confidential information.

---

3. Subsequent to the May 16, 2011, issuance of the public and protected pre-hearing staff reports, the Tribunal published a revised version of these reports, dated June 13, 2011, following the receipt of additional and revised information. While the Tribunal acknowledges that corresponding changes were made to certain data sets contained in the May 16, 2011, pre-hearing staff reports, rendering certain public data sets protected, the Tribunal is cognizant of the overall comparability of data sets and consistency of trends, contained in the May 16 and June 13, 2011, pre-hearing staff reports. Consequently, and in an effort to have as much information as possible in the public domain, the Tribunal considers that the information contained in the public version of the May 16, 2011, pre-hearing staff report is a good proxy for the information that was subsequently revised and designated protected in the June 13, 2011, pre-hearing staff report. As such, when necessary and applicable, the Tribunal will refer to the May 16, 2011, public pre-hearing staff report in its statement of reasons.



## PRODUCT

### Product Definition

18. Hot-rolled steel sheet, the goods subject to this expiry review, is defined as follows:

Flat hot-rolled carbon and alloy steel sheet and strip, including secondary or non-prime material, in various widths from 0.75 in. (19 mm) and wider, and

- (a) for product in coil form, in thicknesses from 0.054 in. to 0.625 in. (1.37 mm to 15.875 mm) inclusive, and
- (b) for product that is cut to length, in thicknesses from 0.054 in. up to but not including 0.187 in. (1.37 mm up to but not including 4.75 mm),

excluding:

- (i) flat-rolled stainless steel sheet and strip; and
- (ii) flat hot-rolled, cut-to-length alloy steel products containing no less than 11.5 percent manganese, in thicknesses from 0.12 in. to 0.19 in. (3 mm to 4.75 mm).

### Additional Product Information

19. Hot-rolled steel sheet includes strip and sheet, but does not include floor plate. Strip is usually produced in widths of up to 12 in. (305 mm). Sheet is usually produced in widths greater than 12 in. (305 mm).

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

21. The alloy steel sheet that is subject to this expiry review is manufactured from an alloy steel, other than stainless steel, that contains, by weight, one or more of certain specified elements in minimum specified proportions. The notes to Chapter 72 of the *Customs Tariff*<sup>4</sup> specify the elements and the minimum proportions for alloy steel.

### Production Process

22. While details may vary from mill to mill, the process by which hot-rolled steel sheet is produced is generally the same for all domestic producers.

23. Hot-rolled steel sheet is rolled on a continuous strip mill<sup>5</sup> at temperatures above 1600°F (870°C) from an incoming hot slab up to 9 in. (229 mm) thick. The slab can be produced from steel produced in a basic oxygen furnace or an electric arc furnace. The slab is progressively reduced to a sheet of the required thickness, 0.625 in. (15.875 mm) or less. The edges may be slit to remove minor edge imperfections and to

---

4. S.C. 1997, c. 36.

5. Hot-rolled steel sheet is also produced in combined plate-sheet mills.

provide closer width tolerances. Processing in the mill may include slitting or shearing to remove tongues and tails from the sheet. During hot rolling, surface oxide (scale) forms, which is not acceptable for some applications. This scale may be removed by acid pickling. After pickling, rinsing and drying, an oil may be applied as a temporary protection against rust.

### **Product Applications**

24. Hot-rolled steel sheet is primarily a generic commodity product. It may be sold as such in the open or merchant market or may be used by domestic producers as feedstock for further internal processing.

#### Merchant Market

25. In the merchant market, hot-rolled steel sheet is used in the following applications, among others:

- the production of pipe and tube, i.e. oil country and hydro form tube;
- various manufacturing applications, i.e. brackets, trailer applications and drawn sheets;
- various construction/structural applications, i.e. bridges, buildings, railway cars, guard rails and sheet pilings;
- the manufacture of automobiles, i.e. frames, bumpers, wheels, hood hinges, brake shoes, seat tracking, wheel rims, impact support, washer base and automotive brace; and
- the manufacture of various agricultural products, i.e. tractors, ground tillers and disks used in tilling.<sup>6</sup>

#### Further Internal Processing

26. Hot-rolled steel sheet is also used by domestic producers as feedstock or substrate for the manufacture of further internally processed goods or value-added products, such as cold-rolled steel sheet, corrosion-resistant steel sheet and tubular products, including pipe, tube and hollow structural products. The hot-rolled steel sheet used in the manufacture of pipe and tube is often referred to as “skelp”.

### **Marketing and Distribution**

27. The domestic producers confirmed that the distribution channels for domestically produced and imported hot-rolled steel sheet did not change over the period of review (POR), i.e. from January 1, 2008, to March 31, 2011,<sup>7</sup> although the representative distribution of these channels has varied somewhat.<sup>8</sup>

#### Domestic Product

28. Hot-rolled steel sheet produced domestically is sold directly to end users, steel service centres, and pipe and tube producers. Steel service centres may further process the steel and supply smaller end users and contractors. These steel service centres may also supply the more immediate needs of accounts that would normally purchase directly from domestic mills.

---

6. Manufacturer’s Exhibit B-07 at para. 6, Administrative Record, Vol. 11A.

7. Tribunal Exhibit RR-2010-001-15.01, Administrative Record, Vol. 3 at 4; Tribunal Exhibit RR-2010-001-15.02, Administrative Record, Vol. 3A at 12; Tribunal Exhibit RR-2010-001-15.03, Administrative Record, Vol. 3C at 104; Tribunal Exhibit RR-2010-001-15.04, Administrative Record, Vol. 3D at 6.

8. *Protected Pre-hearing Staff Report*, revised 13 June 2011, Tribunal Exhibit RR-2010-001-06A (protected), Administrative Record, Vol. 2.1A at 52.

29. Of the three market segments noted above, the steel service centres are the largest purchasers of hot-rolled steel sheet, representing about half of the domestic producers' sales volume from production, followed by the pipe and tube producers, and the end users, which include automobile producers.<sup>9</sup>

30. The steel service centre industry in Canada is highly competitive, and there has been significant consolidation since the first expiry review. Such consolidation has seen a number of large and small steel service centres bought by even larger steel service centres; as a result, these steel service centres have become large volume purchasers with well-established distribution networks across Canada.<sup>10</sup>

31. Sales of hot-rolled steel sheet in the domestic market are made on a contractual or non-contractual (i.e. spot price) basis. Sales made on a spot price basis are negotiated individually with the client on the basis of prevailing market prices, with adjustments for transaction-specific demands. Sales made on a contractual basis are negotiated on the basis of specifications, price, volume and duration of the contract.

32. The price of hot-rolled steel sheet consists of a "base coil price" to which charges are added for a variety of features that may be specified by the customer to meet the technical requirements of the application for which the steel is intended. The important features in determining the price of hot-rolled steel sheet are grade, thickness, width, processing and surface finish.

#### Imported Product

33. Hot-rolled steel sheet is imported either by traders for resale to end users, steel service centres, and pipe and tube producers, or directly by domestic producers, end users, steel service centres, and pipe and tube producers. Steel trading companies either receive inquiries from domestic users or solicit orders. As a result of the consolidation in the steel service centre industry, there are now several very large players in Canada that can buy and distribute large boatloads of imported hot-rolled steel sheet in the Canadian market.<sup>11</sup> During the POR, domestic producers imported hot-rolled steel sheet from non-subject countries only.<sup>12</sup>

34. Importers do not publish price lists for sales in Canada. Generally, transaction prices are negotiated on the basis of prevailing market prices of hot-rolled steel sheet, i.e. on a spot price basis. Historically, certain importers have had long-term supply agreements or arrangements with some of their customers, especially pipe and tube producers. However, since the 2008 economic crisis, most of the contractual agreements or arrangements that importers have had with their customers have been renegotiated and are now typically for a period not exceeding one year and as short as three months.<sup>13</sup>

---

9. *Protected Pre-hearing Staff Report*, Tribunal Exhibit RR-2010-001-06A (protected), Administrative Record, Vol. 2.1A at 52.

10. *Transcript of Public Hearing*, Vol. 1, 20 June 2011, at 111-12; Manufacturer's Exhibit B-09 at para. 5, Administrative Record, Vol. 11A.

11. A boatload of steel can range in weight from 20,000 tonnes to 35,000 tonnes. *Transcript of Public Hearing*, Vol. 1, 20 June 2011, at 38, 64, 112; *Transcript of Public Hearing*, Vol. 2, 21 June 2011, at 179; Manufacturer's Exhibit B-03 at para. 74, Administrative Record, Vol. 11A; Manufacturer's Exhibit B-07 at para. 26, Administrative Record, Vol. 11A.

12. *Pre-hearing Staff Report*, Tribunal Exhibit RR-2010-001-05, Administrative Record, Vol. 1.1 at 19-21; *Pre-hearing Staff Report*, revised 13 June 2011, Tribunal Exhibit RR-2010-001-05A, Administrative Record, Vol. 1.1A at 41-42.

13. *Transcript of Public Hearing*, Vol. 2, 21 June 2011, at 182-83.

## DOMESTIC PRODUCERS

35. Since the first expiry review, the domestic producers have undergone significant restructuring and consolidation.

36. There are currently four domestic producers of hot-rolled steel sheet in Canada—ArcelorMittal Dofasco, Essar Algoma, Evraz and U.S. Steel Canada. However, at the time of the first expiry review, there was a fifth domestic producer, Mittal Canada Inc. (formerly known as Ispat Sidbec Inc.) located in Contrecoeur, Quebec, that was part of the ArcelorMittal Canada Inc. organization. This domestic producer shut down its hot-rolled steel sheet operations on January 31, 2008.

### **ArcelorMittal Dofasco**

37. In 2006, the former Dofasco Inc. (Dofasco) was purchased by Europe-based steelmaker Arcelor. During this transition, Arcelor merged with Mittal Steel to become ArcelorMittal S.A. of Luxembourg and Dofasco was renamed ArcelorMittal Dofasco Inc. on November 30, 2007. ArcelorMittal Dofasco, located in Hamilton, Ontario, is a fully integrated steel manufacturing facility and is the largest producer of hot-rolled steel sheet in Canada.

38. ArcelorMittal Dofasco produces hot-rolled, cold-rolled and galvanized steel sheet, as well as Galvalume™ and Extragal™ for exposed automotive parts, prepainted steel, tin plate, welded tubular products and tailor-welded blanks.

39. ArcelorMittal Dofasco produces hot-rolled steel sheet on a seven-strand hot mill. Its hot mill is capable of producing hot-rolled steel sheet in widths from 25.59 in. to 63.5 in. (650 mm to 1,613 mm) and in thicknesses from 0.059 in. to 0.5 in. (1.5 mm to 12.7 mm). As part of its finishing operations, ArcelorMittal Dofasco has three pickling lines and provides internal and external processing, including tempering, slitting, cutting to length or blanking, as required by customers.

### **Essar Algoma**

40. On June 1, 1992, the former Algoma Steel Inc. (Algoma) was incorporated. On January 29, 2002, Algoma was reorganized under a Plan of Arrangement and Reorganization pursuant to the *Companies' Creditors Arrangement Act*.<sup>14</sup> In June 2007, Algoma became part of Essar Steel Holdings Limited, of Port Louis, Republic of Mauritius, as a wholly owned subsidiary of Algoma Holdings B.V. of Amsterdam, Netherlands. On June 23, 2008, Algoma was renamed Essar Steel Algoma Inc.

41. Essar Algoma, located in Sault Ste. Marie, Ontario, is a vertically integrated primary iron and steel producer. In addition to hot-rolled steel sheet, Essar Algoma produces carbon alloy steel plate, cold-rolled steel sheet, floor plate and welded wide flange beams and unfinished parts.

42. Essar Algoma produces hot-rolled steel sheet products in widths from 32 in. to 96 in. (800 mm to 2,438 mm) and in thicknesses from 0.57 in. to 0.625 in. (1.4 mm to 15.875 mm). As part of its finishing operations, Essar Algoma provides acid pickling, rinsing, drying and slitting.

---

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

**Evraz**

43. On June 12, 2008, Evraz Group S.A. acquired from SSAB, a subsidiary of SSAB Svenkst Stahl of Sweden, all the shares of IPSCO Inc. (IPSCO) and its subsidiaries in Canada, except the steel plate processing centre and temper mill in Toronto, Ontario, which was retained by SSAB. As a result, all of former IPSCO's Canadian steel mill and tubular operations and steel coil processing centres located in Regina, Saskatchewan, in Calgary, Camrose and Red Deer, Alberta, and in Surrey, British Columbia, as well as the scrap operations in Winnipeg, Manitoba, are now owned and operated by Evraz (the name change occurred on October 15, 2008).

44. Evraz produces hot-rolled steel sheet in coil form in widths of up to 76 in. (1,930 mm) and in thicknesses from 0.1 in. to 0.625 in. (2.54 mm to 15.875 mm) and cut-to-length hot-rolled steel sheet in widths of up to 96 in. (2,438 mm) and in thicknesses from 0.1 in. to 0.187 in. (2.54 mm to 4.75 mm). Other products manufactured by Evraz include hot-rolled steel plate (cut-to-length and in coil form), oil country tubular goods, standard pipe, line pipe, piling pipe and hollow structural sections.

**U.S. Steel Canada**

45. On January 29, 2004, the former Stelco Inc. (Stelco) filed for protection from its creditors under the *Companies' Creditors Arrangement Act* and emerged from protection on March 31, 2006. On October 31, 2007, Stelco was acquired by United States Steel Corporation, located in Pittsburgh, Pennsylvania, as a wholly owned subsidiary and was renamed U.S. Steel Canada Inc. U.S. Steel Canada has two primary production facilities in Canada—Hilton Works in Hamilton and Lake Erie Works (LEW) in Nanticoke, Ontario.

46. The production of hot-rolled steel sheet at the Hilton Works facility ceased in May 2007. Since then, U.S. Steel Canada's hot-rolled steel sheet has been produced at its LEW facility. However, this facility was idle from mid-March 2009 to July 2009 due to market conditions. Thereafter, the facility remained idle from August 2009 to April 2010 due to a labour dispute. By the end of the second quarter of 2010, the LEW facility was back in operation.

47. U.S. Steel Canada is capable of producing hot-rolled steel sheet in coil form in widths of up to 74.7 in. (1,897 mm) and in thicknesses from 0.080 in. to 0.625 in. (2 mm to 15.875 mm). U.S. Steel Canada generally supplies hot-rolled steel sheet for pipe and tube production with a plain or black finish, referred to as "black". It typically supplies other end-user products as pickled, and service centre products as a combination of black and pickled. U.S. Steel Canada also produces steel slabs, cold-rolled steel sheet and galvanized steel sheet at its Hilton Works facility.

**IMPORTERS AND EXPORTERS**

48. Expiry review questionnaires were sent to 69 importers. Two importers, Russel Metals Inc. and Lakeside Steel Corporation, responded to the CBSA's portion of the questionnaire. They also provided the Tribunal with the updated data requested for the full year 2010, and the first quarters of 2010 and 2011. A third respondent, Bohler-Uddeholm Ltd., indicated that it was not an importer of hot-rolled steel sheet.

49. In view of the low response rate, the Tribunal sent a short-form importers' questionnaire to 45 potential importers, requesting data for the POR. Useable responses were received from 33 companies. Of these respondents, 21 indicated that they imported the subject goods during the POR.<sup>15</sup> The remaining 12 respondents indicated that they either did not import hot-rolled steel sheet during the POR or imported non-subject goods.

50. Expiry review questionnaires were sent to 65 potential foreign producers/exporters. Only four replies were received by the CBSA. The participating exporters were USIMINAS and ArcelorMittal Brasil S/A (ArcelorMittal Brasil) of Brazil, and Chung Hung Steel Corporation (CHS) and China Steel Corporation (CSC) of Chinese Taipei. They all provided the Tribunal with the updated data requested for the full year 2010, and the first quarters of 2010 and 2011. No replies were received from the third producer/exporter in Brazil, Companhia Siderurgica Nacional (CSN), or from producers/exporters in China, India and Ukraine.

## **SUMMARY OF PREVIOUS FINDING AND ORDERS**

### **Inquiry No. NQ-2001-001**

51. On August 17, 2001, the Tribunal found that the dumping of hot-rolled steel sheet originating in or exported from Brazil, Bulgaria, China, Chinese Taipei, India, the former Yugoslav Republic of Macedonia (Macedonia), South Africa, Ukraine and the Federal Republic of Yugoslavia (Yugoslavia), and the subsidizing of hot-rolled steel sheet originating in or exported from India (the cumulated countries) had caused material injury to the domestic industry.

52. The Tribunal focused its injury analysis of the domestic merchant market on three sectors: end users (primarily automotive end use), pipe and tube, and steel service centres. The Tribunal found that the impact that dumped and subsidized imports had had on the end-user sector was marginal at best. However, the Tribunal found that imports of hot-rolled steel sheet from the cumulated countries were responsible for a significant portion of the price erosion in the pipe and tube sector and most of the price erosion in the steel service centre sector. While there were other factors at play, it was clear that the hot-rolled steel sheet from the cumulated countries had led the prices down in both of these key sectors.

53. The Tribunal concluded that, absent the dumping and subsidizing of hot-rolled steel sheet from the cumulated countries, the domestic producers' market share, volume of sales and utilization of plant capacity would have been higher. It also concluded that a significant portion of the price erosion suffered by the domestic producers had been caused by the dumped and subsidized imports from the cumulated countries. The Tribunal further noted that this price erosion and lost volume had accounted for a significant part of the financial losses incurred by the domestic producers.

54. The Tribunal also examined other factors to ensure that injury caused by such factors was not attributed to the dumped and/or subsidized imports. These factors included imports from third countries, the financial difficulties of one domestic producer and one service centre, the domestic producers' capacity to

---

15. These companies are: ADF Group Inc.; A.G. Simpson Automotive; A.M. Castle & Co.; Bluescope Steel Americas LLC; Chapel Steel Corporation; C.P.P. Custom Plate & Profiles Ltd.; Dreco Energy Services Ltd.; Ford; General Motors of Canada Limited; Groupe CANAM Inc.; Hodgson Custom Rolling Inc.; Magna International Inc.; Maksteel, Moore Sales Co. Ltd.; Nucor Trading Canada Inc.; Samuel-ManuTech Inc.; Samuel; SSAB Central Inc.; The Mill Steel Company; Toyota Tsusho America Inc.; and Welded Tube of Canada.

supply the domestic market, the contraction of demand and intra-industry competition. The Tribunal found that these factors did not contribute, in a significant way, to the domestic industry's significant loss of market share and declining volume of sales and profitability.

55. Also on August 17, 2001, the Tribunal found that the dumping of hot-rolled steel sheet originating in or exported from the Republic of Korea (Korea), New Zealand and Saudi Arabia had not caused material injury or retardation and was not threatening to cause material injury to the domestic industry.

56. The Tribunal therefore conducted a separate analysis of the injury and threat of injury with respect to Korea, New Zealand and Saudi Arabia, as it determined that, taking into account the conditions of competition, it was not appropriate to include these countries in an assessment of the cumulative effects of the dumping and subsidizing of hot-rolled steel sheet by the other named countries.

57. The Tribunal therefore determined that there was no injury and no threat of injury with respect to imports from Korea and New Zealand on the basis of the limited and distinct product range of the producers and exporters in these countries, their high prices and the customer base in Canada. The Tribunal's determination of no injury and no threat of injury with respect to imports from Saudi Arabia was based on the complete absence of Saudi Arabian product in the Canadian market and the evidence that Saudi Arabian producers and exporters had no plans to export to Canada.

#### **Review No. RR-2005-002**

58. On August 16, 2006, the Tribunal continued its finding in respect of hot-rolled steel sheet originating in or exported from Brazil, China, Chinese Taipei, India, South Africa and Ukraine.

59. The Tribunal was of the view that it was appropriate to conduct its assessment on the cumulative effect of imports of the subject goods from these countries.

60. The Tribunal noted that, during the period from January 1, 2003, to March 31, 2006, despite having the finding in place, imports from these countries had maintained their presence in the Canadian market, with China capturing the largest share of the market. Furthermore, each country was strongly involved in steel production and ranked among the top 20 producers of crude steel production in the world.

61. The Tribunal also noted that the production of hot-rolled steel sheet was highly capital-intensive, with a pressing need for high utilization rates to cover high fixed costs. The Tribunal then indicated that this created a production imperative that encouraged foreign mills to export at prices low enough to find a market for their excess production.

62. The Tribunal stated that, due to the commodity nature of hot-rolled steel sheet and the production imperative scenario, over time, prices from all suppliers would converge at the lowest price offering level. This, in turn, would create a market where supply exceeded demand and where suppliers would be forced to lower their prices or risk losing volume and market share.

63. The Tribunal noted that, because North America was the highest-priced market in the world for finished hot-rolled steel sheet and there were well-established distribution networks in Canada, Canada was an attractive market for surplus product from the named countries.

64. The Tribunal was therefore convinced that, if the finding were rescinded, the domestic industry would suffer material injury to its production, sales, market share, profits, productivity, capacity utilization, return on investments and cash flow.

65. Also on August 16, 2006, the Tribunal rescinded its finding in respect of hot-rolled steel sheet originating in or exported from Bulgaria, Macedonia and Yugoslavia (Serbia and Montenegro), following the CBSA's determination that the expiry of the finding in respect of these countries was not likely to result in resumed dumping.

### **Other Hot-rolled Steel Sheet Findings and Orders**

66. Since the mid-1990s, the Tribunal has conducted one other investigation concerning similar hot-rolled steel sheet, i.e. Inquiry No. NQ-98-004.

67. On July 2, 1999, the Tribunal found that the dumping of hot-rolled steel sheet originating in or exported from France, Romania, the Russian Federation (Russia) and the Slovak Republic had caused material injury to the domestic industry, with the exclusion of hot-rolled steel sheet containing no less than 11.5 percent manganese, in thicknesses from 0.12 in. to 0.19 in. (3 mm to 4.75 mm).

68. On January 17, 2003, in Interim Review No. RD-2002-003, the Tribunal amended its finding in Inquiry No. NQ-98-004 to exclude hot-rolled steel sheet manufactured to the "Solbor 30MnB5" specification or its equivalent.

69. In 2003, the Tribunal conducted an expiry review (Expiry Review No. RR-2003-002) of its finding in Inquiry No. NQ-98-004, as amended, and, on June 30, 2004, the Tribunal rescinded the finding in respect of hot-rolled steel sheet originating in or exported from France, Romania, Russia and the Slovak Republic. The Tribunal's rescission in respect of France followed the CBSA's determination that the expiry of the finding in Inquiry No. NQ-98-004 in respect of hot-rolled steel sheet originating in or exported from that country was not likely to result in the continuation or resumption of dumping.

### **ANALYSIS**

70. On March 31, 2011, the CBSA determined, pursuant to paragraph 76.03(7)(a) of *SIMA*, that the expiry of the order was likely to result in the continuation or resumption of dumping of the subject goods and in the continuation or resumption of subsidizing of hot-rolled steel sheet from India, but that the expiry of the order was unlikely to result in the continuation or resumption of dumping of hot-rolled steel sheet from South Africa. Consequently, the Tribunal is required, pursuant to subsection 76.03(10), to determine whether the expiry of the order in respect of the subject goods is likely to result in injury or retardation, as the case may be, to the domestic industry.<sup>16</sup>

71. Moreover, the Tribunal is required, pursuant to subsection 76.03(12) of *SIMA*, to make an order either rescinding the order in respect of the subject goods, if it determines that the expiry of the order is unlikely to result in injury, or continuing the order, with or without amendment, if it determines that the expiry of the order is likely to result in injury. The Tribunal is also required, pursuant to subparagraph 76.03(12)(a)(i), to make an order rescinding the order in respect of hot-rolled steel sheet from South Africa.

---

16. 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.



72. 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**

73. 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”.

74. In considering the issue of like goods, the Tribunal typically looks at a number of factors, including the physical characteristics of the goods (such as composition and appearance), their market characteristics (such as substitutability, pricing, distribution channels and end uses) and whether the domestic goods fulfill the same customer needs as the subject goods.

75. In its statement of reasons in the first expiry review, the Tribunal stated the following:

40. The evidence indicates that, for each specification, the domestic industry’s hot-rolled [steel] sheet is produced according to standards similar to those that apply to the subject goods and that these products are substitutable. Further, the evidence shows that the domestic industry’s hot-rolled [steel] sheet and the subject goods have similar market characteristics in terms of pricing and distribution, that they compete in the same markets and that they fulfill the same customer needs.

41. In addition, consistent with its reasoning in the finding, the Tribunal is of the view that hot-rolled [steel] sheet used for both merchant market sales and further internal processing is like goods to the subject goods.

76. The Tribunal heard no evidence or argument in this expiry review that warrants departing from these conclusions. In fact, the evidence in this expiry review supports these conclusions on the issue of like goods. Accordingly, the Tribunal is of the view that hot-rolled steel sheet produced by the domestic producers for both merchant market sales and further internal processing that corresponds to the product definition constitutes like goods in relation to the subject goods.

### **Domestic Industry**

77. Subsection 2(1) of *SIMA* defines “domestic industry” 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 . . . .”

78. ArcelorMittal Dofasco, Essar Algoma, Evraz and U.S. Steel Canada together account for 100 percent of the total known domestic production of like goods<sup>17</sup> and, therefore, constitute the domestic industry for the purposes of this expiry review.

---

17. *Pre-hearing Staff Report*, Tribunal Exhibit RR-2010-001-05A, Administrative Record, Vol. 1.1A at 27-28; *Protected Pre-hearing Staff Report*, Tribunal Exhibit RR-2010-001-06A (protected), Administrative Record, Vol. 2.1A at 27-28.

## Cumulation

79. Subsection 76.03(11) of *SIMA* provides that, for the purposes of its determination, the Tribunal shall make an assessment of the cumulative effect of the dumping or subsidizing of goods imported into Canada 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 into Canada from any of the countries and the goods from any other of the countries or between those goods and the like goods.<sup>18</sup>

80. If the Tribunal is not satisfied that an assessment of the cumulative effect of the dumping or subsidizing of goods from more than one country would be appropriate, on the basis of its assessment of the relevant conditions of competition, then it must assess the effects of dumping or subsidizing for each country separately.

81. In considering the conditions of competition between goods, the Tribunal typically takes into account the following factors: the degree to which the goods are interchangeable; the extent to which the goods are sold, or offered for sale, into the same geographical markets; the existence of common or similar channels of distribution for the goods; and differences in the timing, if any, of the availability of the goods. However, the Tribunal has stated that other factors may be considered in deciding whether imports from a particular country should be cumulated and that no single factor is necessarily determinative.<sup>19</sup>

82. In the context of expiry reviews, the Tribunal has also stated that the effect of continued or resumed dumping or subsidizing must be looked at prospectively and that, therefore, its assessment of the conditions of competition must be prospective.<sup>20</sup> Moreover, as noted in *Certain Carbon Steel Welded Pipe*, when the Tribunal makes a prospective assessment of the conditions of competition in expiry reviews, “[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.”<sup>21</sup>

83. Consequently, in order to examine the conditions of competition and determine whether it is appropriate to assess the cumulative effect of the dumping and subsidizing of hot-rolled steel sheet from Brazil, China, Chinese Taipei, India and Ukraine, the Tribunal must first be persuaded that goods from these countries are likely to be present in the Canadian market if the order is rescinded.

84. In this regard, USIMINAS argued that imports of hot-rolled steel sheet from Brazil should not be cumulated with those of the other subject countries, as there is no likelihood of significant shipments to Canada. It argued that Brazil has never exported significant volumes of hot-rolled steel sheet to the Canadian market and that there is no evidence to indicate that it will do so in the future.<sup>22</sup>

---

18. The Tribunal notes that, by reason of the operation of subsection 76.03(8) of *SIMA*, if it 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 (goods from Brazil, China, Chinese Taipei, India and Ukraine) or subsidizing (goods from India).

