



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 RR-2023-002

Hot-rolled Carbon Steel Plate

*Order and reasons issued  
Wednesday, May 15, 2024*

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IN THE MATTER OF an expiry review, pursuant to subsection 76.03(1) of the *Special Import Measures Act*, of the order made by the Canadian International Trade Tribunal on August 9, 2018, in expiry review RR-2017-004, 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(1) of the *Special Import Measures Act* (SIMA), has conducted an expiry review of the order made on August 9, 2018, in expiry review RR-2017-004, 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 SIMA, the Tribunal continues its order in respect of the aforementioned goods.

Frédéric Seppey

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Frédéric Seppey

Presiding Member

Bree Jamieson-Holloway

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Bree Jamieson-Holloway

Member

Randolph W. Heggart

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Randolph W. Heggart

Member

The statement of reasons will be posted on the website at a later date.

Place of Hearing:	Ottawa, Ontario (file hearing)
Date of Hearing:	March 4, 2024
Tribunal Panel:	Frédéric Seppey, Presiding Member Bree Jamieson-Holloway, Member Randolph W. Heggart, Member
Tribunal Secretariat Staff:	Isaac Turner, Lead Counsel Charlotte Saintonge, Counsel Shawn Jeffrey, Lead Analyst Joseph Long, Analyst Rebecca Campbell, Analyst Jameyn Arboleda, Data Services Matthew Riopelle, Registry Officer Lisa Sarpong, Registry Officer

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## STATEMENT OF REASONS

### INTRODUCTION

[1] The Canadian International Trade Tribunal, pursuant to subsection 76.03(1) of the *Special Import Measures Act*<sup>1</sup> (SIMA), has conducted an expiry review of the order made on August 9, 2018, in expiry review RR-2017-004,<sup>2</sup> 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] Under SIMA, a finding of injury or threat of injury, and the associated protection in the form of anti-dumping or countervailing duties, expires 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) of SIMA, unless the Tribunal continues it after conducting an expiry review. The order in expiry review RR-2017-004, issued on August 9, 2018, was therefore due to expire on August 8, 2023.

[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 to make an order either continuing or rescinding the previous order, with or without amendment.

[4] For the reasons that follow, the Tribunal finds that the expiry of the order is likely to result in injury to the domestic industry. Hence, the Tribunal continues its order in respect of the subject goods.

### PROCEDURAL BACKGROUND

[5] The Tribunal issued its notice of expiry review on July 10, 2023.<sup>3</sup> This notice triggered the initiation of an investigation by the Canada Border Services Agency (CBSA) on July 11, 2023, 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.<sup>4</sup>

[6] On December 7, 2023, 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>5</sup> On December 8, 2023, following the CBSA's determination, the Tribunal began its portion of the expiry review, pursuant to subsection 76.03(10) of SIMA, to determine whether the expiry of the order is likely to result in injury to the domestic industry.<sup>6</sup>

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<sup>1</sup> R.S.C., 1985, c. S-15.

<sup>2</sup> *Hot-Rolled Carbon Steel Plate* (9 August 2018), RR-2017-004 (CITT) [RR-2017-004]. The order in RR-2017-004 continued the order made on January 8, 2013, in *Hot-Rolled Carbon Steel Plate* (8 January 2013), RR-2012-001 (CITT) [RR-2012-001], which continued one of the orders made on January 9, 2008, in *Hot-Rolled Carbon Steel Plate* (9 January 2008), RR-2007-001 (CITT) [RR-2007-001], which continued, with amendment, one of the orders made on January 10, 2003, in *Hot-Rolled Carbon Steel Plate* (10 January 2003), RR-2001-006 (CITT) [RR-2001-006], which continued one of the findings made on October 27, 1997, in *Hot-Rolled Carbon Steel Plate* (27 October 1997), NQ-97-001 (CITT) [NQ-97-001].

<sup>3</sup> Exhibit RR-2023-002-02.

<sup>4</sup> Exhibit RR-2023-002-03.

<sup>5</sup> *Ibid.*

<sup>6</sup> Exhibit RR-2023-002-12.

[7] The period of review (POR) for the Tribunal's expiry review covers three full calendar years, from January 1, 2020, to December 31, 2022, as well as the period from January 1, 2023, to September 30, 2023. For comparative purposes, information was also collected for the period of January 1, 2022, to September 30, 2022.<sup>7</sup>

[8] The Tribunal asked known domestic producers and importers of hot-rolled carbon steel plate meeting the product definition, foreign producers of subject goods and unions representing workers employed in the domestic industry to respond to questionnaires. The Tribunal received 11 replies to the domestic producers' questionnaire (2 from domestic mills and 9 from service centres),<sup>8</sup> 22 replies to the importers' questionnaire, and 1 reply to the union questionnaire. The Tribunal did not receive any replies to the foreign producers' questionnaire.<sup>9</sup>

[9] Using the questionnaire replies and other information on the record, staff of the Secretariat to the Tribunal prepared public and protected versions of the Investigation Report, which were placed on the record on January 29, 2024.<sup>10</sup> Revised versions of the Investigation Report were placed on the record on February 21, 2024.<sup>11</sup>

[10] The Tribunal received submissions from parties in support of the continuation of the order. The Tribunal received comprehensive submissions from Algoma Steel Inc. (Algoma) and from the United Steelworkers (USW), as well as brief submissions from Evraz Inc. NA Canada (Evraz) and from SSAB Central Inc. (SSAB). The Tribunal did not receive any submissions in opposition to a continuation of the order.

[11] The record of these proceedings consists of all relevant documents filed or accepted for filing by the Tribunal. 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.

[12] Algoma relied on evidence provided by Ms. Laura Devoni,<sup>12</sup> Director of Strategy, Corporate Affairs and Sustainability, at Algoma; Mr. Christopher Ford,<sup>13</sup> Vice President, Commercial, at Algoma; Mr. Stephen Young,<sup>14</sup> Senior Commercial and Marketing Manager at Janco Steel Ltd.; and Mr. Michel Boudreault,<sup>15</sup> Flat-rolled Sales Manager at the Lasalle establishment of Nova Steel Inc.

[13] The USW relied on evidence provided by Mr. Richard Beall,<sup>16</sup> Trustee of USW Local 2251 (Algoma Shopfloor Workers) and Chair of USW Local 2251's Occupational Disease Committee and its Co-operative Wage Study committee; Ms. Rebecca McCracken,<sup>17</sup> President of USW Local 2724

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<sup>7</sup> Exhibit RR-2023-002-05.A.

<sup>8</sup> *Ibid.* at 11, at Table 1.

<sup>9</sup> *Ibid.* at 11–13.

<sup>10</sup> Exhibit RR-2023-002-05; Exhibit RR-2023-002-06 (protected).

<sup>11</sup> Exhibit RR-2023-002-05.A; Exhibit RR-2023-002-06.A (protected).

<sup>12</sup> Exhibit RR-2023-002-A-03; Exhibit RR-2023-002-A-04 (protected).

<sup>13</sup> Exhibit RR-2023-002-A-05; Exhibit RR-2023-002-A-06 (protected).

<sup>14</sup> Exhibit RR-2023-002-A-07; Exhibit RR-2023-002-A-08 (protected).

<sup>15</sup> Exhibit RR-2023-002-A-09; Exhibit RR-2023-002-A-10 (protected).

<sup>16</sup> Exhibit RR-2023-002-D-03; Exhibit RR-2023-002-D-04 (protected).

<sup>17</sup> Exhibit RR-2023-002-D-05; Exhibit RR-2023-002-D-06 (protected).

(Algoma Inside Workers); and Mr. Guio Jacinto,<sup>18</sup> Researcher and Staff Representative at USW's National Office.

[14] On March 4, 2024, in Ottawa, Ontario, pursuant to rule 25.1 of the *Canadian International Trade Tribunal Rules*, the Tribunal held a hearing by way of written submissions (a file hearing) based on the documentary evidence filed in this matter.<sup>19</sup>

## PRODUCT

### Product definition

[15] The subject goods are defined as follows:<sup>20</sup>

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)<sup>21</sup> 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.

