



Canadian International
Trade Tribunal

Tribunal canadien du
commerce extérieur

CANADIAN
INTERNATIONAL
TRADE TRIBUNAL

Dumping and Subsidizing

ORDER AND REASONS

Expiry Review No. RR-2017-004

Hot-rolled Carbon Steel Plate

*Order and reasons issued
Thursday, August 9, 2018*

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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 8, 2013, in Expiry Review No. RR-2012-001, concerning:

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

ORDER

The Canadian International Trade Tribunal, pursuant to subsection 76.03(3) of the *Special Import Measures Act*, has conducted an expiry review of the order made on January 8, 2013, in Expiry Review RR-2012-001, 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.

Rose Ritcey

Rose Ritcey
Presiding Member

Jean Bédard

Jean Bédard
Member

Peter Burn

Peter Burn
Member

Date of Hearing: May 28, 2018

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STATEMENT OF REASONS

INTRODUCTION

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 8, 2013, in Expiry Review No. RR-2012-001, continuing its order made 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 October 3, 2017. On October 4, 2017, the Canada Border Services Agency (CBSA) initiated an expiry review investigation to determine whether the expiry of the order was likely to result in the continuation or resumption of dumping of the subject goods.

3. On March 2, 2018, 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.

4. On March 5, 2018, 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, and sent questionnaires to be completed by potential domestic producers (domestic mills and service centres), importers and foreign producers.

5. The period of review (POR) for this expiry review was the three complete calendar years 2015, 2016 and 2017. The Tribunal sent the domestic mills/service centres' questionnaire to two potential domestic mills and to 17 service centres.² It received two completed questionnaire from the domestic mills and nine from the service centres,³ which were used in the preparation of the investigation report. In addition, it sent the importers' questionnaire to 17 potential importers and received 11 replies from companies stating that they import subject goods and/or goods meeting the product definition from non-subject countries. Finally, the foreign producers' questionnaire was sent to 27 potential foreign producers, but no replies or completed questionnaires were received.

6. Submissions from participants were received in support of the continuation of the order, i.e., from Essar Steel Algoma Inc. (Essar Algoma), SSAB Central Inc. (SSAB), Evraz Inc. NA Canada (Evraz) and the United Steelworkers. No parties provided submissions or made arguments in opposition to a continuation of the order and the Tribunal did not receive any requests for information, nor did it receive requests for product exclusions.⁴ The Tribunal therefore held a file hearing in this matter on May 28, 2018, with consent of the parties supporting a continuation of the order.

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

2. SSAB is being treated as a steel service centre in this proceeding compared to previous ones (including *Hot-rolled Carbon Steel Plate and High-strength Low-alloy Steel Plate* (6 January 2016), NQ-2015-001 (CITT) at para. 48 [*Plate VIII*]) where it was treated as a domestic mill.

3. Questionnaire reply received from Russel Metal Inc. includes data from the following service centres that had received the questionnaire: Acier Leroux Inc.; Alberta Industrial Metals Ltd, a division of Russel Metals Inc.; A.J. Forsyth, a division of Russel Metals Inc.; B&T, a division of Russel Metals Inc.

4. The Tribunal also notes that no Chinese exporter had an insignificant dumping margin during the original CBSA investigation and therefore did not need to be excluded from the injury analysis.

7. 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; the public and protected prehearing investigation report prepared for this expiry review; witness statements and other exhibits; the exhibit list and the Tribunal's order, statement of reasons and public and protected prehearing staff reports prepared for Expiry Review No. RR-2012-001 and revisions thereto.

8. 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

9. 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 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

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

11. 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.

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

Production Process

13. 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.

14. 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 can be produced to a maximum thickness of one inch.⁵ Cut-to-length plate is included in the product definitions of the subject goods and the like goods.

Product Applications

15. 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

16. Domestically produced carbon 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 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.

