



Canada Border
Services Agency

Agence des services
frontaliers du Canada

OTTAWA, April 15, 2011

RR-2010-001

4366-43

4366-44

STATEMENT OF REASONS

Concerning a determination under paragraph 76.03(7)(a) of the
Special Import Measures Act regarding

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

DECISION

On March 31, 2011, pursuant to paragraph 76.03(7)(a) of the *Special Import Measures Act*, the President of the Canada Border Services Agency (the President) determined that the expiry of the orders made by the Canadian International Trade Tribunal on August 16, 2006, in Expiry Review No. RR-2005-002, continuing its findings made on August 17, 2001, in Inquiry No. NQ-2001-001, concerning the dumping of flat hot-rolled carbon and alloy steel sheet and strip originating in or exported from Brazil, the People's Republic of China (China), Chinese Taipei, India and Ukraine was likely to result in the continuation or resumption of dumping of these goods into Canada, and in the continuation or resumption of subsidizing of such goods from India. Furthermore, the President determined that the expiry of the order in respect of flat hot-rolled carbon and alloy steel sheet and strip originating in or exported from South Africa was unlikely to result in the continuation or resumption of dumping of these goods.

Cet Énoncé des motifs est également disponible en français.
This Statement of Reasons is also available in French.

TABLE OF CONTENTS

SUMMARY	3
BACKGROUND.....	4
PRODUCT DESCRIPTION.....	6
DEFINITION	6
PRODUCT INFORMATION	6
CLASSIFICATION OF IMPORTS.....	7
PERIOD OF REVIEW	7
CANADIAN INDUSTRY	8
CANADIAN MARKET	11
ENFORCEMENT	11
PARTICIPANTS.....	12
INFORMATION USED BY THE PRESIDENT	13
EXPIRY REVIEW RECORD	13
PROCEDURAL ISSUES.....	14
POSITION OF THE PARTIES - DUMPING.....	15
PARTIES CONTENDING THAT CONTINUED OR RESUMED DUMPING IS LIKELY.....	15
CANADIAN PRODUCERS.....	15
PARTIES CONTENDING THAT CONTINUED OR RESUMED DUMPING IS UNLIKELY	28
EXPORTERS	28
CONSIDERATION AND ANALYSIS - DUMPING.....	32
LIKELIHOOD OF CONTINUED OR RESUMED DUMPING.....	35
BRAZIL	35
CHINA	42
CHINESE TAIPEI.....	47
INDIA.....	50
UKRAINE	55
SOUTH AFRICA	59
POSITION OF THE PARTIES - SUBSIDIZING	61
PARTIES CONTENDING THAT CONTINUED OR RESUMED SUBSIDIZING IS LIKELY.....	61
CANADIAN PRODUCERS.....	61
CONSIDERATION AND ANALYSIS - SUBSIDIZING	62
LIKELIHOOD OF CONTINUED OR RESUMED SUBSIDIZING	62
INDIA.....	63
CONCLUSION.....	69
FUTURE ACTION.....	69

SUMMARY

[1] On December 1, 2010, the Canadian International Trade Tribunal (Tribunal), pursuant to subsection 76.03(3) of the *Special Import Measures Act* (SIMA), initiated an expiry review of its orders issued on August 16, 2006, in Expiry Review no. RR-2005-002, continuing its findings made on August 17, 2001 in Inquiry no. NQ-2001-001 concerning:

- the dumping of flat hot-rolled carbon and alloy steel sheet and strip, including secondary or non-prime material, originating in or exported from Brazil, China, Chinese Taipei, India, South Africa and Ukraine; and
- the subsidizing of flat hot-rolled carbon and alloy steel sheet and strip, including secondary or non-prime material, originating in or exported from India.

[2] For the purposes of this Statement of Reasons, the term “hot-rolled steel sheet” shall hereafter refer strictly to products subject to the orders and the countries identified shall collectively be referred to as “the Named Countries.”

[3] As a result of the Tribunal’s notice, on December 2, 2010, the Canada Border Services Agency (CBSA) commenced an investigation to determine whether the expiry of the orders is likely to result in the continuation or resumption of dumping and, in the case of India, subsidizing of these goods.

[4] The Canadian producers of hot-rolled steel sheet, namely Essar Steel Algoma Inc. (formerly Algoma Steel Inc.), U.S. Steel Canada Inc. (formerly Stelco Inc.) ArcelorMittal Dofasco Inc. (formerly Dofasco Inc.) and Evraz Inc. NA Canada (formerly IPSCO Inc.) provided responses to the Expiry Review Questionnaire (ERQ).

[5] The Canadian producers also provided information in support of their position that continued or resumed dumping of hot-rolled steel sheet from the Named Countries is likely if the Tribunal’s orders are allowed to expire.

[6] The Canadian producers provided information in support of the position that continued subsidizing of hot-rolled steel sheet from India is likely if the order with respect to subsidizing of hot-rolled steel sheet from India is allowed to expire.

[7] The CBSA also received responses to the ERQ from four exporters and three importers. Two of the exporters are located in Brazil and the other two are located in Chinese Taipei. Only one exporter provided case arguments to support its position that continued or resumed dumping of hot-rolled steel sheet from Brazil is unlikely if the order in respect of goods from Brazil is allowed to expire.

[8] Analysis of information on the record indicates that there is significant over-supply of hot-rolled steel sheet in global markets, that exporters in the Named Countries have excess production capacity, reported future production capacity expansion plans, have insufficient domestic demand creating pressures to export, have recently sold into worldwide export markets at prices which suggest they continue to “dump,” have not generally demonstrated an ability to compete in Canada at undumped prices and are subject to anti-dumping measures in several countries other than Canada indicating a propensity to dump.

