



Canadian International
Trade Tribunal

Tribunal canadien du
commerce extérieur

CANADIAN
INTERNATIONAL
TRADE TRIBUNAL

Dumping and Subsidizing

ORDER AND REASONS

Expiry Review No. RR-2012-001

Hot-rolled Carbon Steel Plate

*Order and reasons issued
Tuesday, January 8, 2013*

TABLE OF CONTENTS

ORDER	i
STATEMENT OF REASONS	1
BACKGROUND	1
PRODUCT	2
Production Definition	2
Additional Product Information	2
Production Process	2
Product Applications	3
Marketing and Distribution	3
DOMESTIC PRODUCERS	3
Essar	3
Evraz	3
SSAB	4
IMPORTERS AND EXPORTERS	4
SUMMARY OF PREVIOUS FINDINGS AND ORDERS	5
Inquiry—Plate III	5
First Expiry Review—Plate III	5
Interim Review—Plate III	6
Second Expiry Review—Plate III	6
Other Plate Findings and Orders	6
ANALYSIS	7
Like Goods	8
Domestic Industry	8
Likelihood of Injury	8
Changes in International and Domestic Market Conditions	9
Likely Volumes of Dumped Goods	13
Likely Prices of Dumped Goods and Effects on Prices of Like Goods	17
Likely Performance of the Domestic Industry and Likely Impact of Dumped Goods on the Domestic Industry	19
CONCLUSION	22

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 January 9, 2008, in Expiry Review No. RR-2007-001, continuing, with amendment, its orders made on January 10, 2003, in Expiry Review No. RR-2001-006, continuing, with amendment, its findings made on October 27, 1997, in Inquiry No. NQ-97-001, concerning:

**THE DUMPING OF HOT-ROLLED CARBON STEEL PLATE ORIGINATING
IN OR EXPORTED FROM THE PEOPLE'S REPUBLIC OF CHINA**

ORDER

Pursuant to subsection 76.03(3) of the *Special Import Measures Act*, the Canadian International Trade Tribunal has conducted an expiry review of its order made on January 9, 2008, in Expiry Review No. RR-2007-001, concerning the dumping of hot-rolled carbon steel plate and high-strength low-alloy plate not further manufactured than hot-rolled, heat-treated or not, in cut lengths, in widths from 24 in. (+/- 610 mm) to 152 in. (+/- 3,860 mm) inclusive, and thicknesses from 0.187 in. (+/- 4.75 mm) to 4.0 in. (+/- 101.6 mm) inclusive, but excluding plate for use in the manufacture of pipe and tube (also known as skelp), plate in coil form, plate having a rolled, raised figure at regular intervals on the surface (also known as floor plate) and plate produced to American Society for Testing and Materials specifications A515 and A516M/A516, grade 70 (also known as pressure vessel quality plate) in thicknesses greater than 3.125 in. (+/- 79.3 mm), originating in or exported from the People's Republic of China.

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 goods.

Serge Fréchette
Serge Fréchette
Presiding Member

Pasquale Michaele Saroli
Pasquale Michaele Saroli
Member

Jason W. Downey
Jason W. Downey
Member

Eric Wildhaber
Eric Wildhaber
Secretary

Place of Hearing:	Ottawa, Ontario
Date of Hearing:	November 19, 2012
Tribunal Members:	Serge Fréchette, Presiding Member Pasquale Michael Saroli, Member Jason W. Downey, Member
Research Director:	Lisa Backa Demers
Lead Senior Research Officer:	Josée St-Amand
Senior Research Officer:	Suzanne Cullen
Senior Statistical Research Officer:	Julie Charlebois
Statistical Research Officer:	Demetri Gianopoulos
Counsel for the Tribunal:	Georges Bujold Anja Grabundzija
Manager, Registrar Programs and Services:	Michel Parent
Registrar Officer:	Cheryl Unitt

PARTICIPANTS:**Domestic Producers**

Essar Steel Algoma Inc.

Evraz Inc. N.A. Canada

SSAB Central Inc.

Counsel/RepresentativesBenjamin Bedard
Paul D. Conlin
Drew Tyler
Paul Brunetta
Anne-Marie GuindonDalton J. Albrecht
Rahul SharmaBenjamin Bedard
Paul D. Conlin
Drew Tyler

WITNESSES:

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

Glenn A. Gilmore
Trade Supervisor, SSAB Americas
SSAB

Robert A. (Bob) Clark
Trade Consultant
Essar Steel Algoma Inc.

Joel Glover
Regional Sales Manager, Northern Business Unit,
SSAB Americas
SSAB

Please address all communications to:

The Secretary
Canadian International Trade Tribunal
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

STATEMENT OF REASONS

BACKGROUND

1. This is an expiry review, pursuant to subsection 76.03(3) of the *Special Import Measures Act*,¹ of the order made by the Canadian International Trade Tribunal (the Tribunal) on January 9, 2008, in Expiry Review No. RR-2007-001, continuing, with amendment, its orders made on January 10, 2003, in Expiry Review No. RR-2001-006, continuing, with amendment, its findings made on October 27, 1997, in Inquiry No. NQ-97-001, concerning the dumping of hot-rolled carbon steel plate originating in or exported from the People's Republic of China (China) (the subject goods).
2. The Tribunal initiated this expiry review on April 25, 2012,² notified the Canada Border Services Agency (CBSA), and sent letters to known domestic producers, importers, foreign producers and exporters requesting that they complete expiry review questionnaires for the period from January 1, 2009, to March 31, 2012. The Tribunal requested that, if the CBSA found a likelihood of continued or resumed dumping, domestic producers, importers, foreign producers and exporters update their responses to questionnaires submitted to the CBSA to include data up to June 30, 2012. The Tribunal's period of review (POR) covers the period from January 1, 2009, to June 30, 2012. The Tribunal also requested that domestic producers complete Part E of the *Expiry Review Questionnaire - Domestic Producer*.
3. On April 26, 2012, the CBSA initiated an expiry review investigation to determine whether the expiry of the order was likely to result in the continuation or resumption of dumping of the subject goods.
4. On August 23, 2012, 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.
5. On August 24, 2012, following the CBSA's determination, the Tribunal began its expiry review to determine, pursuant to subsection 76.03(10) of *SIMA*, whether the expiry of the order was likely to result in injury or retardation. On August 30, 2012, as part of these proceedings, the Tribunal sent the *Short-form Importers' Questionnaire* to domestic producers and importers that had not completed either the *Expiry Review Questionnaire - Domestic Producer* or the *Expiry Review Questionnaire - Importer*.
6. The Tribunal held a hearing, with public and *in camera* sessions, in Ottawa, Ontario, on November 19, 2012.
7. Essar Steel Algoma Inc. (Essar) submitted evidence and made arguments in support of a continuation of the order. At the hearing, Essar presented the following witnesses: Mr. Rory Brandow, Director of Sales – Canada, and Mr. Robert A. (Bob) Clark, Trade Consultant.
8. Evraz Inc. NA Canada (Evraz) filed a statement indicating that it supported a continuation of the order.³ However, it did not file evidence or submit arguments at the hearing.
9. SSAB Central Inc. (SSAB) submitted a witness statement in support of a continuation of the order. It was represented by counsel but did not present further submissions or arguments at the hearing.
10. No parties provided submissions or made arguments in opposition to a continuation of the order.

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

2. C. Gaz. 2012.I.1268.

3. Letter from Evraz to the Tribunal dated October 23, 2012, Administrative Record, Vol. 20.

11. The Tribunal did not receive any requests for product exclusions.

12. 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; written Tribunal communications; the Tribunal's notice of expiry review; the public and protected replies to the expiry review questionnaires and the *Short-form Importers' Questionnaire*; the public and protected pre-hearing staff reports prepared for this expiry review and revisions thereto; witness statements and other exhibits; the exhibit list and the Tribunal's order, statement of reasons and public and protected pre-hearing staff reports prepared for Expiry Review No. RR-2007-001 and revisions thereto.

13. All public exhibits were made available to interested parties, while protected exhibits were provided only to counsel who had filed a declaration and undertaking with the Tribunal in respect of the protection of confidential information.

PRODUCT

Production Definition

14. The goods that are the subject of this expiry review are defined as hot-rolled carbon steel plate and high-strength low-alloy plate not further manufactured than hot-rolled, heat-treated or not, in cut lengths, in widths from 24 in. (+/- 610 mm) to 152 in. (+/- 3,860 mm) inclusive, and thicknesses from 0.187 in. (+/- 4.75 mm) to 4.0 in. (+/- 101.6 mm) inclusive, but excluding plate for use in the manufacture of pipe and tube (also known as skelp), plate in coil form, plate having a rolled, raised figure at regular intervals on the surface (also known as floor plate) and plate produced to American Society for Testing and Materials (ASTM) specifications A515 and A516M/A516, grade 70 (also known as pressure vessel quality plate) in thicknesses greater than 3.125 in. (+/- 79.3 mm), originating in or exported from China.