POSITIONS OF THE PARTIES

17. The supporting parties’ main position is that the order should be continued due to the vulnerability of the domestic industry, as well as the excess capacity and export orientation of the Chinese plate industry. Essar Algoma’s evidence and arguments focused on the next 12 to 18 months due to the volatility of the Canadian and the global plate markets but also supported an analysis of 18 to 24 months, as the Tribunal concluded in the last review.⁶

18. Essar Algoma agreed that the domestic industry includes domestic mills and service centres as domestic producers of like goods.⁷

19. As set out above, no submissions opposing the continuation of the order were received.

LEGAL FRAMEWORK

20. The Tribunal is required, pursuant to subsection 76.03(10) of *SIMA*, 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

21. 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-2012-001, 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.

5. Exhibit RR-2017-004-05 at 73, Vol. 1.1.

6. Exhibit RR-2017-004-A-01 at para. 34, Vol. 11; *Hot-rolled Carbon Steel Plate* (8 January 2013), RR-2012-001 (CITT) at para. 63.

7. Exhibit RR-2017-004-A-01 at para. 19, Vol. 11.

8. 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.

22. Before proceeding with its analysis of the likelihood of injury, the Tribunal must first determine what goods constitute “like goods”. Once that determination has been made, the Tribunal must determine which businesses constitute the “domestic industry”.

LIKE GOODS AND CLASSES OF GOODS

23. 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.⁹

Like Goods

24. 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.

25. 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 (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).¹⁰

26. In *Plate VIII*, Essar Algoma, one of the parties to those proceedings, “claimed that service centres tend to concentrate on widths that are less than 72 inches, whereas the vast majority of Essar Algoma’s production is hot-rolled steel plate in widths of 96 inches and greater.”¹¹

27. In that inquiry, the Tribunal was satisfied that the domestic industry, as a whole, produces the same range of hot-rolled steel plate products as the subject goods.¹² The Tribunal also added that, “although domestic mills and service centres may choose to focus much of their production in different widths, the Tribunal is satisfied that both are producers of like goods.”¹³

28. On the basis of the above considerations, and consistently with its long-standing approach to this issue, the Tribunal is of the view that domestically produced hot-rolled steel plate products of the same description as the subject goods are like goods in relation to the subject goods in this proceeding.

Classes of Goods

29. Essar Algoma and SSAB submitted that the like goods constitute a single class of like goods to the subject goods. The Tribunal, similarly to the issue of like goods, has a long-standing approach that

9. Should the Tribunal determine that there is more than one class of goods in this inquiry, 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).

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

11. *Plate VIII* at para. 34.

12. *Ibid.* at para. 35.

13. *Ibid.*

domestically produced plate is one class of goods. Therefore, the Tribunal is of the view that there is only one class of goods, and it performed its analysis accordingly.

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.¹⁴

32. In previous decisions, such as *Plate VIII*, the Tribunal decided that the domestic industry producing plate includes service centres. It is a position supported by Essar Algoma in its submission to this expiry review.

33. There being no evidence to contradict this position, the Tribunal will consider the domestic industry as comprised of domestic producers including service centres, for which collective production of the like goods constitutes a “major proportion” of the total domestic production of the like goods.

34. There are currently two mills that produce like goods, namely, Essar Algoma, of Sault Ste. Marie, Ontario, and Evraz, of Regina, Saskatchewan, both of whom responded to the domestic mills/service centres’ questionnaire. There are numerous service centres located throughout Canada that produce like goods, namely, Acier Nova Inc., Alliance Steel Corporation, Coilex Inc., Del Metals, Janco Steel Ltd., Russel Metals Inc.,¹⁵ Samuel, Son & Co. Limited, SSAB Central Inc. and Varsteel Limited, all of whom responded to the domestic mills/service centres’ questionnaire. While the majority of service centres may tend to concentrate on narrower widths and domestic mills may tend to concentrate on wider widths, they together produce a full range of like goods that compete with the subject goods of the same description and can be considered a single domestic industry.