[9] The information on the record also shows the continuing availability and applicability of subsidy programs in India.

[10] For the foregoing reasons the President, having considered the relevant information on the record and the foregoing factors, determined, on March 31, 2011, under paragraph 76.03(7)(a) of SIMA that:

- i. the expiry of the orders in respect of hot-rolled steel sheet, originating in or exported from Brazil, China, Chinese Taipei, India and Ukraine is likely to result in the continuation or resumption of dumping of these goods into Canada;
- ii. the expiry of the order in respect of hot-rolled steel sheet, originating in or exported from South Africa is unlikely to result in the continuation or resumption of dumping of these goods into Canada;
- iii. the expiry of the order in respect of hot-rolled steel sheet, originating in or exported from India is likely to result in the continuation or resumption of subsidizing of these goods into Canada.

BACKGROUND

[11] On January 19, 2001, following a complaint filed by Canadian industry, the original dumping and, in the case of India, subsidy investigations were initiated concerning flat hot-rolled carbon and alloy steel sheet and strip products originating in or exported from Brazil, Bulgaria, China, Chinese Taipei, India, the Republic of Korea, the Former Yugoslav Republic of Macedonia, New Zealand, Saudi Arabia, South Africa, Thailand, Ukraine and the Federal Republic of Yugoslavia.

[12] The complaint was made by Algoma Steel Inc. (now Essar Steel Algoma Inc.) of Sault Ste. Marie, Ontario and was supported by the other Canadian manufacturers of the product at that time, namely: Stelco Inc. (now United States Steel Canada Inc.) of Hamilton, Ontario, Dofasco Inc. (now ArcelorMittal Dofasco Inc.) of Hamilton, Ontario, IPSCO Inc. (now Evraz Inc. NA Canada) of Regina, Saskatchewan, and Ispat Sidbec Inc. (Ispat) of Montreal, Quebec (now ArcelorMittal Canada).

[13] On July 18, 2001, the Commissioner of the Canada Customs and Revenue Agency (now the President of the CBSA) made final determinations of dumping and, in the case of India, subsidizing in accordance with paragraph 41(1)(a) of SIMA in respect of flat hot-rolled carbon and alloy steel sheet and strip, originating in or exported from Brazil, Bulgaria, China, Chinese Taipei, India, the Republic of Korea, the Former Yugoslav Republic of Macedonia, New Zealand, Saudi Arabia, South Africa, Ukraine and the Federal Republic of Yugoslavia.

[14] On August 17, 2001, the Tribunal found that injury had been caused by the dumping of these goods from Brazil, Bulgaria, China, Chinese Taipei, India, the Former Yugoslav Republic of Macedonia, South Africa, Ukraine and the Federal Republic of Yugoslavia, and by the subsidizing of such goods from India. On the same date, the Tribunal found that no injury had been caused by the dumping of these goods originating in or exported from the Republic of Korea, New Zealand and Saudi Arabia.

[15] On March 30, 2006, following the initiation of an expiry review of the Tribunal's finding of injury, the President of the CBSA determined that the expiry of the finding in respect of these goods from Brazil, China, Chinese Taipei, India, South Africa and Ukraine was likely to result in the continuation or resumption of dumping of these goods; and also that the expiry of the finding in respect of such goods from India was likely to result in the continuation or resumption of subsidizing of these goods. Furthermore, the President determined that the expiry of the finding in respect of these goods from Bulgaria, the former Yugoslav Republic of Macedonia and Serbia and Montenegro (formerly the Federal Republic of Yugoslavia), was unlikely to result in the continuation or resumption of dumping of these goods.

[16] On August 16, 2006, the Tribunal issued orders pursuant to paragraph 76.03(12)(b) of SIMA, continuing its finding concerning the dumping of flat hot-rolled carbon and alloy steel sheet and strip originating in or exported from Brazil, China, Chinese Taipei, India, South Africa and Ukraine, and the subsidizing of flat hot-rolled carbon and alloy steel sheet and strip originating in or exported from India.

[17] On October 12, 2010, pursuant to subsection 76.03(2) of SIMA, the Tribunal issued a notice concerning the upcoming expiry of its orders which would have expired on August 15, 2011. Based on the available information and the information submitted by the interested parties, the Tribunal decided that an expiry review of the orders was warranted.

PRODUCT DESCRIPTION

Definition

[18] The goods subject to the orders under review are defined as:

Flat hot-rolled carbon and alloy steel sheet and strip, including secondary or non-prime material, originating in or exported from Brazil, the People's Republic of China, Chinese Taipei, India, the Republic of South Africa, and Ukraine in various widths from 3/4 in. (19 mm) and wider, and

(a) for product in coil form, in thicknesses from 0.054 in. to 0.625 in. (1.37 mm to 15.875 mm) inclusive,

(b) for product that is cut to length, in thicknesses from 0.054 in. up to but not including 0.187 in. (1.37 mm up to but not including 4.75 mm),

excluding:

(i) flat-rolled stainless steel sheet and strip;

(ii) flat hot-rolled, cut-to-length alloy steel products containing no less than 11.5 percent manganese, in thicknesses from 3 mm to 4.75 mm.

Product Information

[19] Hot-rolled steel sheet is used in the automotive industry in the manufacture of frames, bumpers, wheels and some powertrain components. Hot-rolled steel sheet is also used in the manufacture of sheet piling and guard rails for use in construction. As well, hot-rolled steel sheet is consumed by non-automotive stampers, steel fabricators and manufacturers of agricultural and other machinery.

[20] For the purpose of this investigation, hot-rolled steel sheet includes strip and sheet, but does not include floor plate. Strip is usually produced in widths up to 12 in. (305 mm), inclusive. Sheet and floor plate are usually produced in widths over 12 in. (305 mm). Floor plate is hot finished in a final pass or passes to form a pattern on the surface of the sheet.