### Production process

[16] While details vary from mill to mill, the process by which plate is produced from molten steel generally consists of the following steps: heating slab before rolling, descaling, rolling, levelling and cutting to size; the plate is then tested and shipped.<sup>22</sup>

[17] 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" and "cut-to-length plate", respectively, and can be produced to a maximum thickness of one inch.<sup>23</sup> Cut-to-length plate is included in the product definitions of the subject goods and the like goods.

### Product applications

[18] The subject goods and the like goods are used in several applications, the most common of which are the production of rail cars, oil and gas storage tanks, heavy machinery, agricultural

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<sup>18</sup> Exhibit RR-2023-002-D-07; Exhibit RR-2023-002-D-08 (protected).

<sup>19</sup> SOR/91-499.

<sup>20</sup> RR-2017-004.

<sup>21</sup> In this context, the Tribunal understands that "+/-" is used to denote an approximative number.

<sup>22</sup> Exhibit RR-2023-002-A-01 at para. 13; Exhibit RR-2023-002-13.01 at 33; Exhibit RR-2023-002-14.05 (protected) at 51.

<sup>23</sup> Exhibit RR-2023-002-A-01 at para. 18.



equipment, bridges, industrial buildings, high-rise office towers, automobile and truck parts, ships and barges, and pressure vessels.<sup>24</sup>

### Marketing and distribution

[19] 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,<sup>25</sup> 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. Customers for imported plate are essentially the same as for domestically produced like goods.<sup>26</sup>

### 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 for the domestic industry.<sup>27</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 it. 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.

[21] Before proceeding with its analysis of the likelihood of injury, the Tribunal must first determine which domestically produced goods are “like goods” in relation to the subject goods and whether there is more than one class of goods. Once those determinations have been made, the Tribunal must determine what constitutes the “domestic industry”.

### LIKE GOODS AND CLASSES OF GOODS

[22] 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>28</sup>

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<sup>24</sup> *Ibid.* at para. 10.

<sup>25</sup> As noted below (at para. 31), the Tribunal has considered service centres that cut coiled plate as domestic producers of carbon steel plate.

<sup>26</sup> Exhibit RR-2023-002-A-01 at paras. 20–25.

<sup>27</sup> 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.

<sup>28</sup> 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).

## Like goods

[23] 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.

[24] In deciding the issue of like goods when goods are not identical in all respects to the other goods, the Tribunal typically considers several 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.<sup>29</sup> These same factors are also considered in deciding whether there is more than one class of goods.

[25] In the original inquiry and previous expiry reviews, the Tribunal found that domestically produced hot-rolled carbon steel plate of the same description as the subject goods constituted like goods in relation to the subject goods.<sup>30</sup> Moreover, in its last expiry review, while the Tribunal noted that the majority of service centres may tend to concentrate on narrower widths and domestic mills may tend to concentrate on wider widths, the Tribunal concluded that they together produce a full range of like goods that compete with the subject goods of the same description. This was consistent with the Tribunal’s conclusion in *NQ-2015-001*.<sup>31</sup>

[26] In this case, the Tribunal finds no reason to deviate from these findings, which are consistent with the Tribunal’s approach in recent cases.<sup>32</sup> This position is supported by Algoma, the only participant that expressed views on this issue.<sup>33</sup> Accordingly, the Tribunal finds that domestically produced hot-rolled carbon steel plate of the same description as the subject goods constitutes like goods in relation to the subject goods.

## Classes of goods

[27] To decide the issue of classes of goods, the Tribunal typically considers whether goods potentially included in separate classes of goods constitute “like goods” in relation to each other.<sup>34</sup> If they do, the Tribunal will regard them as comprising a single class of goods.<sup>35</sup>

[28] In the previous expiry review, the Tribunal recognized its long-standing approach that domestically produced plate is one class of goods. Algoma submitted that there is no reason for the

<sup>29</sup> See, for example, *Copper Pipe Fittings* (19 February 2007), NQ-2006-002 (CITT) at para. 48.

<sup>30</sup> See *NQ-97-001* at 9–10; *RR-2001-006* at 9; *RR-2007-001* at paras. 42–43; *RR-2012-001* at paras. 58–59; *RR-2017-004* at paras. 28–29.

<sup>31</sup> *Hot-Rolled Carbon Steel Plate and High-strength Low-alloy Steel Plate* (6 January 2016), NQ-2015-001 (CITT) [*NQ-2015-001*] at paras. 34–38.

<sup>32</sup> See, for example, *Hot-Rolled Carbon Steel Plate* (13 March 2020), RR-2019-001 (CITT) at paras. 23–27.

<sup>33</sup> Exhibit RR-2023-002-A-01 at para. 30.

<sup>34</sup> *Certain Container Chassis* (18 February 2022), NQ-2021-005 (CITT) at para. 56. See also: *Aluminum Extrusions* (17 March 2009), NQ-2008-003 (CITT) [*Aluminum Extrusions NQ*] at para. 115. See also *Polyisocyanurate Thermal Insulation Board* (11 April 1997), NQ-96-003 (CITT) [*Thermal Insulation Board*] at 10; *Certain Fasteners* (7 January 2005), NQ-2004-005 (CITT) [*Certain Fasteners*] at 70.

<sup>35</sup> *Aluminum Extrusions NQ* at para. 115. See also *Thermal Insulation Board* at 10; *Certain Fasteners* at 70.

Tribunal to depart from this reasoning in the case at hand.<sup>36</sup> The Tribunal agrees and therefore concludes that the like goods constitute a single class of goods.

## DOMESTIC INDUSTRY

[29] 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.

[30] 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>37</sup>

[31] The Tribunal has consistently found that the domestic industry includes mills and service centres. In expiry review RR-2017-004, the domestic industry was defined as being comprised of those domestic producers whose collective production of like goods constituted a major proportion of the total domestic production of the like goods, which included service centres.<sup>38</sup>

[32] There is no evidence to suggest that the Tribunal should not follow this approach in these proceedings. In its submissions, Algoma stated that the domestic industry producing plate is comprised of mills and service centres that cut plate from coil.<sup>39</sup> Similarly, the USW listed the domestic industry’s unionized workforce at mills and at service centres.<sup>40</sup> The other parties did not directly address this issue.<sup>41</sup> Therefore, for the purposes of the present expiry review, the Tribunal will consider the domestic industry as comprised of those mills and service centres, whose collective production of the like goods constitutes at least a “major proportion” of the total domestic production of the like goods.

[33] There are currently two mills that produce like goods, namely, Algoma, of Sault Ste. Marie, Ontario, and Evraz, of Regina, Saskatchewan, both of which responded to the producers’ 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

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<sup>36</sup> Exhibit RR-2023-002-A-01 at paras. 33–34.

<sup>37</sup> 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); Panel Report, *China – Automobiles (US)*, WT/DS440/R, at para. 7.207; Appellate Body Report, *EC – Fasteners (China)*, WT/DS397/AB/R, at paras. 411, 412, 419; Panel Report, *Argentina – Poultry (Brazil)*, WT/DS241/R, at para. 7.341.

<sup>38</sup> RR-2017-004 at paras. 30–34.

<sup>39</sup> Exhibit RR-2023-002-A-01 at para. 12.

<sup>40</sup> Exhibit RR-2023-002-D-01 at paras. 14–15.

<sup>41</sup> SSAB mentions the likely injury caused to domestic service centres and domestic mills (see Exhibit RR-2023-002-C-01 at para. 5).

Ltd., Russels Metal Inc., Samuel, Son & Co., Limited, SSAB and Varsteel Ltd., all of which responded to the domestic producers' questionnaire.<sup>42</sup>

[34] The Tribunal's data cover both domestic mills and all the major service centres known to the Tribunal as being part of the Canadian market. As such, while the Tribunal acknowledges that there may be other service centres in Canada that produce like goods, the Tribunal is satisfied that the data on the record allow it to determine whether there is a likelihood of injury to a major proportion of the domestic industry.