35. The Tribunal’s data covers both domestic mills and all of the major service centres known to the Tribunal as being part of the Canadian market. The Tribunal’s view is that non-responding service centres

14. The term “major proportion” means an important, serious or significant proportion of total domestic production of like goods and not necessarily a majority: *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, 419, 430; *Argentina – Definitive Anti-dumping Duties on Poultry from Brazil* (22 April 2003), WTO Docs. WT/DS241/R, Report of the Panel at paras. 7.341-7.344.

15. Russel Metal Inc. includes data from the following service centres that had received the questionnaire to complete: Acier Leroux Inc.; Alberta Industrial Metals Ltd, a division of Russel Metals Inc.; A.J. Forsyth, a division of Russel Metals Inc.; B&T, a division of Russel Metals Inc.

are likely smaller operations with minor production and sales volumes.¹⁶ The Tribunal is therefore of the view that it can determine whether there is a likelihood of injury to a major proportion of the domestic industry.

LIKELIHOOD OF INJURY ANALYSIS

36. An expiry review is forward-looking.¹⁷ It follows that evidence from the POR 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 is likely to result in injury.¹⁸

37. There is no presumption of injury in an expiry review; orders must be based on positive evidence, in compliance with domestic law and consistent with the requirements of the World Trade Organization.¹⁹ In the context of an expiry review, positive evidence can include evidence based on past facts that tend to support forward-looking conclusions.²⁰

38. 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.

39. In this case, there is no reason to depart from the typical 18-to-24-month time period for analysis. In any case, the evidence of what will happen if the order is rescinded is clear in either the shorter or longer time period.

40. Subsection 37.2(2) of the *Special Import Measures Regulations*²¹ lists factors that the Tribunal may consider in addressing the likelihood of injury in expiry reviews 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.

41. For the reasons described below, the Tribunal has decided to continue its order – the summary of those reasons is as follows:

- in the POR, with the order in place, the domestic industry's share of sales from domestic production of like goods in the Canadian market has stabilized in an increasing market;
- in the next 18 to 24 months, even with the order in place, the domestic industry will continue to face challenges; however, without the order, the domestic industry's situation would be much worse;
- considering that China has an enormous capacity to produce plate and is restricted by trade measures in several other key markets, Canada would be an even more attractive market for Chinese producers in the absence of *SIMA* duties;

16. Exhibit RR-2017-004-06 at 76, Vol. 2.1; Exhibit RR-2017-004-A-02 (protected) at para. 13, Vol. 12.

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

18. *Copper Pipe Fittings* (17 February 2012), RR-2011-001 (CITT) at para. 56. In *Thermoelectric Containers* (9 December 2013), RR-2012-004 (CITT) 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) at para. 21.

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

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

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

- in the absence of an order in place, as Chinese producers would have to compete with low prices from non-subject countries to offer the lowest-priced product, there would soon be a “race to the bottom” in terms of pricing. The results would be materially injurious for the domestic industry including the service centres.

Changes in Market Conditions

42. In order to assess the likely volumes and prices of the subject goods and their impact on the domestic industry if the order is rescinded, the Tribunal will first consider changes in international and domestic market conditions during the POR.²²

43. It should be noted that during the POR, there were no imports or sales of imports of the subject goods in the Canadian market. The U.S. remained, by far, the dominant source of imports and sales of imports although this source declined in 2017, when compared to 2016. Imports and sales of imports from other countries increased in 2017, when compared to 2016, as there was a sharp increase in the volume of imports and sales of imports from other countries by importers. The Tribunal notes that the sales and/or purchases of imports represent almost half of the Canadian market in terms of volume, therefore representing an important share of the market.

44. Furthermore, in terms of unit values, the investigation report shows that those sales and purchases by domestic producers and importers of imports from the other countries are always lower than the unit values of sales and purchases of imports from the U.S.