[21] Alloy steel sheet that are subject to this investigation are alloy steels, other than stainless steel, that contain by weight one or more of certain specified elements in minimum specified proportions. The notes to Chapter 72 of the Customs Tariff Schedule specify the elements and the minimum proportions.

[22] Flat hot-rolled stainless steel sheet and strip, which was excluded from the product definition, is commercially and metallurgically distinct from carbon steel, being produced to a lower carbon and higher alloy content than the subject goods. Stainless steel contains, by weight, 1.2 percent or less of carbon and 10.5 percent or more of chromium, with or without other elements.

CLASSIFICATION OF IMPORTS

[23] Hot-rolled steel sheet is normally imported into Canada under the following Harmonized System (HS) classification numbers:

7208.25.10.10	7208.25.10.20	7208.25.10.30	7208.25.10.40
7208.25.90.10	7208.25.90.20	7208.25.90.30	7208.25.90.40
7208.26.10.10	7208.26.10.20	7208.26.10.30	7208.26.10.40
7208.26.90.10	7208.26.90.20	7208.26.90.30	7208.26.90.40
7208.27.10.10	7208.27.10.20	7208.27.10.30	7208.27.10.40
7208.27.90.10	7208.27.90.20	7208.27.90.30	7208.27.90.40
7208.36.00.10	7208.36.00.20	7208.36.00.30	7208.36.00.40
7208.37.10.10	7208.37.10.20	7208.37.10.30	7208.37.10.40
7208.37.90.10	7208.37.90.20	7208.37.90.30	7208.37.90.40
7208.38.10.10	7208.38.10.20	7208.38.10.30	7208.38.10.40
7208.38.90.10	7208.38.90.20	7208.38.90.30	7208.38.90.40
7208.39.00.10	7208.39.00.20	7208.39.00.30	7208.39.00.40
7208.53.00.10	7208.53.00.20	7208.53.00.30	7208.53.00.40
7208.54.00.10	7208.54.00.20	7208.54.00.30	7208.54.00.40
7208.90.00.00	7211.13.00.00	7211.14.00.90	7211.19.10.00
7211.19.90.10	7211.19.90.90	7211.90.10.00	7211.90.90.90
7225.20.00.91	7225.20.00.92	7225.30.10.00	7225.30.90.00
7225.40.10.10	7225.40.10.20	7225.40.10.30	7225.40.10.40
7225.40.20.10	7225.40.20.20	7225.40.20.30	7225.40.20.40
7225.40.90.11	7225.40.90.19	7225.40.90.21	7225.40.90.91
7225.40.90.92	7225.40.90.93	7225.40.90.94	7225.99.00.90
7226.20.00.91	7226.20.00.92	7226.91.10.00	7226.91.90.20
7226.91.90.30	7226.91.90.40	7226.91.90.90	7226.99.90.00

PERIOD OF REVIEW

[24] The period of review (POR) for the CBSA's expiry review investigation is January 1, 2008 to September 30, 2010. The President also considered additional information placed on the administrative record, up to the closing of the record date, which was January 20, 2011.

CANADIAN INDUSTRY

[25] The Canadian industry for hot-rolled steel sheet production is comprised of the following four companies*:

- Essar Steel Algoma Inc. of Sault Ste. Marie, Ontario
- U.S. Steel Canada Inc. of Hamilton, Ontario
- ArcelorMittal Dofasco Inc. of Hamilton, Ontario
- Evraz Inc. NA Canada of Regina, Saskatchewan

* ArcelorMittal Canada of Contrecoeur, Quebec was closed in January 2008.¹

Essar Steel Algoma Inc.

[26] Incorporated on June 1, 1992, under the *Ontario Business Corporations Act*, Algoma Steel Inc. (Algoma) acquired all of the assets and some of the liabilities of the old Algoma Steel Corporation, Limited. On January 29, 2002, the company was further reorganized under a plan of Arrangement and Reorganization pursuant to the *Companies' Creditors Arrangement Act*.

[27] In June 2007, Algoma was acquired by Essar Steel Holdings Ltd., a division of the multi-national conglomerate, Essar Global. On May 8, 2008, the company was renamed Essar Steel Algoma Inc.²

[28] Essar Steel Algoma Inc., with its subsidiaries, is a vertically integrated primary iron and steel producer having a present capacity to produce approximately 3.7 million metric tonnes (mmt) of raw steel annually. Expressed in terms of finished steel products, the annual capacity is approximately 3.4 mmt consisting of carbon and alloy steel plate, hot-rolled steel sheet, cold-rolled sheet, floor plate and welded wide flange beams and unfinished parts. The company's production facilities are located in Sault Ste. Marie, Ontario.³

U.S. Steel Canada (USSC)

[29] Incorporated as 'The Steel Company of Canada' in 1910, the company grew to become Canada's leading steelmaker and in 1980 became known as "Stelco Inc." On October 31, 2007, Stelco was acquired by United States Steel Corporation (USS), which renamed the company as U.S. Steel Canada Inc. (USSC).

¹ Exhibit 51 (PRO) - ArcelorMittal Canada Submission - Confirmation that facility in Contrecoeur, Québec was closed in January 2008.

² Exhibit 24 (NC) - Essar Steel Algoma Inc. response to Producer ERQ, Question A2.

³ Exhibit 24 (NC) - Essar Steel Algoma Inc. response to Producer ERQ, Question A2.