Additional Product Information

15. Hot-rolled carbon steel plate is manufactured to meet certain Canadian Standards Association (CSA) and/or ASTM specifications, or equivalent specifications.

16. CSA specification G40.21 covers steel for general construction purposes. In the ASTM specifications, for instance, specification A36M/A36 comprises structural plate; specification A572M/A572 comprises high-strength low-alloy steel plate; and specification A516M/A516 comprises pressure vessel quality plate. ASTM standards, such as A6/A6M and A20/A20M, recognize permissible variations for dimensions.

Production Process

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

18. Plate formed directly into rectangular shapes is referred to in the steel industry as "discrete plate" and may be produced in any thickness covered by the product definition. The rectangular shapes can also be produced by unwinding plate that has been formed into coils and cutting it into separate lengths. Such plate

is referred to as “plate from coil” or “cut-to-length plate” and is generally produced to a maximum thickness of 3/4 in. Cut-to-length plate is included in the product definitions of the subject goods and the like goods.

Product Applications

19. The subject goods and the like goods are used in a number of applications, the most common of which are the production of rail cars, oil and gas storage tanks, heavy machinery, agricultural equipment, bridges, industrial buildings, high-rise office towers, automobile and truck parts, ships and barges, and pressure vessels.

Marketing and Distribution

20. Domestically produced carbon steel plate is sold directly to end users, such as large fabricators and equipment manufacturers, as well as to steel service centres that may resell it in standard sizes or offer custom cutting services. Carbon steel plate is imported by service centres, large end users, or wholesalers or brokers that sell to service centres and small end users. Importers may source the product following a request from a customer or source the product and then contact customers to secure orders.

DOMESTIC PRODUCERS

21. There are currently three domestic producers of like goods, namely, Essar, of Sault Ste. Marie, Ontario, Evraz, of Regina, Saskatchewan, and SSAB, of Scarborough, Ontario, all of whom responded to the *Expiry Review Questionnaire - Domestic Producer*.

22. The same questionnaire was also sent to 21 service centres that produce cut-to-length plate from coil, but only one completed questionnaire was received.

Essar

23. Algoma was incorporated on June 1, 1992, and, on January 29, 2002, the company was reorganized under a Plan of Arrangement and Reorganization pursuant to the *Companies' Creditors Arrangement Act*.⁴ Algoma became part of Essar Steel Holdings Limited as a wholly owned subsidiary of Algoma Holdings B. V. in June 2007. On May 8, 2008, the company changed its name to Essar Steel Algoma Inc.

24. Essar is a primary iron and steel producer. The first hot-rolled steel plate was produced in 1959. Essar produces, on its 166-in. plate mill and 106-in. wide strip mill, carbon steel plate in widths of up to 152 in. (3,860 mm) and in thicknesses of up to 3.0 in. (76 mm) and other carbon steel plate and hot-rolled sheet. Essar also produces cold-rolled sheet at its facility.

Evraz

25. Evraz's manufacturing facility in Canada formerly belonged to IPSCO Inc. IPSCO Inc. was incorporated in 1956 under the name of Prairie Pipe Manufacturing Co. Ltd. It commenced operations in 1957 with the completion of construction of an electric resistance weld pipe mill in Regina. In 2007, SSAB, a wholly owned subsidiary of SSAB Svenskt Stål AB of Sweden, acquired all the outstanding shares of IPSCO Inc. and all its subsidiaries. SSAB and IPSCO Inc. were later re-organized so that IPSCO Inc. owned only the Canadian operations, excluding the coil processing facility in Scarborough.

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

26. As of June 12, 2008, Evraz Group S.A., a vertically integrated steel, mining and vanadium business based in Luxembourg, acquired from SSAB all the shares of IPSCO Inc. and all its subsidiaries. IPSCO Inc.'s Canadian steel mill and tubular operations, the coil processing facility in Surrey, British Columbia, and the scrap company were sold to Evraz.

27. On October 15, 2008, the name of IPSCO Inc. was changed to that of Evraz Inc. NA Canada, and the name of its wholly owned subsidiary, IPSCO Canada Inc., which owned its Alberta and British Columbia facilities, was changed to Evraz Inc. NA Canada West. On January 1, 2009, Evraz Inc. NA Canada West was amalgamated into Evraz Inc. NA Canada.

28. Evraz began producing hot-rolled steel plate in Canada in 1960. Evraz also produces flat-rolled steel, including hot-rolled sheet and strip, oil country tubular goods, standard pipe and piling pipe.

29. Evraz's Regina facility produces steel sheet and plate and tubular products and houses a research and development facility. Evraz also operates tubular manufacturing facilities in Calgary, Camrose and Red Deer, Alberta, and a coil processing facility in Surrey.

SSAB

30. SSAB became operational in June 2008 as a wholly owned subsidiary of SSAB Sweden, operating the cut-to-length processing facility in Scarborough, which was formerly run by IPSCO Ontario, a division of IPSCO Saskatchewan Inc., a subsidiary of IPSCO Inc. Regina, Saskatchewan. SSAB Svenskt Stål AB of Sweden acquired all the assets of IPSCO Inc. in July 2007 and subsequently divested a number of its Canadian assets, while retaining the Toronto, Ontario, operation and several manufacturing locations in the United States.

31. SSAB produces cut-to-length plate from coil and resells discrete plate that it purchases from other manufacturers.

IMPORTERS AND EXPORTERS

32. The Tribunal sent the *Expiry Review Questionnaire - Importer* to 4 service centres and 18 end users and wholesalers/brokers that import the subject goods and/or plate from non-subject countries. Six partially or fully completed questionnaires were received.

33. The Tribunal sent the *Short-form Importers' Questionnaire* to 10 end users and wholesaler/brokers that had not responded to the *Expiry Review Questionnaire - Importer* to seek information on their import activities.⁵ Seven completed questionnaires were received.

34. The Tribunal also sent the *Short-form Importers' Questionnaire* to six service centres that had not responded to the *Expiry Review Questionnaire - Domestic Producer* to seek information on their import activities. The five responses received indicated that they did not import cut-to-length plate.

35. In total, 13 completed questionnaires from firms that import carbon steel plate were used to prepare the pre-hearing staff reports.

5. The *Short-form Importers' Questionnaire* was also sent to one company that had not received the *Expiry Review Questionnaire - Importer*; however, no reply was received.

36. The *Expiry Review Questionnaire - Exporter* was sent to 40 potential exporters of the subject goods. Three replies were received from U.S. companies. No replies were received from potential Chinese exporters.

SUMMARY OF PREVIOUS FINDINGS AND ORDERS

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

Inquiry—Plate III

38. On October 27, 1997, in Inquiry No. NQ-97-001, the Tribunal found that the dumping of hot-rolled carbon steel plate from Mexico, China, the Republic of South Africa (South Africa) and the Russian Federation (Russia) had not caused material injury to the domestic industry, but was threatening to cause material injury.⁶

39. The Tribunal was of the view that downward pricing pressure and the industry's inability to raise its prices in 1996 and 1997 were injurious. However, the Tribunal was also of the view that the injury suffered had "... not been for such a duration or to such an extent as to constitute 'material injury' within the meaning of SIMA."⁷ The Tribunal concluded that, in the absence of anti-dumping duties, the domestic industry would likely continue to suffer price erosion and suppression, with consequent negative effects on gross margins and net revenues.

First Expiry Review—Plate III

40. On January 10, 2003, in Expiry Review No. RR-2001-006, the Tribunal continued its finding concerning hot-rolled carbon steel plate from China, Russia and South Africa, but rescinded its finding with respect to hot-rolled carbon steel plate from Mexico.

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

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

6. In *Certain Hot-rolled Carbon Steel Plate* (21 June 1999), NQ-97-001 Remand (CITT), pursuant to the remand by the Binational Panel (Canadian Secretariat File No. CDA-97-1904-02), the Tribunal issued a separate finding with respect to Mexico.

7. *Certain Hot-rolled Carbon Steel Plate* (27 October 1997), NQ-97-001 (CITT) at 13.

Interim Review—Plate III

43. On November 28, 2003, in Interim Review No. RD-2002-007, further to a request by Wirth Steel to exclude plate greater than 2.75 in. in thickness (3 in. in thickness for plate less than or equal to 72 in. wide), the Tribunal concluded that there was insufficient evidence to grant the exclusion request.