International Market Conditions

45. Currently, there is much uncertainty in the global plate market because of trade actions of major players, including the U.S. and the European Union. Even though Essar Algoma acknowledges that the global economy improved somewhat over the POR, it also cites considerable uncertainty about the steel market even in the near future.²³

46. The Tribunal’s data indicates such an improvement, with global gross domestic product (GDP) increasing by at least 3.1 percent each year of the POR.²⁴ Additionally, Chinese GDP growth averaged 6.8 percent over the POR. Chinese total apparent consumption and total production of reversing mill and coil plate as well as plate prices all saw increases in 2017 when compared to 2016 and 2015.²⁵

47. However, while individual forecast trends for reversing mill and coil plate may differ, total apparent consumption and total production are forecasted to decline between 2018 and 2020 relative to 2017 levels. Chinese plate prices are also forecasted to decline between 2018 and 2020.

48. There also remains significant Chinese and global overcapacity for steel.²⁶ Despite efforts to help curtail excess capacity, new investments projects in capacity additions continue to or are forecasted to take place globally in the coming years. Shipbuilding, a major source of plate demand, has slumped over the POR, and is not forecasted to increase significantly in the years ahead.²⁷

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

23. Exhibit RR-2017-004-A-01 at paras. 36 *et seq.*, Vol. 11.

24. Exhibit RR-2017-004-05, Table 54, Vol. 1.1

25. *Ibid.*, Tables 54-55; Exhibit RR-2017-004-06 (protected), Tables 54-55, Vol. 2.1.

26. Exhibit RR-2017-004-A-01 at 18, Vol. 11; Exhibit RR-2017-004-A-03 at 198-200, Vol. 11A; Exhibit RR-2017-004-25.02 at 309, Vol. 7.1E.

27. Exhibit RR-2017-004-A-01 at 20, Vol. 11; Exhibit RR-2017-004-A-03 at paras. 190, 239, Vol. 11A.

Domestic Market Conditions

49. The investigation report shows that service centres are now the dominant players in the plate market.²⁸ While the Tribunal did not collect detailed data on service centres during the original inquiry or the previous expiry reviews, this likely represents a change in the composition of the domestic market from previous proceedings, where the domestic mills were the dominant producers and sellers.²⁹

50. The Canadian market for plate grew and became healthier, in terms of volume and pricing respectively. This is shown in the market data for 2017, which shows the largest market by volume and the best overall average prices observed over the POR.³⁰ The general economic and plate-specific indicators also support this trend, with strong growth in key Canadian sectors (energy, machinery manufacturing, industrial building permits) and production volumes of plate in 2017.³¹

51. The Canadian market for plate is likely larger than during the last review, although volumes from the last review are certainly understated because no service centre data (other than SSAB) were included in the investigation report for the last review. Essar Algoma did submit historical data for the Canadian demand for reversing mill plate, covering the period 2008-2018.³² Data for the complete years of the POR of the last expiry review (2009 to 2011) show an increase in demand; however, demand remained at levels lower than the high levels enjoyed until the financial crisis of 2008. For this current expiry review, the levels of Canadian demand for reversing mill plate are all slightly lower than in 2011, but are higher, on average, than the average level for the POR in the last expiry review. In 2018, the Canadian demand for reversing mill plate is expected to reach one of the highest levels in recent history, but not as high as its peak of 2008.

Likely Performance of the Domestic Industry if the Order Is Continued

52. The Tribunal will examine the likely performance of the domestic industry if the order was continued, taking into account that industry's recent performance.³³ 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.³⁴

53. Over the POR, the domestic industry's performance improved with regard to key metrics. According to the investigation report, the domestic industry's profits, employment (in terms of number of employees, hours worked and wages), practical plant capacity, production and capacity utilization increased. Furthermore, sales from domestic production and their unit values also increased between 2015 and 2017.

28. SSAB was included as a steel service centre in the investigation report of this current expiry review, whereas it was included as a domestic mill in the last expiry review.

29. Service centres have been considered to be a part of the domestic industry in past expiry reviews of this finding, as well as in the original injury inquiry: *Hot-rolled Carbon Steel Plate* (8 January 2013), RR-2012-001 at paras. 21, 22; *Hot-rolled Carbon Steel Plate* (9 January 2008), RR-2007-001 at para. 45; *Hot-rolled Carbon Steel Plate* (10 January 2003), RR-2001-006 at 3; *Hot-rolled Carbon Steel Plate* (27 October 1997), NQ-97-001 at 10.