[30] USSC has two main production facilities: Hamilton Works and Lake Erie Works. Hot-rolled steel sheet was manufactured at Hamilton Works on a 56-inch (1,422.4mm) mill between December 1945 and May 2007, at which point the hot strip mill at Hamilton Works ceased production. Production of hot-rolled steel sheet began at Lake Erie Works in May 1983, on a 80-inch (2,050 mm) hot strip mill. The company submitted that more than \$600 million has been invested in the Lake Erie Works hot strip mill over the past decade to supply hot rolled products for sales to the market and for use as feeder stock for Hamilton Works.⁴

ArcelorMittal Dofasco Inc.

[31] Located in Hamilton, Ontario, ArcelorMittal Dofasco Inc. is a fully integrated steel manufacturing facility producing flat-rolled and tubular steel products. It has a non-union workforce of approximately 5,000 employees.

[32] In 1912, C.W. Sherman founded the Dominion Steel Casting Company to manufacture castings for Canadian railways. The company merged with its subsidiary, Hamilton Steel Wheel Company, and was incorporated under the laws of Canada by letters patent dated May 15, 1917 and re-named Dominion Foundries and Steel Limited. The name was officially changed to Dofasco Inc. in 1980.

[33] Production of hot-rolled steel sheet started in 1940. The original mill was modified many times over the years and taken out of commission in 1993. A new hot mill was brought into use in 1983.

[34] In 2006, Dofasco Inc. was purchased by Europe-based steelmaker Arcelor. During this transition, Arcelor merged with Mittal Steel to become ArcelorMittal and Dofasco Inc. was re-named ArcelorMittal Dofasco Inc. on November 30, 2007.

[35] The head office, sales, administrative and production facilities are all located at ArcelorMittal Dofasco Inc.'s plant and at its 50% owned mini-mill facility, Gallatin Steel Company, located in Ghent, Kentucky.

[36] Products manufactured by ArcelorMittal Dofasco Inc. and its steel related joint ventures include flat-rolled steels such as: hot-rolled, cold-rolled, galvanized and Galvalume,TM Extragal,TM for exposed automotive parts, pre-painted, tin plate, as well as welded tubular products and tailor welded blanks.

⁴ Exhibit 43 (NC) - USSC response to Producer ERQ, Question A2.

[37] ArcelorMittal Dofasco Inc.'s #2 Hot Mill is capable of producing hot-rolled products up to 62" (1,574.8 mm) wide and up to 0.5" (12.7mm) in thickness. ArcelorMittal Dofasco Inc. provides hot-rolled steel to the automotive, construction, tubular and service centre sectors. As part of the finishing for hot-rolled steel sheet, ArcelorMittal Dofasco Inc. has three pickle lines that use acid to remove oxide from the steel. Oil may also be applied to the coils once they have gone through the acid bath. The company also provides internal/external processing including tempering, slitting, cut-to-length or blanking as required by customers.⁵

Evrz Inc. NA Canada

[38] Evraz Inc. NA Canada (the Western Canadian operations of the former IPSCO Inc.) was originally incorporated as the Prairie Pipe Manufacturing Co., Ltd. in 1956. The company commenced production of its own flat-rolled steel, including hot-rolled steel sheet in 1960. Evraz Inc. NA Canada continues to produce hot-rolled steel sheet in addition to other flat-rolled steel, including hot-rolled carbon and alloy steel plate products, oil country tubular goods, standard pipe and piling pipe.

[39] On July 17, 2007, SSAB, a subsidiary of SSAB Svenkst Stahl of Sweden, acquired IPSCO and its subsidiaries. A further reorganization led to IPSCO Inc. owning only the Canadian operations, excluding the coil processing facility in Scarborough, Ontario.

[40] On June 12, 2008, Evraz Group S.A. acquired from SSAB all its IPSCO Inc. shares and all of its subsidiaries. SSAB retained a number of U.S. facilities and the coil processing facility in Scarborough, Ontario.

[41] On October 15, 2008, the name IPSCO Inc. was changed to Evraz Inc. NA Canada and the name of its wholly owned subsidiary IPSCO Canada Inc. was changed to Evraz Inc. NA Canada West.

[42] On January 1, 2009, Evraz Inc. NA Canada West was amalgamated into Evraz Inc. NA Canada.⁶

[43] The company's Regina, Saskatchewan facility is the largest steel industrial complex in Western Canada, producing carbon steel sheet and plate. The company also operates tubular manufacturing facilities in Calgary, Camrose and Red Deer, Alberta as well as a coil processing facility in Surrey, British Columbia.

⁵ Exhibit 30 (NC) - ArcelorMittal Dofasco response to Producer ERQ, Question A2.

⁶ Exhibit 39 (NC) - Evraz Inc. NA Canada response to Producer ERQ, Question A2.

ArcelorMittal Canada

[44] ArcelorMittal Canada was incorporated under the former name 'Sidbec' in 1928. Flat-rolled products (hot-rolled and cold-rolled) were first produced in the late 1960's. The company was purchased by Mittal Steel (formerly Ispat International N.V.) in 1994 and changed its name to Ispat Sidbec Inc., which was subsequently changed to Mittal Canada. In 2009, following the merger of international steel producers Mittal Steel and Arcelor, the company again changed its name from Mittal Canada to ArcelorMittal Canada.

[45] On December 11, 2007, in an effort to consolidate production with its Dofasco facility, ArcelorMittal announced that the hot mill operations of ArcelorMittal Canada in Québec would be shut down on January 31, 2008.⁷ As a consequence the subject goods are no longer produced at this facility.