19. See, for example, *Laminate Flooring* (16 June 2005), NQ-2004-006 (CITT) at para. 80.

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

21. *Certain Carbon Steel Welded Pipe* at 7.

22. USIMINAS’s arguments in this regard are fully set out in the section of the reasons entitled “Likely Volumes of Dumped and Subsidized Goods”.

85. In fact, at the hearing, USIMINAS clearly indicated that it was not arguing that imports from Brazil should not be cumulated with those of other subject countries on the grounds that the conditions of competition had changed. Rather, USIMINAS requested that the Tribunal examine the volume issue. In particular, it stated the following: “In a nutshell, I didn’t argue about the normal terms for cumulation because it is a waste of time. . . . [T]he steel is the steel. It is sold in competition with others and with Canadians. . . . Essentially, I am asking you to look at the volume issues, the potential volumes coming in from Brazil . . . and conclude that there is no propensity to injure, if you would. And you have to have volume to injure.”<sup>23</sup>

86. In other words, while USIMINAS argued that it would not be appropriate to cumulate imports of hot-rolled steel sheet from Brazil with those of the other subject countries because they are not likely to be present in the Canadian market if the order is rescinded, it conceded that the subject goods, irrespective of their country of origin, are generally sold in competition with each other and with the like goods.<sup>24</sup>

87. The Tribunal was not persuaded by these arguments.<sup>25</sup> On the basis of the information on the record, and as will be further explained in the section of the reasons entitled “Likely Volumes of Dumped and Subsidized Goods”, the Tribunal is of the opinion that hot-rolled steel sheet from the subject countries, including Brazil, is likely to be present in the Canadian market in more than negligible quantities, should the order be rescinded.

88. In the Tribunal’s view, factors such as foreign producers’ excess capacities (both current and projected) and continued relative export dependency, coupled with the attractiveness of the Canadian market and the CBSA’s determination of likelihood of continued or resumed dumping and subsidizing, support such a conclusion.

89. In its statement of reasons in the first expiry review, the Tribunal stated the following regarding the conditions of competition between the subject goods and the like goods:

50. The evidence indicates that hot-rolled [steel] sheet is a commodity product. The subject goods are produced to the same standard or specifications in each country and by each mill. Price is therefore a key driving factor in capturing sales, regardless of the source of the product. As a commodity, hot-rolled [steel] sheet imported from each subject country is interchangeable, and the Tribunal considers this to be a strong indicator that quality is similar across the subject countries. In addition, hot-rolled [steel] sheet 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. traders and service centres). Although differences exist in the timing of the arrival of individual shipments of imports from a subject country and another subject country, and in the availability of like goods supplied by the domestic industry, imports from the subject countries nonetheless compete against each other and also against the like goods in the Canadian market.

[Footnotes omitted]

---

23. *Transcript of Public Hearing*, Vol. 5, 24 June 2011, at 728-29.

24. The fact that the question of likely volumes of imports from Brazil, if the order is rescinded, was the only contested issue regarding the matter of cumulation in this expiry review was also made abundantly clear by the following statements made by USIMINAS at the hearing: “[In my arguments] I was addressing the volume, I was addressing the difference in the availability of exports from [Brazil]. It is a volume case. The issue boils down to whether or not you accept the evidence that there is not likely to be injurious volumes coming in from Brazil over the time frame that you look at. That is it in a nutshell. . . .” See *Transcript of Public Hearing*, Vol. 5, 24 June 2011, at 726-27.

25. For the reasons discussed below, Member Vincent is dissenting on this issue and is convinced, on the basis of her assessment of the evidence on the record, that imports from Brazil are not likely to re-appear in the Canadian market in the near term if the order in respect of Brazil is rescinded.

90. In this expiry review, the Tribunal received no evidence and heard no argument that would lead it to believe that the conditions of competition, as the Tribunal had found them to exist at the time of the first expiry review, will not be the same in the foreseeable future.

91. Therefore, the Tribunal is of the opinion that, should the order be rescinded, imports of hot-rolled steel sheet from Brazil, China, Chinese Taipei, India and Ukraine will not only be present in the Canadian market but also compete directly against each other and with the like goods.

92. Accordingly, the Tribunal is satisfied that it is appropriate to make an assessment of the cumulative effect of the dumping of hot-rolled steel sheet from Brazil, China, Chinese Taipei, India and Ukraine and of the subsidizing of hot-rolled steel sheet from India.<sup>26</sup>

### **Dissenting Opinion of Member Vincent on the Cumulation of Imports From Brazil**

93. After having reviewed the totality of the evidence on the record, I am not satisfied that an assessment of the cumulative effect of the dumping of the subject goods from Brazil is appropriate in this case. Therefore, I respectfully disagree with my colleagues' conclusion that imports of hot-rolled steel sheet from Brazil should be cumulated with those of the other subject countries in this expiry review.<sup>27</sup>

94. As my colleagues have pointed out, determining whether a cumulative assessment of the effect of the goods from all subject countries is appropriate requires a prospective analysis in the context of expiry reviews. A finding that a cumulative assessment is appropriate must also be predicated on the conclusion that goods from all subject countries are likely to be present and, therefore, will actually compete in the Canadian market in the next 18 to 24 months, should the order be rescinded.

95. As noted by the Tribunal in previous decisions, when the Tribunal makes an assessment of the prospective conditions of competition in expiry reviews, "[i]t is obvious that any examination of conditions of competition presupposes that competition will actually exist".<sup>28</sup> This principle was also clearly stated by the Tribunal in *Hot-rolled Carbon Steel Plate*<sup>29</sup> and recently reaffirmed in *Refined Sugar*.<sup>30</sup>

96. I do not dispute the fact that it would be feasible for Brazilian exporters to ship to Canada, should the current order expire. However, given my assessment of the current and expected conditions in the global, Latin American and Brazilian markets, I am not persuaded that hot-rolled steel sheet from Brazil is likely to be present and to compete in the Canadian market in the next 18 to 24 months, if the order is rescinded.

---

26. In this case, hot-rolled steel sheet from India is both dumped and subsidized, whereas hot-rolled steel sheet from the other subject countries is only dumped. However, given that the effects of dumping and subsidizing are difficult, if not impossible, to distinguish when present together, the Tribunal is satisfied that a cumulative assessment of the injurious effects of both dumped and subsidized goods (normally referred to as "cross-cumulation") is appropriate in the circumstances. The Tribunal notes that it has, on numerous occasions, made such a cumulative assessment for the purposes of its analysis of injury and likelihood of injury. See, for example, *Steel Grating* (19 April 2011), NQ-2010-002 (CITT) at paras. 143-45; *Refined Sugar* (1 November 2010), RR-2009-003 (CITT) at para. 102.

27. However, I concur with my colleagues' view that a cumulative assessment of the effect of the dumping and subsidizing of hot-rolled steel sheet from China, Chinese Taipei, India and Ukraine is appropriate in this expiry review.

28. *Certain Carbon Steel Welded Pipe* at 7.

29. (9 January 2008), RR-2007-001 (CITT) at para. 53.

30. (1 November 2010), RR-2009-003 (CITT) at para. 96.

97. Unlike my colleagues, I therefore conclude that imports of subject goods from Brazil are not likely to re-appear in the Canadian market in the near term and that a separate analysis of the likelihood of injury with respect to the dumping of hot-rolled steel sheet from Brazil would be required in this expiry review. The detailed reasons for my dissenting opinion in this regard, including my review of the evidence on the record that brings me to a different conclusion, are set out below, following the section entitled “Likely Volumes of Dumped and Subsidized Goods”. In my opinion, since imports of hot-rolled steel sheet from Brazil are not likely to re-appear in the Canadian market in the near term, it follows that the resumed or continued dumping of subject goods from Brazil is not likely to result in injury to the domestic industry.

### Likelihood of Injury

98. Subsection 37.2(2) of the *Special Import Measures Regulations*<sup>31</sup> lists the factors that the Tribunal may consider in addressing the question of likelihood of injury in cases where the CBSA has determined that there is a likelihood of continued or resumed dumping and/or subsidizing. The factors that the Tribunal considers relevant in this expiry review are discussed in detail below.

99. In making its assessment of likelihood of injury, the Tribunal has consistently taken the view that the focus should be on circumstances that can reasonably be expected to exist in the near to medium term, which is generally considered to be 18 to 24 months from the expiry of the finding or order.<sup>32</sup>

100. ArcelorMittal Dofasco submitted that, due to the global recession, it is difficult to forecast beyond 18 months and that, therefore, the approach taken by the Tribunal in the first expiry review, which was to focus its analysis on the circumstances that could be reasonably expected to occur over the next 12 to 18 months, should also be appropriate in this expiry review.

101. Other domestic producers and USIMINAS submitted that the Tribunal should focus its assessment of likelihood of injury on a period not exceeding the next 24 months.

102. Although the Tribunal has used a period as short as 12 months in certain recent expiry reviews<sup>33</sup> in light of uncertainties due to the global recession and, in the context of the first expiry review, focused its prospective analysis primarily on an 18-month period, due to the inherent volatility of the market for hot-rolled steel sheet at the time, it considers that this is no longer required.

103. The prevailing view is that the global and domestic economies will continue to improve gradually over the next 18 to 24 months, although at an uncertain pace.<sup>34</sup> In this regard, the Tribunal notes the abundance of evidence on the record, including various trade journals, industry publications, witness

---

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

32. *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.

33. *Structural Tubing* (22 December 2008), RR-2008-001 (CITT) at para. 48; *Stainless Steel Wire* (29 July 2009), RR-2008-004 (CITT) at para. 58; *Wood Slats* (15 July 2009), RR-2008-003 (CITT) at para. 45.

34. Tribunal Exhibit RR-2010-001-15.01, Administrative Record, Vol. 3 at 8; Manufacturer’s Exhibit B-12 (single copy) (protected), tab 43, Administrative Record, Vol. 2.01E at 66, 160; Manufacturer’s Exhibit C-03 at para. 22, Administrative Record, Vol. 11C; Manufacturer’s Exhibit C-07 at 65, Administrative Record, Vol. 11C; *Transcript of Public Hearing*, Vol. 1, 20 June 2011, at 10, 20; *Transcript of Public Hearing*, Vol. 2, 21 June 2011, at 157, 210-11; *Transcript of Public Hearing*, Vol. 3, 22 June 2011, at 297, 367-68, 370; *Transcript of Public Hearing*, Vol. 4, 23 June 2011, at 454-55.

statements and testimony which provide forecasts, including forecasts of price trends, for the next 24 months. Accordingly, for the purposes of this expiry review, the Tribunal will focus on the circumstances that can reasonably be expected to exist within the next 18 to 24 months.

104. The Tribunal notes that there is an abundance of evidence on the record in respect of steel prices and forecasts. The Tribunal considers that, for the purposes of this expiry review, established steel industry publications are the most reliable references for global and specific country steel prices and forecasts, and notes that each of the parties referenced such publications as CRU's *Steel Sheet Products Monitor*, CRU's *Steel Sheet Quarterly*, Barnes's *U.S. Industry and Market Outlook*, MEPS's *International Steel Review*, Metal Bulletin Research reports and World Steel Dynamics reports for the purposes of corroborating the statements of their respective witnesses.<sup>35</sup> The Tribunal also notes that the data in such publications may cover more than hot-rolled steel sheet and may cover different time periods. For these reasons, the Tribunal reviewed the pricing sources on the record for the purposes of observing general pricing trends; in this regard, the Tribunal observed that the general pricing trends, in respect of corresponding periods of time, were generally similar from one source to the other.

### **Changes in International and Domestic Market Conditions**

105. In coming to its view on the likely volumes and prices of the subject goods and their impact on the domestic industry, if the order were rescinded, the Tribunal will first consider changes in international and domestic market conditions, as contemplated by paragraph 37.2(2)(j) of the *Regulations*.

106. It is generally recognized that the market for hot-rolled steel sheet is a global market, albeit with some regional differences. Since the first expiry review, and during the POR, there have been some significant changes in the domestic and global steel markets in general, and for hot-rolled steel sheet in particular.

107. The Tribunal notes that some of the most noteworthy changes include the following: significant change in supply and demand fundamentals due to the global financial crisis; China's dominant presence in the global steel market; the emergence of India as a significant global steel producer and consumer;<sup>36</sup> global steel overcapacity; volatility in global and regional steel pricing; increases in input costs due to shortfalls in the supply of raw materials; significant decreases in transportation costs due to historically low ocean freight costs; steel industry consolidation; and the continuation of North America being among the highest-priced steel markets in the world.

108. However, the single most important factor that influenced world steel dynamics during the POR was the global financial crisis, which led to a world economic slowdown. As a result, the global steel industry experienced significant ups and downs during the POR. In early 2008, the global steel industry

---

35. These trade journals and industry publications will be cited as either Tribunal or party exhibits throughout these reasons. Protected exhibits were made available only to independent counsel who had filed a declaration and confidentiality undertaking with the Tribunal. The Tribunal notes that the said documents and imports, exports, sales, pricing, production, financial data and forecasts, even in aggregate form, contained therein are protected by copyright. Where necessary to provide complete reasons, however, the approximate percentage or general range of magnitude will be given, the applicable summary statement or direct quote will be provided and the relevant trade journal or industry publication will be referred to as "established steel industry publication" and cited accordingly.

36. Tribunal Exhibit RR-2010-001-15.04, attachment D11, Administrative Record, Vol. 3D at 12, 100; Manufacturer's Exhibit B-11, tab 18, Administrative Record, Vol. 11B.

experienced a peak, which was followed by troughs towards the end of 2008 and in early 2009. The latter half of 2009, the full year 2010 and early 2011 saw some recovery, which is expected to continue in the near to medium term.

109. World steel prices are highly sensitive to trends in the world economy, including global economic downturns. From 2000 to mid-2008, the world steel industry experienced an upward surge in global steel production, consumption and prices. However, the global economic crisis had a significant negative impact on the world steel market. In particular, the recession had a major negative impact on world hot-rolled steel sheet supply, demand and prices during the POR.<sup>37</sup>

110. In the second half of 2008, amid the global recession, the world steel market experienced global steel production and consumption decreases owing to the waning global demand, as well as to a decline in steel prices. For the full year 2008, global steel production and consumption declined by 1.4 percent and 1.6 percent respectively. This trend continued into 2009, as the global economy continued to contract, i.e. global steel production and consumption declined by 7.3 percent and 7.4 percent respectively.<sup>38</sup>

111. Following a significant contraction due to the global recession, the world steel markets started to exhibit signs of recovery in the second half of 2009 and into 2010, as global steel supply and demand increased post-recession and started a slow return towards pre-recession rates. Global steel production and consumption experienced a rebound of 15.8 percent and 10.5 percent, respectively, in 2010, and are forecast to continue to increase, although at much slower rates of 7 percent and 5.5 percent, respectively, in 2011.<sup>39</sup> The various trade publications on record forecast continued recovery in global steel supply and demand over the next two years.<sup>40</sup>

112. According to the Organisation for Economic Co-operation and Development (OECD),<sup>41</sup> global capacity for crude steel is forecast to grow from approximately 1.9 billion metric tonnes to more than 2 billion metric tonnes between 2010 and 2012. At the same time, consumption of crude steel is projected to increase from 1.4 billion metric tonnes in 2010 to over 1.5 billion metric tonnes in 2012.<sup>42</sup> These figures forecast a significant global overcapacity for crude steel of approximately 500 million metric tonnes in 2012.<sup>43</sup>

---

37. Manufacturer's Exhibit B-12 (single copy) (protected), tabs 43, 54, Administrative Record, Vol. 2.01E at 69, 71, 73, 75, 238, 246-48, 270, 278, 292, 300, 322-23, 330-31, 437.

38. Manufacturer's Exhibit B-11, tab 20 at 311, 313, Administrative Record, Vol. 11B.

39. Manufacturer's Exhibit B-11, tab 20 at 336, Administrative Record, Vol. 11B.

40. Tribunal Exhibit RR-2010-001-42, Administrative Record, Vol. 1A at 248-50, 252; Tribunal Exhibit RR-2010-001-43, Administrative Record, Vol. 1A at 268-69; Manufacturer's Exhibit B12 (single copy) (protected), tab 43, Administrative Record, Vol. 2.01E at 103, 125, 154, 167, 183, 198, 230, 241, 246, 361.

41. Manufacturer's Exhibit B-05 at para. 18, Administrative Record, Vol. 11A; Manufacturer's Exhibit B-11, tab 22 at 375, Administrative Record, Vol. 11B; Manufacturer's Exhibit D-03 at paras. 16-17, tab 2 at 32-34, tab 3 at 35-36, Administrative Record, Vol. 11D.

42. Manufacturer's Exhibit B-05 at para. 18, Administrative Record, Vol. 11A; Manufacturer's Exhibit B-11, tab 10 at 193, Administrative Record, Vol. 11B.

43. Manufacturer's Exhibit D-03 at para. 18, tab 4 at 47, Annex 2 to tab 4 at 87, Administrative Record, Vol. 11D.

113. In regard to hot-rolled steel sheet, during the period from 2008 to 2010, global consumption increased by more than 6 percent, slowly returning towards pre-recession rates.<sup>44</sup> The growth in consumption has been primarily fuelled by increasing demand in emerging economies, most notably in Asia.<sup>45</sup>

114. As the world's largest producer and consumer of steel, China is the primary driver of world steel demand, supply and price. The impact of China is equally pronounced in the global hot-rolled steel sheet market, where, in 2010, China accounted for more than one third of world production and consumption of hot-rolled steel sheet.<sup>46</sup>

115. Global growth prospects for hot-rolled steel sheet demand are closely related to projections for the domestic Chinese market. An established steel industry publication forecasts that the demand for hot-rolled steel sheet in China will grow, but at a relatively slower rate, during the period from 2010 to 2015.<sup>47</sup> This is corroborated by another established steel industry publication projection that China's apparent hot-rolled steel sheet consumption should not increase greatly in the future.<sup>48</sup>

116. Against this backdrop, apparent global consumption of hot-rolled steel sheet is forecast to increase by more than 5 percent in 2011 and by over 7 percent in 2012.<sup>49</sup> According to a recent edition of an established steel industry publication, "[d]emand growth will slow to under 5 [percent] per year after 2012 as Chinese domestic market expansion rates ease back (as steel intensity growth slows) and while [consumption and production] volumes remain well below pre-global financial crisis levels in many developed markets."<sup>50</sup> In summary, global consumption of hot-rolled steel sheet is expected to grow, albeit at reduced rates, in the near term.

117. During the POR, India emerged as a key player in the global steel market and a major driver of world steel demand and production. In 2010, India became the world's fifth largest steel producer. The latest projections concerning India identify it as a major driver of growth in steel production and consumption in the foreseeable future.<sup>51</sup>

118. In each year of the 2008-to-2010 period, global hot-rolled steel sheet production kept pace with global consumption, and this trend is forecast to continue with increases of 5 percent in 2011 and 7 percent in 2012.<sup>52</sup>

---

44. Tribunal Exhibit RR-2010-001-22.01E (single copy) (protected), confidential attachment 14(C) at 12, Administrative Record, Vol. 2.01D; Exporter's Exhibit E-07 (single copy) (protected), Administrative Record, Vol. 2.01F at 75.

45. China and India continued to have strong domestic demand, which cushioned the slow recovery in developing economies. Tribunal Exhibit RR-2010-001-39, Administrative Record, Vol. 1A at 60, 76, 126; Manufacturer's Exhibit B-11, tab 21 at 353, Administrative Record, Vol. 11B.

46. Exporter's Exhibit E-07 (single copy) (protected) at 75, Administrative Record, Vol. 2.01F.

47. Manufacturer's Exhibit B-12 (single copy) (protected), tab 43, Administrative Record, Vol. 2.01E at 66.

48. Tribunal Exhibit RR-2010-001-16.02B (single copy) (protected), Administrative Record, Vol. 2.01 at 17.

49. Manufacturer's Exhibit B-12 (single copy) (protected), tab 43, Administrative Record, Vol. 2.01E at 238.

50. *Ibid.* at 62, 238, 246.

51. Manufacturer's Exhibit B-05 at paras. 29, 59-71, Administrative Record, Vol. 11A; Manufacturer's Exhibit B-06 (protected) at paras. 29, 59-71, Administrative Record, Vol. 12A; *Transcript of Public Hearing*, Vol. 1, 20 June 2011, at 22; *Transcript of Public Hearing*, Vol. 2, 21 June 2011, at 254.

52. Manufacturer's Exhibit B-12 (single copy) (protected), tab 43, Administrative Record, Vol. 2.01E at 246.



119. The significant overcapacity in the global steel market is reflected in the global hot-rolled steel sheet market, where global overcapacity is projected to continue in the near future.<sup>53</sup>

120. According to the OECD and an established steel industry publication, the excess global steel capacity will represent over 500 million metric tonnes by 2012,<sup>54</sup> of which 300 million metric tonnes<sup>55</sup> will be hot-rolled steel sheet.

121. The subject countries account for over 200 million metric tonnes of the anticipated excess capacity for hot-rolled steel sheet.<sup>56</sup> The Tribunal notes that China accounts for most of the projected excess global capacity for hot-rolled steel sheet in 2011 and 2012.<sup>57</sup>

122. The peaks and troughs of the global market caused average global prices for hot-rolled steel sheet to be very volatile during the POR. In the first half of 2008, global prices escalated sharply, from approximately US\$695 per metric tonne in January 2008 to US\$1,158 per metric tonne in August 2008, an increase of 67 percent.<sup>58</sup>

123. Average global prices fell sharply in the fourth quarter of 2008, primarily due to the global economic crisis, which caused significant oversupply and collapse in demand; prices declined further in the first and second quarters of 2009. During that period, average global prices for hot-rolled steel sheet declined from US\$937 per metric tonne in October 2008 to US\$556 per metric tonne in June 2009, a decrease of 41 percent, before partially recovering in the second half of 2009.<sup>59</sup>

124. Average global prices peaked again in the second quarter of 2010, at US\$811 per metric tonne. Throughout the second half of 2010, average global prices for hot-rolled steel sheet declined and reached a low of US\$717 per metric tonne in December.<sup>60</sup> While average global prices recovered in the first quarter of 2011, they remained below 2008 levels.<sup>61</sup> In March 2011, the global prices firmed up, with an average price for hot-rolled steel sheet of US\$936 per metric tonne.<sup>62</sup>

125. In terms of domestic market pricing, prices of hot-rolled steel sheet are tied to, and reflect, the volatility of international prices. Overall, the situation remains relatively the same as that found in the first expiry review.

---

53. *Ibid.* at 103, 125, 154, 167, 183, 198, 238, 246, 361.

54. Manufacturer's Exhibit B-11, tab 22 at 375, Administrative Record, Vol. 11B; *Transcript of Public Hearing*, Vol. 1, 20 June 2011, at 15-16.

55. Manufacturer's Exhibit B-12 (single copy) (protected), tab 43, Administrative Record, Vol. 2.01E at 103, 125, 154, 167, 183, 198, 246, 361; *Transcript of Public Hearing*, Vol. 1, 20 June 2011, at 15-16.

56. Manufacturer's Exhibit B-12 (single copy) (protected), tab 43, Administrative Record, Vol. 2.01E at 103, 125, 154, 167, 183, 198, 238, 246, 250, 253-55, 353, 356-58, 360-61; *Transcript of Public Hearing*, Vol. 1, 20 June 2011, at 15-16.

57. Manufacturer's Exhibit B-12 (single copy) (protected), tab 43, Administrative Record, Vol. 2.01E at 154, 238, 246, 254, 353, 361; *Transcript of In Camera Hearing*, Vol. 1, 20 June 2011, at 23.

58. In this paragraph and the following two paragraphs, unless stated otherwise, the Tribunal used average global prices published by MEPS, since they were available on a monthly basis. Tribunal Exhibit RR-2010-001-28 (single copy), Administrative Record, Vol. 1.01 at 3, 17.

59. Tribunal Exhibit RR-2010-001-28 (single copy), Administrative Record, Vol. 1.01 at 21, 37, 39, 41, 43, 45, 47, 49.

60. Tribunal Exhibit RR-2010-001-29 (single copy), Administrative Record, Vol. 1.01 at 78, 162.

61. Tribunal Exhibit RR-2010-001-13.13 (protected), Administrative Record, Vol. 2.4E at 9-10.

62. Tribunal Exhibit RR-2010-001-29 (single copy), Administrative Record, Vol. 1.01 at 198; Manufacturer's Exhibit B-12 (single copy) (protected), tab 43, Administrative Record, Vol. 2.01E at 63.

126. A review of the historical average prices in the major world markets revealed that the North American market was generally the highest-priced market in the world and that, within this market, the Canadian and U.S. prices are similar.<sup>63</sup>

127. For example, the evidence indicates that, during the period from 1996 to 2010, the U.S. market was higher-priced than the European Union (EU) market in 11 of the 15 years.<sup>64</sup> While the EU market has seen higher prices in recent years, an established steel industry publication projects that U.S. market pricing will be more than US\$50 per metric tonne higher than the EU prices in 2011 and that the United States will remain the highest-priced market in the world through 2015, with a difference of more than US\$26 per metric tonne when compared to the EU market.<sup>65</sup>

128. The evidence indicates that Canadian and U.S. prices for hot-rolled steel sheet were very similar during the POR. A comparison of the average monthly domestic transaction prices shows that Canadian transaction prices for hot-rolled steel sheet were, on average, US\$14 below those in the U.S. market.<sup>66</sup> This relatively small difference in price between these markets was corroborated by witnesses at the hearing.<sup>67</sup>

129. As of the second quarter of 2011, North America was the highest-priced market in the world for hot-rolled steel sheet, at close to US\$900 per metric tonne. In comparison, the price of hot-rolled steel sheet in the European Union was close to US\$850 per metric tonne for the same period.<sup>68</sup>

130. China is one of the lowest-priced markets in the world, with a June 2011 domestic market price of less than US\$765 per metric tonne.<sup>69</sup> The differentials between the North American market price and the price in other markets, particularly in Asia, make Canada an attractive market for foreign producers.

131. It is expected that hot-rolled steel sheet prices will remain volatile in the near future. An established steel industry publication forecast “. . . price falls in all regions from the end of [the second quarter of] 2011 at the latest, as slower demand growth and increased supply pressures weaken market fundamentals.”<sup>70</sup> The subsequent tightening in the supply/demand balance is anticipated to result in renewed regional hot-rolled steel sheet price increases in the first half of 2012.<sup>71</sup> An established steel industry publication forecast prices of hot-rolled steel sheet to then steadily decrease over the next several years.<sup>72</sup>

---

63. Tribunal Exhibit RR-2010-001-13.13 (protected), Administrative Record, Vol. 2.4E at 9-10; Tribunal Exhibit RR-2010-001-28 (single copy), Administrative Record, Vol. 1.01 at 2, 4, 6, 8, 10, 12, 14, 16, 18, 20, 22, 24, 26, 28, 30, 32, 34, 36, 38, 40, 42, 44, 46, 48, 50, 52, 54; Tribunal Exhibit RR-2010-001-29 (single copy), Administrative Record, Vol. 1.01 at 57, 69, 81, 93, 105, 117, 129, 141, 153, 165, 177, 189; *Transcript of Public Hearing*, Vol. 2, 21 June 2011, at 250-53; *Transcript of Public Hearing*, Vol. 4, 23 June 2011, at 494-97; *Transcript of In Camera Hearing*, Vol. 4, 23 June 2011, at 273-80.

64. The forecast prices used for purposes of this comparison are those of Germany and the United States. Manufacturer's Exhibit B-12 (single copy) (protected), tab 43, Administrative Record, Vol. 2.01E at 69.

65. Manufacturer's Exhibit B-12 (single copy) (protected), tab 43, Administrative Record, Vol. 2.01E at 62, 69.

66. Tribunal Exhibit RR-2010-001-28 (single copy), Administrative Record, Vol. 1.01 at 2, 4, 6, 8, 10, 12, 14, 16, 18, 20, 22, 24, 26, 28, 30, 32, 34, 36, 38, 40, 42, 44, 46, 48, 50, 52, 54; Tribunal Exhibit RR-2010-001-29 (single copy), Administrative Record, Vol. 1.01 at 57, 69, 81, 93, 105, 117, 129, 141, 153, 165, 177, 189.