30. Exhibit RR-2017-004-05, Tables 10, 24, Vol. 1.1; Exhibit RR-2017-004-06 (protected), Tables 10, 24, Vol. 2.1.

31. Exhibit RR-2017-004-05, Table 53, Vol. 1.1; Exhibit RR-2017-004-06 (protected), Table 56, Vol. 2.1.

32. Exhibit RR-2017-004-A-07 at para. 9, Vol. 11C.

33. See paragraph 37.2(2)(c) of the *Regulations*; *Hot-rolled Carbon Steel Plate and High-strength Low-alloy Steel Plate* (7 January 2014), RR-2013-002 (CITT) 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 POR, when anti-dumping and countervailing duties were in place (at para. 14). See also *Aluminum Extrusions* at para. 21.

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

54. However, the domestic industry did not gain market share in the expanding market and still had significant excess capacity and increased inventories.

55. The Tribunal is of the view that the increase in unit values of sales from domestic production, in 2017, which was also the peak price during the POR, helped the domestic industry achieve better financial results at the net income level during that year when compared to the beginning of the POR. This also indicates to the Tribunal the sensitivity of the domestic industry to any fluctuations in prices of the like goods, especially since the like goods are a commodity product.

56. The Tribunal acknowledges that looking ahead, even with the order in place, the domestic industry will face many challenges, some of which the domestic industry can control, and some it cannot. Those challenges are, among others: Essar Algoma's restructuring following their filing for relief from their creditors under the *Companies' Creditors Arrangement Act* (CCAA) in November 2015³⁵, the price of plate, and the uncertainty of trade measures by the U.S. and other jurisdictions around the world.

57. Essar Algoma stated that one of the reasons, and probably the main reason, for the price increase is the uncertainty around U.S. trade restrictions on steel products.³⁶ The witness of Essar Algoma states that this uncertainty has led to customers buying more steel than usual, due to concerns of a tighter U.S. market for steel. At the time of publication of this statement of reasons, steel originating from Canada, among other countries, is impacted by the Section 232 tariffs on aluminum and steel. As a result of the recent U.S. measures, trade diversion from plate producers in other countries becomes more likely as they no longer have unrestricted access to the U.S. market. Given the current circumstances concerning Section 232 tariffs, continuing the order will prevent imports of the subject goods from accessing the Canadian market at unfair prices.

58. Given that the unit value of sales from domestic production was at its highest in 2017 during the POR, according to the investigation report, that prices of plate made in Canada, according to Essar Algoma, have enjoyed a spike in 2018 and that they will likely decline between now and 2020, the domestic industry will likely be under price pressure in any event as of late 2018.

59. Accordingly, the Tribunal is of the view that with the order in place, the domestic industry's performance will likely be stable but could also worsen somewhat from what it experienced during the POR.

Likely Performance of the Domestic Industry if the Order Is Rescinded

Likely Import Volume of Dumped Goods if the Order Is Rescinded

60. 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.

35. The Tribunal notes that even with the order in place, Essar Algoma had to file for creditor protection. It commenced court-supervised restructuring proceedings under the CCAA, and is hopeful "to emerge from the CCAA proceeding as a strong Canadian plate producer that can compete on a level playing field with any producer in the world." Exhibit RR-2017-004-A-01 at para. 279, Vol. 11. In this context, Essar Algoma stated that the opening of the Canadian market to subject goods from China could jeopardize their plans to succeed by eroding Essar Algoma's market share and driving plate prices down.

