



Canadian International  
Trade Tribunal

Tribunal canadien du  
commerce extérieur

CANADIAN  
INTERNATIONAL  
TRADE TRIBUNAL

# Dumping and Subsidizing

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## ORDER AND REASONS

Expiry Review No. RR-2018-007

Hot-rolled Carbon Steel Plate and  
High-strength Low-alloy Steel Plate

*Order and reasons issued  
Thursday, October 31, 2019*

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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 7, 2014, in Expiry Review No. RR-2013-002, continuing, without amendment, its order made on January 8, 2009, in Expiry Review No. RR-2008-002, continuing, without amendment, its finding made on January 9, 2004, in Inquiry No. NQ-2003-002, concerning:

**HOT-ROLLED CARBON STEEL PLATE AND HIGH-STRENGTH  
LOW-ALLOY STEEL PLATE ORIGINATING IN OR EXPORTED FROM THE  
REPUBLIC OF BULGARIA, THE CZECH REPUBLIC AND ROMANIA**

**ORDER**

The Canadian International Trade Tribunal, pursuant to subsection 76.03(3) of the *Special Import Measures Act*, has conducted an expiry review of its order made on January 7, 2014, in Expiry Review No. RR-2013-002, continuing, without amendment, its order made on January 8, 2009, in Expiry Review No. RR-2008-002, continuing, without amendment, its finding made on January 9, 2004, in Inquiry No. NQ-2003-002, concerning the dumping of hot-rolled carbon steel plate and high-strength low-alloy steel plate not further manufactured than hot-rolled, heat-treated or not, in cut lengths in widths from 24 inches (+/-610 mm) to 152 inches (+/-3,860 mm) inclusive and in thicknesses from 0.187 inch (+/-4.75 mm) to 4 inches (+/-101.6 mm) inclusive, originating in or exported from the Republic of Bulgaria, the Czech Republic and Romania, excluding plate produced to American Society for Testing and Materials (ASTM) specifications A515 and A516M/A516 Grade 70 in thicknesses greater than 3.125 inches (+/-79.3 mm), universal mill plate, plate for use in the manufacture of pipe and plate having a rolled, raised figure at regular intervals on the surface (also known as floor plate).

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.

Peter Burn

Peter Burn

Presiding Member

Georges Bujold

Georges Bujold

Member

Cheryl Beckett

Cheryl Beckett

Member

Place of Hearing: Ottawa, Ontario  
Dates of Hearing: August 19, 2019

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Georges Bujold, Member  
Cheryl Beckett, Member

Support Staff: Alain Xatruch, Lead Counsel  
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**PARTICIPANTS:****Domestic Producers**

Algoma Steel Inc.

Evraz Inc. NA Canada

SSAB Central Inc.

**Importers/Exporters/Others**

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## STATEMENT OF REASONS

### INTRODUCTION

1. This is an expiry review, conducted 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 on January 7, 2014, in Expiry Review No. RR-2013-002, continuing, without amendment, its order made on January 8, 2009, in Expiry Review No. RR-2008-002, continuing, without amendment, its finding made on January 9, 2004, in Inquiry No. NQ-2003-002, concerning the dumping of hot-rolled carbon steel plate and high-strength low-alloy steel plate (collectively referred to as hot-rolled steel plate) originating in or exported from the Republic of Bulgaria (Bulgaria), the Czech Republic and Romania (the subject goods).<sup>2</sup>

2. Under *SIMA*, findings of injury or threat of injury and the associated protection in the form of anti-dumping or countervailing duties expire five years from the date of the finding or, if one or more orders continuing the finding have been made, the date of the last order made under paragraph 76.03(12)(b), unless the Tribunal initiates an expiry review before that date. The order in Expiry Review No. RR-2013-002 was therefore originally scheduled to expire on January 6, 2019.

3. The Tribunal's mandate in this expiry review is to determine whether the expiry of the order is likely to result in injury to the domestic industry and then, accordingly, to make an order either continuing or rescinding the order, with or without amendment.

### PROCEDURAL BACKGROUND

4. The Tribunal issued its notice of expiry review on December 27, 2018. This notice triggered the initiation of an investigation by the Canada Border Services Agency (CBSA) on December 28, 2018, to determine whether the expiry of the Tribunal's order was likely to result in the continuation or resumption of dumping of the subject goods.

5. On May 24, 2019, 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.<sup>3</sup>

6. On May 27, 2019, 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 to the domestic industry.

7. The period of review (POR) for the Tribunal's expiry review covered three full calendar years, from January 1, 2016, to December 31, 2018, as well as the interim period of January 1 to March 31, 2019 (interim 2019). For comparative purposes, information was also collected and presented for the interim period of January 1 to March 31, 2018 (interim 2018).

8. The Tribunal sent questionnaires to known domestic producers and importers of hot-rolled steel plate meeting the product definition, and to known foreign producers of the subject goods. The Tribunal

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

2. The full product definition is set out in paragraph 13.

3. Exhibit RR-2018-007-03, Vol. 1 at 5-6.

received seven completed,<sup>4</sup> and two partially completed, domestic producers' questionnaires from companies stating that they produced steel plate meeting the product definition. The Tribunal received 13 completed importers' questionnaires from companies stating that they imported steel plate meeting the product definition (including three domestic producers) and three replies from companies indicating that they did not import such goods. Finally, the Tribunal received one completed foreign producers' questionnaire from a company indicating that it produced subject goods.

9. Using the questionnaire responses and other information on the record, staff of the Canadian International Trade Tribunal Secretariat of the Administrative Tribunals Support Service of Canada prepared public and protected versions of the investigation report and placed them on the record on July 18, 2019.<sup>5</sup>

10. Domestic producers Algoma Steel Inc. (Algoma), Evraz Inc. NA Canada (Evraz) and SSAB Central Inc. (SSAB) filed written submissions in support of a continuation of the order.<sup>6</sup> The Tribunal did not receive any submissions opposing the continuation of the order.<sup>7</sup>

11. Given that there were no submissions opposing the continuation of the order, Algoma requested that the Tribunal proceed by way of a file hearing in lieu of an oral hearing. The request was supported by Evraz and SSAB. Noting that all parties that had filed submissions wished to proceed by way of a file hearing, the Tribunal decided, pursuant to rule 25.1 of the *Canadian International Trade Tribunal Rules*,<sup>8</sup> to hold a hearing by way of written submissions, without the presence of the parties. That hearing was held on August 19, 2019.

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

## PRODUCT

### Product definition

13. The goods that are subject to this expiry review (i.e. the subject goods) are defined as follows:<sup>9</sup>

Hot-rolled carbon steel plate and high-strength low-alloy steel plate not further manufactured than hot-rolled, heat-treated or not, in cut lengths in widths from 24 inches (+/-610 mm) to 152 inches (+/-3,860 mm) inclusive and in thicknesses from 0.187 inch (+/-4.75 mm) to 4 inches (+/-101.6 mm) inclusive, originating in or exported from the Republic of Bulgaria, the Czech Republic and Romania, excluding plate produced to American Society for Testing and Materials (ASTM) specifications A515 and A516M/A516 Grade 70 in thicknesses greater than 3.125 inches (+/-79.3 mm), universal mill plate, plate for use in the manufacture of pipe and plate having a rolled, raised figure at regular intervals on the surface (also known as floor plate).

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4. The Tribunal issued, on June 26, 2019, a production order to Janco Steel Ltd. (Janco), a domestic producer, requesting the completion of the "Financial Statements" tab of the producers' questionnaire (see Exhibit RR-2018-007-13.01.02, Vol. 3 at 1-4). The Tribunal subsequently received the required information.