67. *Transcript of Public Hearing*, Vol. 2, 21 June 2011, at 212-13.

68. Manufacturer's Exhibit B-16 (single copy) (protected), Administrative Record, Vol. 2.01F at 178.

69. *Ibid.* at 164.

70. Manufacturer's Exhibit B-12 (single copy) (protected), tab 43, Administrative Record, Vol. 2.01E at 62.

71. *Ibid.* at 66.

72. *Ibid.* at 62.

132. In addition to price volatility, the Tribunal notes that there remains a strong production imperative in the steel industry in light of the capital-intensive nature of hot-rolled steel sheet production. The evidence shows that the situation that exists today is the same as that which existed in the first expiry review, where the Tribunal concluded that “. . . the production of hot-rolled [steel] sheet is highly capital-intensive, with a pressing need for high utilization rates to cover high fixed costs. This creates a production imperative that encourages foreign mills to export at prices low enough to find a market for their excess production.”<sup>73</sup>

133. Another development that affected the global steel market during the POR is the significant increase in the cost of raw materials. The evidence on the record indicates that the supply of raw materials has not kept pace with the increasing demand for such materials resulting from the rapid expansion of global steel production.<sup>74</sup> China’s significant import demand of steel-related raw materials, particularly for iron ore, coal and scrap, is a major factor that influenced contraction in global supply.<sup>75</sup> Although raw material producers have reacted by raising output, global supplies of steel-related raw materials have come under strain partly due to the adoption of restrictive export policies in certain countries and to strong demand.<sup>76</sup> This shortage of raw materials and increase in the cost of raw materials are expected to continue in the near to medium term.<sup>77</sup>

134. According to the OECD, “[t]he global upturn in steel production has resulted in a significant tightening in the markets for steelmaking raw materials, sending prices of some key materials to historically high levels.”<sup>78</sup>

135. The high cost of raw materials has become a concern for steel producers worldwide. For example, between 2009 and 2010, the cost of iron ore doubled, increasing from US\$67 to US\$133 per metric tonne; the price of coke increased from US\$248 to US\$433 per metric tonne; and scrap increased by approximately US\$125 per metric tonne.<sup>79</sup> Higher raw material costs and relatively low hot-rolled steel sheet prices mean that steel producers around the world face, what they call, a “cost-price squeeze”.

136. The Tribunal notes that hot-rolled steel sheet is typically shipped to major world markets using the same mode of transportation (i.e. ocean vessel). In this regard, ocean freight shipping rates decreased considerably over the POR and were at their lowest levels at the beginning of 2011, as compared to levels observed in any other years since the first expiry review.<sup>80</sup>

137. The Baltic Dry Index,<sup>81</sup> which measures daily changes in the cost of shipping raw materials, decreased by approximately 55 percent between February 2010 and February 2011.<sup>82</sup> The evidence indicates that, despite increases in the price of oil, an oversupply of shipping vessels has forced down shipping charges and that this scenario is expected to continue into the foreseeable future.<sup>83</sup>

---

73. At para. 78.

74. Tribunal Exhibit RR-2010-001-12.10, Administrative Record, Vol. 1.4 at 61-62; Tribunal Exhibit RR-2010-001-13.08 (protected), Administrative Record, Vol. 2.4C at 468; Tribunal Exhibit RR-2010-001-13.14 (protected), Administrative Record, Vol. 2.4E at 17.

75. Tribunal Exhibit RR-2010-001-15.01, Administrative Record, Vol. 3 at 116, 134, 228, 246, 336-37, 370.

76. Manufacturer’s Exhibit D-03, tab 5, Administrative Record, Vol. 11D at 89.

77. Tribunal Exhibit RR-2010-001-13.14 (protected), Administrative Record, Vol. 2.4E at 17.

78. Manufacturer’s Exhibit D-03, tab 3, Administrative Record, Vol. 11D at 36; Tribunal Exhibit RR-2010-001-13.14 (protected), Administrative Record, Vol. 2.4E at 76.

79. Manufacturer’s Exhibit B-11, tab 20 at 332, Administrative Record, Vol. 11B; Tribunal Exhibit RR-2010-001-12.12, Administrative Record, Vol. 1.4 at 79.

80. Manufacturer’s Exhibit B-11, tab 20 at 333-34, Administrative Record, Vol. 11B.

81. The Baltic Dry Index provides a daily assessment of the price of moving the major raw materials by sea, taking in 26 shipping routes measured on a time charter and voyage basis.

82. Manufacturer’s Exhibit B-11, tab 20 at 333-34, Administrative Record, Vol. 11B.

83. Manufacturer’s Exhibit B-03 at para. 75, Administrative Record, Vol. 11A.

138. Over the last number of years, the steel industry has undergone a series of changes due, in large part, to the number of mergers and acquisitions of steel companies, leading to consolidation of ownership where a smaller number of international steel conglomerates own and control a larger share of world steel production.<sup>84</sup>

139. It is generally accepted in the steel industry that the acquisition of steel-making facilities by large internationally based steel companies should lead to less price volatility in the international steel market, including the hot-rolled steel sheet market, by reducing excess capacity and promoting greater efficiency and rationalization of production.

140. The evidence shows that the impact of consolidation on global steel pricing, i.e. less volatile pricing, has not been felt due to continuing repercussions from the global economic crisis and a lack of rationalization within Asia and other emerging markets.

141. In the first expiry review, the Tribunal noted that steel industry consolidation had taken place mostly in mature markets, such as North America and Europe, and that consolidation in Asia was only starting.

142. Since the first expiry review, consolidation in Asia as a whole has advanced somewhat, with most of the consolidation having occurred in China.<sup>85</sup> The record contains numerous examples of steel companies that consolidated their operations since the first expiry review, such as the establishment of: Shandong Iron and Steel Group in 2006, which was created by the consolidation of Jinan Iron and Steel Company Ltd. and Laiwu Steel Corporation; Hebei Iron and Steel Group in 2008, which was created by the consolidation of Tangshan Iron and Steel Co., Ltd. and Handan Iron and Steel Co., Ltd.; Anben Iron and Steel Group in 2008, which was created by the merger between Anshan Iron and Steel Group Corporation and Benxi Iron and Steel Group; and Guangdong Iron and Steel Company in 2008, which was created by the consolidation of Baosteel Group Co. with Guanggang and Shaogang Iron and Steel Group.<sup>86</sup> In 2009, Baosteel Group Co. was the second largest crude steel producer in the world,<sup>87</sup> and Jiangsu Shaogang Group and Ansteel were ranked sixth and eighth respectively.<sup>88</sup>

143. In addition, there is evidence that suggests that, in June 2010, the State Council in China issued a guideline to advance industry consolidation in the Chinese steel industry.<sup>89</sup> According to this guideline, the government targets 60 percent of steel production capacity to be controlled by the 10 largest mills by 2015, up from 44 percent in 2009. Although the guideline also prohibits local governments from approving

---

84. Manufacturer's Exhibit B-11, tab 7 at 173-74, Administrative Record, Vol. 11B; Manufacturer's Exhibit B-12 (single copy) (protected), tab 43, Administrative Record, Vol. 2.01E at 22, 40; Tribunal Exhibit RR-2010-001-22.01E (single copy) (protected), Administrative Record, Vol. 2.01C at 29, 45, 61, 93, 141, 157, 205, 221, 237, 253, 285, 301, 349, 365, 381, 413, 445, 477, 493, 509, 557, 573; Tribunal Exhibit RR-2010-001-22.01E (single copy) (protected), Administrative Record, Vol. 2.01D at 11, 59, 75, 107, 139, 155, 171, 187, 203, 235, 251, 283, 315; Exporter's Exhibit E-07 (single copy) (protected), Administrative Record, Vol. 2.01F at 10, 26, 42, 58.

85. Manufacturer's Exhibit B-11, tab 7 at 171, 173, Administrative Record, Vol. 11B.

86. Tribunal Exhibit RR-2010-001-13.10 (protected), Administrative Record, Vol. 2.4D at 71; Tribunal Exhibit RR-2010-001-15.02, Administrative Record, Vol. 3A at 114; Tribunal Exhibit RR-2010-001-15.02A, Administrative Record, Vol. 3B at 115.

87. In the first expiry review, no Chinese company was among the world's top five crude steel producers. Tribunal Exhibit RR-2010-001-15.02A, Administrative Record, Vol. 3B at 108.

88. Tribunal Exhibit RR-2010-001-15.02A, Administrative Record, Vol. 3B at 146.

89. Manufacturer's Exhibit D-03, tab 4, Administrative Record, Vol. 11D at 47.

projects that increase steel production capacity before the end of 2011,<sup>90</sup> such bans are not new, and a similar moratorium was largely ignored in the past year.<sup>91</sup> Similarly, while it was anticipated that consolidation would lead to rationalization, overall rationalization has not occurred.<sup>92</sup>

144. Regarding the steel industry in Latin America, the Brazilian Steel Institute recently indicated that it is very fragmented, suffering from a surplus of production capacity and in need of consolidation.<sup>93</sup> The only evidence on the record regarding the consolidation of the steel industry in Brazil relates to USIMINAS's integration of COSIPA in 2005, which made USIMINAS the largest producer of flat-rolled steel sheet products in Latin America.<sup>94</sup>

145. Finally, the Tribunal notes that, in June 2011, the United States International Trade Commission (USITC) revoked the anti-dumping and countervailing duty orders with respect to imports of hot-rolled and flat-rolled carbon-quality steel products from Brazil.<sup>95</sup> These and other anti-dumping and/or countervailing measures against flat-rolled steel products from the subject countries will be discussed below in the section of the reasons entitled "Likely Volumes of Dumped and Subsidized Goods".

#### Domestic Market Conditions

146. Since the first expiry review, there have been significant changes in the structure of the Canadian hot-rolled steel sheet industry.

147. First, there have been a number of consolidations among the domestic producers. As stated earlier, of the five domestic producers that constituted the domestic industry in the first expiry review, one domestic producer, Mittal Canada Inc., shut down its hot-rolled steel sheet operations and consolidated its production with ArcelorMittal Dofasco in the first quarter of 2008.<sup>96</sup>

148. The other four domestic producers, ArcelorMittal Dofasco, Essar Algoma, Evraz and U.S. Steel Canada, which constitute 100 percent of the domestic industry in this expiry review, changed ownership and underwent major restructuring during the POR. As discussed earlier, ArcelorMittal Dofasco and Evraz were acquired by steelmaking companies located in Luxembourg, while Essar Algoma is now owned by a steelmaking company in the Netherlands, and U.S. Steel Canada, by a North American steel company. Subsequent to the consolidations, the domestic producers made major capital investments to improve efficiency.<sup>97</sup>

149. Similarly, a period of consolidation among steel service centres in Canada, which began during the first expiry review, continued throughout the POR. As a result, there are now fewer steel service centres in Canada; however, they are now much larger and, thus, capable of buying large quantities of imported steel

---

90. *Ibid.*

91. *Ibid.*

92. Tribunal Exhibit RR-2010-001-13.09 (protected), Administrative Record, Vol. 2.4D at 46.

93. Manufacturer's Exhibit C-12, attachment 5, Administrative Record, Vol. 11C; Manufacturer's Exhibit C-13 (protected), confidential attachment 2, Administrative Record, Vol. 12B.

94. Tribunal Exhibit RR-2010-001-21.01A, Administrative Record, Vol. 5.1 at 9, 65, 468.

95. Tribunal Exhibit RR-2010-001-51 (single copy), Administrative Record, Vol. 1.01B at 63-309.

96. Tribunal Exhibit RR-2010-001-15.02, Administrative Record, Vol. 3A at 13.

97. *Transcript of Public Hearing*, Vol. 1, 20 June 2011, at 12, 29; *Protected Pre-hearing Staff Report*, Tribunal Exhibit RR-2010-001-06 (protected), Administrative Record, Vol. 2.1 at 66, 144-47.

from offshore sources. In combination with their knowledge of the Canadian and North American steel marketplace, and presence throughout Canada, Canadian steel service centres are able to source steel from any other country and use their substantial buying power to affect domestic prices.<sup>98</sup>

150. Another change in the market conditions is the integration of Canada and the United States into what has essentially become a single North American hot-rolled steel sheet market.<sup>99</sup> Evidence on the record of the integration of the Canadian and U.S. hot-rolled steel sheet markets shows important similarities in terms of supply, demand, pricing, delivery arrangements, inventory, methods of production<sup>100</sup> and, to some extent, the clients themselves.<sup>101</sup>

151. Concerning pricing, price volatility was observed in the Canadian and U.S. markets throughout the POR, with exceptionally high peaks achieved in 2008 and the first quarter of 2011, and exceptionally low troughs in 2009,<sup>102</sup> which were due, in large part, to the global economic crisis and related global supply imbalances, low-priced non-subject imports and substantial increases in the cost of raw materials.<sup>103</sup>

152. A comparison of transaction prices for hot-rolled steel sheet during the POR shows that Canadian and U.S. prices are very similar and follow the same trend. The Tribunal considers that, for purposes of this expiry review, U.S. Midwest spot prices are a reasonable proxy for both Canadian and U.S. prices.<sup>104</sup>

153. Overall, during the POR, the general market conditions in Canada broadly resembled global market conditions. Even with the order in place, the Canadian market for hot-rolled steel sheet remained highly cyclical, with favourable market conditions in 2008, very poor market conditions in 2009, and the market showing some signs of recovery in 2010 and the first quarter of 2011.<sup>105</sup>

---

98. Manufacturer's Exhibit B-07 at paras. 18-28, Administrative Record, Vol. 11A; *Transcript of Public Hearing*, Vol. 2, 21 June 2011, at 179-80.

99. *Transcript of Public Hearing*, Vol. 1, 20 June 2011, at 45, 61, 82.

100. *Transcript of Public Hearing*, Vol. 3, 22 June 2011, at 331-32.

101. *Transcript of Public Hearing*, Vol. 1, 20 June 2011, at 45, 61, 68-69.

102. Tribunal Exhibit RR-2010-001-28 (single copy), Administrative Record, Vol. 1.01 at 10, 12, 14, 16, 18, 30, 32, 34, 36, 38; Tribunal Exhibit RR-201-001-29 (single copy), Administrative Record, Vol. 1.01 at 165, 177, 189.

103. Manufacturer's Exhibit A-03 (protected) at paras. 50-64, confidential attachment 1 at 1-15, Administrative Record, Vol. 12; Manufacturer's Exhibit B-03 at paras. 54- 59, Administrative Record, Vol. 11A; Manufacturer's Exhibit B-08 (protected) at paras. 38-47, confidential attachments 1-5, Administrative Record, Vol. 12A; Manufacturer's Exhibit C-06 (protected) at paras. 26-29, Administrative Record, Vol. 12B; Manufacturer's Exhibit C-08 (protected), confidential attachments 11-14 at 107-22, Administrative Record, Vol. 12B; Manufacturer's Exhibit D-03 at para. 13, Administrative Record, Vol. 11D; *Pre-hearing Staff Report*, Tribunal Exhibit RR-2010-001-05, Administrative Record, Vol. 1.1 at 73; *Pre-hearing Staff Report*, revised 13 June 2011, Tribunal Exhibit RR-2005-002-05A, Administrative Record, Vol. 1.1A at 41; *Transcript of Public Hearing*, Vol. 1, 20 June 2011, at 40, 101-103.

104. *Transcript of Public Hearing*, Vol. 1, 20 June 2011, at 28, 37-38, 56; *Transcript of Public Hearing*, Vol. 2, 21 June 2011, at 166-67; *Transcript of Public Hearing*, Vol. 3, 22 June 2011, at 298, 320-21, 332.

105. *Pre-hearing Staff Report*, revised 13 June 2011, Tribunal Exhibit RR-2010-001-05A, Administrative Record, Vol. 1.1A at 41.

154. Since the first expiry review, the size of the Canadian hot-rolled steel sheet market has decreased and has not yet returned to the annual average of 5.6 million metric tonnes experienced in years prior to the economic downturn.<sup>106</sup>

155. During the POR, there were drastic swings in the size of the Canadian market. In 2008, the Canadian market was 4.3 million metric tonnes.<sup>107</sup> It preceded one of the most severe economic crises in history. The economic downturn was the major factor that contributed to the severe decline in the Canadian and North American hot-rolled steel sheet markets during the POR.

156. In early 2008, demand increased and prices rose, but, later in the year, there was a considerable slowdown in the market, and steel service centres, along with end users, tried to liquidate their inventories.<sup>108</sup>

157. This slowdown continued through 2009, resulting in stagnant demand and significant downward market adjustments;<sup>109</sup> only 2.6 million metric tonnes of hot-rolled steel sheet were sold in 2009. There were signs of recovery in 2010 and the first quarter of 2011 as market conditions improved, showing a 49 percent recovery in 2010, which brought the market to almost 4.0 million metric tonnes;<sup>110</sup> however, this improvement did not reach the levels experienced before the economic downturn.<sup>111</sup>

158. When comparing the first quarter of 2011 to the first quarter of 2010, the Tribunal observes a 25 percent recovery in the size of the Canadian market. However, the recovery of the Canadian market remains fragile.<sup>112</sup> For the second quarter of 2011, the Canadian market is forecast to be somewhat flat, but might show some further signs of recovery in terms of its size.<sup>113</sup>

---

106. *Pre-hearing Staff Report* prepared for the first expiry review, Tribunal Exhibit RR-2010-001-10B, Administrative Record, Vol. 1.3 at 214; *Pre-hearing Staff Report*, revised 13 June 2011, Tribunal Exhibit RR-2010-001-05A, Administrative Record, Vol. 1.1A at 41, 42.

107. *Pre-hearing Staff Report*, revised 13 June 2011, Tribunal Exhibit RR-2010-001-05A, Administrative Record, Vol. 1.1A at 41.

108. Tribunal Exhibit RR-2010-001-28 (single copy), Administrative Record, Vol. 1.01 at 20, 22, 24; *Transcript of Public Hearing*, Vol. 1, 20 June 2011, at 13-14.

109. *Transcript of Public Hearing*, Vol. 1, 20 June 2011, at 10, 13, 14; Manufacturer's Exhibit D-03 at paras. 60-61, Administrative Record, Vol. 11D.

110. *Pre-hearing Staff Report*, revised 13 June 2011, Tribunal Exhibit RR-2010-001-05A, Administrative Record, Vol. 1.1A at 41, 42.

111. *Transcript of Public Hearing*, Vol. 2, 21 June 2011, at 188; *Transcript of Public Hearing*, Vol. 3, 22 June 2011, at 305-306; Manufacturer's Exhibit B-03 at paras. 38-39, Administrative Record, Vol. 11A; Manufacturer's Exhibit D-03 at paras. 60-61, Administrative Record, Vol. 11D.

112. *Pre-hearing Staff Report*, revised 13 June 2011, Tribunal Exhibit RR-2010-001-05A, Administrative Record, Vol. 1.1A at 42; Manufacturer's Exhibit B-03 at para. 38, Administrative Record, Vol. 11A.

113. *Transcript of Public Hearing*, Vol. 2, 21 June 2011, at 157-58; Manufacturer's Exhibit A-04 at paras. 42(B), 72, Administrative Record, Vol. 11; Manufacturer's Exhibit B-03 at paras. 82-85, Administrative Record, Vol. 11A; Manufacturer's Exhibit D-03 at paras. 61-62, Administrative Record, Vol. 11D; Tribunal Exhibit RR-2010-001-15.01, Administrative Record, Vol. 3 at 8.

159. Over the next 18 to 24 months, the Canadian market is expected to experience relatively flat demand and falling prices.<sup>114</sup> The witness for Samuel forecast growth in the Canadian market in “. . . the next two or three years, probably in the 5 to 10 per cent range.”<sup>115</sup>

160. The economic downturn also had a detrimental effect on downstream steel production and product offerings, particularly for flat products such as cold-rolled, coated and galvanized steel sheet products.<sup>116</sup> The vulnerability of the domestic hot-rolled steel sheet industry was compounded by the fact that, as hot-rolled steel sheet is used as the primary feedstock for many downstream steel products, decreases in demand for these downstream products have also had a negative effect on the demand, production and pricing of hot-rolled steel sheet.<sup>117</sup>

161. For example, the economic downturn had a negative effect on the integrated North American automotive industry.<sup>118</sup> This industry relies heavily on hot-rolled steel sheet as the feedstock product in the manufacture of automobile components.<sup>119</sup>

162. As a direct impact of the economic downturn, Ford indicated that the number of units sold in North America decreased from the admittedly unsustainable pre-recession levels of 15 to 17 million units to about 9 million units in 2009.<sup>120</sup> The Tribunal notes that the weakness of the North American automotive demand affects the production of hot-rolled steel sheet by limiting the derived demand for hot-rolled steel sheet inputs to be used in the production of cold-rolled and coated steel sheet products.

163. While there was some improvement in automotive demand in 2010 and the first four months of 2011, North American automobile production remained substantially below the volumes sold before the economic downturn.<sup>121</sup>

164. Forecasts are for steel prices for the North American automotive industry to remain relatively strong and high until 2015. North American sales are expected to reach 13 million units in 2011 and between 15 million and 17 million units in 2015.<sup>122</sup> Ford submitted that, even though there has been some softening and even a decline in the price of hot-rolled steel sheet in the last 8 to 12 weeks, that decline has not yet reached the North American automotive industry, as it usually deals in longer-term contracts.<sup>123</sup>

---

114. Manufacturer's Exhibit A-04 at para. 42(B), Administrative Record, Vol. 11; Tribunal Exhibit RR-2010-001-15.02, Administrative Record, Vol. 3A at 15; Manufacturer's Exhibit D-03 at paras. 60-61, Administrative Record, Vol. 11D.

115. *Transcript of Public Hearing*, Vol. 2, 21 June 2011 at 157.

116. As a consequence, downstream producers and users have also been negatively affected.

117. *Transcript of Public Hearing*, Vol. 1, 20 June 2011, at 13; *Transcript of Public Hearing*, Vol. 3, 22 June 2011, at 297; Manufacturer's Exhibit B-03 at paras. 42-44, Administrative Record, Vol. 11A.

118. Manufacturer's Exhibit C-03 at para. 29, Administrative Record, Vol. 11C; Manufacturer's Exhibit C-06 (protected) at paras. 15-17, Administrative Record, Vol. 12B; Manufacturer's Exhibit C-08 (protected), confidential attachment 7 at 83, Administrative Record, Vol. 12B.

119. *Transcript of Public Hearing*, Vol. 3, 22 June 2011, at 342, 359.

120. Manufacturer's Exhibit C-03 at para. 29, Administrative Record, Vol. 11C; Manufacturer's Exhibit C-06 (protected) at paras. 15-16, Administrative Record, Vol. 12B; Manufacturer's Exhibit C-08 (protected), confidential attachment 7 at 83, Administrative Record, Vol. 12B; *Transcript of Public Hearing*, Vol. 3, 22 June 2011, at 368.

121. Manufacturer's Exhibit C-03 at para. 29, Administrative Record, Vol. 11C; Manufacturer's Exhibit C-06 (protected) at paras. 15-16, Administrative Record, Vol. 12B; Manufacturer's Exhibit C-08 (protected), confidential attachment 7 at 83-84, Administrative Record, Vol. 12B; *Transcript of Public Hearing*, Vol. 3, 22 June 2011, at 368.

122. *Transcript of Public Hearing*, Vol. 3, 22 June 2011, at 368-73.

123. *Ibid.*



165. During the POR, hot-rolled steel sheet from each subject country entered the Canadian market, albeit in insignificant quantities and/or in specialty or specific grades, which commanded much higher prices. As importers and traders continued to switch sources of supply in countries whose imports of hot-rolled steel sheet were not subject to anti-dumping and/or countervailing measures in Canada, imports of the subject goods for which anti-dumping and/or countervailing measures are in place were replaced by imports from the United States and other non-subject countries.<sup>124</sup>

166. While imports from the United States were sold in the Canadian market at prices that tracked those of the domestic producers, imports from new offshore sources, such as Australia, Belgium, New Zealand, Russia, Korea and Turkey, significantly disrupted the Canadian market, as they were offered and sold at very low prices.<sup>125</sup>

167. Another significant change in domestic market conditions since the first expiry review and throughout the POR is the significant appreciation of the Canadian dollar relative to the U.S. dollar. The Canadian dollar has been stronger than the U.S. dollar since January 2011<sup>126</sup> and is expected to continue its upward trend in the near to medium term.<sup>127</sup>

168. The Tribunal considers that the strengthening of the Canadian dollar against the U.S. dollar put added pressure on the domestic producers during the POR. It made it harder for them to export to the United States and made it easier for companies to import into the Canadian market. It also made it more difficult for the domestic producers' customers to produce goods using domestic hot-rolled steel sheet as an input and sell them into the U.S. market.

169. However, the appreciating Canadian dollar represented some advantages for the domestic producers. It allowed them to purchase foreign steelmaking equipment at a cheaper price<sup>128</sup> and may have helped to mitigate the price increases for domestic producers to the extent that their raw materials were denominated in U.S. dollars.<sup>129</sup>

170. The appreciation of the Canadian dollar also put significant pressure on automobile producers in Canada by forcing them to shut down their operations or to move them to the United States or Mexico where build rates are increasing and manufacturing costs are lower.<sup>130</sup> As discussed earlier, the high dependence of the North American automotive industry on hot-rolled steel sheet to produce automobile components has a direct impact on Canadian consumption of hot-rolled steel sheet.

---

124. *Pre-hearing Staff Report*, revised 13 June 2011, Tribunal Exhibit RR-2010-001-05A, Administrative Record, Vol. 1.1A at 41, 47; *Protected Pre-hearing Staff Report*, revised 13 June 2011, Tribunal Exhibit RR-2010-001-06A (protected), Administrative Record, Vol. 2.1A at 41, 47; Tribunal Exhibit RR-2010-001-52B, Administrative Record, Vol. 1A at 346.2.

125. *Pre-hearing Staff Report*, revised 13 June 2011, Tribunal Exhibit RR-2010-001-05A, Administrative Record, Vol. 1.1A at 47; *Protected Pre-hearing Staff Report*, revised 13 June 2011, Tribunal Exhibit RR-2010-001-06A (protected), Administrative Record, Vol. 2.1A at 47; Tribunal Exhibit RR-2010-001-15.01, Administrative Record, Vol. 3 at 4; Tribunal Exhibit RR-2010-001-52B, Administrative Record, Vol. 1A at 346.2; Manufacturer's Exhibit A-03 (protected) at paras. 50-64, confidential attachment 1 at 1-15, Administrative Record, Vol. 12; Manufacturer's Exhibit B-08 (protected) at paras. 38-47, confidential attachments 1-5, Administrative Record, Vol. 12A; Manufacturer's Exhibit C-06 (protected) at paras. 26-29, Administrative Record, Vol. 12B; Manufacturer's Exhibit C-08 (protected), confidential attachments 11-14 at 107-22, Administrative Record, Vol. 12B.

126. *Pre-hearing Staff Report*, Tribunal Exhibit RR-2010-001-05, Administrative Record, Vol. 1.1 at 90.

127. *Transcript of Public Hearing*, Vol. 2, 21 June 2011, at 220-21.

128. *Transcript of Public Hearing*, Vol. 1, 20 June 2011, at 29.

129. *Ibid.*; *Transcript of Public Hearing*, Vol. 2, 21 June 2011, at 268-69.

130. Manufacturer's Exhibit C-06 (protected) at para. 17-19, Administrative Record, Vol. 12B; *Transcript of Public Hearing*, Vol. 2, 21 June 2011, at 180; *Transcript of Public Hearing*, Vol. 3, 22 June 2011, at 307.