36. Exhibit RR-2017-004-A-07 at para. 14, Vol. 11C.

61. 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, and whether measures adopted by other jurisdictions are likely to cause a diversion of the subject goods to Canada.³⁷

62. Essar Algoma stated that should the order expire, subject goods from China would have to compete with these lowest prices offered in the Canadian market in order to gain market share. Essar Algoma submitted import activity reports in respect of low-priced plate that entered Canada from the new offshore sources. Essar Algoma states that this situation could have a significant impact on it. The Tribunal acknowledges this situation and is of the view that it could not only affect Essar Algoma, but the whole domestic industry.

63. There were no imports of subject goods during the POR. However, the investigation report shows that imports of plate into Canada from U.S. and other countries increased by 30 percent between 2015 and 2017.

64. While the domestic mills did not import plate from any source, service centres did import large volumes of plate during the POR, from both the U.S. and other countries. Their total imports increased by almost 31 percent during the POR, due to their increasing imports from the U.S.

65. For the importers, who account for a large percentage of the volume of imports in each period of the POR, they increased their imports by 13 and 15 percent in 2016 and 2017 respectively.³⁸ Importers' imports from other countries increased by 91 percent in 2017, a sharp increase compared to prior years.³⁹ The substantial increase in imports from countries other than the United States is highlighted by the percent share among domestic producers and importers, which increased to its highest level during the POR in 2017, to 29 percent.⁴⁰

66. Additionally, Essar Algoma submitted that Chinese subject goods would re-enter the Canadian market in significant volumes because of:

- risk of diversion from other countries as a result of trade measures against Chinese plate (primarily in response to U.S. Section 232 measures);
- massive Chinese excess capacity;
- export orientation of Chinese mills;
- continuing volumes of thicker non-subject plate from China being sold in Canada.⁴¹

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

38. Exhibit RR-2017-004-05, Table 7, Vol. 1.1; Exhibit RR-2017-004-06 (protected), Table 8, Vol. 2.1.

39. Exhibit RR-2017-004-05, Table 7, Vol. 1.1.

40. *Ibid.*, Table 5.

41. Exhibit RR-2017-004-A-01 at paras. 86-100, 197-204, Vol. 11; Exhibit RR-2017-004-A-02 (protected) at para. 94, Vol. 12; Exhibit RR-2017-004-A-05 at paras. 33-45, Vol. 11C; Exhibit RR-2017-004-A-07 at paras. 30-37, Vol. 11C. Essar Algoma also stated that rescission of the order would damage Canada's interests in making the temporary exemption for Canada from Section 232 measures into a permanent one. The Tribunal accepts that instability created in the plate market by current situation in the U.S. and elsewhere is a factor for the Tribunal's assessment of the likelihood of injury; however, the political implications are not relevant.

67. The evidence on massive global excess capacity in the steel market, as well as in China, was not disputed.

68. Essar Algoma submitted information that summarizes the global plate production, consumption and capacity, as well as the plate consumption, production and capacity in China, stating that China is an important contributor when it comes to this excess capacity.⁴² Furthermore, the evidence is that demand in other markets is sluggish, which was not disputed⁴³.

69. Essar Algoma submitted that the shipbuilding sector consumes a large volume of plate, and that sector is currently weak globally, and especially in China, making Chinese plate producers eager to find markets where they can sell their products.⁴⁴ Additionally, there is a domino effect of Chinese plate facing increased competition in other markets, as the U.S. and European Union have closed, or are closing, access to their markets.

70. Chinese plate producers did ship thicker non-subject plate to Canada during the POR.⁴⁵ Other non-subject Chinese goods are already present in Canada, for example, cold-rolled steel sheet, corrosion-resistant steel sheet and alloy/heat-treated plate. The growing volumes of these products, along with the other evidence discussed above, demonstrate a continuing interest and established distribution channels of Chinese exporters in the Canadian market and convince the Tribunal that should the order be rescinded, there would be substantial volumes of imports of the subject goods in all size ranges.⁴⁶

71. Consequently, the Tribunal finds that, if the order is rescinded, there will likely be a significant increase in the absolute and relative volume of imports of the subject goods over the next 18 to 24 months.

Likely Price Effects of Dumped Goods if the Order Is Rescinded

72. 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.⁴⁷ 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.