Second Expiry Review—Plate III

44. On January 9, 2008, in Expiry Review No. RR-2007-001, the Tribunal continued its order in respect of hot-rolled carbon steel plate from China and rescinded its order in respect of hot-rolled carbon steel plate from South Africa and Russia.

45. The Tribunal was of the opinion that the goods from these sources would likely not compete either between themselves or with like goods in the Canadian market in the near term and that it would not be appropriate to assess the cumulative effect of the dumping of goods from China, Russia and South Africa. Accordingly, the Tribunal concluded that a separate analysis of the likelihood of injury for each subject country was required.

46. With regard to China, the Tribunal concluded that the evidence indicated a significant increase in its capacity and production of carbon steel plate in the near term. The Tribunal also concluded that the sizeable gap between plate supply and demand in China would persist and that large volumes of the subject goods would continue to be available for export to Canada. Further, the Tribunal was convinced that Canada would be an attractive destination for Chinese exports in the absence of the order because of the substantial gap between Asian prices and North American and European prices. In the face of price undercutting from dumped imports from China, domestic producers would either have to lower price or risk losing sales and would experience injury in either case.

47. As for Russia, the Tribunal concluded that the evidence showed that its economy was experiencing strong growth and an increasing demand for carbon steel plate. Further, the Tribunal concluded that the Russian plate market was in overall balance and that any limited volumes of plate available for export would be shipped to nearby markets.

48. Similarly, the Tribunal noted that the South African economy was projected to continue to grow rapidly in the near term. In the Tribunal's view, the evidence did not indicate that South Africa would have a substantially greater exportable surplus of the subject goods in the near term. The Tribunal was of the opinion that, if South Africa departed from its traditional export markets, it would be more likely to be attracted by prices in the European market, rather than those in the Canadian market.

Other Plate Findings and OrdersPlate I

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

Plate II

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

Plate IV

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

Plate V

52. On January 9, 2004, in Inquiry No. NQ-2003-002, the Tribunal found that dumped imports from the Republic of Bulgaria, the Czech Republic and Romania had caused material injury to the domestic industry. On January 8, 2009, in Expiry Review RR-2008-002, the Tribunal continued the finding. The order is scheduled to expire in 2014.

Plate VI

53. On February 2, 2010, in Inquiry No. NQ-2009-003, the Tribunal found that dumped imports from Ukraine had not caused injury but were threatening to cause injury to the domestic industry. The finding is scheduled to expire in 2015.

ANALYSIS

54. On August 23, 2012, 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. 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 to the domestic industry.⁸

55. The Tribunal is also required, pursuant to subsection 76.03(12) of *SIMA*, to make an order either rescinding the order in Expiry Review No. RR-2007-001, if it determines that its expiry 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.

56. Before proceeding with its analysis of the likelihood of injury from the continuation or resumption of dumping of the subject goods, the Tribunal will first determine (1) what domestically produced goods are “like goods” in relation to the subject goods, and (2) what constitutes the “domestic industry” for purposes of its analysis.

8. 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.

Like Goods

57. 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”.

58. In considering this issue, the Tribunal typically looks at a number of factors, including the physical characteristics of the goods (such as composition and appearance) and their market characteristics (such as substitutability, pricing, distribution channels, end uses, and whether they fulfill the same customer needs).⁹ In this regard, the Tribunal was presented with no evidence or argument that warrants a departure from its following finding in the original inquiry, which was maintained in Expiry Review Nos. RR-2001-006 and RR-2007-011:

... carbon steel plate is produced to meet various specifications. The evidence in this inquiry indicates that, for each specification, carbon steel plate produced domestically competes with, has the same end uses as and can be substituted for the subject goods, as defined by the Deputy Minister. Therefore, the Tribunal is of the view that all domestically produced carbon steel plate ... is “like goods” to the subject goods.¹⁰

59. The Tribunal therefore reaffirms that plate produced by the domestic producers, which is defined in the same manner as the subject goods, are “like goods” in relation to the subject goods. The Tribunal is also satisfied that hot-rolled carbon steel plate comprises a single class of goods.

Domestic Industry

60. Having determined what constitutes the “like goods” in this expiry review, the Tribunal must now consider which producers constitute the domestic industry. Subsection 2(1) of *SIMA* defines “domestic industry” as follows: “... 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 ...”

61. The evidence on the record indicates, and the Tribunal accepts, that the domestic industry producing the major proportion of the like goods is composed of Essar, Evraz and SSAB.¹¹

Likelihood of Injury

62. The Tribunal is required by subsection 76.03(10) of *SIMA* to determine whether the expiry of the order is likely to result in injury to the domestic industry.

63. In a procedural order in Expiry Review No. RR-004-005,¹² the Tribunal stated that, in its view, “... subsections 76.03(7) and 76.03(10) of *SIMA* clearly indicate that the analyses conducted by the CBSA and the Tribunal in an expiry review are forward-looking.”¹³ In making its assessment of likelihood of

9. See, for example, *Copper Pipe Fittings* (17 February 2012), RR-2011-001 (CITT) at para. 66; *Stainless Steel Sinks* (24 May 2012), NQ-2011-002 (CITT) at para. 52.

10. *Certain Hot-rolled Carbon Steel Plate* (27 October 1997), NQ-97-001 (CITT) at 9-10.

11. Service centres that cut plate from coil account for the remaining volume of the domestic production of like goods. However, there is no evidence on the record which would suggest that these account for more than a small volume of the total domestic production of like goods.

12. *Certain Dishwashers and Dryers* (25 April 2005) (CITT).

13. *Ibid.* at para. 16.

injury, the Tribunal has consistently taken the view that the focus must be on circumstances that can reasonably be expected to prevail in the near to medium term, which is generally 18 to 24 months from the expiry of the finding or order.¹⁴ The Tribunal heard no argument that it should consider a different time period in this expiry review.¹⁵

64. In *Copper Pipe Fittings*, the Tribunal indicated that “[i]t follows from the forward-looking nature of expiry reviews that evidence from the POR, during which an order or a finding was being enforced, is relevant only insofar as it bears upon the prospective analysis of whether the expiry of the order or finding is likely to result in injury.”¹⁶ The Tribunal also explained in Expiry Review No. RR-2005-002¹⁷ that “... there is no presumption of injury in an expiry review and that its findings must be based on positive evidence, in compliance with domestic law and consistent with the requirements of the World Trade Organization.”¹⁸ In this regard, and as elaborated below, the Tribunal is of the view that there is ample unchallenged evidence on the record supporting the domestic industry’s claim that a rescission of the current order would likely result in injury to domestic producers of the like goods.

65. Subsection 37.2(2) of the *Special Import Measures Regulations*¹⁹ lists factors that the Tribunal may consider in addressing the question of likelihood of injury in cases where the CBSA has determined that there is a likelihood of continued or resumed dumping. The factors that the Tribunal considers relevant in this expiry review are discussed below.

Changes in International and Domestic Market Conditions

66. In order to assess 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.²⁰

International market conditions

67. The global financial crisis that started in 2008 resulted in a serious economic downturn affecting most industries around the world, including the Canadian plate industry. Global real GDP fell by 0.6 percent in 2009, but rebounded in 2010, growing by 5.1 percent. Since then, the global economic recovery has continued, even though it has weakened, particularly over the past year.²¹

68. Indeed, real GDP growth forecasts have been revised downward throughout 2012 and downside risks have increased. In October 2012, the International Monetary Fund (IMF) forecast that real GDP growth for 2013 would be 1.5 percent in advanced economies and 5.6 percent in emerging market and

14. *Wood Slats* (15 July 2009), RR-2008-003 (CITT) at para. 45; *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.

15. While Essar noted that, in its view, the current volatility in the Canadian and global plate markets would support an analysis period of 12 to 18 months, it submitted that, in any event, the evidence on the record supported a continuation of the order even if the Tribunal were to consider the typical analysis period of 18 to 24 months. Manufacturer’s Exhibit A-01 at para. 28, Administrative Record, Vol. 11.

16. *Copper Pipe Fittings* at para. 56.

17. *Flat Hot-rolled Carbon and Alloy Steel Sheet and Strip* (16 August 2006) (CITT).

18. *Ibid.* at para. 59.