171. Another important change in the domestic market is the substantial increase in the cost of raw materials alluded to earlier, which has heavily impacted the production cost of hot-rolled steel sheet in the Canadian market.<sup>131</sup>

172. For example, between 2009 and the first quarter of 2011, the cost of raw materials, such as iron ore, coal and scrap, doubled.<sup>132</sup> The Tribunal notes that, similar to global hot-rolled steel sheet producers, the domestic producers are faced with a cost-price squeeze, where the higher costs to produce hot-rolled steel sheet are not reflected in the low domestic market prices for hot-rolled steel sheet.<sup>133</sup> Forecasts are for raw material costs to continue to be high, as such costs are driven by economic forces outside Canada.<sup>134</sup>

173. To counteract the volatility of the cost of raw materials, it has become market practice to move to shorter-term market contract pricing.<sup>135</sup> Contracts are now either market indexed or no longer than one year in duration. Many annual contracts have become quarterly contracts.<sup>136</sup> Even in the automotive industry, a major end user of hot-rolled steel sheet, where long-term contracts of three to five years were the norm to accommodate the “expected life” of a particular vehicle, contracts are now typically shorter-term contracts of between 12 months and 18 months that track (by means of indexing or some other mechanism) spot prices and flexible volume.<sup>137</sup>

### **Likely Volumes of Dumped and Subsidized Goods**

174. The Tribunal’s assessment of the likely volumes of dumped and subsidized imports encompasses the likely performance of the foreign industry, potential for the foreign producers to produce goods in facilities that are currently used to produce other goods, evidence of the imposition of anti-dumping or countervailing measures on hot-rolled steel sheet or similar goods in other jurisdictions and whether measures adopted by other jurisdictions are likely to cause a diversion of the subject goods to Canada.

175. In order to assess the likely volumes of dumped and subsidized hot-rolled steel sheet that might enter the Canadian market if the order is rescinded, the Tribunal will now review the supply and demand conditions in the subject countries collectively.

176. Concerning the likely performance of the foreign industry, production capacity relative to demand is a key factor that is likely to influence the volume of the subject goods exported to Canada. In this respect, the evidence indicates that the aggregate production capacity of producers of hot-rolled steel sheet in the subject countries is very large and that significant excess capacity exists.

---

131. *Pre-hearing Staff Report*, Tribunal Exhibit RR-2010-001-05, Administrative Record, Vol. 1.1 at 59; *Protected Pre-hearing Staff Report*, Tribunal Exhibit RR-2010-001-06 (protected), Administrative Record, Vol. 2.1 at 61; Tribunal Exhibit RR-2010-001-RI-01A (protected) at 2, Administrative Record, Vol. 10; Tribunal Exhibit RR-2010-001-RI-02A (protected) at 4, Administrative Record, Vol. 10; Tribunal Exhibit RR-2010-001-RI-03B (protected) at 1, Administrative Record, Vol. 10; Tribunal Exhibit RR-2010-001-RI-04A (protected) at 2, Administrative Record, Vol. 10.

132. *Transcript of Public Hearing*, Vol. 1, 20 June 2011, at 39, 95.

133. Manufacturer’s Exhibit D-03 at para. 13, Administrative Record, Vol. 11D; *Transcript of Public Hearing*, Vol. 1, 20 June 2011, at 102-103; *Pre-hearing Staff Report*, Tribunal Exhibit RR-2010-001-05, Administrative Record, Vol. 1.1 at 55.

134. *Transcript of Public Hearing*, Vol. 1, 20 June 2011, at 39-40, 93; Manufacturer’s Exhibit C-05 at para. 22, Administrative Record, Vol. 11C.

135. *Transcript of Public Hearing*, Vol. 1, 20 June 2011, at 95.

136. *Ibid.* at 13, 90, 103.

137. *Transcript of Public Hearing*, Vol. 3, 22 June 2011, at 352-57, 379-82, 407-408.

177. The Tribunal notes that each subject country is strongly involved in hot-rolled steel sheet production. Together, they accounted for 46 percent of the global production in 2010.<sup>138</sup> China is the world's dominant hot-rolled steel sheet producer and accounted for 35 percent of global production, followed by India (5 percent), Brazil (3 percent), Chinese Taipei (2 percent) and Ukraine (1 percent).<sup>139</sup> By comparison, North America accounted for 12 percent of the global output of hot-rolled steel sheet in 2010, while Canada accounted for less than 2 percent.<sup>140</sup>

178. The subject countries are also strongly involved in world steel production and rank as follows: first with respect to China; sixth with respect to India; eighth with respect to Ukraine; ninth with respect to Brazil; and twelfth with respect to Chinese Taipei.<sup>141</sup>

179. Collectively, the subject countries had an annual hot-rolled steel sheet capacity of about 420 million metric tonnes in 2010, which represents about 55 percent of the world's capacity.<sup>142</sup> By comparison, this represents in excess of 40 times the size of Canada's hot-rolled steel sheet capacity.<sup>143</sup>

180. In 2010, the subject countries represented about two thirds of the excess global capacity for hot-rolled steel sheet, or over 200 million metric tonnes,<sup>144</sup> and that share is forecast to increase to close to 70 percent in 2012.<sup>145</sup> This excess capacity is more than 50 times the size of the Canadian market for hot-rolled steel sheet in 2010.<sup>146</sup>

181. The evidence shows that the subject countries are planning capacity additions, where, collectively, they will add more than 23 million metric tonnes in 2011 and more than 10 million metric tonnes in 2012, which will put pressure on their existing export dependency.<sup>147</sup> The plant capacity additions for 2011 represent approximately 6 times the size of the Canadian market for 2010, while for 2012, the additional capacity will represent more than 2.5 times the Canadian market for 2010.<sup>148</sup> The evidence also shows that

---

138. Manufacturer's Exhibit B-12 (single copy) (protected), tab 43, Administrative Record, Vol. 2.01E at 246, 250, 253-55.

139. *Ibid.*

140. Manufacturer's Exhibit B-12 (single copy) (protected), tab 43, Administrative Record, Vol. 2.01E at 246, 249.

141. Tribunal Exhibit RR-2010-001-04 (protected), at paras. 193, 268, 308, Administrative Record, Vol. 2; Manufacturer's Exhibit B-11, tab 18 at 273, Administrative Record, Vol. 11B.

142. Manufacturer's Exhibit B-12 (single copy) (protected), tab 43, Administrative Record, Vol. 2.01E at 346-53, 355-61; Manufacturer's Exhibit B-06 (protected) at para. 29, Administrative Record, Vol. 12A.

143. *Pre-hearing Staff Report*, revised 13 June 2011, Tribunal Exhibit RR-2010-001-05A, Administrative Record, Vol. 1.1A at 64.

144. Manufacturer's Exhibit B-12 (single copy) (protected), tab 43, Administrative Record, Vol. 2.01E at 246, 250, 253-55, 346-53, 355-61; Manufacturer's Exhibit B-06 (protected) at para. 29, Administrative Record, Vol. 12A; *Transcript of Public Hearing*, Vol. 1, 20 June 2011, at 15-16.

145. Manufacturer's Exhibit B-12 (single copy) (protected), tab 43, Administrative Record, Vol. 2.01E at 103, 125, 154, 167, 183, 198, 246, 250, 253-55, 346-53, 355-61; Manufacturer's Exhibit B-06 (protected) at para. 29, Administrative Record, Vol. 12A.

146. *Pre-hearing Staff Report*, revised 13 June 2011, Tribunal Exhibit RR-2010-001-05A, Administrative Record, Vol. 1.1A at 41; *Transcript of Public Hearing*, Vol. 1, 20 June 2011, at 16.

147. Manufacturer's Exhibit B-12 (single copy) (protected), tab 43, Administrative Record, Vol. 2.01E at 154, 167, 183, 198; Manufacturer's Exhibit B-06 (protected) at para. 29, Administrative Record, Vol. 12A.

148. Manufacturer's Exhibit B-12 (single copy) (protected), tab 43, Administrative Record, Vol. 2.01E at 154, 167, 183, 198; *Pre-hearing Staff Report*, revised 13 June 2011, Tribunal Exhibit RR-2010-001-05A, Administrative Record, Vol. 1.1A at 41.

new production capacities will outpace the growth in domestic consumption in these countries, whereas the collective domestic consumption of the subject countries is estimated to increase by approximately 13 million metric tonnes in 2011 and 17 million metric tonnes in 2012.<sup>149</sup>

182. With regard to the subject countries' proclivity to export, the evidence indicates that certain large producers in the subject countries are export-oriented, having exported significant volumes of hot-rolled steel sheet into the major world markets since the first expiry review.<sup>150</sup> The evidence also shows that these export volumes are many times the size of the Canadian market.<sup>151</sup>

183. The Tribunal notes that, during the POR, the subject countries maintained an interest and presence in the Canadian hot-rolled steel sheet market.<sup>152</sup> Although the subject countries shipped hot-rolled steel sheet in very minimal volumes, likely due to the presence of anti-dumping and/or countervailing measures, they all maintained a significant commercial presence in the Canadian and North American steel markets through sales of other related non-subject steel products. In this regard, the subject countries have maintained commercial relationships with traders and established distribution networks which would facilitate the importation of the subject goods upon expiry of the order.<sup>153</sup> Further, as discussed above, Canadian service centres themselves are now capable of importing large volumes of the subject goods.<sup>154</sup>

184. The Tribunal considers it significant that, as indicated above, North America is forecast to be the highest-priced market in the world for hot-rolled steel sheet in 2011 and 2012 and that, consequently, in the absence of the order, Canada will be a very attractive export market for the subject goods.<sup>155</sup>

185. The Tribunal further considers that, while transportation costs may have previously been considered somewhat of an export disincentive to the North American market, this factor has now been considerably mitigated by the historically low freight rates previously discussed. Furthermore, the Tribunal is of the view that low freight rates would provide even more of an incentive for exporters to ship to Canada, since these low rates would lessen the impact on their margins, while allowing them to reduce their prices if required to make a sale.

---

149. Manufacturer's Exhibit B-12 (single copy) (protected), tab 43, Administrative Record, Vol. 2.01E at 240, 243-45.

150. *Ibid.* at 145; *Pre-hearing Staff Report*, revised 13 June 2011, Tribunal Exhibit RR-2010-001-05A, Administrative Record, Vol. 1.1A at 77; Tribunal Exhibit RR-2010-001-22.01A (protected), Administrative Record, Vol. 6.1 at 187; Tribunal Exhibit RR-2010-001-22.02 (protected), Administrative Record, Vol. 6.1A at 27; Tribunal Exhibit RR-2010-001-22.03 (protected), Administrative Record, Vol. 6.1A at 161-62; Tribunal Exhibit RR-2010-001-22.04 (protected), Administrative Record, Vol. 6.1A at 200-201.

151. Data in this exhibit are from the International Steel Statistics Bureau and show trade flows of hot-rolled steel sheet between the subject countries and their trading partners. These statistics are based on six-digit codes of the Harmonized Commodity Description and Coding System and, therefore, may contain a relatively small portion of non-subject goods. *Pre-hearing Staff Report*, revised 13 June 2011, Tribunal Exhibit RR-2010-001-05A, Administrative Record, Vol. 1.1A at 41, 75, 77, 79, 81, 83.

152. *Pre-hearing Staff Report*, revised 13 June 2011, Tribunal Exhibit RR-2010-001-05A, Administrative Record, Vol. 1.1A at 41; *Protected Pre-hearing Staff Report*, revised 13 June 2011, Tribunal Exhibit RR-2010-001-06A (protected), Administrative Record, Vol. 2.1A at 41.

153. Tribunal Exhibit RR-2010-001-21.01A, Administrative Record, Vol. 5.1 at 24; *Transcript of Public Hearing*, Vol. 2, 21 June 2011, at 177, 188-90; *Transcript of Public Hearing*, Vol. 4, 23 June 2011, at 470.

154. *Transcript of Public Hearing*, Vol. 1, 20 June 2011, at 111-12; *Transcript of Public Hearing*, Vol. 2, 21 June 2011, at 207.

155. Manufacturer's Exhibit B-12 (single copy) (protected), tab 43, Administrative Record, Vol. 2.01E at 62.

186. Concerning the potential of foreign producers to produce the subject goods in facilities that are currently used to produce other goods, the evidence indicates that producers have the ability to shift production from cold-rolled and galvanized steel sheet to hot-rolled steel sheet and, for some producers, to shift production from plate to hot-rolled steel sheet.<sup>156</sup> However, the Tribunal agrees with the domestic industry that a switch from the production of other steel products to the production of hot-rolled steel sheet is not likely and that, notwithstanding, the significant current and forecast overcapacity in the subject countries is sufficient for purposes of analyzing the likely performance of the foreign industry.

187. The Tribunal notes that flat-rolled steel products from each subject country are subject to anti-dumping and/or countervailing measures, some of these in both Canada and the United States.<sup>157</sup> Restrictive anti-dumping and/or countervailing measures by other jurisdictions against hot-rolled steel sheet products from the subject countries will likely increase the necessity for these countries to locate open export markets for their hot-rolled steel sheet. In other words, it is likely that hot-rolled steel sheet will be diverted from other export destinations to Canada, in the absence of the order, due in part to the relatively higher prices in Canada.

### China

188. As the world's largest hot-rolled steel sheet producer, China exercises a major influence on the global market. Since the first expiry review, China has developed considerable production capacity, has substantial available hot-rolled steel sheet products and excess capacity, exports significant volumes of hot-rolled steel sheet and is a net exporter of the subject goods.<sup>158</sup>

189. Although China currently has significant surplus of hot-rolled steel sheet, it is forecast to increase its hot-strip rolling capacity by more than 3 percent in 2011 and by more than 1 percent in 2012.<sup>159</sup> This projection means that, by the end of 2012, China will have an annual production overcapacity for hot-rolled steel sheet that is close to 50 times the size of the Canadian market in 2010.<sup>160</sup>

190. The evidence shows that China is export-oriented and exports significant volumes of hot-rolled steel sheet.<sup>161</sup> For instance, in 2010, China exported 10.3 million metric tonnes of hot-rolled steel sheet.<sup>162</sup> The evidence also demonstrates that Chinese hot-rolled steel sheet is sold to its export markets at prices

---

156. *Transcript of Public Hearing*, Vol. 2, 21 June 2011, at 265-67; Manufacturer's Exhibit C-03 at paras. 34-35, Administrative Record, Vol. 11C.

157. *Pre-hearing Staff Report*, revised 13 June 2011, Tribunal Exhibit RR-2010-001-05A, Administrative Record, Vol. 1.1A at 15; Tribunal Exhibit RR-2010-001-51 (single copy), Administrative Record, Vol. 1.01B at 63-309.

158. Manufacturer's Exhibit B-12 (single copy) (protected), tab 43, Administrative Record, Vol. 2.01E at 146, 154, 346-53; *Pre-hearing Staff Report*, revised 13 June 2011, Tribunal Exhibit RR-2010-001-05A, Administrative Record, Vol. 1.1A at 41, 77.

159. Manufacturer's Exhibit B-12 (single copy) (protected), tab 43, Administrative Record, Vol. 2.01E at 154, 346-53.

160. *Ibid.* at 136, 154, 346-53; *Pre-hearing Staff Report*, revised 13 June 2011, Tribunal Exhibit RR-2010-001-05A, Administrative Record, Vol. 1.1A at 41.

161. The Tribunal notes that, in July 2010, China eliminated the 17 percent value-added tax (VAT) rebate on certain steel products. 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 hot-rolled steel sheet from China. In this regard, the Tribunal notes that Brazil, India and the European Union have recently expressed concerns that Chinese exporters are dumping significant volumes of hot-rolled steel sheet into their markets. Tribunal Exhibit RR-2010-001-12.12, Administrative Record, Vol. 1.4A at 83; *Transcript of Public Hearing*, Vol. 1, 20 June 2011, at 25-26, 120-21; Manufacturer's Exhibit B-12 (single copy) (protected), tab 43, Administrative Record, Vol. 2.01E at 23; Tribunal Exhibit RR-2010-001-21.01C, Administrative Record, Vol. 5.1A at 87; *Pre-hearing Staff Report*, revised 13 June 2011, Tribunal Exhibit RR-2010-001-05A, Administrative Record, Vol. 1.1A at 77.

162. *Pre-hearing Staff Report*, Tribunal Exhibit RR-2010-001-05, Administrative Record, Vol. 1.1 at 72.

below EU domestic prices, U.S. Midwest spot prices and Canadian domestic market prices during comparable periods.<sup>163</sup> The evidence indicates that there should continue to be a significant gap between Chinese hot-rolled steel sheet prices and those of North America and other major world markets throughout 2011.<sup>164</sup>

191. In light of the above, the Tribunal considers it very likely that China will have large amounts of hot-rolled steel sheet available for sale in export markets in the near to medium term, that the product will be available at low prices, that Canada will be an attractive export destination for the product and that a significant volume of hot-rolled steel sheet from China will re-appear in the Canadian market in the absence of the order.

192. The Tribunal is of the view that, because of the magnitude of the tonnage involved in respect of Chinese hot-rolled steel sheet, China is likely to have a significant impact on the export activity of the world steel industry and, particularly, on that of the other subject countries. It appears likely that the expected surplus of Chinese hot-rolled steel sheet in the world market will put pressure on all exporting countries, in particular the other subject countries, not only to maintain existing export markets but also to find new ones.

#### Chinese Taipei

193. In 2010, Chinese Taipei had an excess hot-rolled steel sheet capacity<sup>165</sup> of 37 percent when compared to its domestic production.<sup>166</sup> The evidence indicates that production capacity will increase by more than 20 percent in 2012.<sup>167</sup> For comparison purposes, this projection means that, by the end of 2012, Chinese Taipei will have an annual production overcapacity for hot-rolled steel sheet that is about the size of the Canadian market in 2010.<sup>168</sup>

194. The Tribunal notes that the consumption of hot-rolled steel sheet is forecast to increase at a lower rate than the additional production capacity.<sup>169</sup> Chinese Taipei was in a significant surplus position in 2009 and 2010, and it is forecast that this surplus production capacity will increase by less than 2 million metric tonnes in 2011 and less than 1 million metric tonnes in 2012.<sup>170</sup>

195. Between 2008 and 2010, exports from Chinese Taipei represented an annual average of 30 percent of its total production of hot-rolled steel sheet. For the same period and on an annual average, exports of hot-rolled steel sheet from Chinese Taipei were 2.4 million metric tonnes and imports into Chinese Taipei were 0.8 million metric tonnes.<sup>171</sup> On average, Chinese Taipei was a net exporter of 1.6 million metric

---

163. Manufacturer's Exhibit B-12 (single copy) (protected), tab 43, Administrative Record, Vol. 2.01E at 62; Tribunal Exhibit RR-2010-001-13.13 (protected), Administrative Record, Vol. 2.4E at 9-10.

164. Tribunal Exhibit RR-2010-001-13.13 (protected), Administrative Record, Vol. 2.4E at 9-10; Manufacturer's Exhibit B-12 (single copy) (protected), tab 43, Administrative Record, Vol. 2.01E at 62.

165. Manufacturer's Exhibit B-12 (single copy) (protected), tab 43, Administrative Record, Vol. 2.01E at 254, 355-56.  
166. *Ibid.*

167. *Ibid.* at 154, 356.

168. *Ibid.* at 154, 254, 355-56; *Pre-hearing Staff Report*, revised 13 June 2011, Tribunal Exhibit RR-2010-001-05A, Administrative Record, Vol. 1.1A at 41.

169. Manufacturer's Exhibit B-12 (single copy) (protected), tab 43, Administrative Record, Vol. 2.01E at 154, 244, 355-56.

170. *Ibid.* at 154, 254, 355-56.

171. *Pre-hearing Staff Report*, Tribunal Exhibit RR-2010-001-05, Administrative Record, Vol. 1.1 at 72; *Protected Pre-hearing Staff Report*, Tribunal Exhibit RR-2010-001-06 (protected), Administrative Record, Vol. 2.1 at 72.

tonnes per year between 2008 and 2010.<sup>172</sup> In the first quarter of 2011, Chinese Taipei's exports increased by more than 35 percent compared to the first quarter of 2010.<sup>173</sup>

196. The evidence indicates that, in addition to the anti-dumping measures in Canada and the United States against hot-rolled steel sheet products from Chinese Taipei, steel products from Chinese Taipei are also subject to anti-dumping measures in Indonesia, Thailand and Argentina, which restrict the number of markets available for hot-rolled steel sheet products from that country.<sup>174</sup> With approximately 95 percent of Chinese Taipei's exports going to the Asian market during the POR, and China accounting for about 15 percent of Chinese Taipei's total exports,<sup>175</sup> it is likely that the rising excess production capacity for hot-rolled steel sheet in China will displace Chinese Taipei exports to China and other Asian markets.

197. The Tribunal notes that Chinese Taipei's hot-rolled steel sheet exports were priced well below North American market prices during the POR.<sup>176</sup> Given the significant pressures that Chinese Taipei would face in the Asian markets, it is likely that it would seek other export markets for its hot-rolled steel sheet. It is also likely that, given Canadian market prices, Canada will be an attractive market for Chinese Taipei exports and that, in the absence of the order, hot-rolled steel sheet from Chinese Taipei will re-appear in the Canadian market in significant volumes.<sup>177</sup>

### India

198. Between 2008 and 2010, hot-rolled steel sheet production in India rose by 6 percent, and it is expected to continue to grow by a further 14 percent by 2012.<sup>178</sup> For the same period, exports from India represented, on an annual average, 3 percent of total production of hot-rolled steel sheet. Between 2008 and 2010 and on an annual average, India's exports of hot-rolled steel sheet were 0.7 million metric tonnes and its imports were 3.5 million metric tonnes. As a result, India was a net importer of 2.8 million metric tonnes per year during that period.<sup>179</sup>

199. The evidence indicates that there are numerous expansion projects planned by several large-scale hot-rolled steel sheet producers in India that will substantially increase production capacity in the foreseeable future. Upon completion of these expansion projects in 2012, annual hot-rolled steel sheet capacity in India is expected to increase by close to 50 percent. This additional capacity will be well in

---

172. *Pre-hearing Staff Report*, Tribunal Exhibit RR-2010-001-05, Administrative Record, Vol. 1.1 at 72.

173. *Pre-hearing Staff Report*, revised 13 June 2011, Tribunal Exhibit RR-2010-001-05A, Administrative Record, Vol. 1.1A at 79.

174. *Pre-hearing Staff Report*, Tribunal Exhibit RR-2010-001-05, Administrative Record, Vol. 1.1 at 15.

175. Tribunal Exhibit RR-2010-001-34 (single copy), Administrative Record, Vol. 1.01 at 213-91; Tribunal Exhibit RR-2010-00134A (single copy), Administrative Record, Vol. 1.01A at 416-18; *Pre-hearing Staff Report*, revised 13 June 2011, Tribunal Exhibit RR-2010-001-05A, Administrative Record, Vol. 1.1A at 79.

176. *Pre-hearing Staff Report*, revised 13 June 2011, Tribunal Exhibit RR-2010-001-05A, Administrative Record, Vol. 1.1A at 47, 80; *Protected Pre-hearing Staff Report*, revised 13 June 2011, Tribunal Exhibit RR-2010-001-06A (protected), Administrative Record, Vol. 2.1A at 47.

177. Manufacturer's Exhibit B-12 (single copy) (protected), tab 43, Administrative Record, Vol. 2.01E at 69; *Pre-hearing Staff Report*, revised 13 June 2011, Tribunal Exhibit RR-2010-001-05A, Administrative Record, Vol. 1.1A at 80.

178. Manufacturer's Exhibit B-12 (single copy) (protected), tab 43, Administrative Record, Vol. 2.01E at 196.

179. *Pre-hearing Staff Report*, revised 13 June 2011, Tribunal Exhibit RR-2010-001-05A, Administrative Record, Vol. 1.1A at 72; *Protected Pre-hearing Staff Report*, revised 13 June 2011, Tribunal Exhibit RR-2010-001-06A (protected), Administrative Record, Vol. 2.1A at 72.

excess of forecast domestic demand levels.<sup>180</sup> As a matter of comparison, this projection means that, by the end of 2012, India will have an annual production overcapacity for hot-rolled steel sheet that will be three times the size of the Canadian market in 2010.<sup>181</sup>

200. During the POR, India faced fierce competition in its domestic market due to low-priced imports from China and became a large exporter of hot-rolled steel sheet.<sup>182</sup> Imports of hot-rolled steel sheet from China have displaced domestic production to such a degree that Indian steel producers recently requested that their government impose protective trade remedy measures against imports of hot-rolled steel sheet from China.<sup>183</sup>

201. The evidence shows that India has a continued interest and presence in the North American market, with Indian exports to the United States accounting for, on average, 3 percent and 6 percent of its total exports in 2009 and 2010 respectively. India is forecast to become a net exporter and a significantly larger exporter.<sup>184</sup>

202. The Tribunal notes that Asia, as a whole, accounted for over 22 percent of Indian exports of hot-rolled steel sheet between 2008 and 2010.<sup>185</sup> The evidence shows that, throughout the POR, export prices for Indian hot-rolled steel sheet were among the lowest in the world and, almost consistently, were much lower than North American market prices.<sup>186</sup> The Tribunal also notes that, in addition to anti-dumping and countervailing measures in Canada and the United States, Thailand and Indonesia have anti-dumping measures in place against hot-rolled steel products from India.<sup>187</sup> It appears likely that, in seeking markets for its excess product, India will be subject to pressure from increased exports from China, as well as constraints on exports to Thailand, Indonesia and the United States.

203. The Tribunal is of the view that, given Canadian market prices, Canada will be an attractive market for Indian exports and that, in the absence of the order, hot-rolled steel sheet from India will re-appear in the Canadian market in significant volumes.

---

180. Manufacturer's Exhibit B-12 (single copy) (protected), tab 43, Administrative Record, Vol. 2.01E at 196, 198, 359-60.

181. *Ibid.*; *Pre-hearing Staff Report*, revised 13 June 2011, Tribunal Exhibit RR-2010-001-05A, Administrative Record, Vol. 1.1A at 41.

182. *Pre-hearing Staff Report*, revised 13 June 2011, Tribunal Exhibit RR-2010-001-05A, Administrative Record, Vol. 1.1A at 81, 168, 170.

183. Tribunal Exhibit RR-2010-001-03A at para. 132, Administrative Record, Vol. 1.

184. Manufacturer's Exhibit B-12 (single copy) (protected), tab 43, Administrative Record, Vol. 2.01E at 96; Tribunal Exhibit RR-2010-001-34 (single copy), Administrative Record, Vol. 1.01 at 132-49; Tribunal Exhibit RR-2010-001-34A (single copy), Administrative Record, Vol. 1.01A at 402, 406; *Pre-hearing Staff Report*, Tribunal Exhibit RR-2010-001-05, Administrative Record, Vol. 1.1 at 81; *Transcript of Public Hearing*, Vol. 1, 20 June 2011, at 22-23.

185. *Pre-hearing Staff Report*, Tribunal Exhibit RR-2010-001-05, Administrative Record, Vol. 1.1 at 81.

186. Tribunal Exhibit RR-2010-001-13.13 (protected), Administrative Record, Vol. 2.4E at 9-10.

187. *Pre-hearing Staff Report*, Tribunal Exhibit RR-2010-001-05, Administrative Record, Vol. 1.1 at 15.



### Ukraine

204. In 2010, Ukraine had an excess hot-rolled steel sheet capacity of 29 percent when compared to its domestic production.<sup>188</sup> That overcapacity was about half the size of the entire Canadian market.<sup>189</sup> Specifically, the evidence indicates that one producer plans to boost production by about 30 percent in 2011,<sup>190</sup> which will only exacerbate the country's dependence on foreign markets.