- Plate is price-sensitive

73. Plate is a commodity product, as submitted by Essar Algoma and the United Steel Workers, and supported by the Tribunal in the previous expiry review and in the recent plate proceeding in NQ-2015-001.⁴⁸ The data in the investigation report shows price-based competition in the plate market. When looking at the

42. Ms. Devoni, one of the witnesses for Essar Algoma, expressed her concerns regarding the accuracy of CRU's capacity data for plate products in China. CRU confirmed to her that her concerns are legitimate and CRU is in the process of reviewing its data and methodologies. However, she chose to refer to these Chinese data, as CRU data is generally credible and reliable on other data points, and particularly on price. Exhibit RR-2017-004-A-05 at paras. 34-36, Vol. 11C.

43. Exhibit RR-2017-004-25.01D at 85, Vol. 7.1B.

44. Exhibit RR-2017-004-A-01 at para. 62, Vol. 11.

45. *Ibid.* at paras. 197-204.

46. Exhibit RR-2017-004-A-08 (protected) at 27-40, Vol. 12C.

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

48. Exhibit RR-2017-004-A-01 at paras. 101-102, Vol. 11; Exhibit RR-2017-004-E-03 at 3, Vol. 11C; Exhibit RR-2017-004-01 at 24, Vol. 1; Exhibit RR-2017-004-12.20 at paras. 86, 203, Vol. 1.4C.

aggregate prices of domestic sales from domestic production, investigation report market data show evidence of undercutting by imports from non-subject countries, other than the U.S., in 2016 and 2017, by 1.5 percent and 2.6 percent respectively.⁴⁹

74. While no subject goods were imported during the POR, the substantial increase in low-priced imports from countries other than the United States in 2017, in addition to other evidence discussed below, convinces the Tribunal that if the order is rescinded the subject goods would then re-enter the market at prices close to or below those of the current price leaders.

- Low prices of products from other sources and non-subject products

75. Other evidence from Essar Algoma and SSAB in support of its argument on likely pricing if the order is rescinded was as follows:

- low-priced plate imports from Taiwan, Turkey and Malaysia, which undercut domestic mills and service centres prices;⁵⁰
- low-priced imports of non-subject thick plate from China, which undercut domestic mill prices of like goods;⁵¹
- low-prices of other major flat products (cold-rolled steel sheet and corrosion-resistant steel sheet) from China which undercut domestic mills price for these products.⁵²

76. Regarding these three points, the Tribunal observes as follows.

77. The Tribunal agrees that the low-priced imports of plate from countries other than the United States set the low point below which prices of Chinese subject goods would have to compete if they entered Canada. As such, they indicate a likelihood of injurious price effects if the order is rescinded.

78. The increasing volume of imports for non-subject niche plate products, such as thick plate, indicate a continuing interest of Chinese producers in the Canadian plate market and confirms that it is likely that they would sell low-priced subject goods in Canada if the order is rescinded.

79. Chinese low-priced export sales indicate that Chinese producers continue to sell low-priced flat steel products throughout the world and the Tribunal sees no reason why this would not be the case with subject goods if the order is rescinded.

80. In light of the above, a conservative decline of \$100-150/metric ton (MT) in domestic prices was predicted by Essar Algoma in the event of a rescission of the order.

81. Since there were no imports of subject goods during the POR, the Tribunal conducted an analysis of what the price of Chinese plate would have been during the POR using evidence on the record. First, the Tribunal constructed an estimated delivered price of Chinese plate into Canada using data from a third-party industry publication and responses to the importers' questionnaire to estimate the average delivery cost to Canada, based on respondents' imports from other countries in proximity to China (Taiwan and South

49. Exhibit RR-2017-004-05, Table 23, Vol. 1.1.

50. Exhibit RR-2017-004-A-01 at paras. 215-223, Vol. 11.

51. *Ibid.* at paras. 225-226; Exhibit RR-2017-004-A-02 (protected) at paras. 225-226, Vol. 12; Exhibit RR-2017-004-A-07 at paras. 30-37, Vol. 11C; Exhibit RR-2017-004-A-08 (protected) at para. 37, Vol. 12C.