5. Revised public and protected versions of the investigation report were subsequently placed on the record.

6. Although they did not file notices of participation, Del Metals and Janco provided letters of support for the continuation of the order (see Exhibit RR-2018-007-C-01, Vol. 11 at 265-267). A statement of evidence from Mr. Michel Boudreault of Nova Steel Inc. (Nova), expressing support for the continuation of the order, was also included as part of the materials filed by Algoma (see Exhibit RR-2018-007-C-07, Vol. 11).

7. The Delegation of the European Union to Canada filed a notice of participation but did not file any submissions.

8. SOR/91-499.

9. Exhibit RR-2018-007-03A, Vol. 1 at 7.

**Additional product information**

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

15. 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.

16. It should be noted that the equivalent metric dimensions in the definition of the goods are rounded numbers as indicated by the “+/-” symbols.

**Production process**

17. While details may vary from mill to mill, the process by which hot-rolled steel 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 inspected, tested and shipped. Hot-rolled steel plate may be heat-treated in processes that may include annealing, normalizing, stress relieving, quenching, tempering or combinations of these treatments.

18. Hot-rolled steel plate formed directly into rectangular shapes is referred to in the steel industry as “discrete plate”. Hot-rolled steel plate 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 typically thinner in gauge, and commonly sold in narrower widths, than discrete plate.

**Product applications**

19. Hot-rolled steel plate is used in a number of applications, the most common of which is 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 hot-rolled steel plate is sold directly to end users, such as large fabricators and equipment manufacturers, as well as to steel distributors and service centres that may resell it in standard sizes and grades or offer custom cutting services. The majority of cut-to-length plate is sold through service centres. Hot-rolled 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.

**PRELIMINARY MATTER**

21. As noted above, the Tribunal did not receive any submissions opposing the continuation of the order. In light of this fact, the Tribunal was particularly vigilant in its assessment of the information contained on the record in order to ensure that its determinations were based on positive, accurate evidence and involved an objective examination of all the factors that are relevant to the likelihood of an injury determination. In this respect, Tribunal staff conducted a rigorous review of all questionnaire replies to



ensure that they were complete, that inconsistencies were addressed and errors corrected, that the data reconciled and were reasonable, and that any anomalies were explained. This approach is consistent with the Tribunal's past practice.<sup>10</sup>

## LEGAL FRAMEWORK

22. The Tribunal is required, pursuant to subsection 76.03(10) of *SIMA*, to determine whether the expiry of the order issued in Expiry Review No. RR-2013-002 in respect of the subject goods is likely to result in injury or retardation for the domestic industry.<sup>11</sup> Pursuant to subsection 76.03(12), if the Tribunal determines that the expiry of the order is unlikely to result in injury, it is required to rescind the order. However, if it determines that the expiry of the order is likely to result in injury, the Tribunal is required to continue the order, with or without amendment.

23. Before proceeding with its analysis of the likelihood of injury, the Tribunal must first determine what constitutes "like goods". Once that determination has been made, the Tribunal must determine what constitutes the "domestic industry".

24. The Tribunal must also determine whether it is appropriate to assess the likely effect of the resumed or continued dumping of the subject goods from all subject countries cumulatively, i.e. whether it will conduct a single analysis of the likely effect or a separate analysis for each subject country.

## LIKE GOODS AND CLASSES OF GOODS

25. In order for the Tribunal to determine whether the resumed or continued dumping of the subject goods is likely to cause material injury to the domestic producers of like goods, it must determine which domestically produced goods, if any, constitute like goods in relation to the subject goods. The Tribunal must also assess whether there is, within the subject goods and the like goods, more than one class of goods.<sup>12</sup>

26. 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 goods described in paragraph (a), goods the uses and other characteristics of which closely resemble those of the other goods.

27. In deciding the issue of like goods when goods are not identical in all respects to the other goods, the Tribunal typically considers a number of factors, including the physical characteristics of the goods

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10. See *Hot-rolled Carbon Steel Plate and High-strength Low-alloy Steel Plate* (7 January 2014), RR-2013-002 (CITT) [*Plate V 2013 Expiry Review*] at para. 16; *Hot-rolled Carbon Steel Plate and High-strength Low-alloy Steel Plate* (13 February 2015), RR-2014-002 (CITT) [*Plate VI 2014 Expiry Review*] at para. 16.

11. Subsection 2(1) of *SIMA* defines "injury" as "... material injury to the 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.

12. Should the Tribunal determine that there is more than one class of goods in this expiry review, it must conduct a separate injury analysis and make a decision for each class that it identifies. See *Noury Chemical Corporation and Minerals & Chemicals Ltd. v. Pennwalt of Canada Ltd. and Anti-dumping Tribunal*, [1982] 2 F.C. 283 (FC).

(such as composition and appearance) and their market characteristics (such as substitutability, pricing, distribution channels, end uses and whether the goods fulfill the same customer needs).<sup>13</sup>

28. In Expiry Review No. RR-2013-002, the Tribunal found that domestically produced hot-rolled steel plate was like goods in relation to the subject goods and that there was a single class of goods.<sup>14</sup> The Tribunal found that the evidence on the record clearly indicated that the domestic industry produced substantially the same goods as the subject goods and that domestically produced hot-rolled steel plate and the subject goods competed with one another, relied on the same distribution channels and had the same end uses.<sup>15</sup>

29. There is no evidence in the present expiry review that would suggest that the above conclusions should be revisited. Accordingly, the Tribunal finds that domestically produced hot-rolled steel plate of the same specifications as the subject goods constitutes like goods in relation to the subject goods and that there is a single class of goods.

## DOMESTIC INDUSTRY

30. 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 except that, where a domestic producer is related to an exporter or importer of dumped or subsidized goods, or is an importer of such goods, “domestic industry” may be interpreted as meaning the rest of those domestic producers.

31. The Tribunal must therefore determine whether there is a likelihood of injury to the domestic producers as a whole or those domestic producers whose production represents a major proportion of the total production of like goods.<sup>16</sup>

32. Algoma submitted that the domestic industry producing the like goods is comprised of itself, Evraz and a variety of service centres producing cut-to-length plate from coil.<sup>17</sup> In previous decisions, the Tribunal has found it appropriate to include service centres within the scope of the domestic industry producing hot-rolled steel plate.<sup>18</sup> Therefore, for the purposes of the present expiry review, it will consider the domestic

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13. See, for example, *Copper Pipe Fittings* (19 February 2007), NQ-2006-002 (CITT) at para. 48.

14. *Plate V 2013 Expiry Review* at para. 25. These conclusions were most recently reaffirmed in *Hot-rolled Carbon Steel Plate* (9 August 2018), RR-2017-004 (CITT) [*Plate III 2017 Expiry Review*] at paras. 28-29.

15. *Plate V 2013 Expiry Review* at para. 24.

16. The term “major proportion” means an important or significant proportion of total domestic production of the like goods and not necessarily a majority of these goods: *Japan Electrical Manufacturers Assn. v. Canada* (Anti-Dumping Tribunal), [1986] F.C.J. No. 652 (FCA); *McCulloch of Canada Limited and McCulloch Corporation v. Anti-Dumping Tribunal*, [1978] 1 F.C. 222 (FCA); *China – Anti-dumping and Countervailing Duties on Certain Automobiles from the United States* (23 May 2014), WTO Docs. WT/DS440/R, Report of the Panel at para. 7.207; *European Community – Definitive Anti-dumping Measures on Certain Iron or Steel Fasteners from China* (15 July 2011), WTO Docs. WT/DS397/AB/R, Report of the Appellate Body at paras. 411, 412, 419; *Argentina – Definitive Anti-dumping Duties on Poultry from Brazil* (22 April 2003), WTO Docs. WT/DS241/R, Report of the Panel at para. 7.341.