## LIKELIHOOD OF INJURY ANALYSIS

[35] An expiry review is forward-looking.<sup>43</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>44</sup>

[36] 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>45</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>46</sup>

[37] In making its assessment of the 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. The Tribunal typically uses a period of up to 24 months from the date on which the order or finding could be rescinded.<sup>47</sup>

[38] In their submissions, Algoma and Evraz considered the next 12 to 24 months in their analysis of the likely impact to the domestic industry.<sup>48</sup> The USW submitted that a time period of 12 to 18 months was appropriate. SSAB did not address this issue.

[39] In the previous expiry review, the Tribunal found it appropriate to focus its analysis on a time period of 18 to 24 months for its analysis.<sup>49</sup> The Tribunal also noted in the previous review that the evidence of what would happen if the order was rescinded was clear in either the shorter or longer time period.<sup>50</sup>

<sup>42</sup> Exhibit RR-2023-002-05.A at 11, at Table 1. Del Metals and Varsteel Ltd. did not provide financial data.

<sup>43</sup> *Certain Dishwashers and Dryers* (procedural order dated 25 April 2005), RR-2004-005 (CITT) at para. 16.

<sup>44</sup> *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 RR*] at para. 21.

<sup>45</sup> *Flat Hot-rolled Carbon and Alloy Steel Sheet and Strip* (16 August 2006), RR-2005-002 (CITT) at para. 59.

<sup>46</sup> *Thermoelectric Containers* at para. 14; *Aluminum Extrusions RR* at para. 21.

<sup>47</sup> *Hot-rolled Carbon Steel Plate and High-strength Low-alloy Steel Plate* (31 October 2019), RR-2018-007 (CITT) at para. 42; *Hot-rolled Carbon Steel Plate and High-strength Low-alloy Steel Plate* (10 November 2020), RR-2019-004 (CITT) at paras. 33–34; *Carbon Steel Screws* (2 September 2020), RR-2019-002 (CITT) at para. 133.

<sup>48</sup> Algoma also noted in its submissions that, where a market is experiencing significant volatility, the Tribunal has focused on a nearer term of 12 to 18 months.

<sup>49</sup> See also, for example, *RR-2007-001* at para. 56; *RR-2012-001* at para. 63; *RR-2017-004* at para. 39.

<sup>50</sup> *RR-2017-004* at para. 39.

[40] In light of the evidence presented, the Tribunal remains of the same view and sees no reason to depart from the typical time period of up to 24 months.

[41] Subsection 37.2(2) of the *Special Import Measures Regulations*<sup>51</sup> (Regulations) 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 below.

### **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 were rescinded, the Tribunal will first consider changes in international and domestic market conditions.<sup>52</sup>

#### International market conditions

[43] According to the World Bank, as of January 2024, the world economy is continuing to cope with the lingering effects of the COVID-19 pandemic, the Russian Federation's invasion of Ukraine, and the rise in inflation and subsequent sharp tightening of global monetary conditions.<sup>53</sup> This view is shared by the International Monetary Fund (IMF), which, in a report published in October 2023, similarly indicated that the global economy is continuing to recover from the pandemic, Russia's invasion of Ukraine, and the cost-of-living crisis.<sup>54</sup> The World Bank reports that global gross domestic product (GDP) contracted by 3.1% in 2020,<sup>55</sup> grew by 6.2% in 2021 and by 3.0% in 2022, and is estimated to have grown by 2.6% in 2023.<sup>56</sup> The World Bank forecasts global GDP growth to be 3.1% and 3.2% in 2024 and 2025, respectively.<sup>57</sup>

[44] After a peak in 2021 followed by a contraction in 2022, global demand for steel, which the Tribunal views as indicative of the market for plate, is expected to slightly increase through 2024.<sup>58</sup> Steel prices reached historic highs across most regions during the POR because of disruptions caused by the pandemic and infrastructure spending that was overdue and anticipated as part of the recovery stimulus.<sup>59</sup> However, steel prices are expected to decline in the future in North America while remaining flat in Asia.<sup>60</sup> Meanwhile, global steelmaking capacity has increased during the POR and is expected to continue to grow through 2026.<sup>61</sup>

[45] With respect to reversing mill capacity (i.e., installations dedicated to the production of discrete plate), capacity has been flat during the POR and is expected to remain so through 2026. However, production is forecasted to increase through the same period. Global reversing mill plate apparent consumption was generally stable from 2020 to 2022 but started to increase in 2023 and is

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<sup>51</sup> SOR/84-927

<sup>52</sup> See paragraph 37.2(2)(j) of the Regulations.

<sup>53</sup> Exhibit RR-2023-002-A-01 at 98.

<sup>54</sup> Exhibit RR-2023-002-D-09 at 18.

<sup>55</sup> Exhibit RR-2023-002-A-01 at 123.

<sup>56</sup> *Ibid.* at 99.

<sup>57</sup> *Ibid.* at 125.

<sup>58</sup> *Ibid.* at 138, 147.

<sup>59</sup> Exhibit RR-2023-002-A-04 (protected) at 25.

<sup>60</sup> *Ibid.* at 25.

<sup>61</sup> *Ibid.* at 36.

expected to keep growing through 2026.<sup>62</sup> As a result, it is likely that plate production will continue to moderately outstrip consumption on a global level over the next two years. The Tribunal expects that trade will remain very important for countries needing to rely on exports.

Chinese market conditions

[46] China's economic growth has significantly slowed during the POR<sup>63</sup> and, according to the IMF, is expected to continue to slow through 2025.<sup>64</sup>

[47] China's steel consumption is stagnant, most notably because of weak prospects in the construction sector.<sup>65</sup> Demand for plate is expected to contract annually through 2027.<sup>66</sup> This weaker demand for steel creates negative pressure on Chinese steel prices.<sup>67</sup> In 2023, continued lower Chinese prices have been reported, and they are not expected to increase in the future.<sup>68</sup>

[48] Still, China's steel production capacity continues to increase.<sup>69</sup> The evidence indicates that, despite Chinese measures put in place to help reduce excess steel capacity, capacity is likely to continue to increase and worsen the excess supply in the market.<sup>70</sup>

[49] Specifically for plate, production capacity also continues to increase. The evidence on the record indicates that China's production of plate has exceeded capacity in recent years. CRU data imply a utilization rate on all plate-producing equipment in 2022 and 2023<sup>71</sup> that is, to quote the witness statement of Ms. Devoni, "not realistic."<sup>72</sup> Algoma argued that these numbers indicate that there is an issue of underreporting of China's production capacity.<sup>73</sup> The Tribunal agrees that the apparent excess production of plate supports a conclusion of underreporting of Chinese production capacity of plate.

[50] As both observed and forecasted domestic consumption for plate are lower than the observed and forecasted production,<sup>74</sup> the Tribunal finds that this creates a strong incentive for Chinese plate producers to seek sales in export markets.

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<sup>62</sup> *Ibid.* at 36.

<sup>63</sup> Exhibit RR-2023-002-A-01 at 105.

<sup>64</sup> *Ibid.* at 110. The IMF expects China's economic growth to continue to slow down through 2028.

<sup>65</sup> Exhibit RR-2023-002-A-01 at 118, 137.

<sup>66</sup> Exhibit RR-2023-002-A-02 (protected) at 164.

<sup>67</sup> *Ibid.* at 215.

<sup>68</sup> Exhibit RR-2023-002-A-01 at 140; Exhibit RR-2023-002-A-02 (protected) at 215; Exhibit RR-2023-002-A-02 (protected) at 166.

<sup>69</sup> Exhibit RR-2023-002-A-04 (protected) at 39.