52. Exhibit RR-2017-004-A-01 at paras. 227-232, Vol. 11.

Korea). Second, an estimated delivery cost, based on costs incurred by importers to their customers, was added to arrive at a net delivered selling value. This analysis suggests that there would have been significant undercutting of domestic sales prices from domestic production (both domestic mills and service centres) if these goods had been exported to Canada.⁵³

82. Accordingly, the Tribunal's assessment of the entirety of the evidence and its own analysis shows that significant price declines in the range proposed by Essar Algoma are indeed likely if the order is rescinded.

83. The Tribunal finds that, if the order is rescinded, there will likely be significant adverse price effects over the next 18 to 24 months

Likely Impact on the Domestic Industry if the Order Is Rescinded

84. The Tribunal will assess the likely impact of the above volumes and prices on the domestic industry if the order is rescinded,⁵⁴ 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.⁵⁵

85. Tables 51 and 52 in the investigation report show that there was near universal agreement by respondents to the questionnaires that the performance of the domestic industry would be worse if the order is rescinded. Among the domestic mills and service centres who responded to the public forecast, all eight respondents indicated that the likely performance of the domestic industry would decrease if the order is rescinded. Among the importers who responded to the public forecast, all three respondents indicated the likely performance of the domestic industry would decrease if the order is rescinded.

86. The Tribunal's data shows an improvement over the POR at the consolidated net income level, driven largely by the improvement in plate prices in 2017. However, the per-unit net gain in 2017 is such that the domestic industry is quite vulnerable to price declines.⁵⁶

87. In view of this precarious position of the domestic industry in 2017 as shown in the investigation report, the domestic industry could return to a less favourable financial position, even after a small fraction of the price decline expected and even without considering the negative impact of any lost volumes.

88. The Tribunal is of the view that, with the return of dumped subject goods, improvements to the financial results made by the domestic industry over the POR would be entirely reversed. These results would undoubtedly be injurious to the domestic producers.

53. Exhibit RR-2017-004-05, Table 53, Vol. 1.1. Table 53 of the investigation report shows that domestic Chinese prices of reversing mill plate were \$449/MT, \$521/MT and \$713/MT in 2015, 2016 and 2017 respectively. Sources of delivery cost (%): Exhibit RR-2017-004-18.14A at 170, Vol. 5; Exhibit RR-2017-004-19.14A (protected) at 197, Vol. 6; Exhibit RR-2017-004-18.08A at 80, Vol. 5; Exhibit RR-2017-004-19.08A (protected) at 115, Vol. 6; Exhibit RR-2017-004-18.15 at 184, Vol. 5; Exhibit RR-2017-004-19.15B (protected) at 230, Vol. 6; Collective Exhibits, Vol. 6 (protected).

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

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

56. Exhibit RR-2017-004-06 (protected), Table 31, Vol. 2.1.

89. All indicators show that significant volumes of domestic production would be displaced by sales from subject imports if the order is rescinded. It should be noted that the entire domestic industry has significant excess capacity; therefore, any negative price effects would be exacerbated by the financial impact of loss of production volumes.⁵⁷ Other negative effects would include cash flow problems and reductions in employment.

90. Having accounted for the impact of other non-dumping factors in its discussion of the domestic industry if the order is continued, the Tribunal finds that there would be a return of significant volumes of subject goods at low dumped prices in the event of rescission of the order, which would likely result in injury to the domestic industry.

91. Pursuant to paragraph 76.03(12)(b) of *SIMA*, and for the reasons stated above, the Tribunal continues its order, without amendment, in respect of the subject goods.

Rose Ritcey
Rose Ritcey
Presiding Member

Jean Bédard
Jean Bédard
Member

Peter Burn
Peter Burn
Member

57. Exhibit RR-2017-004-06 (protected), Table 40, Vol. 2.1.