17. Exhibit RR-2018-007-C-01, Vol. 11 at 7.

18. See, for example, *Plate III 2017 Expiry Review* at para. 33; *Hot-rolled Carbon Steel Plate and High-strength Low-alloy Steel Plate* (6 January 2016), NQ-2015-001 (CITT) at para. 51; *Plate VI 2014 Expiry Review* at para. 30.

industry as comprised of domestic producers, including service centres, for which the collective production of the like goods constitutes a “major proportion” of the total domestic production of the like goods.

33. During the POR, there were 11 known producers of hot-rolled steel plate in Canada. Of these, two domestic mills, namely Algoma and Evraz, as well as seven service centres, namely Nova, Del Metals, Janco, Russel Metals Inc., Samuel, Son & Co. Limited, SSAB and Varsteel Limited (Varsteel), filed responses to the Tribunal’s domestic producers’ questionnaire. However, the responses provided by Del Metals and Varsteel were incomplete as they did not include their financial results.<sup>19</sup> As for the two non-responding domestic producers, the Tribunal estimates that they are smaller operations with minor production and sales volumes.

34. Together, the two domestic mills and the five service centres that provided complete responses to the producers’ questionnaire account for nearly all known domestic production of the like goods.<sup>20</sup> Accordingly, the Tribunal finds that these seven producers constitute the domestic industry for the purposes of this expiry review.

## CUMULATION

35. Subsection 76.03(11) of *SIMA* provides that the Tribunal shall make an assessment of the cumulative effect of the dumping or subsidizing of goods “. . . that are imported into Canada from more than one country if the Tribunal is satisfied that an assessment of the cumulative effect would be appropriate taking into account the conditions of competition . . .” between the goods imported into Canada from any of the countries and the goods from any other countries or between those goods and the like goods.

36. In considering the conditions of competition between goods, the Tribunal typically takes into account the following factors, as applicable: the degree to which the goods from each subject country are interchangeable with the subject goods from the other subject countries or with the like goods; the presence or absence of sales of imports from different subject countries and of the like goods into the same geographical markets; the existence of common or similar channels of distribution; and differences in the timing of the arrival of imports from a subject country and of those from the other subject countries, and of the availability of like goods supplied by the domestic industry.

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

38. In Expiry Review No. RR-2013-002, the Tribunal was satisfied that, taking into account the conditions of competition between the goods, it was appropriate to make an assessment of the cumulative effect of the dumping of hot-rolled steel plate from Bulgaria, the Czech Republic and Romania.<sup>21</sup> Algoma submitted that there have been no significant changes to the above-noted factors over the past five years and that the conditions of competition found previously continue to exist and are not expected to change in the near future.

39. The Tribunal was presented with no evidence or argument that would lead it to conclude that an assessment of the cumulative effect of the dumping of hot-rolled steel plate from the subject countries is not appropriate in the context of the present expiry review. Therefore, in its analysis below, the Tribunal has

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19. The Tribunal did not pursue this information as, together, these two producers represented a relatively small proportion of all known domestic production of the like goods.

20. Exhibit RR-2018-007-06B (protected), Schedules 1 and 3, Vol. 2.1.

21. *Plate V 2013 Expiry Review* at paras. 32-33.

cumulatively assessed the likely impact of the continuation or resumption of dumping of the subject goods from Bulgaria, the Czech Republic and Romania on the domestic industry should the order be rescinded.

### LIKELIHOOD OF INJURY ANALYSIS

40. An expiry review is forward-looking.<sup>22</sup> It follows that evidence from the period during which an order or a finding was being enforced is relevant insofar as it bears upon the prospective analysis of whether the expiry of the order or finding is likely to result in injury.<sup>23</sup>

41. There is no presumption of injury in an expiry review; findings must be based on positive evidence, in compliance with domestic law and consistent with the requirements of the World Trade Organization.<sup>24</sup> In the context of an expiry review, positive evidence can include evidence based on past facts that tend to support forward-looking conclusions.<sup>25</sup>

42. 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. This is generally considered to be the period comprising 12 to 24 months from the date on which the finding or order would be rescinded. In this case, the Tribunal finds no reason to depart from its usual approach and will therefore focus its analysis on the next 12 to 24 months.

43. Subsection 37.2(2) of the *Special Import Measures Regulations*<sup>26</sup> lists factors that the Tribunal may consider in addressing the 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 in detail below.

### Changes in market conditions

44. In order to assess the likely volumes and prices of the subject goods and their impact on the domestic industry if the order was rescinded, the Tribunal will first consider changes in international and domestic market conditions that occurred during the POR and that are likely to occur over the next 12 to 24 months.<sup>27</sup> These changes provide some general context for the Tribunal's analysis and are likely to occur whether the order is continued or rescinded.

#### International market conditions

45. There are a number of factors currently impacting international market conditions, the most important being the continuing global excess steel capacity crisis, greater levels of production than consumption of plate, a weakened global economic outlook, the European steel sector crisis and general economic downturn in the euro area,<sup>28</sup> and an unprecedented wave of trade restrictions on steel.

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22. *Certain Dishwashers and Dryers* (procedural order dated 25 April 2005), RR-2004-005 (CITT) at para. 16.

23. *Copper Pipe Fittings* (17 February 2012), RR-2011-001 (CITT) at para. 56. In *Thermoelectric Containers* (9 December 2013), RR-2012-004 (CITT) [*Thermoelectric Containers*] at para. 14, the Tribunal stated that the analytical context pursuant to which an expiry review must be adjudged often includes the assessment of retrospective evidence supportive of prospective conclusions. See also *Aluminum Extrusions* (17 March 2014), RR-2013-003 (CITT) [*Aluminum Extrusions*] at para. 21.

24. *Flat Hot-rolled Carbon and Alloy Steel Sheet and Strip* (16 August 2006), RR-2005-002 (CITT) at para. 59.

25. *Thermoelectric Containers* at para. 14; *Aluminum Extrusions* at para. 21.

26. SOR/84-927 [*Regulations*].

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

28. The euro area (also referred to as the eurozone) is a monetary union of 19 of the 28 EU member states which have adopted the euro as their common currency and sole legal tender. None of the subject countries have adopted the euro as their currency.

– Global Steel Production, Consumption and Capacity

46. The Ministerial Report from the G20's *Global Forum on Steel Excess Capacity* in 2018 referred to excess steelmaking capacity as a "global challenge that continues to plague the sector" and noted that, "[w]hile steel market conditions have shown some cyclical recovery in 2017, the underlying trend in global steel demand remains weak and excess capacity remains significant."<sup>29</sup> According to figures from the Organisation for Economic Co-operation and Development (OECD) and World Steel Association, in 2017 alone, global crude steelmaking capacity exceeded demand by approximately 680 million tonnes.<sup>30</sup> The Tribunal has, on numerous occasions, recognized the global steel overcapacity crisis, its relationship with the steel production imperative, and the potential threat it poses to domestic steel producers, the most recent being in its *Safeguard Inquiry into the Importation of Certain Steel Goods*.<sup>31</sup>

47. Algoma submitted that the issues which exist for steel products generally apply to plate as well. Indeed, according to CRU data, excess capacity on reversing, steckel and hot strip mills is expected to remain over 130 million metric tonnes (MT) through 2021, while excess capacity on reversing mills alone is expected to remain above 55 million MT over the same period.<sup>32</sup> Although excess plate capacity is expected to slowly diminish in the coming years, the data show that this downward trend is being driven, for the most part, by increases in production rather than by decreases in capacity that are being called for by the G20 Ministers and the OECD Steel Committee. In any event, this excess capacity dwarfs the size of the total Canadian market for plate during the POR.