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

20. See paragraph 37.2(2)(j) of the *Regulations*.

21. Tribunal Exhibit RR-2012-001-31.06, Administrative Record, Vol. 1B at 210.

developing economies.²² These growth forecasts were revised downward from the forecasts of 1.8 percent and 5.8 percent, respectively, made by the IMF in July 2012.²³ Fiscal consolidation, a still-weak financial system and a general sense of uncertainty aggravated by the sovereign debt crisis in the Eurozone and fiscal issues in the United States are constraining global growth prospects.²⁴

69. This lethargic global economic recovery has negatively affected the global steel industry in general and the global demand for plate in particular.²⁵ A recent Ernst & Young report indicates that plate markets around the world, including North America and Europe, are weak, with plate demand and prices softening considerably. Certain countries have suspended investment in infrastructure and other industries.²⁶

70. The August 2012 CRU *Steel Plate Quarterly Industry and Market Outlook* notes that demand for plate in China and in North East Asia is very weak, reflecting weakness in the shipbuilding industry in China, Japan and Korea, the heavy machinery sector in China and the construction sector in Japan.²⁷ This publication also states that the growth in global demand will remain moderate in 2013.²⁸ Plate prices are forecast to reach a modest peak in 2013 before easing back in later years as demand growth slows.²⁹

71. According to the IMF, China's real GDP grew at an annual average rate of 9.6 percent from 2009 to 2011.³⁰ Monetary and credit policies, however, were tightened in 2010 and 2011, which contributed to a slowing in real GDP growth in 2012 (expected to be 7.8 percent). With price pressures easing and the residential real estate market cooling, there has been a partial easing of monetary and credit policies in 2012, which is expected to contribute to a pick-up in growth to 8.2 percent in 2013.³¹

72. In the Tribunal's view, weak demand conditions have been exacerbated by overcapacity. In this respect, the witness for Essar submitted that Chinese producers are expanding installed capacity without regard to actual and projected market demand conditions.³² The Tribunal is of the view that this indeed seems to be the case based on the evidence before it.

73. The Tribunal notes that, in 2008, after the last expiry review, the excess capacity of Chinese reversing mills was 5 million metric tonnes, while its total excess capacity (for reversing mills and strip

22. Tribunal Exhibit RR-2012-001-31.06, Administrative Record, Vol. 1B at 210.

23. *Ibid.* at 22.

24. *Ibid.* at 15-19, 21-23, 25, 26, 28; Manufacturer's Exhibit A-01 at paras. 32, 36, Administrative Record, Vol. 11.

25. *Transcript of Public Hearing*, Vol. 1, 19 November 2012, at 9, 10, 31; Manufacturer's Exhibit A-01 at paras. 32, 33, Administrative Record, Vol. 11.

26. Ernst & Young, *Global Steel*, 2011 trends 2012 outlook, "Competing for growth in the steel sector", Manufacturer's Exhibit A-07 at 12, Administrative Record, Vol. 11; Manufacturer's Exhibit A-01 at para. 32, Administrative Record, Vol. 11.

27. Manufacturer's Exhibit A-01 at paras. 35, 96, Administrative Record, Vol. 11 and references therein; Manufacturer's Exhibit A-08 (protected) (single copy) at 16-17, Administrative Record, Vol. 2.01.

28. Manufacturer's Exhibit A-01 at para. 39, Administrative Record, Vol. 11; CRU *Steel Plate Quarterly*, August 2012, Manufacturer's Exhibit A-08 (protected) (single copy) at 15, 17, 18, 20, 71, 74, 75, 76, Administrative Record, Vol. 2.01.

29. Manufacturer's Exhibit A-01 at para. 39, Administrative Record, Vol. 11; CRU *Steel Plate Quarterly*, August 2012, Manufacturer's Exhibit A-08 (protected) (single copy) tab 1 at 15, 16, 18, Administrative Record, Vol. 2.01.

30. Tribunal Exhibit RR-2012-001-31.07, Administrative Record, Vol. 1C at 72.

31. Tribunal Exhibit RR-2012-001-31.06, Administrative Record, Vol. 1B at 91-92.

32. Manufacturer's Exhibit A-05 at paras. 14, 18-23, Administrative Record, Vol. 11.

mills combined) was over 83 million metric tonnes.³³ According to the January 2012, August 2012, and November 2012 issues of the *CRU Steel Plate Quarterly Industry and Market Outlook* relied upon by Essar, on the basis of estimates for 2012, the excess capacity of Chinese reversing mills increased by over 1,000 percent from 2008 to 2012, while China's total excess capacity increased by more than 75 percent.³⁴ As a result, by 2012, the excess capacity of Chinese reversing mills had increased to an estimated 61 million metric tonnes, while China's total excess capacity had increased to an estimated 146 million metric tonnes.³⁵ In addition, Chinese reversing mill capacity represented over 66 percent of global reversing mill capacity in 2012.³⁶ The capacity utilization of these mills in China is forecast to remain below 60 percent in 2013 and below 70 percent through to 2016.³⁷

74. The Tribunal estimates that, in 2011, Chinese excess plate capacity for both reversing mills and hot-strip rolling mills was nearly 200 times larger than the Canadian market and, in 2012, more than 185 times the size of the Canadian market, assuming that the Canadian market in 2012 is double the volume of the market during the interim period of 2012.³⁸

-
33. Plate can be produced on both reversing mills and strip mills. While reversing mills are entirely dedicated to plate production, strip mills can produce both coil plate and hot-rolled sheet and strip. Manufacturer's Exhibit A-01 at 14-16, Administrative Record, Vol. 11 and references therein; *CRU Steel Plate Quarterly*, August 2012, Manufacturer's Exhibit A-08 (protected) (single copy) at 156, 160, Administrative Record, Vol. 2.01; *CRU Steel Plate Quarterly*, November 2012, Manufacturer's Exhibit A-09 (protected) (single copy) at 165, 180, Administrative Record, Vol. 2.01B; Manufacturer's Exhibit A-02 (protected) at 15, Administrative Record, Vol. 12. The evidence on the record is consistent with Essar's statements in its brief on this issue.
34. Manufacturer's Exhibit A-01 at 15-16, Administrative Record, Vol. 11 and references therein; Manufacturer's Exhibit A-02 (protected) at 15, Administrative Record, Vol. 12; *CRU Steel Plate Quarterly*, August 2012, Manufacturer's Exhibit A-08 (protected) (single copy) at 156, 160, Administrative Record, Vol. 2.01; *CRU Steel Sheet Quarterly*, October 2012, Manufacturer's Exhibit A-08A (protected) (single copy) at 139, 203, Administrative Record, Vol. 2.01A; *CRU Steel Plate Quarterly*, November 2012, Manufacturer's Exhibit A-09 (protected) (single copy) at 74, 144, 148, 165, 180, Administrative Record, Vol. 2.01B.
35. Manufacturer's Exhibit A-01 at 15-16, Administrative Record, Vol. 11 and references therein; *CRU Steel Sheet Quarterly*, October 2012, Manufacturer's Exhibit A-08A (protected) (single copy) at 139, 203, Administrative Record, Vol. 2.01A; *CRU Steel Plate Quarterly*, November 2012, Manufacturer's Exhibit A-09 (protected) (single copy) at 74, 144, 148, 165, 180, Administrative Record, Vol. 2.01B.
36. Manufacturer's Exhibit A-01 at 15-16, Administrative Record, Vol. 11 and references therein; *CRU Steel Plate Quarterly*, November 2012, Manufacturer's Exhibit A-09 (protected) (single copy) at 165, 169, Administrative Record, Vol. 2.01B.
37. Manufacturer's Exhibit A-01 at 15-16, Administrative Record, Vol. 11 and references therein; *CRU Steel Plate Quarterly*, August 2012, Manufacturer's Exhibit A-08 (protected) (single copy) at 156, 176, Administrative Record, Vol. 2.01; *CRU Steel Plate Quarterly*, November 2012, Manufacturer's Exhibit A-09 (protected) (single copy) at 144, 165, Administrative Record, Vol. 2.01B.
38. Manufacturer's Exhibit A-01 at 15, Administrative Record, Vol. 11 and references therein; Manufacturer's Exhibit A-05 at 8, Administrative Record, Vol. 11; *Pre-hearing Staff Report*, revised, 29 October 2012, Tribunal Exhibit RR-2012-001-05A, Administrative Record, Vol. 1.1 at 105; *CRU Steel Sheet Quarterly*, October 2012, Manufacturer's Exhibit A-08A (protected) (single copy) at 139, 203, Administrative Record, Vol. 2.01A; *CRU Steel Plate Quarterly*, November 2012, Manufacturer's Exhibit A-09 (protected) (single copy) at 74, 144, 148, 165, 180, Administrative Record, Vol. 2.01B.