CANADIAN MARKET

[46] Detailed information regarding overall Canadian apparent market cannot be divulged for confidentiality reasons. However, based on the information on the administrative record the apparent market decreased dramatically in value from 2008 to 2009, before rebounding in 2010 to a level in between the market values of 2008 and 2009.⁸

[47] In terms of overall market, the Canadian producers saw their share of the apparent Canadian market for hot-rolled steel sheet decrease in both value and volume from 2008 through the first nine months of 2010. For the Named Countries, their share changed little during the POR, consistently representing less than 1% of the Canadian market on both a value and volume basis.⁹

ENFORCEMENT

[48] During the POR, each of the Named Countries exported the subject goods to Canada. Of the Named Countries, China accounted for the majority of the volume and value of subject goods imported over the POR.¹⁰ Between 2008 and 2009 import volumes from the Named Countries decreased by 88% and between 2009 and the first nine months of 2010 imports increased by 295%.¹¹

⁷ Exhibit 49 (NC) - Corporate Information and Press Release from ArcelorMittal.

⁸ Exhibit 72 (PRO) - Apparent Canadian Market for Hot-Rolled Steel Sheet.

⁹ Exhibit 72 (PRO) - Apparent Canadian Market for Hot-Rolled Steel Sheet

¹⁰ Exhibit 70 (PRO) - Enforcement Statistics for Period of Review.

¹¹ Exhibit 70 (PRO) - Enforcement Statistics for Period of Review.

[49] In the enforcement of the Tribunal's orders during the POR, the amount of anti-dumping duty collected on subject imports was just over \$40,000.¹² The CBSA's enforcement statistics show that the value of hot-rolled steel sheet imported from the Named Countries between 2008 and 2009 decreased by 87% and between 2009 and the first nine months of 2010 increased by 91%.¹³

PARTICIPANTS

[50] On December 1, 2010, the Tribunal's notice of the expiry review of its orders and the Expiry Review Questionnaires (ERQs) were sent to the known Canadian producers, exporters, importers, and other interested parties.

[51] The ERQ requested information relevant to the consideration of the expiry review factors by the President, as listed in subsection 37.2(1) of the Special Import Measures Regulations (SIMR). Any persons or governments having an interest in this investigation were also invited to provide a submission regarding the likelihood of continued or resumed dumping and (where applicable) subsidizing of these goods should the orders be allowed to expire.

[52] As mentioned above, there are presently four producers of hot-rolled steel sheet in Canada. In addition to participating in the expiry review investigation and answering the ERQ, the Canadian producers provided case briefs and reply submissions stating that the dumping of the subject goods from the Named Countries and subsidizing of such goods from India, would continue or resume should the Tribunal's order be allowed to expire.

[53] Four exporters to whom ERQs were sent participated in the expiry review investigation and provided responses to the ERQ. The participating exporters were: Chung Hung Steel (CHS)¹⁴ and China Steel Corporation (CSC)¹⁵ of Chinese Taipei, and Usinas Siderurgicas de Minas Gerais S.A. (USIMINAS)¹⁶ and ArcelorMittal Brasil S/A of Brazil.¹⁷ USIMINAS also provided both case arguments and reply submissions in support of their position that the dumping of hot-rolled steel sheet from Brazil is unlikely if the Tribunal's order in respect of Brazil is allowed to expire.¹⁸

¹² Exhibit 70 (PRO) - Enforcement Statistics for Period of Review.

¹³ Exhibit 72 (PRO) - Apparent Canadian Market for Hot-Rolled Steel Sheet.

¹⁴ Exhibit 27 (PRO) - Chung Hung Steel response to Exporter ERQ.

¹⁵ Exhibit 25 (PRO) - China Steel Corporation response to Exporter ERQ.

¹⁶ Exhibit 44 (PRO) - USIMINAS response to Exporter ERQ.

¹⁷ Exhibit 31 (PRO) - ArcelorMittal Brasil S/A response to Exporter ERQ.

¹⁸ Exhibit 84 (NC) - USIMINAS Case Brief; Exhibit 91 (PRO) - USIMINAS Reply Submission.

[54] With regard to the participation of importers of the subject goods, three responses to the ERQ were received, namely from Bohler Uddeholm Ltd.,¹⁹ Russel Metals Inc.²⁰ and Lakeside Steel Corporation.²¹ Another response from importer Samuel, Son & Co. Ltd. was received after the closing of the record date (and was not considered). No importers provided case briefs or reply submissions. Since none of these importers expressed a firm position in the matter of the likelihood of resumed or continued dumping or (where applicable) subsidizing, they are not considered in the “position of the parties” sections of this report.

INFORMATION USED BY THE PRESIDENT

Expiry Review Record

[55] The information used and considered by the President for purposes of this expiry review investigation is contained on the administrative record. The administrative record includes the information on the CBSA’s Exhibit Listing, which is comprised of the Tribunal’s administrative record at initiation of the expiry review, CBSA exhibits and information submitted by interested persons, including information which they feel is relevant to the decision as to whether dumping and (where applicable) subsidizing is likely to continue or resume. This information may consist of expert analysts’ reports, excerpts from trade magazines and newspapers, orders and findings issued by authorities of Canada or of a country other than Canada, documents from international trade organizations such as the World Trade Organization and responses to the ERQs submitted by Canadian producers, exporters and importers.

[56] For purposes of an expiry review investigation, the CBSA sets a date after which no new information may be placed on the administrative record. This is referred to as the “closing of the record date.” For this investigation, the administrative record closed on January 20, 2011. This allows participants time to prepare their case briefs and reply submissions based on the information that is on the administrative record as of the closing of the record date.

¹⁹ Exhibit 22 (NC) - Bohler Uddeholm Ltd. response to Importer ERQ.

²⁰ Exhibit 35 (PRO) - Russel Metals Inc. response to Importer ERQ.

²¹ Exhibit 37 (PRO) - Lakeside Steel Corporation response to Importer ERQ.