48. In terms of production and consumption of plate, CRU data indicate that global production of reversing mill and coil plate is expected to remain above global consumption by nearly 3 million MT through 2021.<sup>33</sup>

– Global Economic Conditions

49. Algoma submitted that pressure on global growth, caused in part by trade tensions around the world, will exacerbate the global steel overcapacity crisis in the near to medium term. This position finds support in forecasts from the Bank of Canada, which recently downgraded its 2019 global growth forecast to 3 percent from 3.2 percent, stating that "[e]scalating trade conflicts, geopolitical tensions and related uncertainty are contributing to the broad-based slowdown of global economic activity."<sup>34</sup> Earlier this year, the OECD had similarly downgraded its 2019 and 2020 global growth forecasts to 3.3 and 3.4 percent, respectively.<sup>35</sup>

– European Union steel market and economic conditions

50. Algoma submitted that increased imports, slowing demand and a weakened economy threaten European Union (EU) market stability and are likely to force European steel producers, including plate

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29. Exhibit RR-2018-007-C-01, Vol. 11 at 68.

30. *Ibid.* at 69. The OECD reports that the world's steelmaking capacity stood at 2.27 billion tonnes in 2017 while the World Steel Association reports that demand amounted to 1.59 billion tonnes for that year.

31. (3 April 2019), GC-2018-001 (CITT) [*Steel Safeguard Inquiry*] at 12-13. See also *Corrosion-resistant Steel Sheet* (8 March 2019), NQ-2018-004 (CITT) at paras. 111-112.

32. Exhibit RR-2018-007-C-01, Vol. 11 at 17. Reversing mills are dedicated exclusively to the production of discrete plate, whereas steckel mills can be used to produce both discrete plate and coil plate, and hot strip mills can be used to produce both coil plate and hot-rolled sheet.

33. *Ibid.* at 20.

34. *Ibid.* at 81.

35. *Ibid.* at 116.

producers in the subject countries, to increasingly rely on export markets to maintain throughput. Evraz and SSAB essentially made the same argument.

51. In March 2019, the OECD downgraded its 2019 and 2020 growth forecasts for the euro area to 1.0 and 1.2 percent, respectively.<sup>36</sup> In addition, in July 2019, the European Commission (EC) stated that the near-term outlook for the European economy is “clouded by external factors including global trade tensions and significant policy uncertainty”.<sup>37</sup> The EC also reported that its growth forecast for the EU remains unchanged at 1.4 percent for 2019 and 1.6 percent for 2020.

52. In May 2019, the European Steel Association (EUROFER) reported that, while the EU steel market grew by 3.3 percent in 2018, imports grew by 12.6 percent despite the imposition of preliminary safeguard measures by the EC in July 2018.<sup>38</sup> EUROFER also noted that, with the EU steel market forecast to fall slightly in 2019 and the relaxation of its steel safeguard measures in July 2019 and again in July 2020, the EU steel sector will find itself exposed to rising import pressure in a shrinking market.

53. In its August 2019 *Steel Plate Market Outlook*, CRU reported that current European market prices for plate are declining and that mills are starting to cut output amid poor demand.<sup>39</sup>

– Trade restrictions on steel

54. Algoma submitted that numerous trade restrictions on steel have had, and will continue to have, significant effects on the global steel trade as they place significant pressure on steel exporters around the world, including those in subject countries, to compete aggressively for market share wherever it is available.

55. Most notably, in March 2018, acting pursuant to section 232 of the U.S. *Trade Expansion Act of 1962*, the United States imposed a 25 percent duty on imports of certain steel products, including plate, from most countries, including the subject countries (the section 232 measures).<sup>40</sup> Although Canada was initially excluded from the application of the section 232 measures, on May 31, 2018, the United States extended them to include Canada. On July 1, 2018, Canada responded by imposing retaliatory tariffs, i.e. a 25 percent surtax on imports of certain products, including steel plate, from the United States. On May 17, 2019, the United States and Canada reached an agreement whereby the United States agreed to eliminate all tariffs imposed by the section 232 measures on imports of steel products from Canada, and Canada agreed to eliminate all tariffs imposed in retaliation thereof.

56. As a result of the section 232 measures, and the issuance by the United States of anti-dumping and countervailing duty orders against plate from almost a dozen countries in early 2017,<sup>41</sup> imports of steel plate into the United States declined by over 500,000 MT from 2016 to 2018.<sup>42</sup>

57. Concerned with the prospect of diversion resulting from the section 232 measures, the EU followed suit with provisional safeguard measures on imports of various steel products, including plate, on July 18, 2018, and imposed definitive safeguard measures on January 31, 2019 (the EU safeguard measures).<sup>43</sup>

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36. *Ibid.*

37. *Ibid.* at 129.

38. *Ibid.* at 88.

39. Exhibit RR-2018-007-C-10, Vol. 12 at 9.

40. Exhibit RR-2018-007-C-01, Vol. 11 at 131-136.

41. *Steel Safeguard Inquiry* at 41. The subject countries were not covered by these orders.

42. Exhibit RR-2018-007-C-01, Vol. 11 at 149.

43. Available online at [https://eur-lex.europa.eu/eli/reg\\_impl/2019/159/oj](https://eur-lex.europa.eu/eli/reg_impl/2019/159/oj).

These measures take the form of a tariff-rate quota (TRQ) aimed at preserving historical levels of imports, while placing a 25 percent tariff on imports that rise above these levels.

58. In addition, in its Steel Safeguard Inquiry, which will be addressed further below, the Tribunal reported that the initiation and imposition of safeguard measures by countries against steel products similar to those covered by the Tribunal's safeguard inquiry have been steadily increasing since 2015.<sup>44</sup> As of 2018, at least nine countries or customs unions had safeguard measures in force on such products and another three had initiated investigations.<sup>45</sup>

59. The above trade restrictions on steel limit the access that steel exporters have to key markets and increase the risk that steel, including the subject goods, will be diverted to Canada. This risk did not exist at the time of the last expiry review.

#### Domestic market conditions

##### – Economic conditions

60. According to a report from the RBC, economic growth in Canada slowed towards the end of the POR, with real GDP growth falling from 3.0 percent in 2017 to 1.9 percent in 2018.<sup>46</sup> The RBC projects that, on balance, 2019 will be a year of subpar economic performance with growth at 1.5 percent but then accelerating modestly to 1.8 percent in 2020. The International Monetary Fund similarly projects growth of 1.5 percent in 2019 and 1.9 percent in 2020.<sup>47</sup> For its part, the Bank of Canada has stated that, while recent data show that the Canadian economy is returning to potential growth, the outlook is clouded by persistent trade tensions.<sup>48</sup>

##### – Plate imports, consumption and prices

61. During the POR, there were no imports or sales from imports of the subject goods in the Canadian market.<sup>49</sup> Total imports of hot-rolled steel plate from non-subject countries remained relatively stable as they increased by 14 percent in 2017, decreased by 20 percent in 2018 and increased by 6 percent in interim 2019 as compared to interim 2018.<sup>50</sup> However, imports and sales from imports of hot-rolled steel plate from the United States decreased significantly over the POR, whereas imports and sales from imports of such plate from other non-subject countries increased by an equal measure due mainly to importer activity.<sup>51</sup> This displacement is likely attributable to the United States' section 232 measures and Canada's retaliatory tariffs imposed in response thereof. It remains uncertain whether the agreement reached between the United States and Canada on May 17, 2019, will result in a reversal of this trend or whether higher prices in the United States due to the protection offered by the section 232 measures will be sufficient to limit U.S. import volumes to Canada.

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44. Exhibit RR-2018-007-C-01, Vol. 11 at 152.

45. These figures exclude safeguard measures or investigations by the United States, Canada or the EU.

46. Exhibit RR-2018-007-C-01, Vol. 11 at 253.

47. *Ibid.* at 109.

48. *Ibid.* at 81.

49. Exhibit RR-2018-007-05A, Tables 7, 11, Vol. 1.1.

50. *Ibid.*, Table 8.