205. Between 2008 and 2010, Ukraine had a large surplus production of hot-rolled steel sheet. This surplus production is forecast to remain constant in 2011 and 2012. For the same period and on an annual average, Ukrainian exports of hot-rolled steel sheet were 3.5 million metric tonnes and imports were less than 0.3 million metric tonnes. As a result, Ukraine was a net exporter of 3.2 million metric tonnes per year.<sup>191</sup> In the first quarter of 2011, Ukrainian exports increased more than 15 percent compared to the first quarter of 2010.<sup>192</sup>

206. The hot-rolled steel sheet industry in Ukraine is export-dependent. The evidence shows that relatively stagnant domestic demand, significant excess capacity and product surplus led to over 75 percent of domestic production being directed to export markets between 2008 and 2010. This export dependency has pressured Ukrainian exporters to sell to their export markets at very low prices.<sup>193</sup>

207. The evidence also shows that, in recent years, export prices for Ukrainian hot-rolled steel sheet have been the lowest in the world and are, to a large degree, even lower than Chinese prices.<sup>194</sup> The Tribunal notes that, in addition to anti-dumping measures in Canada and the United States, flat-rolled steel products from Ukraine are subject to anti-dumping measures in Mexico, Argentina, Peru and Thailand, which restrict the number of markets available for Ukrainian hot-rolled steel sheet products.<sup>195</sup> Given this, absent the order, it is likely that Ukrainian exporters will ship hot-rolled steel sheet to Canada.

208. The Tribunal is of the view that it is likely that Ukraine will find Canada an attractive market and that, absent the order, Ukrainian hot-rolled steel sheet will re-appear in the Canadian market in significant volumes.

### Brazil

209. As part of its analysis in coming to its view on the issue of cumulation and in light of the submissions made by USIMINAS, the Tribunal considers it useful, in the context of this case, to examine in more detail the likely volumes of hot-rolled steel sheet from Brazil that might enter the Canadian market if the order is rescinded.

---

188. Manufacturer's Exhibit B-12 (single copy) (protected), tab 43, Administrative Record, Vol. 2.01E at 253, 357.

189. *Ibid.*; *Pre-hearing Staff Report*, Tribunal Exhibit RR-2010-001-05, Administrative Record, Vol. 1.1 at 41.

190. Tribunal Exhibit RR-2010-001-03A at para. 146, Administrative Record, Vol. 1.

191. *Pre-hearing Staff Report*, Tribunal Exhibit RR-2010-001-05, Administrative Record, Vol. 1.1 at 72.

192. *Pre-hearing Staff Report*, revised 13 June 2011, Tribunal Exhibit RR-2010-001-05A, Administrative Record, Vol. 1.1A at 83.

193. *Pre-hearing Staff Report*, Tribunal Exhibit RR-2010-001-05, Administrative Record, Vol. 1.1 at 72; *Protected Pre-hearing Staff Report*, Tribunal Exhibit RR-2010-001-06 (protected), Administrative Record, Vol. 2.1 at 72; *Pre-hearing Staff Report*, revised 13 June 2011, Tribunal Exhibit RR-2010-001-05A, Administrative Record, Vol. 1.1A at 84.

194. Tribunal Exhibit RR-2010-001-13.13 (protected), Administrative Record, Vol. 2.4E at 9-10.

195. *Pre-hearing Staff Report*, Tribunal Exhibit RR-2010-001-05, Administrative Record, Vol. 1.1 at 15.

– Position of USIMINAS

210. USIMINAS argued that, if the order is rescinded, Brazilian producers will have no incentive to export to Canada because of strong domestic demand for the subject goods and advantageous pricing conditions in its domestic market, in Latin America and in Europe.<sup>196</sup> USIMINAS added that Latin America is the primary target for Brazilian exporters, as it provides many of the same logistical benefits as its domestic market, including higher prices, lower freight costs, shorter lead times and a tariff advantage because Brazil is a member of the Mercosur free trade zone.<sup>197</sup>

211. USIMINAS stated that its primary focus is on its domestic market, where demand is strong and prices are relatively high, and its secondary focus is on markets close to Brazil.<sup>198</sup>

212. In respect of the other two Brazilian exporters, USIMINAS argued that ArcelorMittal Brasil is not likely to export hot-rolled steel sheet to Canada due to the latter's corporate policy not to compete in the markets of affiliated companies. In support of its argument, USIMINAS referred to the testimony of ArcelorMittal Dofasco which stated that, if additional hot-rolled steel sheet is needed in the Canadian market, it will coordinate the sale with other ArcelorMittal affiliates.<sup>199</sup>

213. USIMINAS contended that the other Brazilian exporter, CSN, would not export to Canada, absent the order, as it did not export significant volumes during the POR and that most of its exports were destined to affiliated companies.<sup>200</sup>

214. USIMINAS submitted that the Brazilian mills already have a high capacity utilization rate and that the planned production capacity additions in Brazil are not likely to increase overall production capacity or propensity to export in the near to medium term, as they are in the process of replacing outdated existing facilities.<sup>201</sup> In this regard, USIMINAS argued that the new Cubatão mill's main purpose is to replace the 50-year-old mill that is currently in operation.<sup>202</sup> Furthermore, USIMINAS noted that it is not capable of running the two hot-strip mills at the same time, given that there is not a sufficient amount of raw material input stock, i.e. slab, available to supply them. Moreover, the physical mill operations are not adequate enough to be able to operate the two hot-strip mills at full capacity at the same time.<sup>203</sup>

215. USIMINAS argued that there would therefore be no increase in its hot-rolled steel-making capacity, due to the lack of available slab. In order to take advantage of the increase in rolling capacity, USIMINAS would, in such a case, have to import slab. USIMINAS submitted that, given that the price of imported slab is close to the current price paid for hot-rolled steel sheet, adding in transportation and rolling costs, the total cost associated with converting imported slab into hot-rolled steel sheet is higher than the price that it could obtain in the export market.<sup>204</sup>

---

196. *Transcript of Public Hearing*, Vol. 4, 23 June 2011, at 480.

197. *Ibid.* at 524-25, 527; Exporter's Exhibit E-03 at paras. 66-70, Administrative Record, Vol. 13.

198. *Transcript of Public Hearing*, Vol. 4, 23 June 2011, at 524-25, 537; Exporter's Exhibit E-03 at paras. 66-70, 77, Administrative Record, Vol. 13; Exporter's Exhibit E-05, tab 7, Administrative Record, Vol. 13.

199. *Transcript of Public Hearing*, Vol. 1, 20 June 2011, at 44-45, 68-69, 71-73; Manufacturer's Exhibit B-03 at para. 31, Administrative Record, Vol. 11A.

200. *Transcript of Public Hearing*, Vol. 4, 23 June 2011, at 502.

201. *Ibid.* at 445-47.

202. *Ibid.* at 445.

203. *Ibid.* at 446, 466-67.

204. *Ibid.* at 446-47.

216. USIMINAS noted that several companies have initiated new slab capacity building projects in Brazil, in order to supply their affiliated plants. USIMINAS explained that ThyssenKrupp Steel has initiated a slab project, which will supply its Alabama plant and its plants in Germany. The partnership between Vale S.A., The Pohang Iron and Steel Company and Dongkuk Steel will supply slab to Korea, while a separate endeavour by Vale S.A. will supply slab for California Steel Industries in the United States.<sup>205</sup>

217. USIMINAS submitted that most of the Canadian imports of hot-rolled steel sheet come from the United States and that this situation is not likely to change. It argued that Canada has never been and will never be an important market for Brazilian hot-rolled steel sheet.<sup>206</sup> For example, it noted that, in 2001, during the original period of investigation, Brazil accounted for less than 2 percent of total Canadian imports.<sup>207</sup> USIMINAS also stated that the strengthening of the Brazilian currency over the U.S. dollar inhibits the Brazilian mills' ability to export.<sup>208</sup>

218. USIMINAS noted that the Brazilian market has seen a dramatic increase of low-priced imports of hot-rolled steel sheet from China and other sources and argued that focusing on the domestic market to regain market share lost to imports will further reduce its export potential.<sup>209</sup> USIMINAS further argued that government incentives, such as minimum import prices for customs purposes, will aid in recapturing market share from inexpensive and disruptive imports and will reduce the amount of production available for export.<sup>210</sup>

219. USIMINAS submitted that its exports are negligible, given that, in 2010, they represented only 3 percent of total production and are projected to be in the range of 3 percent to 5 percent for 2011. Moreover, USIMINAS noted that, over the last five years, less than 4 percent of its production had been exported as hot-rolled steel sheet.<sup>211</sup>

220. Furthermore, USIMINAS testified that it recently discontinued exporting hot-rolled steel sheet at prices below its full production costs.<sup>212</sup>

221. Finally, USIMINAS submitted that Brazil was a net importer in 2010 and that the economic growth forecast in Brazil will fuel a growing internal demand in the near to medium term. USIMINAS forecast that, depending on the growth of Brazil's economy, its hot-rolled steel sheet market could grow by 5 percent or more annually and that Brazil could be a net importer of hot-rolled steel sheet in 2014.<sup>213</sup>

---

205. *Ibid.* at 451.

206. *Ibid.* at 480; *Protected Pre-hearing Staff Report*, revised 13 June 2011, Tribunal Exhibit RR-2010-001-06A (protected), Administrative Record, Vol. 2.1A at 41.

207. *Transcript of Public Hearing*, Vol. 1, 20 June 2011, at 53-54.

208. *Transcript of Public Hearing*, Vol. 4, 23 June 2011, at 452.

209. *Ibid.* at 467-69, 511-12; *Transcript of In Camera Hearing*, Vol. 4, 23 June 2011, at 245-46; Tribunal Exhibit RR-2010-001-21.01A, Administrative Record, Vol. 5.1 at 19.

210. *Transcript of Public Hearing*, Vol. 4, 23 June 2011, at 555, 562-63.

211. *Ibid.* at 477-78; Tribunal Exhibit RR-2010-001-21.01C, Administrative Record, Vol. 5.1A at 91, 94.

212. *Transcript of Public Hearing*, Vol. 4, 23 June 2011, at 527, 569; *Transcript of Public Hearing*, Vol. 5, 24 June 2011, at 648, 699, 713; *Transcript of In Camera Hearing*, Vol. 4, 23 June 2011, at 235, 291-94; Tribunal Exhibit RR-2010-001-22.01D (protected), Administrative Record, Vol. 6.1 at 265-69; Exporter's Exhibit E-06 (protected), tabs 1, 24, Administrative Record, Vol. 14.

213. *Transcript of Public Hearing*, Vol. 4, 23 June 2011, at 455; *Transcript of In Camera Hearing*, Vol. 4, 23 June 2011, at 240; Tribunal Exhibit RR-2010-001-21.01C, Administrative Record, Vol. 5.1A at 90, 94; Manufacturer's Exhibit B-12 (single copy) (protected), tab 43, Administrative Record, Vol. 2.01E at 180.

### Tribunal's Analysis

222. As discussed above, there are three major producers of hot-rolled steel sheet in Brazil: USIMINAS, ArcelorMittal Brasil and CSN. These three companies account for 90 percent of the demand in the Brazilian domestic market, with the remainder accounted for by imports.<sup>214</sup>

223. Between 2008 and 2010, hot-rolled steel sheet production in Brazil rose by 13 percent, and it is expected to grow by 18 percent between 2010 and 2012.<sup>215</sup> Capacity utilization for hot-rolled steel sheet producers has been very high in recent years, and it should remain at that level for the coming years.<sup>216</sup>

224. Hot-rolled steel sheet consumption in Brazil increased by over 15 percent between 2008 and 2010.<sup>217</sup> The evidence indicates that this occurred as a result of government incentives, such as tax reductions for the automotive, construction and home appliance sectors.<sup>218</sup> The consumption of hot-rolled steel sheet in Brazil is forecast to increase by about 6 percent between 2010 and 2012,<sup>219</sup> due to a growing automotive market, major offshore oil and gas projects and, to a lesser extent, the anticipated demand for the 2016 Olympic Games and the 2014 World Cup of Soccer.<sup>220</sup>

225. The Tribunal notes the uncontroverted evidence that Brazil's current production capacity exceeds its domestic consumption. In 2010, Brazil had an excess hot-rolled steel sheet capacity of 15 percent when compared to its domestic consumption.<sup>221</sup>

226. The Tribunal further notes that the evidence indicates that there are expansion projects planned by Brazilian hot-rolled steel sheet producers which will increase production capacity in the foreseeable future.<sup>222</sup> In this regard, an established steel industry publication characterized the Brazilian steel market as being "... oversupplied towards the end of 2010 [indicating that] it will take a fall in imports and a rise in exports for the market to return to equilibrium".<sup>223</sup>

227. These expansion projects include planned capacity additions by Gerdau S.A. (Gerdau), at its steel plant in Brazil, which are expected to bring approximately 0.8 million metric tonnes of additional hot-rolled steel sheet production capacity on line by 2013<sup>224</sup> and USIMINAS's planned replacement of the old Cubatão mill, which is detailed below.

---

214. Tribunal Exhibit RR-2010-001-21.01C, Administrative Record, Vol. 5.1A at 95.

215. Manufacturer's Exhibit B-12 (single copy) (protected), tab 43, Administrative Record, Vol. 2.01E at 177.

216. *Protected Pre-hearing Staff Report*, Tribunal Exhibit RR-2010-001-06 (protected), Administrative Record, Vol. 2.1 at 149; Manufacturer's Exhibit B-12 (single copy) (protected), tab 43, Administrative Record, Vol. 2.01E at 177, 183, 358.

217. Manufacturer's Exhibit B-12 (single copy) (protected), tab 43, Administrative Record, Vol. 2.01E at 176.

218. Tribunal Exhibit RR-2010-001-26.05 at para. 21, Administrative Record, Vol. 7.

219. Manufacturer's Exhibit B-12 (single copy) (protected), tab 43, Administrative Record, Vol. 2.01E at 176; *Transcript of Public Hearing*, Vol. 4, 23 June 2011, at 542-43.

220. *Transcript of Public Hearing*, Vol. 4, 23 June 2011, at 542-43; Tribunal Exhibit RR-2010-001-21.01C, Administrative Record, Vol. 5.1A at 85, 91, 95.

221. Manufacturer's Exhibit B-12 (single copy) (protected), tab 43, Administrative Record, Vol. 2.01E at 240, 358.

222. *Ibid.* at 183; *Transcript of Public Hearing*, Vol. 4, 23 June 2011, at 463-64; Tribunal Exhibit RR-2010-001-21.01C, Administrative Record, Vol. 5.1A at 84-85; Tribunal Exhibit RR-2010-001-27.05 (protected) at para. 55, Administrative Record, Vol. 8.

223. Tribunal Exhibit RR-2010-001-13.16 (protected), tab 10, Administrative Record, Vol. 2.4E at 44.

224. Manufacturer's Exhibit B-12 (single copy) (protected), tab 43, Administrative Record, Vol. 2.01E at 169; Manufacturer's Exhibit B-03 at para. 50, Administrative Record, Vol. 11A.

228. Currently, USIMINAS has a total hot-rolled steel sheet capacity of 5.3 million metric tonnes: 3.2 million metric tonnes at the Ipatinga plant and 2.1 million metric tonnes at the old Cubatão mill.<sup>225</sup>

229. It was argued by USIMINAS that the additional capacity of this expansion project should not be taken into account in the prospective analysis of Brazilian hot-rolled steel sheet capacity, as it was clearly meant as a replacement for the Cubatão mill, which is almost 50 years old.<sup>226</sup>

230. However, in reply to the exporters' questionnaire, USIMINAS indicated that the production capacity of the old Cubatão mill is 2.1 million metric tonnes,<sup>227</sup> while the new plant will have a capacity of approximately 2.2 million metric tonnes;<sup>228</sup> therefore, there will be a net increase in USIMINAS's overall plant capacity of approximately 0.1 million metric tonnes.<sup>229</sup>

231. In addition, the evidence shows that the replacement of USIMINAS's old Cubatão mill will be gradual and that USIMINAS will continue to operate the old mill for a period after the commencement of operations at the new plant.<sup>230</sup>

232. Upon completion of the Gerdau and USIMINAS expansion projects in 2012, annual hot-rolled steel sheet capacity in Brazil is expected to increase by 15 percent.<sup>231</sup> Moreover, Brazil's overcapacity for hot-rolled steel sheet for 2011 is estimated to be approximately 2.0 million metric tonnes, while, for 2012, it is projected to be 2.5 million metric tonnes.<sup>232</sup> For comparison purposes, this projection means that, by the end of 2012, Brazil will have an annual production overcapacity for hot-rolled steel sheet that will be more than half the size of the Canadian market in 2010.<sup>233</sup>

233. The Tribunal notes USIMINAS's plans to start production, in the second quarter of 2011, on a second hot-dip galvanizing line, Unigal 2, with expected production of 550,000 metric tonnes per year. The Tribunal also notes that, in 2012, USIMINAS plans to commission a second line for the plate rolling mill at its Ipatinga plant, increasing its plate production by 500,000 metric tonnes.<sup>234</sup>

234. USIMINAS argued that these projects would result in less overall hot-rolled steel sheet production capacity, as less input slab would be available for the hot-strip mill, as it would be required for the plate mill, and less hot-rolled steel sheet would be available for the merchant market, as it would be consumed internally in the production of downstream products at the second hot-dip galvanizing line.<sup>235</sup>

---

225. *Transcript of Public Hearing*, Vol. 4, 23 June 2011, at 463.

226. *Ibid.* at 445; Tribunal Exhibit RR-2010-001-21.01C, Administrative Record, Vol. 5.1A at 84.

227. Tribunal Exhibit RR-2010-001-21.01A, Administrative Record, Vol. 5.1 at 438.

228. Tribunal Exhibit RR-2010-001-21.01C, Administrative Record, Vol. 5.1A at 84. USIMINAS also testified to that effect. See *Transcript of Public Hearing*, Vol. 4, 23 June 2011, at 463-64, 542.

229. *Transcript of Public Hearing*, Vol. 4, 23 June 2011, at 523, 542-43, 548.

230. *Ibid.* at 446.

231. Manufacturer's Exhibit B-12 (single copy) (protected), tab 43, Administrative Record, Vol. 2.01E at 183, 358.

232. *Transcript of Public Hearing*, Vol. 1, 20 June 2011, at 45-52; Manufacturer's Exhibit B-12 (single copy) (protected), tab 43, Administrative Record, Vol. 2.01E at 177, 183, 250, 358.

233. Manufacturer's Exhibit B-12 (single copy) (protected), tab 43, Administrative Record, Vol. 2.01E at 177, 183, 358; *Pre-hearing Staff Report*, revised 13 June 2011, Tribunal Exhibit RR-2010-001-05A, Administrative Record, Vol. 1.1A at 41.

234. Tribunal Exhibit RR-2010-001-21.01C, Administrative Record, Vol. 5.1A at 84-85.

235. *Ibid.* at 85.

235. The Tribunal is not persuaded by these arguments. USIMINAS testified that, of its 9.5 million metric tonnes of slab production capacity, 7.5 million metric tonnes are available for the hot-strip mill. The other 2.0 million metric tonnes of slab capacity is encumbered by USIMINAS's plate production.<sup>236</sup>

236. Given the foregoing, the Tribunal finds that USIMINAS's current hot-rolled steel sheet capacity is approximately 5.3 million metric tonnes and that its planned capacity addition is at least 0.1 million metric tonnes. Therefore, the Tribunal finds that USIMINAS has more than enough slab capacity to produce hot-rolled steel sheet at full capacity utilization in the near to medium term. The Tribunal also notes that USIMINAS could always buy slab if needed. Indeed, the viability of this option was corroborated by USIMINAS during the hearing.<sup>237</sup>

237. Furthermore, the Tribunal finds that the balance of the excess slab capacity of 2 million metric tonnes would be more than sufficient to supply enough slab for the new line at the plate rolling mill at the Ipatinga plant and to continue operating the old Cubatão mill for a period to allow for a gradual ramp up of production at the new plant.

238. Finally, should USIMINAS decide not to close the old Cubatão mill, it would have enough excess slab capacity available to run both the old and new Cubatão mills together, albeit at reduced capacity utilization levels. Therefore, contrary to USIMINAS's testimony that it would not be adding hot-rolled steel sheet capacity, the Tribunal finds that the overall potential hot-rolled steel sheet capacity for USIMINAS will be approximately 7.5 million metric tonnes.

239. Between 2008 and 2010, exports from Brazil represented close to 10 percent of total production of hot-rolled steel sheet, which indicates that Brazil is export-oriented.<sup>238</sup> For the same period, on a yearly average, Brazil's exports of hot-rolled steel sheet were 0.9 million metric tonnes, while its imports were less than 0.7 million metric tonnes.<sup>239</sup> As a result, Brazil was a net exporter, by a yearly average, of 0.2 million metric tonnes during this period.

240. A review of the data on a yearly basis revealed that, while Brazil was a net exporter of 0.7 million metric tonnes in 2009, it became a net importer of 0.2 million metric tonnes in 2010.<sup>240</sup> In this regard, the Tribunal notes the testimony of USIMINAS that Brazil became a net importer in 2010 because of a perceived lag in domestic supply, which caused purchasers to seek more imports than normal.<sup>241</sup>

241. The Tribunal notes that USIMINAS's internal forecast for growth in domestic consumption is much higher than that of established steel industry publications. Further, upon cross-examination, USIMINAS agreed that its forecast has, thus far, been inaccurate.<sup>242</sup> Therefore, the Tribunal does not accept as reliable USIMINAS's internal forecast for growth in the Brazilian domestic consumption of hot-rolled steel sheet or its forecast that Brazil will be a net importer in the foreseeable future. Rather, the Tribunal prefers and accepts the forecasts of established steel industry publications on record, which indicate that Brazil's status as a net importer will be brief.<sup>243</sup>

---

236. *Transcript of Public Hearing*, Vol. 4, 23 June 2011, at 549-51.

237. *Ibid.* at 446, 466-67, 547-48.

238. *Pre-hearing Staff Report*, Tribunal Exhibit RR-2010-001-05, Administrative Record, Vol. 1.1 at 72; *Protected Pre-hearing Staff Report*, Tribunal Exhibit RR-2010-001-06 (protected), Administrative Record, Vol. 2.1 at 72.

239. *Pre-hearing Staff Report*, Tribunal Exhibit RR-2010-001-05, Administrative Record, Vol. 1.1 at 72.

240. *Ibid.*

241. *Transcript of Public Hearing*, Vol. 4, 23 June 2011, at 520.

242. *Transcript of In Camera Hearing*, Vol. 4, 23 June 2011, at 301-305.

243. Manufacturer's Exhibit B-12 (single copy) (protected), tab 43, Administrative Record, Vol. 2.01E at 257.

242. When the capacity expansion projects are completed in 2011, it is estimated that Brazilian capacity for hot-rolled steel sheet will continue to outstrip domestic consumption, and Brazil will revert back to being a net exporter of hot-rolled steel sheet.<sup>244</sup> In 2012, the gap between production and consumption is forecast to be even larger. The production surplus for those years is forecast to be higher than the level reached in the period from 2008 to 2010.<sup>245</sup>

243. The evidence indicates that Brazil's hot-rolled steel sheet producers are currently facing fierce competition in their domestic market from imports, especially from China,<sup>246</sup> which may already have caused some displacement of product to the export markets. Imports from offshore sources increased by 140 percent between 2008 and 2010,<sup>247</sup> while low-priced imports from Russia and China increased their share of the Brazilian market from 24 percent to 44 percent, respectively, during that same period.<sup>248</sup>

244. The evidence also indicates that the Brazilian Government currently imposes a 12 percent import tariff and maintains a minimum import price for hot-rolled steel sheet that may impact the level of imports from offshore sources.<sup>249</sup>

245. However, given the level of penetration of imports into the Brazilian market and their consequent gain in market share, the Tribunal is not persuaded that USIMINAS and other Brazilian producers will easily regain their lost share of the Brazilian market in the next 18 to 24 months.

246. In short, the Tribunal finds that Brazilian producers will continue to be under pressure from imports<sup>250</sup> and, therefore, will have an incentive to find other markets and to export hot-rolled steel sheet. Since Canada is one of the highest-priced markets in the world, and considering the relatively inexpensive shipping rates available to exporters, it is likely to be an export target for Brazilian producers.

247. The Tribunal also notes that Asia, as a whole, and particularly India, accounted for a large share of Brazil's exports of hot-rolled steel sheet in 2010. Therefore, in seeking markets for its excess production, Brazil will be subject to fierce competition from increased exports from China, particularly in India.<sup>251</sup>

248. The Tribunal heard testimony that USIMINAS has recently adopted a policy whereby it would not sell to foreign markets at prices which did not allow it to recover its full costs of production.<sup>252</sup> Accordingly, USIMINAS testified that it would no longer export significant amounts of hot-rolled steel sheet outside South America, including Europe, the United States and Canada.<sup>253</sup>

---

244. *Ibid.* at 180.

245. *Ibid.*

246. *Transcript of Public Hearing*, Vol. 4, 23 June 2011, at 511-12; Tribunal Exhibit RR-2010-001-34 (single copy), Administrative Record, Vol. 1.01 at 255-94.

247. *Pre-hearing Staff Report*, Tribunal Exhibit RR-2010-001-05, Administrative Record, Vol. 1.1 at 159.

248. Tribunal Exhibit RR-2010-001-34 (single copy), Administrative Record, Vol. 1.01 at 255-94; *Pre-hearing Staff Report*, Tribunal Exhibit RR-2010-001-05, Administrative Record, Vol. 1.1. at 159.

249. *Transcript of Public Hearing*, Vol. 4, 23 June 2011, at 555, 561-63.

250. Tribunal Exhibit RR-2010-001-22.01 (protected), Administrative Record, Vol. 6.1 at 159.

251. *Pre-hearing Staff Report*, Tribunal Exhibit RR-2010-001-05, Administrative Record, Vol. 1.1. at 75, 168; Tribunal Exhibit RR-2010-001-34 (single copy), Administrative Record, Vol. 1.01 at 238-52; Tribunal Exhibit RR-2010-001-34 (single copy), Administrative Record, Vol. 1.01A at 2-38.

252. *Transcript of Public Hearing*, Vol. 4, 23 June 2011, at 527, 569; *Transcript of In Camera Hearing*, Vol. 4, 23 June 2011, at 239, 293-94, 297, 308, 311, 316.

253. *Transcript of Public Hearing*, Vol. 4, 23 June 2011, at 451-52, 524-25, 527; *Transcript of In Camera Hearing*, Vol. 4, 23 June 2011, at 293-94, 297-98, 311, 316-18.

249. The Tribunal is not persuaded that this will be a barrier to exports from Brazil to Canada, given that such a policy could change again at any time for economic reasons or due to internal policies or other management considerations. Indeed, the Tribunal finds it likely that USIMINAS will change its policy again, continue exporting hot-rolled steel sheet to Europe and export to North America.

250. In this regard, the Tribunal notes the evidence on the record that, prior to this change in policy, USIMINAS routinely exported hot-rolled steel sheet to Europe at prices below or slightly above variable costs, between 2009 and the early part of 2011.<sup>254</sup> There is evidence on the record that, given its current costs of production and the availability of low freight rates, were USIMINAS to continue such a practice, it could realize a gross profit by selling hot-rolled steel sheet into the Canadian market, which is currently one of the highest-priced markets in the world.

251. Although USIMINAS submitted that it has lost touch with its contacts in North America, it later indicated that it still sells steel products to service centres and manufacturers in North America.<sup>255</sup> This shows that USIMINAS has a continued interest in the North American market and, given its ongoing commercial contacts in the market, would be able to ship hot-rolled steel sheet into the Canadian market.<sup>256</sup>

252. Therefore, in the presence of the above-noted current and projected excess capacity, continued pressure from imports and profit incentive, the Tribunal believes that Canada would be a destination of choice for USIMINAS, if the order were rescinded.

253. The Tribunal also heard testimony that ArcelorMittal Brasil has a coordination policy between its sister operations and that each respective operation concentrates on its domestic market.<sup>257</sup> However, similar to its view on USIMINAS's policy of no longer exporting at less than its full costs of production, the Tribunal is not persuaded that this will be a barrier to exports from Brazil to Canada, given that such coordination policies can change at any time for economic reasons or due to internal policies or other management considerations.