<sup>70</sup> Exhibit RR-2023-002-A-01 at 170, 286. In reports from the Centre for Research on Energy and Clean Air, it is explained that China's steel capacity replacement policy requires steel firms to present both "exit" capacity and "addition" capacity in capacity replacement applications, and the exit capacity needs to be larger or equal to the addition capacity to ensure a net capacity reduction. However, in practice, there may be net capacity increases, because some of the "exit" iron and steelmaking facilities have remained idle for years, and steel companies use these idle capacities as allocation to apply for new capacity approvals.

<sup>71</sup> Exhibit RR-2023-002-A-04 (protected) at 39–40.

<sup>72</sup> Exhibit RR-2023-022-A-03 at 12 (para. 30).

<sup>73</sup> See also Exhibit RR-2023-002-A-03 at 33.

<sup>74</sup> Exhibit RR-2023-002-A-04 (protected) at 41.

Domestic market conditions

[51] The Canadian economy is predicted to grow at a slower rate relative to the global economy in the immediate future. The Bank of Canada reports that economic growth has stalled since the middle of 2023 and is expected to remain close to zero through the first quarter of 2024.<sup>75</sup> The IMF reports a 3.4% growth of Canada's GDP in 2022 and, as of October 2023, forecasted growth of 1.3% and 1.6% in 2023 and 2024, respectively.<sup>76</sup>

[52] The Canadian market for plate increased slightly over the course of the POR but remains at levels lower than in 2017, the last year of the POR for the Tribunal's previous expiry review.<sup>77</sup> The Canadian market also continues to see a strong presence of imports, although not to the same degree as in 2017.<sup>78</sup> During the POR, the domestic industry's share of the market decreased from 67% to 61%.<sup>79</sup> This loss of market share appears to have been gained by non-subject goods,<sup>80</sup> the majority of which came from the United States and South Korea.<sup>81</sup> This data is largely consistent with other evidence on the record. For example, Mr. Ford of Algoma said in his witness statement that Algoma encountered aggressive competition for plate sales covered by the product definition from various offshore sources in 2023, including France, South Korea and Taiwan.<sup>82</sup> However, as discussed below in the context of the recent performance of the domestic industry, the decline of the domestic industry's market share appears to be related, at least in part, to Algoma's implementation of its Plate Modernization Project (PMP), which caused outages in production in 2021 through 2023.

[53] Future demand for plate seems promising, according to Mr. Ford, who stated that Algoma is expecting steady demand growth in 2024 and 2025. Mr. Ford further said that, in his view, the Canadian market will see some plate demand from decarbonization and infrastructure projects, but the main driver of growth will be a broader return to stability following the volatility of 2020 to 2022.<sup>83</sup> In this respect, the Tribunal takes note of Evraz's expectation of weak demand in Canada for plate from downstream industries going forward into 2024 and 2025, due to "tepid macroeconomic growth figures and elevated interest rates".<sup>84</sup> On balance, the Tribunal is of the view that demand is likely to continue to grow in 2024 and 2025, based on substantiated evidence presented by Algoma.

[54] Additionally, although pricing of plate during the POR was strong overall in the Canadian market,<sup>85</sup> CRU is expecting U.S. Midwest market pricing, which Canadian plate market pricing tends to follow, to trend down through the end of 2025.<sup>86</sup>

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<sup>75</sup> Exhibit RR-2023-002-A-01 at 209–210.

<sup>76</sup> *Ibid.* at 107.

<sup>77</sup> Comparing Exhibit RR-2023-002-05.A at Table 12 with Exhibit RR-2023-002-08 at Table 9.

<sup>78</sup> Comparing Exhibit RR-2023-002-05.A at Table 14 with Exhibit RR-2023-002-08 at Table 9.

<sup>79</sup> Exhibit RR-2023-002-05.A at Table 14.

<sup>80</sup> Exhibit RR-2023-002-06.A (protected) at Table 14.

<sup>81</sup> Exhibit RR-2023-002-05.A at Table 29.

<sup>82</sup> Exhibit RR-2023-002-A-05 at 6–7 (para. 19).

<sup>83</sup> *Ibid.* at 12–13 (paras. 35–36).

<sup>84</sup> Exhibit RR-2023-002-B-01 at para. 3, referring to Evraz's questionnaire response; Exhibit RR-2023-002-13.05 at 12.

<sup>85</sup> Exhibit RR-2023-002-05.A at Table 26

<sup>86</sup> Exhibit RR-2023-002-A-05 at para. 39.

### Likely import volume of dumped goods

[55] Paragraph 37.2(2)(a) of the Regulations directs the Tribunal to consider the likely volume of the dumped goods if the order or finding 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.

[56] The Tribunal's assessment of the likely volumes of dumped imports encompasses the likely performance of the foreign industry, 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.<sup>87</sup>

[57] The parties assert that, if the order expires, there will likely be a significant increase in the volume of imports of the subject goods. They submitted that there are several factors that would lead to this result, including excess capacity and the export orientation of Chinese producers, a potential diversion of the subject goods from other jurisdictions, trade-restrictive measures in multiple markets and the attractiveness of the Canadian market.

[58] The Tribunal finds that the volume of imports of subject goods is likely to increase significantly if the order is rescinded. In sum, the evidence indicates that the Chinese plate industry is export oriented and is likely to have strong incentives to seek additional export markets for its products; in turn, the Canadian market, with its comparatively higher prevailing prices and established channels of distribution for Chinese exporters, is likely to be an attractive destination.

[59] The total Canadian market for plate, approximately 1 million metric tonnes, represents a small fraction of China's reported capacity of reversing mills during the POR.<sup>88</sup> As indicated above, the capacity of the Chinese reversing mills appears to be underreported and would exceed reported production levels. Thus, the Tribunal accepts that just a small percentage of excess capacity of Chinese plate production would cover the total Canadian market.<sup>89</sup>

[60] China is identified as the world's largest steel exporter,<sup>90</sup> exporting twice as much as the second-largest steel exporting country.<sup>91</sup> Evidence indicates that, with Chinese domestic demand faltering, steel exports have increased by 31.8% in January to September 2023 compared to the same period in 2022.<sup>92</sup> These larger trends are significant in that flat products, which includes plate, account for China's largest steel export product, representing 59.4% of total Chinese steel exports in 2022.<sup>93</sup> The Tribunal accepts the uncontested evidence presented by Algoma and the USW that the Chinese plate industry is export oriented.

[61] Algoma argued that South Korea, a significant market for Chinese plate,<sup>94</sup> will not be in a position to absorb excess Chinese plate exports in the near term because of weak forecasted demand. In support of this argument, Algoma submitted a report from the Organisation for Economic

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<sup>87</sup> Paragraphs 37.2(2)(a), (d), (f), (h) and (i) of the Regulations.

<sup>88</sup> Exhibit RR-2023-002-A-04 (protected) at 39–40; Exhibit RR-2023-002-05.A at Table 12.

<sup>89</sup> Exhibit RR-2023-002-A-04 (protected) at 39–40.

<sup>90</sup> Exhibit RR-2023-002-A-01 at 227.

<sup>91</sup> *Ibid.* at 139.

<sup>92</sup> *Ibid.* at 184.

<sup>93</sup> *Ibid.* at 228.

<sup>94</sup> *Ibid.* at 254–255. According to UN Comtrade, 20% of Chinese plate exports were to South Korea in 2022.



Co-operation and Development, which indicated that the steel demand in South Korea had contracted in 2022 partly due to a downturn in the construction sector.<sup>95</sup> Algoma also submitted a news article from Yonhap News Agency, a South Korean news agency, which indicated that the outlook in 2024 for the South Korean construction sector is that demand will reduce further as builder orders are forecasted to shrink by 3.2% and construction investment by more than 2%.<sup>96</sup> This is consistent with CRU's forecast for reversing mill plate demand in South Korea which indicates a contraction in 2024 and essentially flat demand in 2025, before demand further declines in every year from 2026 through 2028.<sup>97</sup> As this occurs, reversing mill plate production in South Korea is expected to increase in both 2024 and 2025.<sup>98</sup>

[62] The Tribunal accepts the evidence presented by Algoma regarding the expected contraction in South Korea's demand for Chinese plate products in the next two years. The Tribunal further considers that, as a result, this situation indicates a likelihood that Chinese exporters will seek alternative markets for these products.