51. *Ibid.*; Exhibit RR-2018-007-05B, Table 12, Vol. 1.1. The Tribunal notes that the decrease in the domestic industry's imports and sales from imports of hot-rolled steel plate from the United States was offset by an increase in domestic production and sales from domestic production. Similarly, the decrease in importers' imports and sales from imports of hot-rolled steel plate from the United States was offset by an increase in imports and sales from imports of such plate from other non-subject countries (i.e. source switching).

62. According to CRU data, reversing mill and coil plate consumption in Canada fell somewhat in 2018 as compared with the three previous years and is expected to remain at that reduced level through 2019.<sup>52</sup> Consumption is projected to return to previous levels in 2020 and then increase gradually through 2023.

63. However, in terms of hot-rolled steel plate (i.e. plate meeting the product definition), the Tribunal's investigation report indicates that the Canadian market grew by 10 percent in 2017, by 3 percent in 2018 and by 13 percent in interim 2019 as compared with interim 2018.<sup>53</sup> In 2018, the Canadian market stood at approximately 1.2 million MT.<sup>54</sup> Mr. Rory Brandow, Regional Sales Director for Algoma, stated that these figures seem high as he believes the market has been relatively stable over the POR.<sup>55</sup> In his view, uncertainty in the market since 2017, when the section 232 investigation was announced, caused an increase in stockpiling on the part of service centres and customers, which would have increased purchases of plate beyond the volume actually consumed. As the Tribunal is only in possession of information relating to inventories of imports held by domestic producers and importers, which have not yet been sold and do not form part of the market, it is unable to assess whether end users are in fact stockpiling plate. In any event, as stated above, consumption is projected to increase gradually in 2020 and beyond.

64. As the Tribunal has stated in virtually every plate case thus far, hot-rolled steel plate is a commodity product that is sold on the basis of price, all other criteria being equal.<sup>56</sup> Prices for hot-rolled steel plate in the Canadian market increased by 17 percent in 2017, by 13 percent in 2018 and by 22 percent in interim 2019 as compared with interim 2018.<sup>57</sup>

65. That being said, Algoma submitted that pricing in the Canadian market has plummeted in 2019. According to Mr. Brandow, Algoma's guidance prices have declined by a very large amount over the past 12 months.<sup>58</sup> This is echoed by SSAB and Nova, who also made note of significant price declines in 2019.<sup>59</sup> In fact, the CRU U.S. Midwest spot price for plate, which the Tribunal has previously used as a proxy for Canadian market prices, declined by 16 percent from June 5 to July 24 of this year.<sup>60</sup> CRU also forecasts gradually declining U.S. and global plate prices through 2023.<sup>61</sup>

– Canadian safeguard measures

66. In October 2018, the government of Canada imposed provisional safeguard measures on imports of seven classes of steel products, including heavy plate, which is a subset of plate meeting the product

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52. Exhibit RR-2018-007-C-02 (protected), Vol. 12 at 340. A similar trend is observed with respect to consumption of reversing mill plate only. See Exhibit RR-2018-007-C-04 (protected), Vol. 12 at 15.

53. Exhibit RR-2018-007-05B, Table 12, Vol. 1.1.

54. *Ibid.*, Table 11.

55. Exhibit RR-2018-007-C-03, Vol. 11 at 4. The Tribunal notes that Mr. Brandow's statement was based on a previous version of the Tribunal's investigation report, which reported lower growth in the Canadian market over the POR.

56. See, for example, *Plate V 2013 Expiry Review* at paras. 32, 74; *Plate VI 2014 Expiry Review* at para. 88.

57. Exhibit RR-2018-007-05B, Table 23, Vol. 1.1.

58. Exhibit RR-2018-007-C-04 (protected), Vol. 12 at 6.

59. Exhibit RR-2018-007-B-02 (protected), Vol. 12 at 1; Exhibit RR-2018-007-C-08 (protected), Vol. 12 at 4.

60. Exhibit RR-2018-007-C-02 (protected), Vol. 12 at 349. In its *Steel Safeguard Inquiry*, the Tribunal noted that, whereas Canadian plate pricing tended to track the U.S. Midwest price in the past, this is no longer the case as the higher U.S. price now reflects the additional protection offered by the section 232 measures (see *Steel Safeguard Inquiry* at 41). However, with the imposition by Canada of final safeguard measures with respect to heavy plate, the difference in pricing between the two countries may be smaller. In any event, Canadian pricing tends to mirror general trends observed in U.S. pricing.

61. *Ibid.* at 264; Exhibit RR-2018-007-C-10 (protected), Vol. 12 at 8.



definition in this expiry review.<sup>62</sup> The Tribunal was also directed to conduct a safeguard inquiry concerning the importation into Canada of these seven classes of steel products.

67. On April 3, 2019, at the conclusion of its inquiry, the Tribunal determined, *inter alia*, that heavy plate was being imported in such increased quantities and under such conditions as to be a principal cause of a threat of serious injury to the domestic industry. It recommended a remedy in the form of a progressively liberalized TRQ on imports of heavy plate from all sources, other than such plate originating in the United States, Chile, Mexico, Israel or another beneficiary of the *Canada-Israel Free Trade Agreement*, Korea, Panama, Peru, Colombia, Honduras, or countries whose goods are eligible for *General Preferential Tariff* (GPT) treatment. The Tribunal notes that the subject countries in this expiry review are not eligible for GPT treatment.

68. On May 9, 2019, the government of Canada implemented the recommendation of the Tribunal to impose final safeguard measures with respect to heavy plate (the final safeguard measures).<sup>63</sup> The measures provide for a quota of 100,000 MT for the first period (May 13, 2019, to May 12, 2020), 110,000 MT for the second period (May 13, 2020, to May 12, 2021) and 54,699 MT for the third period (May 13, 2021, to October 24, 2021).<sup>64</sup> A tariff of 20 percent, 15 percent and 10 percent, respectively, applies to imports that exceed the quota in each period. The measures cease to apply on October 24, 2021.

### **Likely performance of the domestic industry if the order is continued**

69. The Tribunal will examine the likely performance of the domestic industry were the order continued, taking into account that industry's recent performance.<sup>65</sup> For the purposes of this analysis, the Tribunal will consider whether there are any relevant factors other than the dumping of the subject goods affecting or likely to affect the domestic industry's performance in the near to medium term, which, in this case, is the next 12 to 24 months.<sup>66</sup>

70. The investigation report data show that virtually all indicators relating to the performance of the domestic industry improved markedly during the POR.<sup>67</sup> For example, production for domestic sales increased by 8 percent in 2017, by 16 percent in 2018 and by 10 percent in interim 2019 as compared to interim 2018. Total production also increased, but to a lesser degree due to a reduction in production for export sales. Practical plant capacity increased by 3 percent in 2017, by 2 percent in 2018, and fell by one

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62. Heavy plate covers hot-rolled carbon steel plate and high-strength low-alloy steel plate in widths from 80 inches to 152 inches and in thicknesses from 0.375 inches to 4.0 inches (for the complete product definition, see *Steel Safeguard Inquiry* at 32). Plate meeting the product definition in this expiry review is in widths from 24 inches to 152 inches and in thicknesses from 0.187 inches to 4.0 inches.

63. The government also implemented the recommendation of the Tribunal to impose final safeguard measures with respect to stainless steel wire, the only other class of steel product for which the Tribunal recommended a remedy.

64. The quota for the first period is based on the average volume of heavy plate imported from countries other than those excluded above in years 2015-2018. The third period was shortened to 165 days for it to end on October 24, 2021, which is three years from the date of imposition of the provisional safeguard measures. The quota for that period was therefore prorated from the volume of 121,000 MT that would have applied for a full year.