Domestic Market Conditions

75. Canadian real GDP growth has followed a trend similar to global growth in recent years. Canadian real GDP fell by 2.8 percent in 2009, but rebounded in 2010, growing by 3.2 percent. Since then, the Canadian economy has continued to recover, although growth has weakened, particularly over the past year.³⁹

76. Evidence on the record shows that real GDP growth in Canada, as forecast by the IMF in October 2012, will be 1.9 percent for 2012 and 2.0 percent for 2013. These forecasts are lower than those that it had issued earlier this year, i.e. 2.1 percent for 2012 and 2.3 percent for 2013.⁴⁰ For purposes of comparison, real GDP growth was 2.4 percent in 2011, as calculated by the IMF.⁴¹ The Toronto Dominion Bank forecasts that Canadian real GDP growth will be 2.6 percent for 2014.⁴²

77. Essar argued that the Canadian plate market has not yet fully recovered from the economic crisis.⁴³ Witnesses for Essar and SSAB testified that demand for plate in Canada is not expected to increase in 2013 and 2014 relative to 2012.⁴⁴ The witness for Essar also noted that possible benefits flowing from new shipbuilding programs in Canada would not be felt until 2016 or 2017 at the earliest.⁴⁵

78. Moody's Investors Service has a negative outlook for the U.S. steel sector and believes that it will not recover sustainably over the next 12 to 18 months.⁴⁶ The witness for SSAB expressed the same view, testifying that the industry does not expect the situation in North America to improve in 2013.⁴⁷

79. Of note in the Canadian market is that, during the POR, hot-rolled carbon steel plate was imported at low prices in increasing volumes from non-subject countries.⁴⁸ Sales from imports of non-subject goods increased by 43 percent in 2010 and then by 50 percent in 2011. This trend continued in the interim period of 2012, when these sales increased by 6 percent.⁴⁹

39. Tribunal Exhibit RR-2012-001-31.06, Administrative Record, Vol. 1B at 22, 211.

40. Manufacturer's Exhibit A-01 at para. 64, Administrative Record, Vol. 11 and references therein; Manufacturer's Exhibit A-08A, tab 12, Administrative Record, Vol. 2.01; Manufacturer's Exhibit A-07, tab 13, Administrative Record, Vol. 1A.

41. Tribunal Exhibit RR-2012-001-31.06, Administrative Record, Vol. 1B at 211.

42. Manufacturer's Exhibit A-07, tab 14, Administrative Record, Vol. 1A; Tribunal Exhibit RR-2012-001-31.10, Administrative Record, Vol. 1C at 165.

43. Manufacturer's Exhibit A-01 at 3, 10-12, Administrative Record, Vol. 11.

44. *Transcript of Public Hearing*, Vol. 1, 19 November 2012, at 9-10, 31-32.

45. *Ibid.* at 10; Manufacturer's Exhibit A-03 at para. 45, Administrative Record, Vol. 11.

46. Manufacturer's Exhibit A-01 at para. 36, Administrative Record, Vol. 11; Manufacturer's Exhibit A-08 (protected), tab 4, Administrative Record, Vol. 2.01.

47. *Transcript of Public Hearing*, Vol. 1, 19 November 2012, at 31.

48. *Pre-hearing Staff Report*, revised, 29 October 2012, Tribunal Exhibit RR-2012-001-05A, Administrative Record, Vol. 1.1 at 97, 98; *Protected Pre-hearing Staff Report*, revised, 29 October 2012, Tribunal Exhibit RR-2012-001-06A, Administrative Record, Vol. 2.1 at 97, 98, 111; *Transcript of Public Hearing*, Vol. 1, 19 November 2012, at 32.

49. *Pre-hearing Staff Report*, revised, 29 October 2012, Tribunal Exhibit RR-2012-001-05A, Administrative Record, Vol. 1.1 at 106.

80. The Tribunal also notes that, throughout the POR, the subject goods had a minimal presence in the Canadian market. By the interim period of 2012, the subject goods were virtually absent from the Canadian market.⁵⁰

Likely Volumes of Dumped Goods

81. Essar submitted that, if the order were rescinded, current circumstances in the Chinese plate industry would make the Canadian plate market attractive to Chinese producers, leading to significant volumes of plate exports from that country in the near term. More specifically, Essar submitted that the very low ocean freight rates,⁵¹ as well as the forecasted high plate prices in Canada relative to the plate prices in China, will attract Chinese exports to Canada.⁵²

82. Essar also argued that developments in China's traditional export markets are forcing Chinese plate producers to seek out other export markets, including non-traditional markets.⁵³ Essar added that investigations underway and under consideration and trade remedy measures already in place in other countries in respect of Chinese plate or similar goods will divert plate to Canada.⁵⁴

83. The witness for SSAB indicated in his statement that a rescission of the order would give rise to increased volumes of imports of the subject goods at significantly dumped prices, resulting in material injury to the domestic injury.⁵⁵

84. The Tribunal notes that no Chinese exporters responded to the Tribunal's *Expiry Review Questionnaire – Exporter*. Therefore, the best information available on the record with regard to exports of the subject goods and the Chinese plate market is the evidence filed with the Tribunal.

85. The Tribunal is of the view that Chinese plate production capacity relative to Chinese domestic demand for plate is a key factor that is likely to influence the volume of subject goods exported to Canada, particularly in light of attractive Canadian prices. As noted above, China has enormous plate capacity and large excess capacity. Indeed, in 2012, nearly half of global plate capacity and almost 60 percent of global excess capacity were located in China.⁵⁶

86. To put the magnitude of China's excess plate capacity into perspective, the Tribunal notes that it was nearly 200 times the size of the Canadian market in 2011.⁵⁷ China's excess capacity also increased by

50. *Pre-hearing Staff Report*, revised, 29 October 2012, Tribunal Exhibit RR-2012-001-05A, Administrative Record, Vol. 1.1 at 106; *Protected Pre-hearing Staff Report*, revised, 29 October 2012, Tribunal Exhibit RR-2012-001-06A (protected), Administrative Record, Vol. 2.1 at 105; Tribunal Exhibit RR-2012-001-03A, Administrative Record, Vol. 1A at 25.

51. Manufacturer's Exhibit A-01 at paras. 83-86, Administrative Record, Vol. 11.

52. Manufacturer's Exhibit A-01 at paras. 77-80, Administrative Record, Vol. 11.

53. Manufacturer's Exhibit A-01 at paras. 96, 101, Administrative Record, Vol. 11.

54. Manufacturer's Exhibit A-01 at 33-38, Administrative Record, Vol. 11.

55. Manufacturer's Exhibit C-01 at 1, 2, Administrative Record, Vol. 11.

56. Manufacturer's Exhibit A-01 at 15-16, Administrative Record, Vol. 11; Manufacturer's Exhibit A-05 at 5,8, Administrative Record, Vol. 11 and references therein; *CRU Steel Sheet Quarterly*, October 2012, Manufacturer's Exhibit A-08A (protected) (single copy) at 139, 140, 203, Administrative Record, Vol. 2.01A; *CRU Steel Plate Quarterly*, November 2012, Manufacturer's Exhibit A-09 (protected) (single copy) at 74, 144, 145, 148, 149, 165, 169, 180, 186, Administrative Record, Vol. 2.01B.

57. Manufacturer's Exhibit A-05 at 8, Administrative Record, Vol. 11 and references therein; *Pre-hearing Staff Report*, revised, 29 October 2012, Tribunal Exhibit RR-2012-001-05A, Administrative Record, Vol. 1.1 at 105; *CRU Steel Sheet Quarterly*, October 2012, Manufacturer's Exhibit A-08A (protected) (single copy) at 139, 203, Administrative Record, Vol. 2.01A; *CRU Steel Plate Quarterly*, November 2012, Manufacturer's Exhibit A-09 (protected) (single copy) at 74, 144, 148, 165, 180, Administrative Record, Vol. 2.01B.

more than 75 percent from 2008 to 2012.⁵⁸ With Chinese plate capacity expected to increase in the near future,⁵⁹ the Tribunal is of the view that the creation of additional excess capacity is likely.

87. The Tribunal considers that reduced export opportunities in China's traditional markets, due to weakening domestic demand and increased plate production capacity in those markets, will increase China's volume of exports to other countries.