254. In any event, the Tribunal notes that ArcelorMittal Brasil's coordination policy could impact the volume of exports to Canada from the other Brazilian producers by displacing their domestic sales and requiring them to seek additional export markets, including Canada.

255. CSN, which is a major Brazilian producer and exporter of hot-rolled steel sheet, did not participate in the Tribunal's expiry review, nor did it complete the exporters' questionnaire. Therefore, the only evidence on the record with regard to CSN's export policy is the testimony of USIMINAS.

256. The witness for USIMINAS testified that he did not have all the information about the Brazilian domestic market because the company is divided between people who handle the domestic market and those who handle the export market.<sup>258</sup> However, he testified that, on the basis of his understanding of public documents filed in respect of CSN, CSN does not export much and that, what little it does export, it sells to its affiliated companies.<sup>259</sup>

---

254. *Transcript of Public Hearing*, Vol. 4, 23 June 2011, at 446-47; Exporter's Exhibit E-06 (protected), tab 1, Administrative Record, Vol. 14; Tribunal Exhibit RR-2010-001-22.01D (protected), Administrative Record, Vol. 6.1 at 265-66.

255. Tribunal Exhibit RR-2010-001-21.01C, Administrative Record, Vol. 5.1A at 92; *Transcript of Public Hearing*, Vol. 4, 23 June 2011, at 470.

256. *Transcript of Public Hearing*, Vol. 4, 23 June 2011, at 470.

257. *Transcript of Public Hearing*, Vol. 1, 20 June 2011, at 68-69.

258. *Transcript of Public Hearing*, Vol. 4, 23 June 2011, at 502.

259. *Ibid.* at 502-503; *Transcript of Public Hearing*, Vol. 5, 24 June 2011, at 702.



257. The evidence on the record with respect to CSN indicates that it has a significant export orientation. In 2009 and in the first quarter of 2011, CSN exported approximately 25 percent of the total hot-rolled steel sheet exported from Brazil. The evidence also indicates that, in just the first quarter of 2011, CSN exported 85,000 metric tonnes, which is twice the size of its exports in all of 2010.<sup>260</sup>

258. In addition, evidence on the record indicates that CSN has relatively low production costs compared to other Brazilian producers.<sup>261</sup> Therefore, of the Brazilian producers, CSN is the one most likely to export significant volumes of hot-rolled steel sheet to the Canadian market. In this regard, the Tribunal notes that, given the relative size, as well as the fragility of the Canadian market, even import offers of 5,000 metric tonnes or 3,000 metric tonnes can negatively affect and devastate pricing in the Canadian market.<sup>262</sup>

259. Finally, the Tribunal notes that the USITC recently rescinded its order against hot-rolled steel sheet from Brazil. In this regard, the Tribunal accepts the opinion of several witnesses that the USITC decision will inevitably attract hot-rolled steel sheet to the United States and, should the Tribunal's order be rescinded, to Canada as well, because of the integrated nature of the North American market and the low freight rates to transport hot-rolled steel sheet through the St-Lawrence Seaway to the U.S. Central and Midwest markets, which would make it very easy for it to be sold alternatively in both the Canadian and U.S. markets.<sup>263</sup>

260. On the basis of the foregoing analysis, the Tribunal is of the view that, should the order be rescinded, Canada will likely be a target for Brazilian hot-rolled steel sheet.

261. Accordingly, the Tribunal concludes that the expiry of the order is likely to result in the re-appearance of more than a negligible quantity of hot-rolled steel sheet from Brazil in the Canadian market in the near to medium term.

### Conclusion

262. In the Tribunal's view, the relatively weak overall demand growth in the subject countries' domestic and current major export markets, coupled with significant overcapacity, increased competition and continued pressure of the production imperative, means that the subject countries will be highly motivated to find markets for their goods. With its high domestic prices, Canada is likely to be a very attractive export destination for the subject goods.

263. Accordingly, the Tribunal is of the opinion that, should the order be rescinded, the likely volumes of hot-rolled steel sheet that would be exported to Canada from the subject countries, considered cumulatively, would be significant in relation to the size of the Canadian market.

---

260. Manufacturer's Exhibit B-13 at paras. 18-19, tab 1 at 35, Administrative Record, Vol. 11B; Exporter's Exhibit E-05, tab 12 at 19, Administrative Record, Vol. 13; *Pre-hearing Staff Report*, Tribunal Exhibit RR-2010-001-05, Administrative Record, Vol. 1.1 at 75; *Protected Pre-hearing Staff Report*, Tribunal Exhibit RR-2010-001-06 (protected), Administrative Record, Vol. 2.1 at 70.

261. Exporter's Exhibit E-06 (protected), tab 3 at 4, Administrative Record, Vol. 14.

262. Additional details relating to this topic can be found in the section of the reasons entitled "Likely Prices of Dumped and Subsidized Goods and Effects on Prices of Like Goods".

263. *Transcript of Public Hearing*, Vol. 1, 20 June 2011, at 110-11, 137-39; *Transcript of Public Hearing*, Vol. 2, 21 June 2011, at 165-67, 169-71, 183-85, 231-34, 240; *Transcript of Public Hearing*, Vol. 3, 22 June 2011, at 299-300; *Transcript of In Camera Hearing*, Vol. 3, 22 June 2011, at 186-87.

Dissenting Opinion of Member Vincent on Likely Volumes From Brazil

264. As stated earlier in my dissenting opinion concerning the issue of whether imports from Brazil should be cumulated with those of the other subject countries in this expiry review, I conclude, on the basis of my assessment of the evidence on the record, that hot-rolled steel sheet from Brazil is not likely to re-appear in the Canadian market in the near term, if the order against Brazil is rescinded. I do not dispute the fact that it would be feasible for Brazilian exporters to ship to Canada, should the order be rescinded. However, I am of the opinion that the preponderant evidence indicates that it is unlikely that volumes of hot-rolled steel sheet from Brazil will compete with the other subject goods and the like goods in the Canadian market in the next 18 to 24 months. Therefore, unlike my colleagues, I am not satisfied that it would be appropriate to cumulatively assess the effect of the dumping of the subject goods from Brazil with that of the dumping and subsidizing of the goods from the other subject countries.

265. Before detailing the reasons underlying my dissenting opinion on this issue, I wish to state that I agree with the majority's view that, should the order be rescinded, the likely volumes of hot-rolled steel sheet that would be exported to Canada from the other subject countries, considered cumulatively, would be significant in relation to the size of the Canadian market. I also agree that prices of dumped and/or subsidized hot-rolled steel sheet from the subject countries other than Brazil would significantly undercut prices of like goods, depress those prices or suppress them by preventing price increases that would otherwise occur and that, as a result, the domestic industry would experience injury to its production, sales, market share, profits, return on investments, utilization of production capacity and employment.

266. Accordingly, pursuant to paragraph 76.03(12)(b) of *SIMA*, I support the conclusion that the Tribunal hereby continue its order in respect of hot-rolled steel sheet originating in or exported from China, Chinese Taipei, India and Ukraine.

267. However, I respectfully disagree with my colleagues' finding that hot-rolled steel sheet from Brazil is likely to be present in the Canadian market in more than negligible quantities, should the order be rescinded. To support and put in context my conclusion that imports from Brazil are not likely to re-appear in the Canadian market in the near term, it is useful to review the evidence on the record concerning Brazil and Brazilian producers. To an extent, this evidence is discussed in the majority's analysis. For the reasons discussed below, however, my assessment of this evidence is different from that of my colleagues and, considered as a whole, this evidence does not, in my opinion, support a conclusion that imports of hot-rolled steel sheet from Brazil are likely to re-appear in the Canadian market in the near term.

268. Specifically, on my review, the information and available analysis concerning Brazil's situation during the POR and a prospective analysis in the near term concerning (1) trends in international markets and in the Brazilian market, (2) forecast price comparisons between regions in the near term, (3) the likely supply and demand conditions in Brazil and in Latin America, (4) the projected additional production capacity in Brazil, (5) the likely prices of exports from Latin America, and (6) the likely prices in Canada over the same period make it unlikely that the Canadian market will be an attractive market for Brazilian producers in the near term.

269. The evidence shows that 2010 was an exceptional year for Brazil in terms of consumption volumes of hot-rolled steel sheet. In that year, Brazil enjoyed robust economic performance, which stimulated high consumption volumes of steel sheet and spurred growth of 63 percent year on year. According to an established steel industry publication, there was strong demand in housing and infrastructure, and automotive output grew by 26 percent. The evidence also shows that Brazil became a net importer of hot-rolled steel sheet in 2010.<sup>264</sup>

---

264. Manufacturer's Exhibit B-12 (single copy) (protected), tab 43, Administrative Record, Vol. 2.01E at 168, 180; *Transcript of Public Hearing*, Vol. 4, 23 June 2011, at 520-22.

270. According to an established steel industry publication, while Brazil experienced significant demand growth, which led to high consumption volumes of hot-rolled steel sheet in 2010, the figures point to weakening demand in the last quarter, mainly related to seasonal factors such as severe climatic conditions, which caused floods that negatively affected production output, and to a general destocking of steel sheet inventories in the Brazilian market.<sup>265</sup>

271. In my review of the available industry forecasts, I found particularly telling the long-term trend in demand and long-term demand forecast for hot-rolled steel sheet in Brazil.

272. According to an established steel industry publication forecast, there will continue to be healthy demand in housing and infrastructure in Brazil in the near term, and automotive output is expected to continue to grow by 5 percent in 2011. The same publication projects that there will be healthy demand in the coming months, with robust end-use sector demand.<sup>266</sup>

273. As for the long-term trend in demand for steel sheet in Brazil, the forecast shows strong demand growth for the 2011-2015 period, with overall consumption projected to be 32 percent higher than in the 2006-2010 period.<sup>267</sup>

274. The above forecasts trend the same as USIMINAS's projections for the hot-rolled steel sheet market in Brazil, which, the company forecast, will grow by at least 5 percent per year or more in the near term, depending on the growth of the economy, and will fuel a growing internal demand for hot-rolled steel sheet.<sup>268</sup>

275. Industry forecasts predict that, in the coming months, import volumes will remain low relative to 2010, due to pricing, and that the projected depreciation of the Brazilian real will likely lead to increased import costs.<sup>269</sup>

276. In summary, the above forecasts predict a strong demand in Brazil in the next 18 to 24 months and low imports due to pricing.

277. My review of the information and available forecasts on record revealed conflicting evidence with regard to the projected production capacity of Brazil.

278. On the one hand, an established steel industry publication projected increases in Brazil's overall hot-rolled steel sheet production capacity in the near term. This was due, in large part, to the publication reporting USIMINAS's planned commissioning, by late November 2011, of a new hot-rolling facility at Cubatão, with production capacity of 2.3 million metric tonnes per year, which would represent additional capacity.<sup>270</sup> I note that the domestic industry based its arguments, in part, on this apparent additional production capacity. The domestic industry relied heavily upon these projections to present its forecasts and make its case regarding Brazil's overall likely production capacity in 2011 and 2012.

---

265. Manufacturer's Exhibit B-12 (single copy) (protected), tab 43, Administrative Record, Vol. 2.01E at 168, 180.

266. *Ibid.* at 169.

267. *Ibid.*

268. *Transcript of Public Hearing*, Vol. 4, 23 June 2011, at 455, 521-22.

269. Manufacturer's Exhibit B-12 (single copy) (protected), tab 43, Administrative Record, Vol. 2.01E at 169.

270. *Ibid.* at 169, 183.

279. On the other hand, two company officials from USIMINAS indicated, in USIMINAS's response to the expiry review questionnaire and in testimony, that the company expects to commission a new Cubatão plant, with a production capacity of 2.2 million metric tonnes, and that this new plant will replace the old mill, which was installed in the 1960s.<sup>271</sup> USIMINAS indicated that there will be no significant practical increase in production capacity for hot-rolled steel sheet in Brazil as a result of its new production capacity.<sup>272</sup> USIMINAS's testimony and response to the questionnaire were consistent.

280. In this context, since the key aspect of likely changes in Brazil's hot-rolled steel sheet capacity in the near term is essentially based on USIMINAS's projected production capacity, there is no reason to prefer evidence from a third-party publication<sup>273</sup> regarding projected production capacity in Brazil<sup>274</sup> over the statements and direct testimony of USIMINAS, which has direct knowledge of its own business and production plans, including its plan to commission the new plant. On balance, I placed greater weight on the direct evidence provided by USIMINAS in reply to the expiry review questionnaire and during the hearing that the new production capacity will not be in addition to but in replacement of existing capacity.

281. In light of the above, USIMINAS's new facility will not likely have a significant effect on hot-rolled steel sheet output in the near term. In addition, I note USIMINAS's plans to commission a second plate rolling mill line in 2012 at its Ipatanga plant, which makes it likely that more hot-rolled steel sheet will be consumed internally.<sup>275</sup>

282. In its argument, the domestic industry projected a significant overcapacity in Brazil for 2011 and 2012, which would represent a sizeable percentage of the total 2010 Canadian market for hot-rolled steel sheet in 2011 and 2012<sup>276</sup>. The domestic industry also argued that the "...projected increases in consumption are more than offset by capacity increases in USIMINAS' Cubatao facility alone, which indicates that Brazil will continue to have excess capacity in 2011 and 2012."<sup>277</sup> When these projections are adjusted to account for the evidence presented by USIMINAS, as reviewed above, they demonstrate substantial declines in overcapacity for 2011 and 2012, to the point that overcapacity for hot-rolled steel sheet in Brazil will be minimal and will represent a very small percentage of the Canadian market. When these figures are adjusted to align with the evidence presented by USIMINAS, I conclude that there will likely not be significant practical overcapacity for hot-rolled steel sheet in Brazil in the near term.

---

271. Tribunal Exhibit RR-2010-001-21.01C, Administrative Record, Vol. 5.1A at 84; *Transcript of Public Hearing*, Vol. 4, 23 June 2011, at 463-64, 542.

272. *Transcript of Public Hearing*, Vol. 4, 23 June 2011, at 445-46; Tribunal Exhibit RR-2010-001-21.01C, Administrative Record, Vol. 5.1A at 84-85.

273. I note that the established industry publication report contains a disclaimer which reads as follows: "Although every effort has been made to undertake this work with care and diligence, ... [the established industry publication] cannot guarantee the accuracy of any forecasts or assumptions or that the proposed investment will be successful." Manufacturer's Exhibit B-12 (single copy) (protected), tab 43, Administrative Record, Vol. 2.01E at 49.

274. Manufacturer's Exhibit B-12 (single copy) (protected), tab 43, Administrative Record, Vol. 2.01E at 183, 358; Manufacturer's Exhibit B-06 (protected) at para. 29, Administrative Record, Vol. 12A.

275. Tribunal Exhibit RR-2010-001-27.05 (protected) at para. 55, Administrative Record, Vol. 8; Tribunal Exhibit RR-2010-001-21.01C, Administrative Record, Vol. 5.1A at 85.

276. *Transcript of Public Hearing*, Vol. 5, 24 June 2011, at 596; Manufacturer's Exhibit B-02 (protected) at para. 64, Administrative Record, Vol. 12A; Manufacturer's Exhibit B-06 (protected) at paras. 29, 34, Administrative Record, Vol. 12A.

277. Manufacturer's Exhibit B-01 at para. 104, Administrative Record, Vol. 11A; Manufacturer's Exhibit B-02 (protected) at para. 104, Administrative Record, Vol. 12A; Manufacturer's Exhibit B-12 (single copy) (protected), tab 43, Administrative Record, Vol. 2.01E at 183, 257, 358.

283. On the basis of the above analysis, particularly with regard to the projected strong internal demand growth, the projected production capacity, the adjusted projected overcapacity in 2011 and 2012 (at minimal levels), the end of the destocking phase, and projected low and costly import volumes relative to 2010, I conclude that the projected supply of Brazilian hot-rolled steel sheet will not be enough to offset the increasing internal demand in the near term. In light of Brazil's relatively high domestic prices for hot-rolled steel sheet, when compared to the Canadian, Latin American and European markets,<sup>278</sup> I conclude that these likely market factors would make Brazil's domestic market even more attractive to its domestic producers in the near term.

284. USIMINAS testified that, in its view, Brazilian producers will regain domestic market share, that Brazil will be a net importer and that the overall volume of exports of hot-rolled steel sheet from Brazil will be reduced in the near term.<sup>279</sup> I accept the testimony of USIMINAS in that regard and find it consistent with the likely market trends as reviewed above.

285. In light of the above evidence and analysis, coupled with my review of the projected export prices set out below, it is my view that the projected tight domestic supply and demand situation in Brazil considerably lowers the risk of any low-priced exports of Brazilian hot-rolled steel sheet targeting the Canadian market in the near term. I will now review the individual circumstances of the three major Brazilian producers in relation to likely exports in the near term. I will then analyze the projected market prices in order to evaluate the attractiveness of the Canadian market in the near term for Brazilian exporters relative to their domestic market and other traditional markets.

286. At the hearing, USIMINAS indicated that export markets, in general, are less attractive at this time than they were during the last few years. USIMINAS explained that it had faced significantly increasing costs of sales in 2011 relative to 2010.<sup>280</sup> During the hearing, USIMINAS indicated to the Tribunal that, due to its increasing cost of sales and the export prices currently available, it had ceased to export for the time being because it could not cover its costs.<sup>281</sup>

287. When USIMINAS was questioned on its export prices in relation to its cost of sales, it became clear that the prices of its exports to Latin America and Europe in 2010 and early 2011 were, in general, below its cost of sales.<sup>282</sup> This is consistent with questionnaire responses from USIMINAS on its export prices and cost of sales.<sup>283</sup> After reviewing the export prices in relation to USIMINAS's cost of sales and variable costs in 2010 and the first quarter of 2011, I conclude that, in Latin America, its export prices were below the cost of sales, but above the variable costs, by a significant margin.<sup>284</sup> Also, it would appear that USIMINAS has sold close to its variable costs in some major European markets.<sup>285</sup>

---

278. Manufacturer's Exhibit B-04 (protected) at para. 52, Administrative Record, Vol. 12A; Manufacturer's Exhibit B-12 (single copy) (protected), tab 43, Administrative Record, Vol. 2.01E at 14, 404, 407.

279. *Transcript of Public Hearing*, Vol. 4, 23 June 2011, at 521, 529.

280. *Ibid.* at 448-49, 462, 534

281. *Ibid.* at 448-49, 527-28, 569; *Transcript of Public Hearing*, Vol. 5, 24 June 2011, at 699; *Transcript of In Camera Hearing*, Vol. 4, 23 June 2011, at 234-35; Tribunal Exhibit RR-2010-001-21.01C, Administrative Record, Vol. 5.1A at 90.

282. *Transcript of In Camera Hearing*, Vol. 4, 23 June 2011, at 291-300, 306-18; Exporter's Exhibit E-06 (protected), tabs 1, 24, Administrative Record, Vol. 14.

283. Tribunal Exhibit RR-2010-001-21.01D (protected), Administrative Record, Vol. 6.1 at 265-69.

284. Tribunal Exhibit RR-2010-001-22.01D (protected), Administrative Record, Vol. 6.1 at 265-69; Exporter's Exhibit E-06 (protected), tab 1, Administrative Record, Vol. 14; *Transcript of In Camera Hearing*, Vol. 4, 23 June 2011, at 235-36.

285. Exporter's Exhibit E-06 (protected), tab 1, Administrative Record, Vol. 14; Tribunal Exhibit RR-2010-001-22.01D (protected), Administrative Record, Vol. 6.1 at 265-66.

288. According to USIMINAS, the most attractive markets for hot-rolled steel sheet are Brazil, Latin America and Europe, and approximately 90 percent of its exports are to both Latin America and, to a lesser extent, Europe. USIMINAS indicated that export prices are generally higher in Europe than in Canada and that, for this reason, the North American market had been generally less attractive in the last few years.<sup>286</sup>

289. According to the testimony of ArcelorMittal Dofasco, ArcelorMittal Brasil is not likely to export to Canada in the near term, given the overarching corporate coordination policy in place, which would effectively proscribe it from competing in the markets of its affiliated companies.<sup>287</sup> ArcelorMittal Dofasco indicated that plants on both sides of the Canada-United States border coordinate sales to fill market needs, when needed.<sup>288</sup> This is also consistent with USIMINAS's testimony that ArcelorMittal Brasil would not export hot-rolled steel sheet to Canada, absent the order, due to its corporate policy not to compete in the markets of its affiliated companies.<sup>289</sup> I have no reason to believe that ArcelorMittal Dofasco's coordination policy will change in the near term and, therefore, conclude that ArcelorMittal Brasil is not likely to export hot-rolled steel sheet to Canada in the near term.

290. CSN is the third largest producer of hot-rolled steel sheet in Brazil. On the basis of the evidence on the record, such as CSN's corporate publication,<sup>290</sup> established steel industry publications and witness testimony concerning the production capacity and export practices of CSN, I conclude that there will likely be no changes in CSN's production capacity for hot-rolled steel sheet in the near term and that, consistent with its past practices, CSN will export mainly to its related companies and, therefore, will not export to Canada.

291. Both relevant established steel industry publications<sup>291</sup> and USIMINAS report no change in the planned production capacity for CSN in the near term.<sup>292</sup> USIMINAS also testified that CSN would not export to Canada because its exports are mainly to its affiliated companies.<sup>293</sup> As well, CSN's corporate publication supports the view that its exports are mainly to related companies. For instance, in the first quarter of 2011, out of a total of 186,000 metric tonnes of hot-rolled steel sheet sold by CSN to foreign markets, it would appear that only 6,000 metric tonnes were sold to unrelated companies.<sup>294</sup>

292. Given the present and foreseeable domestic and global market conditions (which are analyzed below), I am not convinced that CSN will act any differently from ArcelorMittal Brasil and USIMINAS or act differently from the way that it has in the past in terms of exporting mainly to its affiliated companies. Therefore, I do not have a sound reason to reach a different conclusion with respect to CSN than with respect to ArcelorMittal Brasil and USIMINAS in the near term. In other words, I have no reason to believe that CSN will act differently from the other two major Brazilian exporters that represent the majority of production and exports from Brazil, when faced with the same market conditions in Brazil and the region, and the same relative price advantage in these markets.

---

286. Tribunal Exhibit RR-2010-001-21.01C, Administrative Record, Vol. 5.1A at 87, 94; Tribunal Exhibit RR-2010-001-22.01 (protected), Administrative Record, Vol. 6.1 at 21; *Transcript of Public Hearing*, Vol. 4, 23 June 2011, at 474-75, 495, 537, 539.

287. *Transcript of Public Hearing*, Vol. 1, 20 June 2011, at 44-45, 68-69, 71-73; Manufacturer's Exhibit B-03 at para. 31, Administrative Record, Vol. 11A.

288. *Transcript of Public Hearing*, Vol. 1, 20 June 2011, at 45, 68-69, 71.

289. *Transcript of Public Hearing*, Vol. 4, 22 June 2011, at 502-503; Exporter's Exhibit E-03 at paras. 42, 65, Administrative Record, Vol. 13.

290. Exporter's Exhibit E-05, tab 12 at 19, Administrative Record, Vol. 13.

291. Manufacturer's Exhibit B-12 (single copy) (protected), Administrative Record, Vol. 2.01E at 183.

292. Exporter's Exhibit E-03 at para. 12, Administrative Record, Vol. 13.

293. *Transcript of Public Hearing*, Vol. 4, 23 June 2011, at 502-503.

294. Exporter's Exhibit E-05, tab 12 at 19, Administrative Record, Vol. 13.

293. As discussed above, the evidence shows that Brazil already benefits from a premium domestic and regional market for its exports at its door, the Mercosur.<sup>295</sup> Brazil's markets of choice, in terms of pricing, were further corroborated by Brazilian exporters' questionnaire responses, which reveal that Brazilian exporters focussed on the Brazilian, Latin American and European markets.<sup>296</sup>

294. During the POR, Latin America commanded the highest export prices and offered better returns than Europe and Asia. For instance, in the first quarter of 2011, export sales were approximately US\$100 per metric tonne higher than Europe, and approximately US\$80 per metric tonne higher than Asia.<sup>297</sup> An established steel industry publication forecast that demand in the region for steel sheet is expected to grow by "a healthy 7.5 percent in 2011".<sup>298</sup>

295. Given the above, I accept USIMINAS's testimony that its primary focus for hot-rolled steel sheet, and that of the other two Brazilian exporters, is the domestic and proximity markets.

296. At the time of the first expiry review, the Tribunal examined the price delta between Canada and world markets and concluded that, because of the price differential in place between Canada and other markets such as Europe, Canada was a very attractive market for imports. It stated the following:

77. The Tribunal notes that, in terms of domestic market pricing around the world, North American hot-rolled sheet prices are significantly higher than those of other regional markets and that, within the North American market, the Canadian and U.S. prices are similar. For example, the evidence indicates that the price of hot-rolled sheet in the Canadian market in the second quarter of 2006 was CAN\$760 (US\$640) per metric tonne, while the price in the U.S. market was at a similar level (US\$652 per metric tonne). In the same time frame, the average Western European price was US\$600 per metric tonne (6 percent lower than the Canadian price) and the Chinese price was US\$536 per metric tonne (16 percent lower than the Canadian price). The price differentials between the Canadian price and the price in the other markets make Canada a very attractive market for imports. According to the Tribunal's expert witness, the reason why North American prices are significantly higher than the prices found in other markets is that North America is a net importer of steel.

297. I note that, in the first expiry review, the Tribunal found that the price delta between Europe and Canada was US\$40 and that the price delta between the United States and Europe was US\$52 in 2006.<sup>299</sup>

298. However, in this expiry review, the evidence on the record shows that the price delta between the United States and Europe, which historically found that North America was the highest-priced market, shrunk and even reversed in 2007, 2009 and 2010.<sup>300</sup>

299. From 2007 to 2010, in 12 out of 16 quarters, U.S. domestic market prices for hot-rolled steel sheet were below European market prices.<sup>301</sup>

---

295. *Transcript of Public Hearing*, Vol. 4, 23 June 2011, at 524-27.

296. Tribunal Exhibit RR-2010-001-21.01C, Administrative Record, Vol. 5.1A at 91, 94; Tribunal Exhibit RR-2010-001-21.04, Administrative Record, Vol. 5.1B at 154.

297. Tribunal Exhibit RR-2010-001-22.01D (protected), Administrative Record, Vol. 6.1 at 265-66.

298. Manufacturer's Exhibit B-12 (single copy) (protected), tab 43, Administrative Record, Vol. 2.01E at 171.

299. At para. 77.

300. The forecast prices used for purposes of this comparison are those of Germany and the United States. Manufacturer's Exhibit B-12 (single copy) (protected), tab 43, Administrative Record, Vol. 2.01E at 69.

301. Manufacturer's Exhibit B-12 (single copy) (protected), tab 43, Administrative Record, Vol. 2.01E at 69.

300. In my view, this would logically imply that, while Canadian hot-rolled steel sheet market prices were, on average, US\$14 lower than the market prices in the United States<sup>302</sup> during the POR, the comparison between the market prices in Canada and in Europe would trend the same, i.e. in the large majority of the quarters in the last four years, the market prices for hot-rolled steel sheet in Canada were below the market prices in Europe.