65. See paragraph 37.2(2)(c) of the *Regulations; Plate V 2013 Expiry Review* at para. 85. In *Thermoelectric Containers*, the Tribunal stated the requirement in an expiry review is that the Tribunal draw logical conclusions from the relevant information before it, and that information will often appropriately include the performance of the domestic and foreign industries during the period of review, when anti-dumping and countervailing duties were in place (at para. 14). See also *Aluminum Extrusions* at para. 21.

66. See paragraph 37.2(2)(k) of the *Regulations*.

67. See Exhibit RR-2018-007-05A, Table 32, Vol. 1.1; Exhibit RR-2018-007-06B (protected), Table 32, Vol. 2.1; Exhibit RR-2018-007-06C (protected), Table 13, Vol. 2.1.

percent in interim 2019 as compared with interim 2018. Capacity utilization for production for domestic sales and for total production increased throughout the POR, with the former increasing by 4 percent in 2017, by 15 percent in 2018 and by 14 percent in interim 2019 as compared with interim 2018.

71. As for domestic sales from domestic production, they increased by 11 percent in 2017, by 18 percent in 2018 and by 23 percent in interim 2019 as compared with interim 2018. Total domestic sales also increased owing to growth in the Canadian market, but to a lesser degree due to reduced sales from imports (largely from the United States) likely resulting from the section 232 measures and the imposition of retaliatory tariffs by Canada. Total export sales decreased throughout the POR likely due to the section 232 measures.

72. Increases were observed during the POR for the number of employees, hours worked and wages paid—both for direct and indirect employment—as well as for productivity, both in terms of tonnes per employee and tonnes per hour worked. Significant investments were also made during the POR and are projected to be higher in 2019 and 2020.

73. The domestic industry's share of the market represented by its sales from domestic production increased from 55 percent in 2016 to 64 percent in 2018 and then to 68 percent in interim 2019. However, it must be noted that the domestic industry's share of the market represented by its sales from imports fell in a similar proportion, resulting in an overall market share that remained essentially the same throughout the POR. As mentioned above, this shift is likely attributable to the section 232 measures and the imposition of retaliatory tariffs by Canada, which curtailed imports of plate from the United States.

74. The domestic industry's financial performance also improved significantly during the POR, as attested by rising gross margins and profitability for domestic sales from domestic production, both at the aggregate and per unit levels.<sup>68</sup> Gross margins and net income reached their peak in 2018 and interim 2019.

75. The Tribunal notes that, on November 9, 2015, Essar Steel Algoma Inc. filed for creditor protection under the *Companies' Creditors Arrangement Act*<sup>69</sup> (CCAA) and commenced court-supervised restructuring proceedings.<sup>70</sup> On November 30, 2018, the company emerged from the CCAA proceedings as Algoma (under new ownership). According to Ms. Laura Devoni, Manager of Trade and Economics for Algoma, with an improved balance sheet, Algoma now has the opportunity to focus on the market without the burden of excessive debt, which had been an issue in the past.<sup>71</sup>

76. It is clear from the foregoing that, by the end of the POR, the domestic industry's performance was stronger in nearly all relevant respects. The Tribunal is of the view that this can largely be ascribed to the increase in unit values of sales from domestic production, which increased by 35 percent from 2016 to 2018 and by 19 percent in interim 2019, as compared to interim 2018.<sup>72</sup> This suggests that the domestic industry is particularly sensitive to fluctuations in prices, especially as hot-rolled steel plate is a commodity product.

77. As previously discussed, since the end of the POR, the price of hot-rolled steel plate in the Canadian market has declined considerably and prices are generally expected to trend downwards for the foreseeable future, albeit at a much more gradual pace. There is little doubt that lower prices have already negatively affected the financial performance of the domestic industry and will continue to do so in the near to medium

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68. Exhibit RR-2018-007-06B (protected), Table 28, Vol. 2.1.

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

70. Exhibit RR-2018-007-C-05, Vol. 11 at 4-5.

71. *Ibid.* at 5.

72. Exhibit RR-2018-007-05B, Tables 22, 23, Vol. 1.1.

term. In her statement, Ms. Devoni clearly indicated the impact of a continued decrease in price on Algoma's profitability.<sup>73</sup>

78. These lower prices, combined with limited demand growth, the ongoing threat of diversion caused by the section 232 measures, the recent elimination of the retaliatory tariffs imposed by Canada in response to the section 232 measures, and the fact that the final safeguard measures will be progressively liberalized and cease to apply completely in less than 24 months from the date of this order, are challenges that the domestic industry is likely to face in the near to medium term. They suggest that the performance of the domestic industry—particularly in terms of sales and profitability—will likely worsen to some extent between now and 2021, even if the order is continued. However, for the reasons set out below, the Tribunal finds that the domestic industry's performance would nonetheless likely be materially injured by the resumed dumping of the subject goods should the order be rescinded.

### **Likely performance of the domestic industry if the order is rescinded**

#### Likely import volume of dumped goods

79. Paragraph 37.2(2)(a) of the *Regulations* directs the Tribunal to consider the likely volume of the dumped goods if the order is allowed to expire, and, in particular, whether there is likely to be a significant increase in the volume of imports of the dumped goods, either in absolute terms or relative to the production or consumption of like goods.

80. The Tribunal's assessment of the likely volumes of dumped imports encompasses the likely performance of the foreign industry, the 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 and/or countervailing measures in other jurisdictions in respect of goods of the same description or similar goods, and whether measures adopted by other jurisdictions are likely to cause a diversion of the subject goods to Canada.<sup>74</sup>

81. In Expiry Review No. RR-2013-002, the Tribunal agreed that there is a production imperative to maintain high capacity utilization rates when it comes to the production of hot-rolled steel plate, which creates an incentive to rely on export markets to absorb any excess production.<sup>75</sup> There is no indication that this has since changed.

82. The evidence on the record in this expiry review indicates that there is currently significant excess capacity in the subject countries, particularly when compared to the size of the Canadian market, and that producers in these countries have remained export oriented. In Bulgaria, the major steel producer, Stomana Industry, has confirmed that it exports more than 90 percent of its plate production to more than 30 countries spanning a wide geographical area.<sup>76</sup> Moreover, Stomana's estimated production capacity for reversing mill plate, paired with the World Steel Association estimated production of hot-rolled steel plate for Bulgaria in 2017, implies a capacity utilization rate not higher than 68.5 percent.<sup>77</sup>

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73. Exhibit RR-2018-007-C-06 (protected), Vol. 12 at 6.

74. Paragraphs 37.2(2)(a), (d), (f), (h) and (i) of the *Regulations*.

75. *Plate V 2013 Expiry Review* at para. 67.

76. Exhibit RR-2018-007-C-01, Vol. 11 at 183.

77. *Ibid.* at 160, 184. The World Steel Association's estimated production of hot-rolled steel plate includes plate in thicknesses of 3 mm and above, whereas the subject goods are in thicknesses of 4.75 mm and above. Therefore, the capacity utilization rate with respect to hot-rolled steel plate meeting the product definition is likely lower.

83. For Romania, CRU data show that its capacity utilization rate with respect to reversing mill plate has been roughly one third throughout the POR, which the Tribunal considers to be quite low.<sup>78</sup> In addition, the resulting excess capacity is larger than the size of the entire Canadian market for plate. CRU data also show that net exports of reversing mill plate from Romania increased by 106,000 MT from 2016 to 2018.<sup>79</sup> This, combined with the fact that the British Liberty House Group, the new owner of Romania's largest steel producer, announced plans to increase production by over 50 percent in the next period and has shown interest in the Canadian market by exporting plate to Canada from a rolling mill it recently acquired in North Macedonia, indicates that Romania is export oriented and will likely refocus on Canada if the order is rescinded.<sup>80</sup>

84. For the Czech Republic, the Tribunal's investigation report shows that, while its capacity utilization rate with respect to the subject goods has increased during the POR, there still remains significant unused capacity, especially when compared to the size of the Canadian market.<sup>81</sup> In any case, CRU projects reduced production of reversing mill plate over the next two years with capacity remaining the same, which will result in a lower capacity utilization rate.<sup>82</sup> The investigation report also confirms that the Czech Republic is export oriented, as a large proportion of its production of subject goods is exported to the EU and other countries.