88. In particular, Asian countries that had previously been important destinations for Chinese plate are now increasing their own domestic plate production capacity. As an example, Essar stated that, in India, plate capacity is projected to increase by more than 70 percent (to 8 million metric tonnes) in the next 15 months.⁶⁰ As for Indonesia, the start-up of PT Krakatau Posco will add 3 million metric tonnes of capacity to the plate market in Southeast Asia in 2014.⁶¹

89. The Tribunal is also of the view that the decline in demand for steel in Asia partly reflects recent developments in the shipbuilding industry. In this regard, the Tribunal accepts Essar's submission that this industry, which is one of the major end users of plate, particularly in China and Asia, is now using significantly less steel plate than in recent years.⁶²

90. Essar noted that three major Korean steel makers increased their combined annual plate production capacity (from 8.09 million metric tonnes in 2008 to 13.89 million metric tonnes) mainly to serve the Korean shipbuilding industry.⁶³ However, demand for plate in the Korean shipbuilding industry has fallen, leading to excess domestic plate capacity and, in turn, increased exports of Korean plate.⁶⁴ Korea is therefore competing with Chinese plate in export markets, forcing Chinese plate producers to seek out other markets.⁶⁵

91. Evidence on the record also shows that Korea is, by far, the main export market for hot-rolled steel products, including plate, from China. In 2009, 62 percent of China's exports of hot-rolled steel went to Korea, and, in 2011, this share was 41 percent. During the interim period of 2012, Korea was still China's largest export market for hot-rolled steel products, at 16 percent of China's exports of these goods.⁶⁶

92. The CBSA noted that the subject goods were dumped in Canada throughout its period of review, although the total volume of imports of the subject goods significantly tapered off towards the end of the period. According to the CBSA, the main reason for the significant decline in imports of the subject goods in 2011 compared to 2010 was the result of the most recent re-investigation, which concluded in July 2010

58. Manufacturer's Exhibit A-01 at paras. 45-54, Administrative Record, Vol. 11 and references therein; *CRU Steel Plate Quarterly*, August 2012, Manufacturer's Exhibit A-08 (protected) (single copy) at 156, 160, Administrative Record, Vol. 2.01; *CRU Steel Sheet Quarterly*, October 2012, Manufacturer's Exhibit A-08A (protected) (single copy) at 139, 203, Administrative Record, Vol. 2.01A; *CRU Steel Plate Quarterly*, November 2012, Manufacturer's Exhibit A-09 (protected) (single copy) at 74, 144, 148, 165, 180, Administrative Record, Vol. 2.01B.

59. Manufacturer's Exhibit A-01 at para. 53, Administrative Record, Vol. 11; *CRU Steel Plate Quarterly*, November 2012, Manufacturer's Exhibit A-09 (protected) (single copy) at 165, 180, Administrative Record, Vol. 2.01B.

60. Manufacturer's Exhibit A-01 at para. 102, Administrative Record, Vol. 11.

61. Manufacturer's Exhibit A-01 at para. 103, Administrative Record, Vol. 11.

62. Manufacturer's Exhibit A-01 at para. 97, Administrative Record, Vol. 11.

63. Manufacturer's Exhibit A-01 at para. 107, Administrative Record, Vol. 11.

64. Manufacturer's Exhibit A-01 at paras. 107, 108, Administrative Record, Vol. 11.

65. Manufacturer's Exhibit A-01 at paras. 108-111, Administrative Record, Vol. 11.

66. *Pre-hearing Staff Report*, revised, 29 October 2012, Tribunal Exhibit RR-2012-001-05A, Administrative Record, Vol. 1.1 at 114.

and resulted in an anti-dumping duty rate of 80.2 percent.⁶⁷ In the Tribunal's view, rescission of the order, by eliminating anti-dumping duty liability, would create a strong incentive to export to Canada and likely result in a significant influx of the subject goods into the Canadian market.

93. A witness for Essar stated that the company has not encountered import competition from the subject goods over the past few years.⁶⁸ This observation is corroborated by the data on the record. Over the POR, imports and sales of the subject goods almost disappeared from the Canadian market. By contrast, the Tribunal notes that, in terms of market share, sales of goods from non-subject countries steadily increased from 2009 to 2011, before declining marginally in the interim period of 2012.⁶⁹

Risk of Trade Diversion

94. In addition, the implementation of trade remedy measures in other countries is leading Chinese producers to seek out other destinations for their plate exports.

95. Essar stated that, in 2012, investigations against Chinese plate were either underway or under consideration in Taiwan, Brazil, Korea and the Republic of Turkey.⁷⁰ This was in addition to trade remedy measures already in place in Brazil, India, Indonesia and Thailand against Chinese plate or similar goods.⁷¹

96. The Tribunal notes that, in the United States, there is currently one anti-dumping action against certain cut-to-length carbon steel plate from China, which has been in effect since November 3, 2003.⁷²

97. The Tribunal also accepts Essar's assertion that, with an order in place in Canada against hot-rolled steel sheet from China,⁷³ a Chinese producer that can manufacture both plate and hot-rolled steel sheet will be motivated to ship more of the former to Canada if the plate order is rescinded.⁷⁴ Essar added that the risk of diversion is made all the more real by the fact that there are findings against Chinese hot-rolled sheet in the United States, Brazil, Indonesia and Thailand, and findings in respect of plate from China in the United States and Indonesia. In its view, these factors point to the likelihood of a diversion of plate to Canada if the order is rescinded.⁷⁵

98. The Tribunal is of the view that anti-dumping measures taken by other jurisdictions against the subject goods will likely increase the necessity for China to seek out alternative export markets for its plate. It is therefore likely that the subject goods will be diverted from other export destinations to Canada.

67. Tribunal Exhibit RR-2012-001-03A, Administrative Record, Vol. 1A at 24, 33.

68. Manufacturer's Exhibit A-03 at para. 51, Administrative Record, Vol. 11.

69. *Pre-hearing Staff Report*, revised, 29 October 2012, Tribunal Exhibit RR-2012-001-05A, Administrative Record, Vol. 1.1 at 96; *Protected Pre-hearing Staff Report*, revised, 29 October 2012, Tribunal Exhibit RR-2012-001-06A (protected), Administrative Record, Vol. 2.1 at 95, 96, 107.

70. Manufacturer's Exhibit A-01, at paras. 131-35, Administrative Record, Vol. 11.

71. Manufacturer's Exhibit A-01 at para. 130, Administrative Record, Vol. 11.

72. *Pre-hearing Staff Report*, 11 October 2012, Tribunal Exhibit RR-2012-001-05, Administrative Record, Vol. 1.1 at 17.

73. *Flat Hot-rolled Carbon and Alloy Steel Sheet and Strip* (15 August 2011), RR-2010-001 (CITT).

74. Manufacturer's Exhibit A-01 at para. 140, Administrative Record, Vol. 11; *Hot-rolled Carbon Steel Plate* (9 January 2008), RR-2007-001 (CITT).

75. Manufacturer's Exhibit A-01 at paras. 138-41, Administrative Record, Vol. 11.

Production Imperative

99. The Tribunal has also considered the implications of the production imperative in the plate industry in its assessment of the likely volumes of subject goods. It is generally recognized that, because of the capital-intensive nature of plate production, it is imperative for producers to maximize production capacity utilization in order to realize the economies of scale deriving from higher mill throughput.⁷⁶

100. According to the witness for Essar, companies that do not operate at full capacity are often willing to price their goods at a level that covers their variable costs of production plus a contribution to fixed costs in an effort to improve their overall bottom line.⁷⁷

101. Indeed, evidence on the record indicates that weak Chinese demand is an incentive for Chinese steel plate producers to export in order to maintain their production levels and capacity utilization.⁷⁸ More specifically, the serious overcapacity of Chinese producers provides a motivation to engage in aggressive marketing, including at prices below fully allocated costs, which cover their variable costs of production and make a nominal contribution to fixed operating costs.⁷⁹

Attractiveness of the Canadian Market

102. In assessing whether Canada would be a likely export destination for the substantial volumes of subject goods that would be available for export in the near term, the Tribunal first compared international prices for hot-rolled steel plate during the POR and found that Canadian and U.S. plate prices were similar and followed the same trend.⁸⁰ The Tribunal therefore considers that, for the purposes of this expiry review, the U.S. Midwest price is a reasonable proxy for the Canadian price.

103. During the POR, prices of plate in Canada and the United States were much higher than prices in Korea and China.⁸¹ In particular, there is a price premium in excess of \$200 per metric tonne on U.S. plate compared to plate in China.⁸² This is in line with Essar's claim that North American prices and, consequently, Canadian prices are forecasted to be more than \$200 per metric tonne higher than the price in China in 2012 and 2013.⁸³

76. Manufacturer's Exhibit A-01 at paras. 69-71, Administrative Record, Vol. 11; *Transcript of Public Hearing*, Vol. 1, 19 November 2012, at 15-16.

77. *Transcript of Public Hearing*, Vol. 1, 19 November 2012, at 16.

78. Manufacturer's Exhibit A-01 at para. 119, Administrative Record, Vol. 11; Manufacturer's Exhibit A-07, tab 29, Administrative Record, Vol. 11.

79. *Transcript of Public Hearing*, Vol. 1, 19 November 2012, at 15-16, 43; Manufacturer's Exhibit A-01 at para. 71, Administrative Record, Vol. 11 and references therein.