[63] The evidence also indicates that there are limited other markets freely available to Chinese plate exports. The evidence shows that there are numerous trade remedies findings in place in numerous jurisdictions regarding Chinese plate.<sup>99</sup> In addition to anti-dumping and countervailing measures, the United States has double trade measures against plate from China (a trade remedy and the U.S. section 232 measures).<sup>100</sup>

[64] The evidence also indicates that, during the POR, Chinese exporters have shown interest in the Canadian market and have indeed sold plate products not subject to the order to Canadian customers. Statistics Canada data show volumes of plate outside the definition being imported into Canada throughout the POR, which is consistent with the CBSA's import statistics for measures in force indicating significant Chinese imports of plate with thicknesses exceeding those of the product definition.<sup>101</sup> Meanwhile, subject goods were present in the Canadian market in negligible volumes during the POR.<sup>102</sup> This suggests that the absence of the subject goods from the Canadian market during the POR is likely due to the presence of the order.

[65] The Tribunal finds that, without the presence of the order, the Canadian market would be an attractive destination for Chinese subject goods due to its comparatively higher pricing than the pricing prevalent in other markets.

[66] As noted above, Canadian plate market pricing tends to follow the U.S. Midwest price, which has been priced consistently higher than other markets since 2020.<sup>103</sup> In addition, in CRU's forecast, CRU anticipates that the higher price level of the U.S. Midwest price, relative to prices in other key markets, is expected to remain unchanged through 2025.<sup>104</sup> Consequently, the evidence indicates that

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<sup>95</sup> Exhibit RR-2023-002-A-01 at 115.

<sup>96</sup> *Ibid.* at 256.

<sup>97</sup> Exhibit RR-2023-002-A-04 (protected) at 45.

<sup>98</sup> *Ibid.* at 43.

<sup>99</sup> Exhibit RR-2023-002-05.A at Table 46; Exhibit RR-2023-002-A-01 at 257–279.

<sup>100</sup> Exhibit RR-2023-002-A-01 at para. 47, at 129–131.

<sup>101</sup> Exhibit RR-2023-002-A-03 at 28–29, 47–48.

<sup>102</sup> Exhibit RR-2023-002-05.A at tables 5, 8, 10–11.

<sup>103</sup> Exhibit RR-2023-002-A-04 (protected) at 25.

<sup>104</sup> *Ibid.* at 25.

the Canadian market garners higher prices than other markets, and this is likely to continue through 2025.

[67] Having regard to this evidence, in conjunction with the evidence showing Chinese exporters' continued interest and presence in the Canadian market over the POR for products similar to the subject goods, the Tribunal finds that, without an order in place, the Canadian market would be very attractive to Chinese exporters.

[68] Finally, as discussed in the next section, Chinese subject goods are likely to be offered at low prices that make them attractive to Canadian purchasers in a price-sensitive market.

[69] Based on the foregoing, the Tribunal finds that, if the order expires, there will likely be a significant increase in the volume of imports of the subject goods, in absolute and relative terms.

### **Likely price and price effects of subject goods**

[70] 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>105</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.

#### Importance of price

[71] All parties agree that plate, including both discrete and cut-to-length plate, is a commodity product that is price sensitive.<sup>106</sup> This is consistent with the Tribunal's findings in previous investigations regarding plate.<sup>107</sup> Nothing in this review indicates that the situation has changed. As such, the sales volumes of plate tend to follow the lowest price available in the market, as exemplified during the POR where the price leader was able to maintain the largest market share during most of the POR.<sup>108</sup>

#### Pricing during the POR

[72] During the POR, the market price of plate saw an increase of 108% from 2020 to 2022.<sup>109</sup> Due to the market conditions post COVID-19 of higher demand coupled with low supply, the domestic industry and importers were able to increase their pricing; this was most notable in 2022.<sup>110</sup> This was also true globally based on evidence provided by Algoma.<sup>111</sup>

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<sup>105</sup> Paragraph 37.2(2)(b) of the Regulations.

<sup>106</sup> Exhibit RR-2023-002-C-01 at para. 3; Exhibit RR-2023-002-A-07 at para. 14; Exhibit RR-2023-002-A-05 at para. 6; Exhibit RR-2023-002-A-09 at para. 10; *Safeguard Inquiry into the Importation of Certain Steel Goods* (3 April 2019), GC-2018-001 (CITT) at 33.

<sup>107</sup> See, for example, *Hot-rolled Carbon Steel Plate* (13 March 2020), RR-2019-001 (CITT) at para. 126. *NQ-2015-001* at para. 90. *Hot-rolled Carbon Steel Plate and High-Strength Low-Alloy Steel Plate* (13 February 2015), RR-2014-002 (CITT) at para. 88.

<sup>108</sup> Exhibit RR-2023-002-05.A at tables 14, 16.

<sup>109</sup> *Ibid.* at Table 26.

<sup>110</sup> *Ibid.*

<sup>111</sup> Exhibit RR-2023-002-A-04 (protected) at 25.

[73] There were instances of price undercutting by non-subject goods during the POR, specifically in 2021. However, the main price leaders during the POR were among the producers that make up the domestic industry, while other producers saw pricing more in line with the average market price of steel plate. This was particularly evident in 2020, 2022 and interim 2023. This could be explained by varying production methods of steel plate.<sup>112</sup> The subject goods were not the price leaders during the POR, nor did they undercut the like goods in any year of the POR. However, as mentioned earlier, the subject goods were only present in negligible volumes during the POR, with the order in place.

[74] When examining the price competition that discrete plate manufacturers faced during the POR, there were more instances where the sales of non-subject imports undercut the domestic selling price.<sup>113</sup> This is of particular significance given that imports were predominantly discrete plate, not cut-to-length plate.<sup>114</sup>

#### Price undercutting and depression

[75] The supporting parties submitted that, if the order was to expire, there would be price undercutting by the subject goods leading to lost sales and/or price depression. Algoma submitted that, if the order was to expire, there would be price undercutting by the subject goods and the domestic industry would face significant price depression.<sup>115</sup> Similarly, SSAB submitted that Chinese exporters are known to price their products aggressively to undercut Canadian producers and that even a small volume of low-priced Chinese imports of the subject goods would cause a chain reaction throughout the market, becoming the benchmark for purchasers and causing SSAB to lower its price or face losing sales.<sup>116</sup> In addition, the USW submitted that the lower prices of non-subject imports during the POR demonstrate the likely price level at which Chinese producers would compete if allowed to resume participation in the Canadian market.<sup>117</sup>

[76] In a letter of support attached to Algoma's submission, Del Metals indicated that, in its view, if the Tribunal allows this order to expire, Chinese exporters will quickly resume offering and selling plate at low prices into the Canadian market, and this will result in lost sales and/or force Del Metals to compete at very low price levels.<sup>118</sup> In a second letter of support attached to Algoma's submission, Samuel, Son & Co. stated that, in its experience, when Chinese exporters sell steel products in Canada, they do so by undercutting prices offered by Canadian domestic mills. It stated that, once one customer buys Chinese plate, other customers in that market must do the same to remain competitive, which has a negative price and volume impact on Samuel, Son & Co.'s sales of plate in Canada.<sup>119</sup>

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<sup>112</sup> Exhibit RR-2023-002-05.A at Table 26.

<sup>113</sup> Exhibit RR-2023-002-06.A (protected) at Schedule 44.

<sup>114</sup> *Ibid.* at schedules 10, 13.

<sup>115</sup> Exhibit RR-2023-002-A-02 (protected) at paras. 164–165, at Table 22.

<sup>116</sup> Exhibit RR-2023-002-C-01 at para. 5. See also Exhibit RR-2023-002-13.04 at 11 (Question 24), 14 (questions 2 and 3).

<sup>117</sup> Exhibit RR-2023-002-D-01 at para. 60.

<sup>118</sup> Exhibit RR-2023-002-A-01 at 86.