Procedural Issues

[57] In accordance with the CBSA's *Expiry Review Guidelines*, the President will normally not consider any new information submitted by participants subsequent to the closing of the record date. However, in certain exceptional circumstances, it may be necessary to permit new information to be submitted. The President will consider the following factors in deciding whether to accept new information submitted after the closing of the record date:

- (a) the availability of the information prior to the closing of the record date;
- (b) the emergence of new or unforeseen issues;
- (c) the relevance and materiality of the information;
- (d) the opportunity for other participants to respond to the new information; and
- (e) whether the new information can reasonably be taken into consideration by the President in making the determination.

[58] Participants wishing to file new information after the closing of the record date, either separately or in case briefs or reply submissions, must identify this information so that the President can decide whether it will be included in the record for purposes of the determination.

[59] With respect to this expiry review investigation, the CBSA did remove several documents from consideration which were submitted after the January 20, 2011 closing of the record date.

[60] The first was a response to the ERQ from importer Samuel, Son & Co., Ltd. which was received the day after the closing of the record date.

[61] South African exporter Evraz Highveld Steel and Vanadium Ltd. provided a brief letter in regards to the expiry review investigation that was received February 8, 2011.

[62] Counsel for Brazilian exporter USIMINAS also submitted a document as an attachment to the company's reply submission which was not part of the listing of exhibits as of the close of the record date.²²

[63] In addition to late submitted documents, counsel for USIMINAS also made reference in their reply submission to information contained on pages of a trade publication which were not on the listing of exhibits, as only an excerpt from this publication had been submitted for the record. Paragraphs referencing these pages were not considered by the CBSA in its expiry review investigation.²³

²² Exhibit 91 (PRO) - USIMINAS Reply Submission, Annex 1.

²³ Exhibit 91 (PRO) - USIMINAS Reply Submission, paragraphs 51 and 52.

[64] Upon review, it was determined that the information contained in these documents did not meet the requirements of the aforementioned Expiry Review Guidelines. Furthermore, in no case did the late submitting party provide reasons with reference to these guidelines, as to why the late submitted information should be taken into consideration.

POSITION OF THE PARTIES - DUMPING

Parties contending that continued or resumed dumping is likely

CANADIAN PRODUCERS

[65] The Canadian producers presented case arguments and reply submissions in support of their position that the continued or resumed dumping from the Named Countries is likely should the orders with respect to the dumping of these goods be allowed to expire. Accordingly, the Canadian producers contend that the measures should remain in place.

[66] The Canadian producers presented many common arguments which focus largely on the detrimental effects of excess world hot-rolling capacity and export dependency of foreign exporters that inevitably lead to dumping when left unrestrained by regulatory measures such as those found in SIMA.

[67] Given the general consensus amongst the four Canadian producers as to the core arguments in favour of continuing the Tribunal's orders, reference to issues raised by individual producers in their respective case briefs or reply submissions will typically be attributed to 'the Canadian producers' as an entity throughout this analysis.

[68] The Canadian producers' position that if the Tribunal orders expire, dumping is likely to continue or resume from the Named Countries, is based predominantly on the following global and country specific factors.

Position of the Canadian producers regarding global hot-rolled steel issues

[69] The Canadian producers collectively identified certain global conditions related largely to the production of and capacity for steel and specifically for hot-rolled steel sheet as significant in arguing that the absence of the Tribunal orders will lead to a resumption of hot-rolled steel sheet dumping from the Named Countries. The main factors identified by the Canadian producers can be summarized as follows:

- Excess capacity for hot-rolled steel sheet is large and projected to grow worldwide
- The compounding effect of current non-subject export sources selling low-priced hot-rolled steel sheet into Canada
- Trade measures in other jurisdictions lead to diversion of goods to unrestrained markets
- The commodity nature of the subject goods facilitates dumping, as they are very price sensitive
- The capital intensive nature of steel production leads to dumping

[70] The Canadian producers made extensive representations concerning the threat of global hot-rolled steel making capacity, in addition to the looming threat of additional capacity which is scheduled to become operational in the near future.

[71] The Canadian producers cited information on the record that reports world-wide hot-rolled steel sheet making capacity by country and by region to illustrate the magnitude of current and projected capacity as well as the scope of excess capacity in the world. Their greatest concern focused on Asia.²⁴

[72] Hot-rolled steel sheet capacity in the Named Countries for 2010 was estimated at nearly 425 mmt per year.²⁵ Capacities for other large producing markets such as Russia, Latin America, Japan, South Korea, and Western Europe adds another 187 mmt per year of world-wide hot-rolled steel sheet capacity.²⁶

[73] One Canadian producer argued that foreign exporters find export markets more attractive over their domestic market when availing themselves of their excess capacity because restricting supply in their own market allows some domestic price stability, which is not affected when selling on the export market.²⁷

²⁴ Exhibit 61 (PRO) - Essar Steel Algoma Inc. Submission, Attachment 4.

²⁵ Exhibit 76 (PRO) - Essar Steel Algoma Inc. Case Brief, paragraph 87.

²⁶ Exhibit 61 (PRO) - Essar Steel Algoma Inc. Submission, Attachment 4.

²⁷ Exhibit 81 (NC) - USSC Case Brief, paragraph 55.