80. *Protected Pre-hearing Staff Report*, revised, 29 October, 2012, Tribunal Exhibit RR-2012-001-06A (protected), Administrative Record, Vol. 2.1 at 113; Manufacturer's Exhibit A-01 at paras. 79, 80, Administrative Record, Vol. 11; *Transcript of Public Hearing*, Vol. 1, 19 November 2012, at 12-13.

81. *Protected Pre-hearing Staff Report*, revised, 29 October 2012, Tribunal Exhibit RR-2012-001-06A (protected), Administrative Record, Vol. 2.1 at 113.

82. *Ibid.* at 113.

83. Manufacturer's Exhibit A-01 at para. 80, Administrative Record, Vol. 11.

104. Consequently, even with the addition of \$100 per metric tonne to cover shipping costs from China to Canada,⁸⁴ there would still be a \$100 premium on the price in North America compared to the price in China.

105. On the issue of shipping costs specifically, Essar noted that ocean freight rates have declined dramatically and are expected to continue to decline due to excess shipping capacity, with ocean freighters commissioned prior to 2008 now being brought into service.⁸⁵

106. In the Tribunal's view, this adds to the attractiveness of the Canadian market for Chinese producers if the order is rescinded; a view that is supported by the fact that North America is expected to be the highest-priced market in the world for plate in 2013 and 2014.⁸⁶

107. Having considered Chinese plate production capacity relative to domestic demand, diminishing opportunities in China's traditional export markets, current and anticipated trade remedy measures on plate or similar goods in other jurisdictions and the related potential for the diversion of the subject goods to Canada, the production imperative in plate production, relative international prices of plate and maritime shipping costs, the Tribunal concludes that the subject goods will likely be present in the Canadian market in significantly increased volumes if the order is rescinded.

Likely Prices of Dumped Goods and Effects on Prices of Like Goods

108. In assessing the effects that the likely prices of the subject goods would have on prices of the like goods if the order were rescinded, the Tribunal will examine whether the subject goods are likely to significantly undercut, depress or suppress the prices of the like goods.⁸⁷

109. Essar submitted that hot-rolled carbon steel plate is a commodity product and that, because the like goods and the subject goods are highly substitutable, price is the principal factor in purchasing decisions.⁸⁸

110. Essar submitted that Chinese export prices for plate have dropped significantly in recent months and, moreover, that the price of plate in China has recently fallen below the price of hot-rolled sheet.⁸⁹ Essar added that Chinese export and domestic prices are below Canadian market prices.⁹⁰

111. Essar also argued that excess capacity has caused China to lower its prices and that, if the order is rescinded, exporters of the subject goods will resume their exports to Canada at very low and injurious prices that will undercut and depress the prices of the like goods.⁹¹ It added that significant volumes of low-priced imports entering the Canadian market from non-subject countries are putting downward pressure

84. *Transcript of Public Hearing*, Vol. 1, 19 November 2012, at 12-13; Manufacturer's Exhibit A-01 at para. 86, Administrative Record, Vol. 11.

85. Manufacturer's Exhibit A-01 at paras. 83-86, Administrative Record, Vol. 11.

86. Manufacturer's Exhibit A-02 (protected) at 22, Administrative Record, Vol. 12; Manufacturer's Exhibit A-01 at 22, 23, Administrative Record, Vol. 11.

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

88. Manufacturer's Exhibit A-01 at paras. 2, 19, 44, Administrative Record, Vol. 11; Tribunal Exhibit RR-2012-001-03A, Administrative Record, Vol. 1A at 13.

89. Manufacturer's Exhibit A-01 at para. 143, Administrative Record, Vol. 11.

90. Manufacturer's Exhibit A-01 at para. 147, Administrative Record, Vol. 11.

91. Manufacturer's Exhibit A-01 at paras. 152, 153, 159, 160, 163, Administrative Record, Vol. 11; Manufacturer's Exhibit A-03 at para. 52, Administrative Record, Vol. 11.

on market prices⁹² and that it would not be unreasonable to expect a \$50 per metric tonne price decline if the order were rescinded.⁹³

112. The witness for SSAB stated that China's market is currently weak and that demand and prices are therefore softening considerably. He also stated that the substantial decline in plate prices in North America in the second half of 2012 has put pressure on Canadian producers to lower their prices. He added that, if the order is rescinded, Chinese exporters will resume selling large volumes of plate into Canada at significantly reduced prices in order to compete with the low-priced imports from other offshore sources.⁹⁴

113. The Tribunal sees no reason to depart from its previous conclusion that this product trades largely on the basis of price. The Tribunal, in the previous expiry review, stated as follows:⁹⁵

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

[Footnote omitted]

114. The Tribunal heard that the price leaders in the Canadian market are non-subject country exporters, with the exception of U.S. exporters, whose prices are very similar to those of Canadian producers.⁹⁶ Data in the staff report generally corroborate this view, especially for certain non-subject countries.⁹⁷ Essar and SSAB expressed their concerns that, if the order were rescinded, imports from China would have to compete in the Canadian market with these low-priced imports.⁹⁸

115. The Tribunal notes that low-priced imports of commodity steel products, such as the subject goods, do not need to enter Canada in significant volumes in order to disrupt the Canadian market. Indeed, one low-priced offer can become the new normal, in terms of the base price at which purchasers look to buy hot-rolled steel plate in the Canadian market.⁹⁹ In this regard, the Tribunal has previously stated that "... even small volume offers can have a relatively significant impact on the market."¹⁰⁰

116. Essar and its witness offered evidence that Chinese producers are selling thick plate, which is not covered by this review, at very low prices in Canada despite the fact that this plate should be trading at a significant price premium over regular plate.¹⁰¹ In particular, thick plate, which would normally command a

92. Manufacturer's Exhibit A-01 at paras. 155-57, Administrative Record, Vol. 11; Manufacturer's Exhibit A-03 at para. 60, Administrative Record, Vol. 11.

93. Manufacturer's Exhibit A-01 at para. 166, Administrative Record, Vol. 11; Manufacturer's Exhibit A-03 at para. 60, Administrative Record, Vol. 11.

94. Manufacturer's Exhibit C-01 at paras. 6-8, Administrative Record, Vol. 11; *Transcript of Public Hearing*, Vol. 1, 19 November 2012, at 30-33.

95. *Hot-rolled Carbon Steel Plate* (9 January 2008), RR-2007-001 (CITT) at para. 96.

96. *Transcript of Public Hearing*, Vol. 1, 19 November 2012, at 26-27.

97. *Protected Pre-hearing Staff Report*, revised, 29 October 2012, Tribunal Exhibit RR-2012-001-06A (protected), Administrative Record, Vol. 2.1 at 111.

98. Manufacturer's Exhibit A-01 at 42-43, Administrative Record, Vol. 11; Manufacturer's Exhibit C-01 at para. 8, Administrative Record, Vol. 11; *Transcript of Public Hearing*, Vol. 1, 19 November 2012, at 33.

99. *Transcript of Public Hearing*, Vol. 1, 19 November 2012, at 20.

100. See *Steel Sheet and Strip* at para. 381.

101. Manufacturer's Exhibit A-01 at para. 160, Administrative Record, Vol. 11; Manufacturer's Exhibit A-02 (protected) at para. 160, Administrative Record, Vol. 12; Manufacturer's Exhibit A-03 at paras. 52, 55, 58, Administrative Record, Vol. 11; Manufacturer's Exhibit A-04 at paras. 52, 55, 58, Administrative Record, Vol. 12; *Transcript of Public Hearing*, Vol. 1, 19 November 2012, at 14, 15.

premium of about \$160 per metric tonne above the price of regular plate, is being offered by Chinese producers at prices less than those at which domestic producers are offering regular plate.¹⁰²

117. Given the commodity nature of plate, the Tribunal is of the view that this aggressive Chinese marketing is likely to manifest itself in aggressive price competition, including price undercutting. In particular, the Tribunal considers that, if the order is rescinded, Chinese producers, in an effort to win market share lost to other sources of imports, will compete predominantly on the basis of dumped prices. In particular, they can be expected to match or beat the lowest selling prices in an effort to win new orders and market share.

118. On the basis of the above, the Tribunal concludes that, if the order were rescinded, imports of the subject goods would enter Canada at prices that would significantly undercut and depress the price of the like goods, likely causing material injury in addition to any injury that might have been incurred by the domestic industry as a result of low-cost non-subject imports.