<sup>119</sup> *Ibid.* at 87.

[77] Algoma also submitted that it expects subject imports to be priced at levels lower than prices at which non-subject imports had been offered during the POR.<sup>120</sup>

[78] To aid in determining likely prices of the subject goods in the absence of the order, Algoma estimated what the market price of Chinese imports would have been during the POR in the absence of the order, beginning with CRU pricing for Chinese plate and adding ocean freight, inland freight and markup based on selected South Korean imports as a proxy.<sup>121</sup> Algoma's analysis was based on a methodology adopted by the Tribunal in the previous review. The analysis found that, except for in 2020, Chinese imports would have undercut the aggregate price of domestic like goods through the POR.<sup>122</sup> Although Algoma did not go as far as to compare these estimated prices for sales of Chinese subject goods to the entire Canadian market, it is noted that in the market these prices would have been among the price leaders during POR and would become the price leader from 2022 onward.<sup>123</sup>

[79] The Tribunal considers the methodology used by Algoma to be a reasonable estimate of what the likely price of the subject goods would have been in the Canadian market during the POR in the absence of the order. Further, this analysis supports the view that, if the order is allowed to expire, subject goods are likely to be available in the Canadian market at significantly lower prices.

[80] Further, the Tribunal expanded on the methodology used by Algoma using all available questionnaire responses as it relates to the market for plate in Canada. The Tribunal reviewed historic CRU pricing for plate in the U.S. Midwest relative to the domestic selling price in the Canadian market to determine a projected domestic selling price based on forecasted CRU U.S. Midwest pricing (for 2024 and 2025). Once this price was calculated, it was compared to forecasted CRU pricing for Chinese plate, with the addition of ocean freight and inland delivery derived from all sources of South Korean imports, and sales thereof, as a proxy. This analysis indicates that price undercutting of the domestic like goods by the subject goods will range from 24% to 35% in the next 24 months.<sup>124</sup>

[81] Additionally, Mr. Ford from Algoma testified that, in 2023, Algoma was able to document import activities covering imports from South Korea, France, Chinese Taipei, Turkey and Macedonia that showed prices on average at 21% below Algoma's prices. In Mr. Ford's view, subject imports would need to be priced even lower, likely at 25 to 30% below Algoma's prices, to be able to secure sales should the order be rescinded.<sup>125</sup>

[82] The Tribunal was able to corroborate that the same trends exist by conducting a comparable analysis across the totality of the Canadian producers. Therefore, the Tribunal considers such a possibility very likely to occur given the commodity nature of plate, the export orientation of the producers of subject goods, the likelihood of existing excess capacity, and the results of the pricing

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<sup>120</sup> *Ibid.* at paras. 150–151.

<sup>121</sup> *Ibid.* at paras. 162–166; Exhibit RR-2023-002-A-02 (protected) at paras. 162–166.

<sup>122</sup> Exhibit RR-2023-002-A-02 (protected) at Table 22.

<sup>123</sup> *Ibid.* at Table 22; Exhibit RR-2023-05.A at Table 26.

<sup>124</sup> The Tribunal's analysis was based on the following exhibits: Exhibit RR-2023-002-06.A at tables 24, 26, 48, 49; Exhibit RR-2023-002-A-04 at 25; questionnaire responses to the review for non-subject goods imported from South Korea.

<sup>125</sup> Exhibit RR-2023-002-A-05 at para. 47.

exercise outlined above. Accordingly, the Tribunal concludes that the expiry of the order would likely lead to significant price undercutting coupled with price depression.<sup>126</sup>

### **Likely impact of the subject goods on the domestic industry if the order expires**

[83] The Tribunal will now assess the likely impact of the above volumes and prices on the domestic industry if the order were rescinded.<sup>127</sup> 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>128</sup>

#### Recent performance of the domestic industry

[84] The domestic industry experienced strong performance across several key metrics during the POR, namely, financial performance.

[85] Total domestic production increased by 5% from 2020 to 2021, then decreased by 15% in 2022.<sup>129</sup> Domestic sales of domestic production followed a similar trend, increasing by 5% from 2020 to 2021, then decreasing by 11% in 2022.<sup>130</sup> Overall, from 2020 to 2022, total domestic production and domestic sales of domestic production decreased by 10% and 7%, respectively. Between interim 2022 and interim 2023, total domestic production increased by 15%,<sup>131</sup> while domestic sales of domestic production decreased by 2%.<sup>132</sup>

[86] In its submissions, Algoma indicated that the decline in total domestic production coincided with a decline in Algoma's production in 2021 through 2023, due to outages as it implements the PMP.<sup>133</sup> According to Algoma, by early 2025, the PMP will be fully implemented, and Algoma will be targeting increased plate sales in Canada in an even wider range of grades than currently offered.<sup>134</sup>

[87] The domestic producers continued to make investments in their facilities during the POR,<sup>135</sup> as in the case of Algoma's PMP in particular. The importance of ongoing investments was emphasized in the witness statement of Ms. Devoni, who stated that it "... is vital for a successful steel company in today's economy and, as a result, it is an important part of Algoma's business."<sup>136</sup>

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<sup>126</sup> As no parties made submissions related to price suppression and there was little evidence on the record to support such a finding, the Tribunal will exercise judicial economy and not discuss this price effect.

<sup>127</sup> Paragraphs 37.2(2)(e) and (g) of the Regulations.

<sup>128</sup> See paragraph 37.2(2)(k) of the Regulations.

<sup>129</sup> Exhibit RR-2023-002-05.A at Table 7.

<sup>130</sup> *Ibid.* at Table 40.

<sup>131</sup> *Ibid.* at Table 7.

<sup>132</sup> *Ibid.* at Table 40.

<sup>133</sup> Algoma describes the PMP as "a generational initiative through which Algoma is investing \$120 million in its plate mill. This project will enhance Algoma's offering of specialty plate grades for bridge building, shipbuilding and laser quality steel applications and will improve Algoma's productivity, reduce lead times, reduce costs and further improve surface quality and flatness". Exhibit RR-2023-002-A-01 at para. 229.

<sup>134</sup> See Exhibit RR-2023-002-A-03 at paras. 48, 72.

<sup>135</sup> Exhibit RR-2023-002-06.A (protected) at Table 39.

<sup>136</sup> Exhibit RR-2023-002-A-03 at para. 62.

[88] Employment and hours worked increased between 2020 and 2022, decreasing from 2020 to 2021 then increasing to a level that exceeded 2020 in 2022. Total wages paid also increased between 2020 and 2022, increasing each year.<sup>137</sup>

[89] The domestic industry experienced strong financial performance. Gross margins for domestic sales were positive for the domestic industry in all periods.<sup>138</sup> As a percentage share of domestic net sales values, gross margins ranged from 6% in 2020 to a high of 30% in 2021, before falling to 19% in 2022.<sup>139</sup> Net income on domestic sales was negative in 2020, but the domestic industry had strong profits in 2021 and 2022, and in both interim periods.<sup>140</sup>

#### Likely impact on the domestic industry

[90] Algoma submitted that the evidence on the record shows that a rescission of the order would lead to resumed injury to the domestic industry. Algoma argued that the domestic industry's performance over the POR is not reflective of the likely results over the next 24 months. In this regard, Algoma said that the POR was characterized by volatility and that the next 12 to 24 months will, by comparison, be characterized by relative stability in demand and by declining prices.