85. The Tribunal is of the view that the subject countries' significant excess capacity, coupled with their export orientation, suggests that producers there will seek opportunities to sell hot-rolled steel plate in export markets. However, given current market conditions, such opportunities are limited.

86. Indeed, there are a number of factors that have created barriers for exports of hot-rolled steel plate from the subject countries to other key markets that will make Canada an attractive destination for producers of the subject goods should the order be rescinded.

87. Chief among them are the poor market conditions in the EU, the subject countries' home market. As discussed above, growth in the EU is predicted to be weak in 2019 and 2020. This, combined with poor demand, increased imports, declining prices and the progressive liberalization of the EU safeguard measures, will directly impact the ability of producers in the subject countries to sell hot-rolled steel plate in the EU.

88. Another important factor is the section 232 measures in the United States. The Tribunal notes that the subject countries are not subject to quotas under the section 232 measures, and all imports of plate from these countries are therefore subject to a fixed 25 percent duty.<sup>83</sup> These measures will remain in place for such time as the President of the United States deems necessary.<sup>84</sup>

89. Superimposed against these two factors is the previously discussed global overcapacity that exists with respect to the production of plate and, more specifically, the reported overcapacity of nearly 25 million

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78. Exhibit RR-2018-007-C-02 (protected), Vol. 12 at 83, 107.

79. *Ibid.* at 83, 227.

80. Exhibit RR-2018-007-C-01, Vol. 11 at 189, 194, 198.

81. Exhibit RR-2018-007-06B (protected), Table 35, Vol. 2.1. The Tribunal notes that its data with respect to the Czech Republic was obtained from Vitkovice Steel, the largest plate producer in that country and the only foreign producer to respond to the Tribunal's foreign producers' questionnaire.

82. Exhibit RR-2018-007-C-02 (protected), Vol. 12 at 81, 107.

83. Exhibit RR-2018-007-C-01, Vol. 11 at 131-136.

84. See section 232(b) of the U.S. *Trade Expansion Act of 1962*.

MT for Chinese reversing mill plate in 2019.<sup>85</sup> Such large excess capacity can give rise to serious competition from Chinese plate in any other markets that are not protected by trade measures.

90. In addition to the foregoing, should the order be rescinded, the Canadian market will be attractive to producers in the subject countries given the higher prices relative to most other markets. The CRU U.S. Midwest spot price for plate, which, although may be marginally higher than Canadian pricing, still remains a reasonable proxy for Canadian pricing trends, has been considerably higher than prices in other markets, including the subject countries, throughout the POR.<sup>86</sup> This is projected to continue through 2021.<sup>87</sup>

91. The Canadian market will also be attractive to producers in the subject countries due to reduced import competition resulting from Canadian anti-dumping measures currently in place against plate from China, Ukraine, Brazil, Denmark, Indonesia, Italy, Japan and Korea.<sup>88</sup>

92. Although the final safeguard measures are expected to have an impact on the likely volumes of subject goods, the Tribunal is of the view that it will be limited for a number of reasons. First, as already mentioned above, the final safeguard measures apply to heavy plate, which is a subset of plate meeting the product definition in this expiry review. Therefore, subject goods not falling within the definition of heavy plate will be remain unaffected by the measures. Moreover, Algoma provided some evidence that hot-rolled steel plate in widths narrower than 80 inches is being imported to circumvent the final safeguard measures.<sup>89</sup> Second, the quota volume, as well as the tariff applied to over-quota imports, will be progressively liberalized (in May 2020 and again in May 2021) and cease to apply completely in less than 24 months from the date of this order. Finally, the final safeguard measures do not subject in-quota imports of heavy plate to any price disciplines and the effect of the tariff applied to over-quota imports can be minimized by reducing export prices.<sup>90</sup>

93. On the basis of the foregoing, and despite the fact that the subject goods were absent from the Canadian market during the POR, the Tribunal finds that there is likely to be a significant volume of subject goods that enter Canada over the next 12 to 24 months if the order is rescinded.

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85. Exhibit RR-2018-007-C-02 (protected), Vol. 12 at 80, 106.

86. *Ibid.* at 192, 264. In its Steel Safeguard Inquiry, the Tribunal noted that, compared to markets other than the United States, plate prices in Canada are expected to remain relatively high over the short to medium term (see *Steel Safeguard Inquiry* at 41).

87. Exhibit RR-2018-007-C-02 (protected), Vol. 12 at 264. Although there is no evidence on the record with respect to projected prices for the subject countries, pricing trends for other European markets during the POR, and the prices for the subject countries relative to those other markets, strongly suggest that U.S. Midwest pricing will remain considerably higher than prices in the subject countries through 2021.

88. Exhibit RR-2018-007-05A, Table 2, Vol. 1.1. The order currently in place against plate from China was made on August 9, 2018, and will therefore expire on August 9, 2023, unless the Tribunal initiates an expiry review before that date. The order currently in place against plate from Ukraine was made on January 30, 2015, and will therefore expire on January 30, 2020, unless the Tribunal initiates an expiry review before that date. The finding currently in place against plate from the remaining countries was made on May 20, 2014. On May 9, 2019, the Tribunal issued a notice of expiry review with respect to this finding. On October 4, 2019, the CBSA determined, pursuant to paragraph 76.03(7)(a) of *SIMA*, that the expiry of the finding was likely to result in the continuation or resumption of dumping of the goods. The Tribunal began its expiry review on October 7, 2019, and is scheduled to issue an order either continuing or rescinding the finding on March 13, 2020.

89. Exhibit RR-2018-007-C-02 (protected), Vol. 12 at 296-297, 299-301, 305.

90. This will become more likely as the tariff is reduced to 15 percent in May 2020 and then to 10 percent in May 2021.

Likely price effects of dumped goods

94. The Tribunal must consider whether, if the order is allowed to expire, the dumping of the subject goods is likely to significantly undercut the prices of like goods, depress those prices, or suppress them by preventing increases in those prices that would likely have otherwise occurred.<sup>91</sup> In this regard, the Tribunal distinguishes the price effects of the dumped goods from any price effects that would likely result from other factors affecting prices.

95. The Tribunal recalls that, as indicated above in the section on domestic market conditions, hot-rolled steel plate is a commodity product that is sold on the basis of price, all other criteria being equal. Therefore, assuming that it meets the desired specifications, price is the most important factor driving a customer's purchasing decision.

96. Algoma submitted that the domestic industry is facing significant and growing pressure from several new offshore sources, such as Turkey, Malaysia and Taiwan, which are selling increasing volumes of low-priced plate in the Canadian market that significantly undercut the domestic industry's selling prices. It submitted that, if the order is rescinded, producers in the subject countries will need to compete with these low-priced sources in order to regain sales and market share in Canada.