[74] Recent statements from the Organisation for Economic Co-operation and Development (OECD) Steel Committee were further cited to support concerns over growing excess capacity for steelmaking worldwide. OECD Steel Committee Chairman, Risaburo Nezu, offered the following in this regard:

“...growing overcapacity could endanger the economic soundness of the industry. New capacities were, and still are, being built throughout the world but in particular in countries with both low costs and high market demand. Steel capacities increased during the past decade by 814 million tonnes resulting in a world capacity close to estimated 1,893 million tonnes in 2010 of which over 300 million tonnes were in excess.”²⁸

[75] The Canadian producers contended that if the current Tribunal orders concerning the dumping of hot-rolled steel sheet from the Named Countries is allowed to expire, these countries would have to sell to Canada at dumped prices in order to compete with the current import prices of hot-rolled steel sheet imported into Canada from other sources.²⁹

[76] Data which demonstrates the volume and value of these offshore importations was provided in support of this position.³⁰

[77] Information on the record was also cited to support the position that imports of like goods from other sources have already caused the Canadian producers to lose sales during the POR. It is alleged that this situation will only grow worse if these other sources face additional competition from subject goods from the Named Countries should these goods, no longer be restrained by the Tribunal orders.³¹

[78] The Canadian producers provided extensive information on similar anti-dumping measures in other jurisdictions against hot-rolled steel sheet and related flat-rolled products from the Named Countries.³²

[79] The Canadian producers asserted the likelihood that hot-rolled steel sheet will be diverted from other export destinations to Canada in absence of the Tribunal orders, due in part to the relatively higher prices in Canada.³³ They also cited restrictive trade measures in other countries against hot-rolled steel sheet products which limit the export options for goods from the Named Countries as a likely cause for diversion of hot-rolled steel sheet to Canada in absence of the Tribunal orders.³⁴

²⁸ Exhibit 39 (NC) - Evraz Inc. NA Canada Submission, Attachment 9, “Industry: OECD Steel Committee says market remains fluid and challenging,” December 3, 2010.

²⁹ Exhibit 77 (NC) - Essar Steel Algoma Inc. Case Brief, paragraphs 49-52.

³⁰ Exhibit 61 (PRO) - Essar Steel Algoma Inc. Submission, Attachment 1.

³¹ Exhibit 61 (PRO) - Essar Steel Algoma Inc. Submission, Attachment 2.

³² Exhibit 79 (NC) - ArcelorMittal Dofasco Inc. Case Brief, paragraphs 165 - 172; Exhibit 43 (NC) - USSC response to Producer ERQ, Appendices 3 and 4, pages 269 - 272.

³³ Exhibit 77 (NC) - Essar Steel Algoma Inc. Case Brief, paragraph 124.

³⁴ Exhibit 81 (NC) - USSC Case Brief, paragraph 19.

[80] One of the Canadian producers identified the subject goods as being largely ‘interchangeable’ with other hot-rolled steel sheet products manufactured around the world. Consequently, purchasers in Canada prioritize their purchasing based largely on price regardless of the source of the goods, knowing that the essential characteristics of most hot-rolled steel sheet are the same from producer to producer.³⁵

[81] It is alleged that this substitutability amongst suppliers would make the domestic industry in Canada more vulnerable to hot-rolled steel sheet imports if the Tribunal orders are allowed to expire.

[82] The Canadian producers cited the high fixed costs associated with steel making as an impetus for dumping.³⁶ To support their position, previous decisions by the President and the Tribunal were cited for their comments on steelmaking:

“Steel mills are capital intensive with high fixed costs. In order to recover fixed expenses, steel mills must run at high levels of production capacity. When home market demand drops, exporters will search out foreign markets to maintain capacity utilization to ensure that these fixed costs are recovered. This is often referred to as the economics of steel production.”³⁷

[83] A similar citation concerning the present subject goods stated:

“The production of hot-rolled sheet is high capital intensive, with a pressing need for high utilization rates to cover fixed costs. This creates a production imperative that encourages foreign mills to export at prices low enough to find a market for their excess production.”³⁸

[84] The Canadian producers cited numerous references on the record which confirm high levels of both current and projected future excess capacity for hot-rolled steel sheet throughout the world, which they allege would facilitate dumping into unprotected export markets.³⁹

[85] The Canadian producers argued that the existing excess capacity coupled with the production imperative to cover fixed costs cited above facilitates dumping as the exporters in these foreign markets will sell at the deflated price in an export market rather than their home market as to not disrupt the price level domestically.⁴⁰

³⁵ Exhibit 83 (NC) - Evraz Inc. NA Canada Case Brief, paragraphs 8-9.

³⁶ Exhibit 77 (NC) - Essar Steel Algoma Inc. Case Brief, paragraphs 84 - 85.

³⁷ Exhibit 77 (NC) - Essar Steel Algoma Inc. Case Brief, paragraphs 84 - 85; *Statement of Reasons for Certain Hot-Rolled Steel Plate*, RR-2008-002, paragraph 84, Sept. 5, 2008.

³⁸ Exhibit 83 (NC) - Evraz Inc. NA Canada Case Brief, paragraph 7; Tribunal Reasons for *Certain Flat Hot-Rolled Carbon and Alloy Steel Sheet and Strip*, August 18, 2006.

³⁹ Exhibit 61 (PRO) - Essar Steel Algoma Inc. Submission, Attachment 4.

⁴⁰ Exhibit 81 (NC) - USSC Case Brief, paragraph 55.

Position of the Canadian Producers regarding Brazil

[86] The main factors identified by the Canadian producers can be summarized as follows:

- Evidence of a propensity to dump and inability to compete at undumped prices
- Current production and excess capacity in Brazil
- Plans for additional hot-rolling capacity in Brazil
- Brazil's dependence on exports

[87] The Canadian producers identified several anti-dumping measures in other jurisdictions against flat-rolled products from Brazil, including measures concerning hot-rolled steel sheet. The anti-dumping measures reported by the Canadian producers are hot-rolled carbon steel products imported into the United States (1999),⁴¹ flat-rolled products imported into Argentina (1999) and cut-to-length carbon steel plate imported into the United States (2002).⁴²

[88] Previous Canadian dumping investigations concerning corrosion-resistant steel sheet, cold-rolled steel sheet and hot-rolled carbon steel plate from Brazil were also cited as evidence that Brazil has had a history of dumping flat-rolled products into Canada,⁴³ although there are no such existing Canadian measures in place against Brazil for these products.