[91] To this point, Ms. Devoni indicates in her witness statement that, because of expected declines in pricing, the results achieved by Algoma in 2021, 2022 and the first three quarters of 2023 are not the results that Algoma expects for the next 12 to 24 months, even with the order in place. She said that, in her opinion, Algoma and the Canadian industry would be in a vulnerable position if the order was rescinded.<sup>141</sup> She also expressed that the anticipated price effect of a return of Chinese plate would detrimentally impact Algoma's return on its above-mentioned PMP investment.<sup>142</sup> Witnesses from other domestic producers made similar statements. Mr. Young of Janco stated that the conditions over the POR were exceptional, with extreme volatility. He further indicated that, with the order in place, it will be a challenge to achieve pricing stability and certainty in 2024 and that, if the duties are removed, it would be significantly more challenging.<sup>143</sup> Mr. Boudreault of Nova Steel similarly stated that customers are wary of volatility and are conscious that prices are expected to come down and that, if the order is rescinded, Nova Steel will suffer from decreased sales, reduced revenue and the resulting degradation of its financial results, and these effects could lead to production cuts.<sup>144</sup>

[92] The Tribunal also received submissions from Evraz and SSAB regarding the likely impact if the order expires.<sup>145</sup> In addition, the Tribunal notes that the questionnaire responses on the Tribunal's

<sup>137</sup> Exhibit RR-2023-002-05.A at Table 39.

<sup>138</sup> See also Exhibit RR-2023-002-06.A (protected) at Schedule 1. Note: Del Metals and Varsteel are not included in the domestic industry's financial performance data.

<sup>139</sup> Exhibit RR-2023-002-05.A at Table 35.

<sup>140</sup> *Ibid.* at Table 34.

<sup>141</sup> Exhibit RR-2023-002-A-03 at paras. 52, 60; Exhibit RR-2023-002-A-04 (protected) at paras. 52, 60.

<sup>142</sup> Exhibit RR-2023-002-A-03 at para. 67.

<sup>143</sup> Exhibit RR-2023-002-A-07 at para. 22; Exhibit RR-2023-002-A-08 (protected) at para. 22.

<sup>144</sup> Exhibit RR-2023-002-A-09 at paras. 18–19; Exhibit RR-2023-002-A-10 (protected) at paras. 18–19.

<sup>145</sup> See Exhibit RR-2023-002-B-01; Exhibit RR-2023-002-B-02 (protected); Exhibit RR-2023-002-C-01.

record indicate a broadly held view among domestic producers that there will be negative consequences on the domestic industry if the order is not continued.<sup>146</sup>

[93] The Tribunal has already found that, if the order expires, there will likely be a significant increase in volume of imports of the subject goods, in absolute and relative terms, and that the domestic industry will likely face significant undercutting by the subject goods, leading to price depression.

[94] As part of the Tribunal's analysis of the likely impact on the domestic industry if the order expires, the Tribunal considered three scenarios to test the potential impact of the subject goods on the domestic industry's financial performance.<sup>147</sup> The first scenario was a "baseline" of the future financial performance of the domestic industry should the order remain in place. This scenario assumed that domestic prices would continue to trend with the CRU U.S. Midwest price and, accordingly, decline in line with the CRU U.S. Midwest price forecast, as referred to in Ms. Devoni's witness statement.<sup>148</sup> In this scenario, the domestic industry generated positive gross margins and net income in 2024, but both indicators turned negative in 2025. Hence, the Tribunal is of the view that, notwithstanding the domestic industry's strong financial performance during the POR, the domestic industry is likely to come under pressure, even with the order in place.

[95] The second and third scenarios were of the future financial performance of the domestic industry should the order expire. In the second, "conservative" scenario, domestic pricing was lowered to match the lowest non-subject goods pricing combined with the assumption that domestic prices would decline in line with the CRU U.S. Midwest price forecast. In this scenario, the domestic industry was able to generate positive gross margins and net income in 2024, albeit at lower levels than in the "baseline" scenario. In 2025, however, the domestic industry's financial situation would worsen to a point of both gross and net losses. In the third, "worst-case" scenario, domestic pricing was lowered to match the forecasted subject goods pricing. In this scenario, the domestic industry faced gross and net losses as early as 2024 which worsened in 2025.

[96] Given the export orientation and anticipated aggressive pricing of the Chinese producers, the Tribunal is satisfied that the likely impact of the order expiring will be closer to the third, "worst-case" scenario. In these circumstances, the domestic industry would be injured because, as noted, it would be forced to lower prices to compete with the subject goods. This lowering of prices would negatively impact the domestic industry's profitability, as demonstrated in the above financial scenarios. Should the domestic industry be unable to compete at these depressed prices, sales volumes would be lost, which would have a negative impact on the domestic industry's profitability. In this context, the Tribunal further expects, as suggested by Ms. Devoni, that the fate of the modernization efforts being undertaken by Algoma under its PMP would most likely be put at risk.

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<sup>146</sup> See Exhibit RR-2023-002-14.05 (protected) at 44–48; Exhibit RR-2023-002-14.02 (protected) at 46; Exhibit RR-2023-002-14.12C (protected) at 15; Exhibit RR-2023-002-13.07A at 15; RR-2023-002-14.03C (protected) at 47–49; Exhibit RR-2023-002-14.10B (protected) at 47; Exhibit RR-2023-002-13.10B at 14–15; Exhibit RR-2023-002-14.11B (protected) at 47–48; Exhibit RR-2023-002-14.04 at 45–46 (protected); Exhibit RR-2023-002-13.04 at 15; Exhibit RR-2023-002-14.13 (protected) at 47–48; and Exhibit RR-2023-002-13.13 at 14–15. See also Exhibit RR-2023-002-A-01 at 86–87.

<sup>147</sup> In these scenarios, volumes were kept constant, while market price was varied, and direct material costs were adjusted based on data available on the record. Exhibit RR-2023-002-05.A at Table 49; Exhibit RR-2023-002-06.A (protected) at Table 34, at schedules 44, 46; Exhibit RR-2023-002-A-04 (protected) at paras. 56–57.

<sup>148</sup> Exhibit RR-2023-002-A-04 (protected) at 15 (Table 6).

[97] For the above reasons, the Tribunal finds that the expiry of the order is likely to have a significant negative impact on the domestic industry's profitability and return on investments.<sup>149</sup>

### **Likely impact on workers**

[98] Recent amendments to SIMA and the Regulations impact the factors that the Tribunal must consider in assessing the likelihood of injury. The USW made specific submissions on these issues.

[99] Subsection 2(1) of SIMA defines "injury" as "material injury to a domestic industry" and "domestic industry" as "... the domestic producers as a whole of the like goods or those domestic producers whose collective production of the like goods constitutes a major proportion of the total domestic production of the like goods ...". The recent addition of subsection 2(11) of SIMA now stipulates that, in assessing injury under SIMA, the Tribunal must take into account any impacts on workers employed in the domestic industry. The Regulations were concurrently amended in sections 37.1<sup>150</sup> and 37.2<sup>151</sup> to reflect this change.

[100] Accordingly, in its assessment of injury pursuant to subsection 76.03(10) of SIMA, the Tribunal finds that it *must* ("shall") take into account the impact on workers as a *factor* in its assessment of whether there is an injury or a threat of injury to the domestic industry. Subparagraph 37.2(2)(e)(iii) and paragraph 37.2(2)(g) of the Regulations provide guidance to that effect.

[101] The USW made extensive submissions on the meaning of these changes. The Tribunal has set out its views in its recent decision in *Liquid Dielectric Transformers*, and it reiterates them here. Subsection 2(11) of SIMA does not change the definition of "injury" in subsection 2(1) of SIMA.<sup>152</sup> The fundamental issue before the Tribunal under SIMA since before the adoption of subsection 2(11) remains whether the expiry of the order is likely to result in injury to the domestic industry. The "domestic industry" remains those companies that are the producers of like goods. Subsection 2(11) creates a change in its analytical paradigm by which impacts on workers employed in the domestic industry shall now always be taken into account in the determination of injury to the domestic industry.

[102] The USW's submissions focused on the following five key areas related to workers: (i) employment levels; (ii) wages; (iii) hiring, retention, training and safety; (iv) pensions and benefits; and (v) service centre employment. Of note, the USW submitted that Algoma and the USW are in a period of transition to new processes and new equipment resulting from a PMP and the building of two new electric arc furnaces to replace Algoma's existing blast furnace and basic oxygen steelmaking operations,<sup>153</sup> which the USW expects will result in a new loss of unionized

<sup>149</sup> The Tribunal notes that, further to its submissions concerning impact on workers, discussed below, the USW argued that, in conducting its injury analysis, the Tribunal should consider the impact that expiry of the order would have on efforts by the domestic industry to create lower carbon versions of plate. As the Tribunal has already determined that an expiry of the order would likely negatively impact the domestic industry and for reasons of judicial economy, the Tribunal has decided to not address this element.