301. The above analysis suggests to me that, in the absence of the order, Canada would likely not have been regarded as a more attractive market than Europe over the last four years, with the year 2007 being a turning point in the long-term trend towards higher North American prices over European prices since 1996.<sup>303</sup>

302. Further, I note USIMINAS's testimony that the delivery costs from Brazil to Europe and from Brazil to Canada were similar in early 2011.<sup>304</sup>

303. In terms of projected market prices for hot-rolled steel sheet, an established steel industry publication forecast for 2011 and 2012 is for U.S. prices to remain higher than European prices, with the price delta closing in the second halves of 2011 and 2012. I note that, for the second half of 2011 and in 2012, the forecasts are for the price delta between the United States and Europe to be roughly half of the US\$52 delta found in the first expiry review, with a quarterly delta oscillating between US\$30 and US\$19.<sup>305</sup> Taking into consideration that the transaction prices for hot-rolled steel sheet in Canada during the POR was, on average, US\$14 below U.S. prices and that the price gap between Canada and the United States is likely to be maintained in the near term, I conclude that the price delta between Canada and Europe will not be significant in the near term (on a quarterly basis, the price delta between Canada and Europe will oscillate between a high of US\$16 and a low of US\$5, which means similar prices). Therefore, in my view, from the perspective of a Brazilian exporter of hot-rolled steel sheet, I conclude that there will be very little to no price incentive to prefer Canada over Europe as a destination of choice.

304. There are forecast export prices on the record which show projected prices for exports from Latin America (FOB Brazilian port) and U.S. Midwest prices (FOB mill) by quarter for 2011 and 2012. When these data sets are compared, they show that export prices at the Brazilian port are slightly below U.S. Midwest prices.<sup>306</sup> However, these would not likely be competitive in North America, and particularly in Canada, when delivery costs (USIMINAS estimated its freight costs at \$70 per metric tonne for shipping Brazilian hot-rolled steel sheet to Canada)<sup>307</sup> and other adjustments (such as the \$50 to \$60 premium and the lower price in Canada in relation to the U.S. price of US\$14)<sup>308</sup> are considered. The Tribunal heard

---

302. Tribunal Exhibit RR-2010-001-28 (single copy), Administrative Record, Vol. 1.01 at 2, 4, 6, 8, 10, 12, 14, 16, 18, 20, 22, 24, 26, 28, 30, 32, 34, 36, 38, 40, 42, 44, 46, 48, 50, 52, 54; Tribunal Exhibit RR-2010-001-29 (single copy), Administrative Record, Vol. 1.01 at 57, 69, 81, 93, 105, 117, 129, 141, 153, 165, 177, 189.

303. Manufacturer's Exhibit B-12 (single copy) (protected), tab 43, Administrative Record, Vol. 2.01E at 69.

304. *Transcript of Public Hearing*, Vol. 4, 23 June 2011, at 506, 554; *Transcript of In Camera Hearing*, Vol. 4, 23 June 2011, at 259, 316; Tribunal Exhibit RR-2010-001-22.01D (protected), Administrative Record, Vol. 6.1 at 265-66.

305. Manufacturer's Exhibit B-12 (single copy) (protected), tab 43, Administrative Record, Vol. 2.01E at 69; the first expiry review at para. 77.

306. Manufacturer's Exhibit B-12 (single copy) (protected), tab 43, Administrative Record, Vol. 2.01E at 182, 69.

307. *Transcript of Public Hearing*, Vol. 4, 23 June 2011, at 554; *Transcript of In Camera Hearing*, Vol. 4, 23 June 2011, at 259.

308. *Transcript of Public Hearing*, Vol. 1, 20 June 2011, at 30, 41; *Transcript of Public Hearing*, Vol. 2, 21 June 2011, at 212, 279; *Transcript of Public Hearing*, Vol. 3, 22 June 2011, at 321; *Transcript of Public Hearing*, Vol. 4, 23 June 2011, at 554; *Transcript of In Camera Hearing* Vol. 1, 20 June 2011, at 6; Tribunal Exhibit RR-2010-001-28 (single copy), Administrative Record, Vol. 1.01 at 2, 4, 6, 8, 10, 12, 14, 16, 18, 20, 22, 24, 26, 28, 30, 32, 34, 36, 38, 40, 42, 44, 46, 48, 50, 52, 54; Tribunal Exhibit RR-2010-001-29 (single copy), Administrative Record, Vol. 1.01 at 57, 69, 81, 93, 105, 117, 129, 141, 153, 165, 177, 189.



testimony that, to sell hot-rolled steel sheet into Canada, Brazilian producers would have to price their hot-rolled steel sheet \$50 to \$60 lower than the current Canadian market prices in order to secure sales. I note that the Tribunal received evidence that Brazil's costs of production increased substantially between 2010 and 2011 and that they are forecast to increase even more. I also note the costs that must be taken into account with regard to the delivery of the subject goods to Canadian ports.<sup>309</sup>

305. These projected prices (with the necessary adjustments, as discussed above, in order for the Brazilian exports to be present and take a share of the Canadian market) demonstrate, in my view, that likely prices in North America and in Canada will not be attractive to Brazilian exporters in the near term.<sup>310</sup> I reached the same conclusion when I used Mr. Bassett's testimony and forecast that Canadian prices will remain at approximately \$780 to \$820 in the near term, i.e. that Brazilian exports would not likely be attracted by these Canadian market prices.<sup>311</sup>

306. Taken in that context, I accept USIMINAS's testimony that projected prices indicate that it will not recover its costs of sales (full cost of production) if it attempts to export to Canada.<sup>312</sup> However, as I mentioned earlier, the record shows that USIMINAS has not generally recovered its full costs of production in the past when it was exporting, although it has covered generally more than its variable costs.<sup>313</sup>

307. The Tribunal heard testimony from Samuel that "... if you have a plant that is running at 70 per cent of capacity, ... you look at the variable cost and say ... if my variable cost is 500, my fixed cost is 300, so I really need \$800 to make it work. If I can get \$600, I am still \$100 better off than leaving that capacity unused."<sup>314</sup> The overcapacity analysis above, in my view, demonstrates that the Brazilian producers are running at close to full production capacity, which is not an incentive to sell below the costs of production. In my view, the prices forecast above are not likely to be attractive to Brazilian exporters, which would have to accept sales to Canada at prices that would deprive them from making profits, i.e. covering the costs of sales, and it even appears that the forecast market prices will likely not be enough to cover their increasing variable costs over the near term.

308. In light of the growing internal demand and the tight supply situation in Brazil, the very high level of capacity utilization projected for internal processing and end users' increasing demand for hot-rolled steel sheet, I conclude that it is not likely that Brazilian producers will find it favourable to reduce their profit margin or sell at a loss, or even at or below variable costs, in order for the subject goods to re-appear in the

---

309. *Transcript of Public Hearing*, Vol. 1, 20 June 2011, at 30, 41, 221; *Transcript of Public Hearing*, Vol. 2, 21 June 2011, at 279; *Transcript of Public Hearing*, Vol. 3, 22 June 2011, at 321; *Transcript of Public Hearing*, Vol. 4, 23 June 2011, at 448-449, 534, 554; *Transcript of In Camera Hearing*, Vol. 4, 23 June 2011, at 259, 316; Tribunal Exhibit RR-2010-001-22.01D (protected), Administrative Record, Vol. 6.1 at 268-69; Tribunal Exhibit RR-2010-001-22.04A (protected), Administrative Record, Vol. 6.1A at 220-22; Exporter's Exhibit E-06 (protected), tab 1, Administrative Record, Vol. 14.

310. Manufacturer's Exhibit B-12 (single copy) (protected), tab 43, Administrative Record, Vol. 2.01E at 102, 182; Exporter's Exhibit E-06 (protected), tab 1, Administrative Record, Vol. 14; *Transcript of Public Hearing*, Vol. 1, 20 June 2011, at 30, 41, 221; *Transcript of Public Hearing*, Vol. 2, 21 June 2011, at 279; *Transcript of Public Hearing*, Vol. 3, 22 June 2011, at 321; *Transcript of Public Hearing*, Vol. 4, 23 June 2011, at 554; *Transcript of In Camera Hearing*, Vol. 1, 20 June 2011, at 6; *Transcript of In Camera Hearing*, Vol. 4, 23 June 2011, at 259, 316.

311. *Transcript of Public Hearing*, Vol. 2, 21 June 2011, at 153.

312. *Transcript of Public Hearing*, Vol. 4, 23 June 2011, at 527, 569; *Transcript of In Camera Hearing*, Vol. 4, 23 June 2011, at 239, 293-94, 297, 308, 311, 316.

313. Exporter's Exhibit E-06 (protected), tab 1, Administrative Record, Vol. 14; *Transcript of In Camera Hearing*, Vol. 4, 23 June 2011, at 236.

314. *Transcript of Public Hearing*, Vol. 2, 21 June 2011, at 202.

Canadian market. I note that the Brazilian producers that responded to the expiry review questionnaire declared costs of sales (ex-factory) in the first quarter of 2011 to be at a level that is significantly higher, when adjusted for delivery cost and premium, than the projected market prices in Canada in the near term.<sup>315</sup>

309. For these reasons, combined with the above analysis of the prevailing prices in Latin America and in Canada, I accept USIMINAS's position that, in the near term, USIMINAS would not likely realize sales in the Canadian market and that it prefers to concentrate on regaining the domestic market share that it lost to imports and to use a greater part of its production for internal consumption.

310. On the basis of the foregoing, it is my opinion that, in the absence of the order in respect of Brazil, exports to Canada by Brazilian companies that are related to the domestic industry are not likely to occur.

311. In addition, in light of the evidence and analysis discussed above, I am of the view that there are sound economic and business reasons for Brazilian exporters, as a whole, to prefer to sell in Brazil and export to Latin America and, to a certain extent, to Europe, instead of shipping hot-rolled steel sheet to Canada at projected market prices. I accept the testimony that Brazilian producers will concentrate on the domestic market and traditional export markets in the Mercosur and, more generally, in Latin America, which command higher prices and offer the best financial returns on operations,<sup>316</sup> and in order to secure long-standing trade and business relationships.<sup>317</sup>

312. In summary, for the foregoing reasons, I am of the view that, if the order is rescinded, imports of hot-rolled steel sheet from Brazil are not likely to re-appear in the Canadian market in the near term. Therefore, in my opinion, the subject goods from Brazil will not compete with hot-rolled steel sheet from the other subject countries and the like goods in the next 18 to 24 months. For this reason, I find that the resumed or continued dumping of goods from Brazil will not likely result in injury to the domestic industry.

### **Likely Prices of Dumped and Subsidized Goods and Effects on Prices of Like Goods**

313. The Tribunal will next examine whether the dumped and/or subsidized goods from the subject countries are likely to significantly undercut, depress or suppress the prices of like goods.<sup>318</sup>

314. At the outset, the Tribunal notes, as indicated above, that hot-rolled steel sheet that meets the definition of the subject goods is a commodity product and that price is therefore the primary factor driving competition.<sup>319</sup>

315. The Tribunal heard testimony that importers have to price below the domestic producers in order to sell their product, since they are unable to match the favourable delivery logistics, the smaller quantities of product and technical support, which the domestic producers are able to provide to their customers.<sup>320</sup>

---

315. Tribunal Exhibit RR-2010-001-22.01D (protected), Administrative Record, Vol. 6.1 at 268-69; Tribunal Exhibit RR-2010-001-22.04A (protected), Administrative Record, Vol. 6.1A at 221.

316. Tribunal Exhibit RR-2010-001-21.01A, Administrative Record, Vol. 5.1 at 23-24.

317. *Transcript of Public Hearing*, Vol. 4, 23 June 2011, at 524-27.

318. Paragraph 37.2(2)(b) of the *Regulations*.

319. The subject goods are comparable in quality to the like goods.

320. *Transcript of Public Hearing*, Vol. 1, 20 June 2011, at 31, 57, 85-86; *Transcript of Public Hearing*, Vol. 2, 21 June 2011, at 196.

316. The Tribunal notes that the presence of low-priced imports, such as imports from Russia in Eastern Canada and Korean and New Zealand imports in Western Canada, during the POR, had a detrimental effect on the domestic market prices of hot-rolled steel sheet and, consequently, on consumption of domestically produced hot-rolled steel sheet.<sup>321</sup> It led to a steady and significant decline in domestic prices and consumption of domestically produced hot-rolled steel sheet.<sup>322</sup>

317. The Tribunal heard testimony that, if the order were rescinded, the subject countries would be more inclined to ship their excess capacity to Canada, due to North America having some of the highest prices in the world.<sup>323</sup> Moreover, in order to compete with new offshore sources in the Canadian market, the subject countries would be forced to undercut the offshore prices to reclaim their previously held market share.<sup>324</sup> The outcome would result in a “race to the bottom”, in which the subject countries and new offshore sources would be aggressively lowering their prices in order to gain market share.<sup>325</sup>

318. Given the commodity nature of hot-rolled steel sheet, ArcelorMittal Dofasco submitted that offshore imported product has never been priced higher than domestic product. Furthermore, the Canadian market has recently experienced multiple offshore offers from sources such as Australia, New Zealand, Korea, Turkey and Russia.<sup>326</sup> The domestic producers submitted that these offshore offers can be anywhere from \$50 to \$60 per metric tonne lower than domestic hot-rolled steel sheet, but that, quite often, the price differentials can be in the \$150 to \$200 range.<sup>327</sup>

319. According to the domestic producers, Russia is currently the price leader<sup>328</sup> and is putting significant downward pressure on Canadian prices. The Russian price offers in 2011 started at \$50 to \$60 below the domestic prices,<sup>329</sup> which did not attract much attention, thus forcing the Russian exporters to further reduce their prices, thereby creating a price differential of \$100 and, in some instances, \$150 to \$200 lower than domestic prices. As an example, in April 2011, imports from Russia were quoted at \$750 per metric tonne, while Canadian spot prices were \$970 per metric tonne.<sup>330</sup>

---

321. *Transcript of Public Hearing*, Vol. 1, 20 June 2011, at 97-98; *Transcript of Public Hearing*, Vol. 2, 21 June 2011, at 156, 185-86, 247, 277-78; Manufacturer’s Exhibit A-03 (protected) at paras. 50-64, confidential attachment 1 at 1-15, Administrative Record, Vol. 12; Manufacturer’s Exhibit B-08 (protected) at paras. 38-47, confidential attachments 1 to 5, Administrative Record, Vol. 12A; Manufacturer’s Exhibit C-06 (protected) at paras. 26-29, Administrative Record, Vol. 12B; Manufacturer’s Exhibit C-08 (protected), confidential attachments 11-14 at 107-22, Administrative Record, Vol. 12B.

322. *Pre-hearing Staff Report*, Tribunal Exhibit RR-2010-001-05A, Administrative Record, Vol. 1.1A at 41, 47; Tribunal Exhibit RR-2010-001-15.04, Administrative Record, Vol. 3D at 9; Tribunal Exhibit RR-2010-001-16.04 (protected), Administrative Record, Vol. 4A at 232.

323. *Transcript of Public Hearing*, Vol. 1, 20 June 2011, at 18, 20-21, 24-25; Manufacturer’s Exhibit B-12 (single copy) (protected), tab 43, Administrative Record, Vol. 2.01E at 69.

324. *Transcript of Public Hearing*, Vol. 2, 21 June 2011, at 177.

325. *Ibid.* at 248.

326. *Transcript of Public Hearing*, Vol. 1, 20 June 2011, at 30-31, 97, 116; *Transcript of Public Hearing*, Vol. 2, 21 June 2011, at 171, 235, 247-48, 288; *Transcript of Public Hearing*, Vol. 3, 22 June 2011, at 333; Manufacturer’s Exhibit A-03 (protected) at paras. 50-64, confidential attachment 1 at 1-15, Administrative Record, Vol. 12; Manufacturer’s Exhibit B-08 (protected) at paras. 38-47, confidential attachments 1 to 5, Administrative Record, Vol. 12A; Manufacturer’s Exhibit C-06 (protected) at paras. 26-29, Administrative Record, Vol. 12B; Manufacturer’s Exhibit C-08 (protected), confidential attachments 11-14 at 107-22, Administrative Record, Vol. 12B.

327. *Transcript of Public Hearing*, Vol. 1, 20 June 2011, at 30, 35, 41, 76-77, 80; *Transcript of Public Hearing*, Vol. 2, 21 June 2011, at 174-75.

328. *Transcript of Public Hearing*, Vol. 1, 20 June 2011, at 115.

329. *Ibid.* at 35, 41, 76-77; *Transcript of Public Hearing*, Vol. 2, 21 June 2011, at 174-75.

330. *Transcript of Public Hearing*, Vol. 1, 20 June 2011, at 37, 78-80.

320. The Tribunal also notes that there is evidence on the record that, in the first and second quarters of 2011, imports from Russia were sold in the Canadian market at prices that were between \$50 and \$200 per metric tonne lower than prevailing domestic prices.<sup>331</sup> This price differential had the effect of putting significant downward pressure on domestic market prices, accelerating the erosion of domestic prices from \$970 per metric tonne at the end of March 2011 to between \$835 and \$850 per metric tonne in July 2011.<sup>332</sup>

321. It is expected that this price drop will continue and that domestic prices in August/September 2011 will reach between \$780 and \$820 per metric tonne.<sup>333</sup> The forecast is for Canadian prices to remain volatile and decline in the second half of 2011,<sup>334</sup> while prices in 2012 are expected to be even lower than in 2011.<sup>335</sup>

322. The domestic producers noted that China used to be the price leader and that, in absence of the order, imports from China would return to the Canadian market<sup>336</sup> and put downward pressure on the domestic market prices.<sup>337</sup> Furthermore, they noted that, in April 2011, the Chinese export price (FOB port of export) was between \$680 and \$690 per metric tonne and, with the addition of \$60 per metric tonne for freight and a 3 percent markup, this adds up to a selling price of approximately \$762 per metric tonne at the port of arrival in Canada, which would significantly undercut the domestic market price.<sup>338</sup>

---

331. Manufacturer's Exhibit A-03 (protected) at paras. 50-64, confidential attachment 1 at 1-15, Administrative Record, Vol. 12; Manufacturer's Exhibit B-08 (protected) at paras. 38-47, confidential attachments 1-5, Administrative Record, Vol. 12A; Manufacturer's Exhibit C-06 (protected) at paras. 26-29, Administrative Record, Vol. 12B; Manufacturer's Exhibit C-08 (protected), confidential attachments 11-14 at 107-22, Administrative Record, Vol. 12B; *Transcript of Public Hearing*, Vol. 1, 20 June 2011, at 79-80; *Transcript of Public Hearing*, Vol. 2, 21 June 2011, at 248, 277-78.

332. *Transcript of Public Hearing*, Vol. 1, 20 June 2011, at 79; *Transcript of Public Hearing*, Vol. 2, 21 June 2011, at 153.

333. *Transcript of Public Hearing*, Vol. 2, 21 June 2011, at 152-53.

334. Essar Algoma testified that the price differentials seen in this expiry review between domestically produced and imported hot-rolled steel sheet are multiples of what they were during the inquiry. *Transcript of Public Hearing*, Vol. 2, 21 June 2011, at 212-13.

335. *Transcript of Public Hearing*, Vol. 2, 21 June 2011, at 211-12; Manufacturer's Exhibit A-01 (protected), confidential attachment 2, Administrative Record, Vol. 12.

336. The evidence indicates that, in July 2010, China eliminated the 17 percent VAT rebate on certain steel products, with the exception of those steel products that contained the requisite amount of boron. The Tribunal heard testimony from domestic producers that, in order to take advantage of this, certain Chinese manufacturers of hot-rolled steel sheet products started adding 0.08 percent boron to their hot-rolled steel sheet. While this amount of boron would not affect end uses, it would allow these exporters to recoup 9 percent of the VAT rebate and, hence, sell to their export markets at even lower prices. *Transcript of Public Hearing*, Vol. 1, 20 June 2011, at 26-27, 120-21; *Pre-hearing Staff Report*, revised 13 June 2011, Tribunal Exhibit RR-2010-001-05A, Administrative Record, Vol. 1.1A at 78.

337. The Tribunal notes that, in 2010, China's average domestic transaction price for hot-rolled steel sheet was \$546 per metric tonne, which was significantly less than the \$720 per metric tonne U.S. Midwest spot price. A similar scenario exists for the first quarter of 2011, except with a more pronounced difference between the Chinese price of \$600 per metric tonne and the U.S. Midwest price of \$907 per metric tonne. *Pre-hearing Staff Report*, Tribunal Exhibit RR-2010-001-05, Administrative Record, Vol. 1.1 at 73; *Transcript of Public Hearing*, Vol. 2, 21 June 2011, at 278; Tribunal Exhibit RR-2010-001-13.13 (protected), Administrative Record, Vol. 2.4E at 9-10.

338. *Transcript of Public Hearing*, Vol. 2, 21 June 2011, at 260, 278-80; Manufacturer's Exhibit D-03 at para. 75, Administrative Record, Vol. 11D.

323. The Tribunal also heard testimony that these prices were not always a good reference, in the sense that Chinese exporters set selling prices at the “. . . price that is necessary to get the location that they need”.<sup>339</sup> In other words, exporters of Chinese hot-rolled steel sheet were motivated to offer hot-rolled steel sheet at selling prices that were even lower than the reported prices in order to get the sale. This represents prices at which domestic producers could not compete.<sup>340</sup>

324. Moreover, the domestic producers submitted that, in April 2011, imports from Ukraine could land at the port of Montréal for approximately \$700 per metric tonne, which was significantly less than domestic pricing at that time.<sup>341</sup>

325. As previously noted, the North American market has been, and will continue to be, the highest-priced market in the world.<sup>342</sup> On the basis of the evidence, the Tribunal is of the view that prices in North America are likely to be more attractive to the subject countries, even after allowing for freight costs and importer discounts to cover longer lead times, than those in the subject countries’ major export markets for the next 18 to 24 months.

326. Since ocean freight rates are at historical lows, the subject countries and other offshore sources would find the Canadian market even more attractive.<sup>343</sup> The low freight rates would provide even more of an incentive to exporters to ship to Canada at low prices, since the low rates would lessen the impact on their margins, while allowing them to reduce their prices, if required, to make a sale.

327. The Tribunal notes that, on average, the export prices of the subject goods were consistently considerably lower than their domestic selling prices. However, in making these comparisons, the Tribunal was mindful of the fact that average prices, in this case, may not always present an “apples to apples” price comparison because of variations in product mix. In this respect, to the extent possible, the Tribunal considered product-specific evidence.

328. The Tribunal notes that, throughout the POR, export prices for Indian hot-rolled steel sheet were among the lowest in the world and, almost consistently, much lower than North American market prices.<sup>344</sup>

329. The Tribunal also notes that pricing for China and Chinese Taipei are forecast to be very similar from 2011 to 2013, yet remain significantly below the forecast U.S. Midwest price.<sup>345</sup> Given that Ukrainian prices are usually the same as, or lower than, Chinese prices, the Tribunal would expect the Ukrainian prices to follow a trend similar to that of Chinese prices.<sup>346</sup>

---

339. *Transcript of Public Hearing*, Vol. 4, 23 June 2011, at 536.

340. Manufacturer’s Exhibit D-03 at para. 75, Administrative Record, Vol. 11D.

341. Manufacturer’s Exhibit C-01 at para. 21, Administrative Record, Vol. 11C; Manufacturer’s Exhibit C-02 (protected) at para. 21, Administrative Record, Vol. 12B; Manufacturer’s Exhibit C-05 at para. 27, Administrative Record, Vol. 11C; Manufacturer’s Exhibit C-06 (protected) at para. 27, Administrative Record, Vol. 12B; Manufacturer’s Exhibit C-08 (protected), confidential attachment 12 at 110, Administrative Record, Vol. 12B.

342. Manufacturer’s Exhibit B-12 (single copy) (protected), tab 43, Administrative Record, Vol. 2.01E at 69; *Transcript of Public Hearing*, Vol. 1, 20 June 2011, at 18, 24-25.

343. *Transcript of Public Hearing*, Vol. 1, 20 June 2011, at 30.

344. Tribunal Exhibit RR-2010-001-13.13 (protected), Administrative Record, Vol. 2.4E at 9-10.

345. Manufacturer’s Exhibit B-12 (single copy) (protected), tab 43, Administrative Record, Vol. 2.01E at 69; Tribunal Exhibit RR-2010-001-13.13 (protected), Administrative Record, Vol. 2.4E at 9-10.

346. Tribunal Exhibit RR-2010-001-13.13 (protected), Administrative Record, Vol. 2.4E at 9-10.

330. USIMINAS argued that Canada is not a priority export market, given, what it considered, the high freight costs. Furthermore, USIMINAS submitted that it looks for the highest margins possible in its exports, which it obtains through exports to Latin America and Europe.<sup>347</sup> Moreover, USIMINAS submitted that exporting is becoming much more difficult, due to the Brazilian real being one of the strongest currencies in the world.<sup>348</sup>

331. USIMINAS submitted that it only exports if its price is in line with the market and it is able to obtain its required margins. Given its dual price structure, USIMINAS's export prices can average 30 percent to 50 percent lower than its Brazilian domestic price. It stated that its preference is to sell in the Brazilian domestic market, although, in order to maintain relationships with customers, it still needs to export.<sup>349</sup> Moreover, USIMINAS noted that exports force it to be up to date with the international market quality requirements and provide it with some international presence, yet it says that exports are not a priority.<sup>350</sup>

332. Furthermore, USIMINAS submitted that, even if there were no duties on hot-rolled steel sheet, it would not export to Canada<sup>351</sup> because the export price is not attractive to it.<sup>352</sup>

333. The evidence on the record indicates that USIMINAS had different price and cost structures in place for the various countries to which it exported.<sup>353</sup> Despite this fact, the Tribunal's assessment of this evidence reveals that USIMINAS's ex-factory export prices did not fully cover its total costs and, for non-Latin American markets, only covered variable costs.<sup>354</sup>

334. Throughout its testimony, USIMINAS reiterated that the price at which it sold its exports was not below its costs.<sup>355</sup> However, upon close examination of the evidence on the record, including USIMINAS's questionnaire response and other evidence provided by the company, the Tribunal found that, for several of its export markets, it did not fully cover its costs.<sup>356</sup>

---

347. *Transcript of Public Hearing*, Vol. 4, 23 June 2011, at 480.

348. *Ibid.* at 452.

349. *Ibid.* at 536-38.

350. *Ibid.* at 462.

351. USIMINAS was adamant that it had a cost formula that it used to determine whether a price was acceptable and that, if a price was found to be unacceptable, it did not export to that market. *Transcript of Public Hearing*, Vol. 4, 23 June 2011, at 569.

352. *Transcript of Public Hearing*, Vol. 4, 23 June 2011, at 528.

353. The Tribunal notes that Brazilian export prices may be a reflection of product mix in different markets, such as Asia, where USIMINAS shipped secondary material. However, for comparison purposes, the Tribunal focussed on markets such as Europe, where Brazilian exporters shipped comparable primary hot-rolled steel sheet. *Transcript of Public Hearing*, Vol. 4, 23 June 2011, at 476-77.

354. *Transcript of Public Hearing*, Vol. 4, 23 June 2011, at 527, 569; *Transcript of Public Hearing*, Vol. 5, 24 June 2011, at 648, 699, 713; *Transcript of In Camera Hearing*, Vol. 4, 23 June 2011, at 293-94; Tribunal Exhibit RR-2010-001-22.01D (protected), Administrative Record, Vol. 6.1 at 265-69; Exporter's Exhibit E-06 (protected), tab 1, Administrative Record, Vol. 14.

355. *Transcript of Public Hearing*, Vol. 4, 23 June 2011, at 538, 569.

356. Tribunal Exhibit RR-2010-001-22.01D (protected), Administrative Record, Vol. 6.1 at 265-69; Exporter's Exhibit E-06 (protected), tabs 1, 24, Administrative Record, Vol. 14; *Transcript of Public Hearing*, Vol. 4, 23 June 2011, at 569; *Transcript of Public Hearing*, Vol. 5, 24 June 2011, at 648; *Transcript In Camera Hearing*, Vol. 4, 23 June 2011, at 283-86, 293-94.