97. Given that the subject goods were absent from the Canadian market during the POR, the Tribunal is unable to compare the prices of imports of the subject goods into Canada with the prices of non-subject goods and like goods. However, the evidence on the record does corroborate Algoma's claim that low-priced imports of hot-rolled steel plate from Turkey, Malaysia and Taiwan undercut the domestic industry's selling prices. In fact, information obtained from individual importers' questionnaire responses shows that, during every period of the POR, save for interim 2019, average unit selling prices of imports of hot-rolled steel plate from Turkey, Malaysia and/or Taiwan were below the domestic industry's average unit selling prices.<sup>92</sup> Taken together, imports from these three countries accounted for roughly half of the total imports of hot-rolled steel plate by importers from countries other than the United States during the POR.<sup>93</sup> It must be recalled that the share of total imports represented by imports from countries other than the United States increased significantly over the POR.<sup>94</sup>

98. In addition, Algoma provided account and transaction-specific evidence of recent and significant low-priced competition from the three aforementioned countries, as well as from India and Morocco, which significantly undercut its own pricing.<sup>95</sup>

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

92. Exhibit RR-2018-007-05B, Table 22, Vol. 1.1; various importers' questionnaire responses. The Tribunal does note that, during every period of the POR, selling prices of imports of hot-rolled steel plate from these three countries were below the selling prices of domestic mills. See Exhibit RR-2018-007-06C (protected), Table 22, Vol. 2.1.

93. Exhibit RR-2018-007-06B (protected), Table 7, Vol. 2.1; various importers' questionnaire responses.

94. *Ibid.*, Table 9. As stated above, the displacement of imports from the United States by imports from other non-subject countries is likely attributable to the section 232 measures and Canada's retaliatory tariffs.

95. Algoma provided a table summarizing this evidence in its brief. See Exhibit RR-2018-007-C-02 (protected), Vol. 12 at 48. As Morocco is eligible for GPT treatment, it is not subject to the final safeguard measures.

99. Accordingly, the Tribunal finds that, if the order is rescinded, the subject goods would be required to compete with these low-priced sources of hot-rolled steel plate to gain market share and would, as a result, likely re-enter the Canadian market at even lower prices. Such an outcome is further supported by the evidence on the record which suggests that, during the POR, the subject goods would, had they been exported to Canada and sold in the Canadian market, undercut the domestic industry's selling prices as well as selling prices of imports from Turkey, Malaysia and Taiwan.

100. The Tribunal was able to arrive at this conclusion by taking UN Comtrade export price data for each of the subject countries, converting the prices into Canadian dollars using Bank of Canada annual average exchange rates, and adding a reasonable amount for freight and importer markup.<sup>96</sup> This exercise yielded selling prices well below the domestic industry's average unit selling prices over the POR and, save for one subject country for one period of the POR, below average unit selling prices of imports from Turkey, Malaysia and Taiwan.

101. Although the imposition of an over-quota tariff owing to the application of the final safeguard measures would likely raise the selling prices of subject goods in the Canadian market, the extent of the undercutting discussed above would still lead to prices that, in some cases, would fall below the domestic industry's average unit selling prices and, in most cases, would fall below the domestic mills' average unit selling prices. Of course, for an over-quota tariff to be imposed, the quota would already have to be filled for the applicable period, imports would have to fall within the product definition for heavy plate, and they would also have to enter Canada before October 24, 2021. Even then, as the quota volume and the over-quota tariff will be progressively liberalized, the impact of the final safeguard measures will lessen as time goes on.<sup>97</sup> Exporters will also be incentivized to reduce their prices further to nullify the impact of the over-quota tariff and remain competitive with other sources.

102. According to Mr. Brandow, it is reasonable to project that the domestic industry's price would be forced down by \$50 to \$100 per MT beyond the price that would otherwise prevail if the order were rescinded.<sup>98</sup> While this projection has not been challenged due to the lack of any submissions opposing the continuation of the order, the Tribunal's assessment of the evidence on the record and its own analysis shows that, in the current circumstances, it is a reasonable projection.

103. On the basis of the foregoing, the Tribunal finds that the dumping of the subject goods is likely to cause significant adverse price effects, namely price undercutting and price depression, over the next 12 to 24 months if the order is rescinded.

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96. Exhibit RR-2018-007-C-01, Vol. 11 at 155. The UN Comtrade data supplied by Algoma covered the same HS codes as those mentioned in the Tribunal's investigation report (see Exhibit RR-2018-007-05A, Vol. 1.1 at 10). The Tribunal notes that Evraz supplied Eurostat export price data that was very similar to the data supplied by Algoma (see Exhibit RR-2018-007-A-01, Vol. 11 at 8). Based on information gathered from questionnaire responses, the Tribunal determined that 15 percent of the export price represented a reasonable amount for freight and importer markup.

97. The Tribunal notes that, in less than 19 months from the date of this order (i.e. by May 13, 2021), the quota volume will have increased by 21 percent relative to the presently applicable quota volume and the over-quota tariff will have been reduced from 20 percent to 10 percent.

98. Exhibit RR-2018-007-C-03, Vol. 11 at 13.

Likely impact of the dumped goods on the domestic industry

104. The Tribunal will now assess the likely impact of the above volumes and prices on the domestic industry if the order is rescinded,<sup>99</sup> taking into consideration the likely performance of the domestic industry were the order continued, as discussed above. In this analysis, the Tribunal distinguishes the likely impact of the dumped goods from the likely impact of any other factors affecting or likely to affect the domestic industry.<sup>100</sup>

105. Algoma submitted that it, together with Evraz, SSAB, Nova, Del Metals and Janco, has filed materials clearly expressing the view that a rescission of the order will lead to resumed injury to a major proportion of the domestic industry.<sup>101</sup> Overall, the views of these domestic producers are similar; if the order is rescinded, the domestic industry will suffer from decreased sales and declining prices, which will have a negative impact on the financial health of the domestic industry.

106. The Tribunal's investigation report shows an improvement during the POR for the domestic industry at the gross margin and net income levels,<sup>102</sup> which, as discussed previously, was driven largely by the improvement in prices. However, the important decline in the price of hot-rolled steel plate in the Canadian market since the end of the POR and the limited growth of demand that is forecast for the next 12 to 24 months makes the domestic industry fairly vulnerable to any further pressure from the likely importation of significant volumes of low-priced subject goods should the order be rescinded.

107. Taking into consideration the expected further decrease in price that would be occasioned by the rescission of the order, the Tribunal finds that the domestic industry would return to a materially worse financial position, even before the negative impact of any lost volume is considered. In a scenario where the domestic industry attempts to resist price declines, or resists them at least in part, important volumes of domestic production would likely be displaced by sales of subject goods. As the domestic industry has considerable excess capacity, the expected adverse price effects would be compounded by the financial impact of reduced production volumes and corresponding lost market share.

108. Other negative effects that would ensue from a rescission of the order include temporary and even permanent layoffs as well as the reduction or postponement of currently planned investments, which are necessary for the domestic industry to remain competitive and viable.<sup>103</sup>

109. Having accounted for the impact of other non-dumping factors in its discussion of the likely performance of the domestic industry if the order is continued and ensured not to attribute to the subject goods any adverse effects on the domestic industry that is likely to result from such other factors, the Tribunal finds that the resumption of dumping of the subject goods will likely result, in and of itself, in material injury to the domestic industry over the next 12 to 24 months.

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99. Paragraphs 37.2(2)(e) and (g) of the *Regulations*.

100. See paragraph 37.2(2)(k) of the *Regulations*.

101. The Tribunal notes that, together, these domestic mills and service centres represented a large proportion of known domestic sales from domestic production during the POR. See Exhibit RR-2018-007-06C (protected), Table 11, Vol. 2.1.

102. Exhibit RR-2018-007-06B (protected), Table 28, Vol. 2.1.

103. Exhibit RR-2018-007-C-05, Vol. 11 at 7-8.



**DETERMINATION**

110. Pursuant to paragraph 76.03(12)(b) of *SIMA*, the Tribunal hereby continues its order in respect of the subject goods.

Peter Burn  
Peter Burn  
Presiding Member

Georges Bujold  
Georges Bujold  
Member

Cheryl Beckett  
Cheryl Beckett  
Member