<sup>150</sup> Subsection 37.1(1) of the Regulations lists the factors that the Tribunal may consider in determining whether the dumping of goods has caused injury or retardation.

<sup>151</sup> Subsection 37.2(2) of the Regulations lists the factors that the Tribunal may consider in assessing whether the expiry of the order or finding is likely to result in injury or retardation.

<sup>152</sup> *Liquid Dielectric Transformers* (20 December 2023), RR-2022-004 (CITT) at paras. 117–121.

<sup>153</sup> Exhibit RR-2023-002-A-03 at para. 68.



positions. The USW submitted that the expiration of the order would likely mean fewer opportunities for members to “attrition out” by retirement, as increased commercial pressure from dumped steel would disrupt the planned “orderly transition”. The USW also argued that, if subject goods re-enter the market, history suggests that the defined benefit plans<sup>154</sup> could become underfunded. Regarding service centres, the USW submitted that workers at service centres are exposed to the same macroeconomic problems as workers at mills and are especially vulnerable because of service centres’ reliance on mills and foreign producers for substrates.

[103] Algoma also made submissions relevant to the impact on workers. Algoma argued that employment would be negatively impacted if the order was rescinded, including regarding wages and hours worked, pension plans and benefits. Algoma further claimed that, as it represents a significant proportion of direct and total employment in the industry, the likelihood of negative effects to employment at Algoma should be given significant weight in the assessment of a likelihood of resumed injury to the domestic industry as a whole.

[104] The Tribunal takes note that the quantitative evidence on the record reflects the whole industry (both domestic mills and service centres), while the qualitative evidence largely reflects the situation at Algoma, a domestic mill. This is explained by the fact that Algoma’s production of discrete plate is especially labour-intensive.<sup>155</sup>

[105] During the POR, the fluctuations in employment at Algoma were due to the COVID-19 pandemic and the initiation of the PMP, which disrupted workflows while the equipment was being installed.<sup>156</sup> However, the situation seems to have stabilized toward the end of the POR whether measured in terms of numbers of employees or hours worked.<sup>157</sup>

[106] Looking forward, if the order is rescinded, the Tribunal expects that, as discussed previously, the domestic industry’s profitability and/or sales volumes are likely to be significantly affected; as a result, the Tribunal finds it plausible that this could, in turn, lead companies to reduce their level of production and, consequently, to lay off employees. That said, other factors, such as the transition toward electric arc furnaces, expected to start this year, may also affect future levels of employment and cannot be attributed to the effects of the subject goods.<sup>158</sup>

[107] Wages increased over the POR throughout the sector.<sup>159</sup> It must be noted that evidence on the record shows that economic conditions prevailing at the time of bargaining could significantly impact the outcome of negotiations on wages and other benefits. This is evidenced by the conditions established in the collective agreements signed at Algoma and concluded in 2022 (at a time of elevated prices in the steel market).<sup>160</sup>

[108] The current collective agreement at Algoma runs until July 2027, beyond the next 24 months.<sup>161</sup> Hence, it appears that the potential negative impact of a resumption of a significant level of subject imports may only materialize itself during the negotiation of a new collective

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<sup>154</sup> As opposed to defined contribution plans which put investment risk on individual workers.

<sup>155</sup> Exhibit RR-2023-002-A-01 at paras. 224–226.

<sup>156</sup> Exhibit RR-2023-002-D-01 at para. 68.

<sup>157</sup> Exhibit RR-2023-002-06.A (protected) at tables 4, 39.

<sup>158</sup> Exhibit RR-2023-002-D-01 at para. 78.

<sup>159</sup> Exhibit RR-2023-002-06.A (protected) at tables 4, 39.

<sup>160</sup> Exhibit RR-2023-002-D-01 at paras. 82–91.

<sup>161</sup> *Ibid.* at para. 82.

agreement, in early 2027, three years from now.<sup>162</sup> To this extent, the Tribunal's view is that wages at Algoma may be insulated from the effects of the subject goods over the next 24 months.

[109] The steel industry employs workers across a wide range of skills and trades.<sup>163</sup> Tight labour market conditions and successive proceedings of protection under the *Companies' Creditors Arrangement Act* have created challenges for Algoma to be effective in retaining skilled employees and training new employees.<sup>164</sup> In this context, the Tribunal finds it likely that a worsening of the financial performance of the domestic industry resulting from a significant increase in the volume of subject imports at low prices will make it more challenging to transition the workforce to new production processes (such as those stemming from the PMP and the transition to electric arc furnaces).<sup>165</sup>

[110] The USW's evidence in connection to pensions and benefits is limited to the unique functioning of the pension plan at Algoma, which is characterized by a dual system where those hired before 2011 have retained their defined benefit plan, while those hired after 2011 have contribution pension plans.<sup>166</sup> The USW does not establish an explicit connection between the impact of rescinding the order and the evolution of pension plans. It simply states that, with a resumption of subject imports, the defined benefits pension plan may be underfunded, with very serious consequences for USW pensioners.<sup>167</sup>

[111] While the Tribunal can appreciate that such a domino effect may occur in the future, it is not convinced that the underfunding of the defined benefit pension plan would be attributable, in and of itself, to the presence of subject imports over the next 24 months.

[112] The USW submits that service centre employees would be as vulnerable as workers at domestic mills producing discrete plate to a resumption of subject imports following a rescinding of the order.<sup>168</sup> The Tribunal finds it likely that its conclusion on the impact of rescinding the order on employment would equally apply to workers at service centres.

[113] Therefore, the Tribunal finds it likely that a significant increase in the volume of subject imports at low prices would negatively impact workers of the domestic industry. The Tribunal finds that potential job losses and challenges in training could be attributable to the subject goods.

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<sup>162</sup> Exhibit RR-2023-002-D-03 at para. 50.

<sup>163</sup> Exhibit RR-2023-002-D-01 at paras. 96–100.

<sup>164</sup> *Ibid.* at paras. 102–116.

<sup>165</sup> *Ibid.* at paras. 77–78.

<sup>166</sup> *Ibid.* at paras. 124–125.

<sup>167</sup> *Ibid.* at paras. 127–129.

<sup>168</sup> Exhibit RR-2023-002-D-07 at paras. 52–54.

Factors other than the subject goods

[114] Pursuant to paragraph 37.2(2)(k) of the Regulations, the Tribunal may consider certain other factors that are relevant in the circumstances.<sup>169</sup>

[115] The submissions of the parties and the evidence on record indicates that there are certain “non-dumping” factors that could contribute to the injury of the domestic industry (e.g., declining prices and competition from non-subject imports). These have been briefly discussed elsewhere in these reasons. While such factors may cause some injurious effects to the domestic industry, the Tribunal finds that the subject goods, in and of themselves, are likely to cause material injury through their significantly increased volumes and low and undercutting prices.

[116] Accordingly, the Tribunal finds that the rescission of the order, in and of itself, will likely result in material injury to the domestic industry over the next 24 months.

**CONCLUSION**

[117] Based on the foregoing analysis, and pursuant to paragraph 76.03(12)(b) of SIMA, the Tribunal continues its order in respect of hot-rolled carbon steel plate from China.

Frédéric Seppey

Frédéric Seppey  
Presiding Member

Bree Jamieson-Holloway

Bree Jamieson-Holloway  
Member

Randolph W. Heggart

Randolph W. Heggart  
Member

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<sup>169</sup> Paragraph 37.2(2)(k) of the Regulations refers to “any other factor pertaining to the current or likely behaviour or state of the domestic or international economy, market for goods or industry as a whole or in relation to workers or individual producers, exporters, brokers or traders.”