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

119. The Tribunal will assess the likely impact of the above volumes and prices on the domestic industry if the order is rescinded, taking into consideration the likely performance of the domestic industry.¹⁰³

120. Essar submitted that, if the order were rescinded, it would experience material injury to its production, sales, market share, profits, productivity, return on investments, capacity utilization, cash flow, employment, growth and the ability to raise capital.¹⁰⁴ It argued that domestic producers are more vulnerable to resumed dumping in this expiry review than they were during the previous expiry review due to the condition of the hot-rolled carbon steel plate market in Canada and worldwide.

121. The witness for Essar stated that the company's per-metric-tonne gross margin and net income from 2005 to 2008 compared to the performance of those indicators during the POR demonstrate Essar's vulnerability to resumed injury.¹⁰⁵ In so arguing, Essar compared the current pricing, net income and capacity utilization during the POR and during the previous expiry review and concluded that the overall impact of a resumption of dumping of the subject goods would be severe.¹⁰⁶

122. Essar submitted, and filed witness statements indicating, that the domestic producers must have positive financial results to maintain and increase the capital investments required to allow them to be competitive.¹⁰⁷ It also submitted that the massive imports of the subject goods that would enter the Canadian market if the order were rescinded would threaten its ability to achieve a reasonable return on investment

102. *Transcript of Public Hearing*, Vol. 1, 19 November 2012, at 14-15; Manufacturer's Exhibit A-01 at para. 160, Administrative Record, Vol. 11; Manufacturer's Exhibit A-03 at paras. 54, 55, 58, Administrative Record, Vol. 11; Manufacturer's Exhibit A-04 at paras. 54, 55, 58, Administrative Record, Vol. 12.

103. See paragraphs 37.2(2)(c) and (e) of the *Regulations*.

104. Manufacturer's Exhibit A-01 at para. 173, Administrative Record, Vol. 11.

105. Manufacturer's Exhibit A-01 at para. 169, Administrative Record, Vol. 11; Manufacturer's Exhibit A-05 at paras. 41-43, Administrative Record, Vol. 11; Manufacturer's Exhibit A-06 (protected) at paras. 41-43, Administrative Record, Vol. 12.

106. *Transcript of Public Hearing*, Vol. 1, 19 November 2012 at 45-47.

107. Manufacturer's Exhibit A-01 at paras. 174-75, Administrative Record, Vol. 11; Manufacturer's Exhibit A-05 at para. 46, Administrative Record, Vol. 11.

and, therefore, its ability to make investments.¹⁰⁸ Essar estimated that a rescission of the order would cause selling prices to drop by at least \$50 per metric tonne, which would result in a decline in gross margin and net income.¹⁰⁹

123. SSAB submitted that a rescission of the order would give rise to increased volumes of imports of the subject goods at significantly dumped prices, resulting in material injury to the domestic injury.¹¹⁰

124. The Tribunal will begin its analysis under this heading with a review of the health of the hot-rolled steel plate industry in Canada.

125. The Tribunal notes that, from 2009 to 2011, the domestic industry's production of hot-rolled steel plate increased by an average of 17 percent and its sales from domestic production increased by an average of 3 percent. From the interim period of 2011 to the interim period of 2012 these figures were 16 and 23 percent, respectively.¹¹¹ Even though sales from domestic production increased from 2009 to 2011, and also in the interim period of 2012, the corresponding share in the Canadian market declined during the POR, from 49 percent in 2009 to 35 percent during the interim period of 2012.¹¹²

126. The evidence shows that total plant capacity increased by 3 percent from 2009 to 2011. Consistent with the increased production during that period, the capacity utilization rate for the production of like goods increased from 15 percent in 2009 to 17 percent in 2011. A comparison of the interim period of 2012 with the same period in the previous year shows that total plant capacity remained stable, while production increased by 16 percent and the capacity utilization rate increased to 19 percent.¹¹³

127. Total direct employment for the domestic producers increased by 10 percent in 2010, before declining by 6 percent in 2011 and then increasing by 15 percent during the interim period of 2012.¹¹⁴

128. Turning to the consolidated financial information for domestic sales from domestic production, gross margins, on a per unit basis, improved during the POR. The per-unit net income or loss before taxes improved from 2009 to 2011, and again between the interim period of 2011 and the interim period of 2012.¹¹⁵

108. Manufacturer's Exhibit A-01 at para. 175, Administrative Record, Vol. 11; Manufacturer's Exhibit A-05 at para. 48, Administrative Record, Vol. 11; Manufacturer's Exhibit A-06 (protected) at para. 48, Administrative Record, Vol. 12.

109. Manufacturer's Exhibit A-01 at paras. 170-71, Administrative Record, Vol. 11; Manufacturer's Exhibit A-05 at paras. 38-43, Administrative Record, Vol. 11; Manufacturer's Exhibit A-06 (protected) at paras. 38-43, Administrative Record, Vol. 12.

110. Manufacturer's Exhibit C-01 at para. 8, Administrative Record, Vol. 11.

111. *Pre-hearing Staff Report*, 11 October 2012, Tribunal Exhibit RR-2012-001-05, Administrative Record, Vol. 1.1 at 27; *Pre-hearing Staff Report*, revised, 29 October 2012, Tribunal Exhibit RR-2012-001-05A, Administrative Record, Vol. 1.1 at 105-106.

112. *Pre-hearing Staff Report*, revised, 29 October 2012, Tribunal Exhibit RR-2012-001-05A, Administrative Record, Vol. 1.1 at 106-107.

113. *Pre-hearing Staff Report*, 11 October 2012, Tribunal Exhibit RR-2012-001-05, Administrative Record, Vol. 1.1 at 27, 56.

114. *Ibid.* at 53.

115. *Protected Pre-hearing Staff Report*, 11 October 2012, Tribunal Exhibit RR-2012-001-06 (protected), Administrative Record, Vol. 2.1 at 47.

129. As stated by the witness for SSAB, although the first half of 2012 was fairly good for the company in terms of volumes and returns, especially in North America, the second half of 2012 was not quite as good, as orders dropped off and prices were under pressure from imports.¹¹⁶

130. On the basis of the domestic industry's recent performance as outlined above, the Tribunal is of the view that the Canadian market has not fully recovered from the economic downturn discussed earlier.

131. The Tribunal is convinced that a rescission of the order will likely depress prices in the Canadian market. Due to China's enormous excess capacity and export orientation/dependency, the subject goods will likely re-enter the Canadian market in large volumes and at prices lower than those of non-subject goods which are already lower than the price of the domestically produced like goods. In this environment, imports from China can be expected to regain market share and exert significant pressure on the selling prices and financial performance of the domestic industry, which would be compelled to lower its prices in order to compete and protect its domestic market share.

132. Essar claims that, if the order is rescinded, Chinese producers will likely resume selling plate into Canada at prices at least \$50 per metric tonne below its own price.¹¹⁷ Having regard to the very low price levels at which other import sources are currently offering plate in the Canadian market, even a small price decrease would have a significant negative effect on Essar's and, indeed, the domestic industry's performance.¹¹⁸ Given the commodity nature of hot-rolled steel plate, the Tribunal accepts that competition is largely based on price and that domestic producers that do not respond to the lowest price offerings in the market run the risk of losing sales volume and market share, with a consequential deterioration in their overall performance indicators, including total revenues and profits.

133. In summary, the Tribunal is of the view that the likely effects of Chinese price competition would not be limited to regaining market share lost to non-subject imports as a result of the existing order. Rescission of the order would almost certainly result in the re-appearance of the subject goods in the Canadian market at dumped prices that would likely undercut and depress the prices of the domestically produced like goods. The resulting deterioration in related corporate performance indicators (e.g. capacity utilization, employment, returns on plant capital investments, the cost of goods manufactured and of goods sold relative to competitors, etc.) would likely lead to investment capital being redirected to more productive endeavours that were likely to yield a better return.

134. On the basis of the foregoing analysis, the Tribunal is of the view that, if the order were rescinded, the likely continuation or resumption of dumping from China would likely result in injury to the domestic industry.

116. *Transcript of Public Hearing*, Vol. 1, 19 November 2012 at 31.

117. Manufacturer's Exhibit A-01 at para. 166, Administrative Record, Vol. 11.

118. *Ibid.*; Manufacturer's Exhibit A-05 at paras. 42-43, Administrative Record, Vol. 11; Manufacturer's Exhibit A-06 (protected) at paras. 42-43, Administrative Record, Vol. 12.

CONCLUSION

135. Pursuant to paragraph 76.03(12)(b) of *SIMA*, the Tribunal hereby continues its order in respect of hot-rolled carbon steel plate originating in or exported from China.

Serge Fréchette
Serge Fréchette
Presiding Member

Pasquale Michael Saroli
Pasquale Michael Saroli
Member

Jason W. Downey
Jason W. Downey
Member