335. USIMINAS sold to certain export markets at, or very near to, variable costs for the entire POR. Given the relative proximity of these export markets and the Canadian market to Brazil, the Tribunal concludes that USIMINAS could easily export hot-rolled steel sheet to Canada at prices below its total costs.<sup>357</sup>

336. The Tribunal notes that, even taking into account USIMINAS's freight estimate of \$70 per metric tonne for shipping Brazilian hot-rolled steel sheet to Canada, as well as the estimated Brazilian inland freight costs, Brazilian hot-rolled steel sheet export prices, landed in Hamilton, would still be lower than Canadian hot-rolled steel sheet prices.<sup>358</sup>

337. On the basis of the evidence and foregoing analysis in the section entitled "Likely Volumes of Dumped and Subsidized Goods", the Tribunal is of the view that there is a propensity for the subject countries to sell hot-rolled steel sheet in their export markets in significant volumes at price levels that are below their domestic prices and below the prices in major export markets.

338. In the Tribunal's opinion, the production imperative for the subject countries to maximize capacity utilization will sometimes lead to export sales of hot-rolled steel sheet into Canada at prices that can be as low as variable costs and, other times, account for only a small contribution to fixed costs (plus the cost of transportation). The evidence shows that the subject countries are capable of supplying hot-rolled steel sheet that meets the requirements of the Canadian market.

339. The Tribunal is of the view that, in order for the subject countries to regain market share in Canada, if the order were rescinded, they would have to compete at prices that converged downwards to meet or undercut the already low-priced imports and price offers from other non-subject countries, such as Russia, which are currently substantially below the current domestic price. Moreover, the addition of the subject countries competing for market share would likely result in even further domestic price erosion.

340. Since there is evidence on the record that the subject countries sell to their export markets at prices below their own domestic market prices, the Tribunal concludes that, in order for the subject countries to gain market share, they would likely export the subject goods to Canada at prices below those of the domestic producers or below the prices of other offshore sources, including Russia. The evidence shows that interested suppliers could easily gain market share by simply quoting a lower price, should the order be rescinded.

341. The witness for Samuel testified that plants that run at 70 percent capacity are willing to export below costs of sales in order to increase their production capacity and cover a part of their fixed costs, while maintaining their operations and avoiding layoffs. Samuel provided the analogy where, if a plant had variable costs of \$500 per metric tonne and fixed costs of \$300 per metric tonne, the plant would still be willing to export its hot-rolled steel sheet at \$600 per metric tonne. Although the export price of \$600 per metric tonne would only cover a portion of its fixed costs (i.e. \$100 per metric tonne), the plant would still be better off than if it left the capacity unused.<sup>359</sup>

---

357. Exporter's Exhibit E-06 (protected), tabs 1, 24, Administrative Record, Vol. 14; Tribunal Exhibit RR-2010-001-22.01D (protected), Administrative Record, Vol. 6.1 at 265-69.

358. *Transcript of Public Hearing*, Vol. 4, 23 June 2011, at 554; *Transcript of In Camera Hearing*, Vol. 4, 23 June 2011, at 316.

359. *Transcript of Public Hearing*, Vol. 2, 21 June 2011, at 201-202.

342. Furthermore, Samuel stated that August and September 2011 pricing for hot-rolled steel sheet is expected to be somewhere between \$780 and \$820 per metric tonne.<sup>360</sup> Moreover, in its five-year forecast, Samuel referred to a price range for hot-rolled steel sheet within which the domestic mills needed to stay to remain in business.<sup>361</sup>

343. The cost of the key raw materials for hot-rolled steel sheet, which account for approximately three quarters of the cost of making a slab, or about half of the total cost of making hot-rolled steel sheet, has significantly increased over the past few years. For the time frame between 2009 and 2011, iron ore costs, as well as scrap costs, doubled, while coal costs increased by almost 50 percent.<sup>362</sup> These cost increases have had a negative effect on domestic prices, since domestic producers have been unable to increase their prices to coincide with the increased raw material cost, which has caused a cost-price squeeze.<sup>363</sup>

344. The domestic producers submitted that hot-rolled steel sheet from each subject country would have to be between \$50 to \$200 less in order to compete with the prices of new offshore sources that are presently in the Canadian market, which are currently undercutting the prices of the domestic industry.<sup>364</sup>

345. The Tribunal heard testimony that, sometimes, even the presence of “zero volume” is enough to disrupt the domestic market, given that only the threat of an offer priced significantly below the price of Canadian hot-rolled steel sheet is enough to cause prices to cascade downward.<sup>365</sup> To further corroborate this, the Tribunal heard testimony that, given the relative size and the fragility of the Canadian market, import offers such as 5,000 metric tonnes or even 3,000 metric tonnes can affect and devastate pricing in the Canadian market.<sup>366</sup>

346. In such a case, the company to which a low-priced offer was made, whether it be a service centre or an end user, would quickly contact its core supplier and expect it to match the offered price, which can be extremely disruptive to the domestic market.<sup>367</sup>

347. Accordingly, the Tribunal considers it likely that, if the order were rescinded, a downward price spiral would begin, as the likely significant volumes of imports from the subject countries would need to compete with low-priced imports from new offshore sources. The extent to which prices would be lowered depends both on the prices already in the market and on the supply-demand balance at the particular point in the market cycle for hot-rolled steel sheet. The greater the surplus of supply over demand, the lower the subject countries' prices will be. Since, in the absence of the order, the volume of imports into Canada from the subject countries is likely to increase significantly over the next 18 to 24 months, downward price pressure would intensify over that period.

348. It is therefore the Tribunal's view that, if the order were rescinded, the prices of dumped and/or subsidized subject goods would inevitably significantly undercut prices of like goods, depress those prices or suppress them by preventing price increases that would otherwise occur. Moreover, the price competition generated by these imports would likely quickly spread to other segments of the steel market.

---

360. *Ibid.* at 153.

361. *Ibid.* at 106-107.

362. *Transcript of Public Hearing*, Vol. 1, 20 June 2011, at 38.

363. *Ibid.* at 38-40.

364. *Ibid.* at 35, 37, 41, 76-78; *Transcript of Public Hearing*, Vol. 2, 21 June 2011, at 174-75.

365. *Transcript of Public Hearing*, Vol. 2, 21 June 2011, at 193-94, 214.

366. *Transcript of Public Hearing*, Vol. 1, 20 June 2011, at 91; *Transcript of Public Hearing*, Vol. 3, 22 June 2011, at 299.

367. *Transcript of Public Hearing*, Vol. 2, 21 June 2011, at 214.



### Likely Performance of the Domestic Industry and Likely Impact of Dumped and Subsidized Goods

349. The Tribunal will next turn to an assessment of the likely impact that the above volumes and prices would have on the domestic industry if the order were rescinded, taking into consideration the likely performance of the domestic industry.<sup>368</sup>

350. In considering the likely performance of the domestic industry and the likely impact of dumped and subsidized goods, the Tribunal took into account relevant economic factors, including any potential decline in output, sales, market share, utilization of production capacity, profits and return on investments.

351. The domestic producers argued that they are more vulnerable to resumed dumping and subsidizing in this expiry review than they were during the inquiry and the first expiry review due to worldwide hot-rolled steel sheet market conditions.

352. The domestic producers submitted that, if the order is rescinded, they will face substantial decreases in sales revenues, gross margins and profitability if they lower their prices, or they will suffer reductions in their production, capacity utilization, sales, market share, employment and return on investments if they attempt to maintain their prices. They added that a resumption of dumping and/or subsidizing of the subject goods will prevent them from returning to profitability in 2011 and 2012.

353. The domestic producers argued that, absent a continuation of the order, low-priced imports from the subject countries<sup>369</sup> will significantly undercut and depress the prices of the like goods and prevent the domestic producers from increasing their prices to offset their increasing costs of raw materials. The domestic producers added that an increase in the volume of low-priced imports entering the Canadian market from the subject countries will put downward pressure on market prices and thereby exacerbate the already significant cost-price squeeze with which they have been faced since the 2008 economic crisis.

354. The domestic producers added that their profitability is of utmost importance to remain competitive in the hot-rolled steel sheet industry. They must have positive financial results to maintain and increase their capital investments to allow them to be competitive. The domestic producers argued that, without market conditions that allow them to do that, there will be significant long-term effects on the hot-rolled steel sheet industry. They strongly argued that a resumption of the dumping and/or subsidizing of the subject goods will hinder such efforts.

355. USIMINAS argued that the Canadian industry has changed since the inquiry and the first expiry review. It is much stronger than it was; domestic producers have shed their debt and other obligations and have become integral parts of much larger global players.

356. The Tribunal will first review the health of the hot-rolled steel sheet industry in Canada. A comparison of the domestic industry's performance since the first expiry review shows a deterioration in many economic indicators. The volume of production and sales of the domestic industry shrunk, and its market share plummeted.<sup>370</sup>

---

368. Paragraphs 37.2(2)(c),(e) and (g) of the *Regulations*.

369. As previously discussed, the subject goods are being sold in the Canadian market at prices that are much lower than their domestic market prices and lower than the Canadian market prices.

370. *Pre-hearing Staff Report* prepared for the first expiry review, Tribunal Exhibit RR-2010-001-10B, Administrative Record, Vol. 1.3 at 209, 214, 216; *Pre-hearing Staff Report*, Tribunal Exhibit RR-2010-001-05, Administrative Record, Vol. 1.1 at 27, 41, 43; *Pre-hearing Staff Report*, revised 13 June 2011, Tribunal Exhibit RR-2010-001-05A, Administrative Record, Vol. 1.1A at 27.

357. The year 2009 was, by far, the worse year since 2003. While 2010 and the first quarter of 2011 showed some signs of recovery, results were far from the levels attained before the economic crisis.<sup>371</sup> Forecasts for the full years 2011 and 2012 are for a slight increase in sales volumes.<sup>372</sup> However, the Tribunal is of the view that these increases will not be sustained, as spot prices are expected to decrease to a level that will not be sufficient to counter the even greater increases in the cost of raw materials.

358. From a market prospective, Canadian consumption of hot-rolled steel sheet declined dramatically in late 2008 through mid-2010. It recovered somewhat in late 2010, but is expected, at best, to remain flat in 2011 and 2012, due, in part, to the continued decrease in demand in many of the markets that use hot-rolled steel sheet. This decline is, to some extent, due to the strengthening of the Canadian dollar and the continued migration of manufacturing operations to the United States and elsewhere.<sup>373</sup> Consequently, a smaller Canadian market will increase the vulnerability of the domestic industry to injury.

359. From a financial standpoint, the Tribunal notes that the domestic industry was able to remain profitable at the unit gross margin level throughout the periods examined during the inquiry and the first expiry review. It was even able to improve its financial performance during the period of the first expiry review due to the injury finding.<sup>374</sup> However, in this expiry review, while the domestic industry was able to achieve a gross margin of \$144 per metric tonne in 2008, it suffered its first loss of \$42 per metric tonne in 2009 and, since then, has had difficulties recovering and covering its costs.<sup>375</sup>

360. Financial results for 2010 and the first quarter of 2011 deteriorated. Forecasts for the full years 2011 and 2012 were described by witnesses as sombre.<sup>376</sup> On the basis of the analyses provided above, the Tribunal considers that the domestic industry will be faced with an even worse cost-price squeeze situation that will further erode its already small gross margin.

361. In reaction to the economic crisis, some of the domestic producers began to shut down blast furnaces and rolling mills.<sup>377</sup> As demand continued to decline in 2009, as discussed above, one of the domestic producers, U.S. Steel Canada, had no choice but to idle its LEW facility temporarily, starting in March 2009, and lay off employees. The LEW facility remained idle through July 2009, due to changes in

---

371. *Pre-hearing Staff Report* prepared for the first expiry review, Tribunal Exhibit RR-2010-001-10B, Administrative Record, Vol. 1.3 at 209, 214, 316; *Pre-hearing Staff Report*, Tribunal Exhibit RR-2010-001-05, Administrative Record, Vol. 1.1 at 27, 41, 43; *Pre-hearing Staff Report*, revised 13 June 2011, Tribunal Exhibit RR-2010-001-05A, Administrative Record, Vol. 1.1A at 27.

372. *Transcript of Public Hearing*, Vol. 2, 21 June 2011, at 157-58; Manufacturer's Exhibit B-04 (protected) at para. 83, Administrative Record, Vol. 12A; *Protected Pre-hearing Staff Report*, revised 13 June 2011, Tribunal Exhibit RR-2010-001-06A (protected), Administrative Record, Vol. 2.1A at 41.

373. Manufacturer's Exhibit A-04 at paras. 42(b), 71, Administrative Record, Vol. 11.

374. *Pre-hearing Staff Report* prepared for the first expiry review, Tribunal Exhibit RR-2010-001-10B, Administrative Record, Vol. 1.3 at 228; Manufacturer's Exhibit A-04 at para. 89, Administrative Record, Vol. 11.

375. *Pre-hearing Staff Report*, Tribunal Exhibit RR-2010-001-05, Administrative Record, Vol. 1.1A at 55.

376. *Transcript of Public Hearing*, Vol. 2, 21 June 2011, at 221-24; Manufacturer's Exhibit A-03 (protected) at para. 89, Administrative Record, Vol. 12; Manufacturer's Exhibit A-04 at para. 89, Administrative Record, Vol. 11; Manufacturer's Exhibit D-03 at paras. 74-75, Administrative Record, Vol. 11D; Manufacturer's Exhibit D-04 (protected) at paras. 74-75, Administrative Record, Vol. 12C; *Pre-hearing Staff Report*, Tribunal Exhibit RR-2010-001-05, Administrative Record, Vol. 1.1 at 55.

377. Tribunal Exhibit RR-2010-001-15.03, Administrative Record, Vol. 3C at 109; Tribunal Exhibit RR-2010-001-15.04, Administrative Record, Vol. 3D at 8; Tribunal Exhibit RR-2010-001-16.04A (protected), Administrative Record, Vol. 4A at 253.

market conditions and, thereafter, from August 2009 until April 2010, due to a labour dispute. It was not until the end of the third quarter of 2010 that U.S. Steel Canada's LEW facility was fully operational; however, it still produced well below full capacity.<sup>378</sup>

362. Other actions taken by domestic producers in 2009 to alleviate the effect of the economic crisis on their financial results and to adjust to changes in market supply and demand included requesting employees to take vacations, reducing salaries and laying off employees.<sup>379</sup>

363. The Tribunal considers that the vulnerability of the domestic industry during the POR was partly a result of the economic crisis, from which it is now slowly recovering, and partly caused by the volatility of the cost of raw materials and spot prices of hot-rolled steel sheet. The Tribunal notes that the doubling of the cost of the key raw materials for hot-rolled steel sheet between 2009 and the first quarter of 2011<sup>380</sup> led to the cost-price squeeze discussed earlier and to substantial excess capacity for the domestic industry.

364. During the POR, the domestic producers' capacity utilization rate for hot-rolled steel sheet decreased by 12 percentage points.<sup>381</sup> The penetration of low-priced imports from offshore sources into the Canadian market has contributed significantly to the vulnerability of the domestic industry by further eroding its already diminished margins and preventing the domestic industry from raising its selling prices to cover increases in the cost of raw materials.

365. As demand for raw materials is at a record level, prices for these products are expected to remain high. Since the Canadian market has not yet fully recovered from the economic crisis, the supply and demand for hot-rolled steel sheet remains weak. This, combined with a reduction in spot prices for hot-rolled steel sheet, will intensify the cost-price squeeze of the domestic industry.<sup>382</sup>

366. The Tribunal has no doubt that, absent the order, the precarious situation of the domestic industry will be exacerbated by the presence, in the Canadian market, of increasing volumes of low-priced imports from the subject countries. As already indicated, hot-rolled steel sheet has been offered in the Canadian market in the first and second quarters of 2011 at prices that were, at times, \$100 to \$200 per metric tonne below Canadian prices.<sup>383</sup>

---

378. Manufacturer's Exhibit C-03 at paras. 17-21, Administrative Record, Vol. 11C; Tribunal Exhibit RR-2010-001-15.03, Administrative Record, Vol. 3C at 109; Tribunal Exhibit RR-2010-001-16.03B (protected), Administrative Record, Vol. 4A at 130.

379. Tribunal Exhibit RR-2010-001-16.01B (protected), Administrative Record, Vol. 4 at 150; Tribunal Exhibit RR-2010-001-16.02K (protected), Administrative Record, Vol. 4 at 311; *Transcript of Public Hearing*, Vol. 1, 20 June 2011 at 14.

380. *Transcript of Public Hearing*, Vol. 1, 20 June 2011, at 39, 95.

381. *Pre-hearing Staff Report*, revised 13 June 2011, Tribunal Exhibit RR-2010-001-05A, Administrative Record, Vol. 1.1A at 65.

382. *Transcript of Public Hearing*, Vol. 1, 20 June 2011, at 40, 93-94; Manufacturer's Exhibit B-12 (single copy) (protected), tab 43, Administrative Record, Vol. 2.01E at 62.

383. Manufacturer's Exhibit A-03 (protected) at paras. 50-64, confidential attachment 1 at 1-15, Administrative Record, Vol. 12; Manufacturer's Exhibit B-08 (protected) at paras. 38-47, confidential attachments 1-5, Administrative Record, Vol. 12A; Manufacturer's Exhibit C-06 (protected) at paras. 26-29, Administrative Record, Vol. 12B; Manufacturer's Exhibit C-08 (protected), confidential attachments 11-14 at 107-22, Administrative Record, Vol. 12B; *Transcript of Public Hearing*, Vol. 1, 20 June 2011, at 79-80, 90, 96; *Transcript of Public Hearing*, Vol. 2, 21 June 2011, at 213, 248, 277-78; *Transcript of Public Hearing*, Vol. 3, 22 June 2011, at 403.

367. The Tribunal examined Essar Algoma's conservative projection of the likely performance of the domestic industry for the full years 2011 and 2012. The projection was based on (1) the same increase in the unit cost of raw materials as that reported from the first quarter of 2010 to the first quarter of 2011 and (2) a stagnant price for hot-rolled steel sheet, despite established steel industry publication forecasts of a slight reduction for the full year 2011, from the first quarter, and an additional drop in 2012. Essar Algoma projected that the financial results of the domestic industry for the balance of 2011 and for 2012, which do not take into account a continuation of the order, would be far worse than all previous years covered by the inquiry, the first expiry review and even this expiry review, in which the worst negative gross margins were realized by the domestic industry.<sup>384</sup>

368. The Tribunal notes that, given that production of hot-rolled steel sheet is highly capital-intensive, the domestic producers must achieve high utilization rates to cover the increasing costs of raw materials and become profitable, as they were in the first expiry review. However, the Tribunal is of the view that any volume losses to low-priced imports from the subject countries, even small, will make it difficult for the domestic producers to achieve such results.

369. As discussed earlier, due to the commodity nature of hot-rolled steel sheet, price is a major element of competition and, therefore, purchasers are likely to switch from one supplier to another on the basis of price alone. Further, the production imperative means that, over time, prices from all suppliers in the Canadian market will converge at the level of the lowest price offerings. When supply exceeds demand, suppliers that do not respond to the lowest price offerings run a risk of losing volume and market share.

370. As discussed earlier, the Tribunal is of the view that a rescission of the order will induce a downward price spiral in the Canadian hot-rolled steel sheet market. Being attracted to the Canadian market, the subject countries, which have enormous excess capacity and are export-dependent, will re-enter the Canadian market in large volumes and at prices that are lower than those of low-priced offshore sources, such as Russia, and lower than the Canadian spot prices. By doing so, imports from the subject countries will regain market share and put tremendous pressure on the selling prices, financial performance and employment of the domestic industry, as it will have to lower its prices to compete with the subject goods.

371. To assess the possible effects that the subject goods would have had if they had been present in the Canadian market and not subject to an order, the Tribunal considers it reasonable, for the purposes of this expiry review, to consider hypothetical examples based on the market intelligence of the domestic industry. As new imports from offshore sources were generally priced at least \$50 per metric tonne lower than the price offered by the domestic producers,<sup>385</sup> the subject countries would also have needed to price their exports to Canada at least \$50 per metric tonne lower than domestic prices.<sup>386</sup> The Tribunal considered the hypothetical scenario presented by Evraz as to the potential impact on the financial performance of the

---

384. Manufacturer's Exhibit A-03 (protected) at paras. 84-91, Administrative Record, Vol. 12.

385. Manufacturer's Exhibit B-03 at para. 93, Administrative Record, Vol. 11A; Manufacturer's Exhibit A-03 (protected) at paras. 50-64, confidential attachment 1 at 1-15, Administrative Record, Vol. 12; Manufacturer's Exhibit B-08 (protected) at paras. 38-47, confidential attachments 1-5, Administrative Record, Vol. 12A; Manufacturer's Exhibit C-06 (protected) at paras. 26-29, Administrative Record, Vol. 12B; Manufacturer's Exhibit C-08 (protected), confidential attachments 11-14 at 107-22, Administrative Record, Vol. 12B; *Transcript of Public Hearing*, Vol. 1, 20 June 2011, at 79-80, 90, 96; *Transcript of Public Hearing*, Vol. 2, 21 June 2011, at 213, 248, 277-78; *Transcript of Public Hearing*, Vol. 3, 22 June 2011, at 403.

386. Manufacturer's Exhibit B-03 at para. 93, Administrative Record, Vol. 11A.

domestic industry of a reduction of \$50 per metric tonne in its selling price to consistently compete with the low-priced subject goods in the Canadian market during the POR.<sup>387</sup>

372. Because it could be argued that this price reduction is near the high end of the range of price differentials that makes imports attractive, the Tribunal decided to examine another hypothetical example by taking an even more conservative approach and applying a reduction of \$35 per metric tonne in the selling price of the domestic industry, as mentioned in the first expiry review. As this price differential was used by ArcelorMittal Dofasco, for the purposes of this expiry review, to illustrate the effect on its financial performance during the POR and for the full years 2011 and 2012,<sup>388</sup> the Tribunal conducted a similar exercise for the domestic industry as a whole in order to determine if the impact of a smaller price differential, for the entire POR, would also reveal results that would be injurious to the domestic industry.

373. Taking the more conservative approach of a sustained reduction of \$35 per metric tonne and excluding 2008 from the equation, as it represents the year during the POR in which the domestic industry achieved its highest financial results and is the year that preceded the global economic crisis, the Tribunal notes that, if the domestic industry had lowered its selling prices by an average of \$35 per metric tonne to compete with low-priced hot-rolled steel sheet and had been able to keep its sales volume constant, this decrease in prices would have increased the negative financial results of the domestic industry, for the period 2009 to the first quarter of 2011, by almost \$170 million, from a loss of \$44.5 million to a loss of \$214.5 million.<sup>389</sup>

374. Using the sustained \$50 per metric tonne price differential scenario would have exacerbated the gross margin loss of the domestic industry by an additional \$73 million, for a total loss of \$287 million.<sup>390</sup>

375. Although these hypothetical negative results are substantial, the Tribunal considers that, in reality, they are likely to be significantly lower than the actual amount of the financial impact that would occur. In a downward price spiral, there would be a series of price reductions, which would undoubtedly be greater than \$35 per metric tonne in total, and the likely injury suffered as a result would be correspondingly larger.

376. In addition, the Tribunal considers that the domestic industry would suffer injury in the form of lost sales volume and lost market share, which would further decrease total revenues and profits due to the increase in the cost of raw materials, as discussed above.

377. The Tribunal is of the view that the re-appearance of low-priced subject goods in the Canadian market, absent the order, will also prevent the domestic producers from re-investing in their operations and improving their production capacity to be able to satisfy the totality of the volume demands in the Canadian market.

---

387. Manufacturer's Exhibit D-03 at paras. 65-67, tab 40, Administrative Record, Vol. 11D; Manufacturer's Exhibit D-04A (protected), Administrative Record, Vol. 12C.

388. Manufacturer's Exhibit B-03 at paras. 97-104, Administrative Record, Vol. 11A; Manufacturer's Exhibit B-04 (protected) at paras. 97-104, confidential attachment 5, Administrative Record, Vol. 12A.

389. *Pre-hearing Staff Report*, Tribunal Exhibit RR-2010-001-05, Administrative Record, Vol. 1.1 at 55.

390. Manufacturer's Exhibit D-03 at paras. 65-67, tab 40 at 173, 175, Administrative Record, Vol. 11D; *Pre-hearing Staff Report*, Tribunal Exhibit RR-2010-001-05, Administrative Record, Vol. 1.1 at 55; Manufacturer's Exhibit D-04A (protected), Administrative Record, Vol. 12C.

378. The Tribunal notes that the domestic producers invested heavily in their facilities during the POR and are planning major investments in 2012 and 2013.<sup>391</sup> However, to realize those plans, domestic producers need favourable market conditions to allow them to obtain positive financial results to justify such investments.

379. While the consolidation of the domestic industry has helped make the domestic producers stronger and more competitive in a global market, it did not shield Essar Algoma from having a negative change in cash position of over \$1.3 billion, from a combined total of \$434.8 million in cash, cash equivalents and short-term investments and no bank or long-term debts as of December 2005, to a total of \$876.7 million in bank indebtedness and long-term debts as of December 2010.<sup>392</sup>

380. The Tribunal notes that low-priced imports do not have to enter the Canadian market in significant volumes in order to disrupt it. There is evidence that one offer of 5,000 metric tonnes at a low price can disrupt, and has detrimentally disrupted, the Canadian market, as this low price becomes the new base price at which purchasers look to buy hot-rolled steel sheet in the Canadian market.<sup>393</sup>

381. As, most of the time, the domestic producers cannot meet that new low price, they lose the order and suffer a financial loss. Depending on how an offer is handled, it can throw tremendous volatility into the market. During the hearing, Samuel gave an example of some 5,000 metric tonnes of carbon steel plate which, being offered to 20 different customers, felt like 100,000 metric tonnes were being introduced into the Canadian market. Consequently, the Tribunal believes that even small volume offers can have a relatively significant impact on the market.<sup>394</sup>

382. The Tribunal also notes that the potential overall impact of a rescission of the order actually extends beyond hot-rolled steel sheet. As discussed earlier, hot-rolled steel sheet pricing serves as a market benchmark on which the pricing of derivative value-added flat-rolled products, such as cold-rolled and galvanized steel sheet products, is based. Therefore, any negative impact on hot-rolled steel sheet will likely have a ripple effect and cause corresponding negative results on these value-added products.

383. On the basis of the foregoing, the Tribunal finds that the resumed or continued dumping of hot-rolled steel sheet from the subject countries will likely result in injury to the domestic industry.

384. Accordingly, the Tribunal is convinced that, if the order is rescinded, the domestic industry will experience injury to its production, sales, market share, profits, return on investments, utilization of production capacity and employment.

## CONCLUSION

385. Pursuant to paragraph 76.03(12)(b) of *SIMA*, the Tribunal hereby continues its order in respect of hot-rolled steel sheet originating in or exported from Brazil, China, Chinese Taipei, India and Ukraine (Member Vincent dissenting in part).

---

391. Manufacturer's Exhibit B-03 at paras. 15, 57, Administrative Record, Vol. 11A; Manufacturer's Exhibit B-04 (protected), confidential attachment 1, Administrative Record, Vol. 12A; Tribunal Exhibit RR-2010-001-29 (single copy), Administrative Record, Vol. 1.01 at 137; *Protected Pre-hearing Staff Report*, Tribunal Exhibit RR-2010-001-06 (protected), Administrative Record, Vol. 2.1 at 66.

392. Manufacturer's Exhibit A-05 at para. 29, Administrative Record, Vol. 11.

393. *Transcript of Public Hearing*, Vol. 1, 20 June 2011, at 133-34.

394. *Transcript of Public Hearing*, Vol. 2, 21 June 2011, at 194-95.

386. Pursuant to subparagraph 76.03(12)(a)(i) of *SIMA*, and following the CBSA's determination that the expiry of the order was unlikely to result in the continuation or resumption of dumping of hot-rolled steel sheet originating in or exported from South Africa, the Tribunal hereby rescinds its order in respect of these goods.

Jason W. Downey

Jason W. Downey  
Presiding Member

Diane Vincent

Diane Vincent  
Member  
(Dissenting in part)

Stephen A. Leach

Stephen A. Leach  
Member