[89] The Canadian producers noted the lack of importations from Brazil during the POR as evidence of an inability to compete in the Canadian market at undumped prices.⁴⁴

[90] The Canadian producers also referenced the low-priced exports of hot-rolled steel sheet reported in the ERQ response of a certain Brazilian exporter in comparison to their domestic market as evidence that they routinely engage in dumping hot-rolled steel sheet into their export markets.⁴⁵

⁴¹ Exhibit 77 (NC) - Essar Steel Algoma Inc. Case Brief, paragraph 121.

⁴² Exhibit 77 (NC) - Essar Steel Algoma Inc. Case Brief, paragraph 121; Exhibit 43 (NC) - USSC Response to Producer ERQ, Appendix 3, page 269.

⁴³ Exhibit 81 (NC) - USSC Case Brief, paragraph 17.

⁴⁴ Exhibit 79 (NC) - ArcelorMittal Dofasco Inc. Case Brief, paragraph 24.

⁴⁵ Exhibit 78 (PRO) - ArcelorMittal Dofasco Inc. Case Brief, paragraphs 26-28.

[91] To support their position that in absence of the Tribunal order exporters will resume dumping into Canada, a Canadian producer cited a recent US Department of Commerce (DOC) administrative review which confirmed that Brazilian exporters USIMINAS/COSIPA had dumped hot-rolled steel sheet into the United States by a margin of roughly 5%.⁴⁶ They emphasized the significance of this practise even with the presence of anti-dumping measures in the United States as an indicator of Brazil's propensity to dump and the likelihood that they would resume doing so if the Tribunal order is allowed to expire.

[92] The Canadian producers argued that Brazil's substantial production capacity for hot-rolled steel sheet is evidence of a likelihood of resumed dumping should the Tribunal order be allowed to expire.⁴⁷

[93] The Canadian producers reported that while Brazil is operating at a very high rate of capacity utilization for hot-rolled steel sheet, the amount of excess capacity available continues to be significant.⁴⁸

[94] One Canadian producer referenced a recent announcement for a new hot-rolling facility in Brazil, which is projected to add significant hot-rolled coil capacity. The project is scheduled for completion in the near future.⁴⁹

[95] High inventory levels in Brazil were identified as a trigger for increased exports of hot-rolled steel sheet. An analyst's report cited by one of the Canadian producers regarding the flat-rolled steel industry in Brazil noted that the sharp downturn in imports can be attributed to these high inventories, a dropping domestic price in Brazil and concerns over protectionist measures in Brazil.⁵⁰

[96] In addition, a document submitted for the record cited a recent request by Brazilian exporter CSN for a dumping investigation into imports of coated coils from China as an indication that hot-rolled steel sheet destined for captive use in the manufacture of coated product in Brazil is likely to be diverted for sale on the export market if the presence of coated coils from China persists.⁵¹ This would only exacerbate the amount of hot-rolled steel sheet available for export.

⁴⁶ Exhibit 39 (NC) - Evraz Inc. NA Canada Submission, Attachment 13, "Commerce slaps duties on Brazil hot-rolled," Attachment 13, Amm.com, April 15, 2010; Exhibit 78 (PRO) ArcelorMittal Dofasco Inc. Case Brief, paragraph 29.

⁴⁷ Exhibit 61 (PRO) - Essar Steel Algoma Inc. Submission, Attachment 4, page 293.

⁴⁸ Exhibit 76 (PRO) - Essar Steel Algoma Inc. Case Brief, paragraph 89.

⁴⁹ Exhibit 59 (PRO) - USSC Submission: "Brazil's new flats works relying on Trasteel and Danieli" Steel Business Briefing, December 14, 2010.

⁵⁰ Exhibit 59 (PRO) - USSC Submission: "Brazil's flats imports decline sharply in November" Steel Business Briefing, December 9, 2010.

⁵¹ Exhibit 59 (PRO) - USSC Submission: "Brazil's CSN files AD case on Chinese coated coils" Steel Business Briefing, January 10, 2011.

[97] One Canadian producer further cited a substantial increase in steel exports from Brazil in the latter part of 2010 relative to the same period in 2009 as evidence that Brazil is still very keen on exporting its steel.⁵²

Position of the Canadian producers regarding China

[98] The main factors identified by the Canadian producers can be summarized as follows:

- Evidence of a propensity to dump and inability to compete at undumped prices
- Current production and excess capacity in China
- Additional hot-rolling capacity plans in China
- China's dependence on exports
- Government of China's (GOC) influences on domestic and export market

[99] The Canadian producers referenced the number of anti-dumping measures in other countries against Chinese origin flat-rolled products including hot-rolled steel sheet, as evidence that Chinese exporters of flat-products have a propensity to dump. These measures included findings against hot-rolled plate and sheet in the United States (1997, 2001), hot-rolled steel plate in Canada (1997) and hot-rolled coil in Indonesia (2008).⁵³

[100] The Canadian producers noted the lack of importations from China during the POR, as compared to the levels achieved prior to the original Tribunal finding, as evidence of an inability to compete in the Canadian market at undumped prices.⁵⁴

[101] The aforementioned petition by Brazilian exporter CSN for a dumping investigation on coated coils from China was also cited as evidence that China has demonstrated a recent propensity to dump flat-rolled products.⁵⁵

[102] A Canadian producer also submitted a report for the record which stated that the Brazilian government has recently established minimum import prices for hot-rolled coil, and other flat-rolled steel products, in order to address a surge in low-priced imports from China and other countries. Minimum hot-rolled coil prices have been set at \$850 US/mt, plus a 12% import tariff.⁵⁶

⁵² Exhibit 65 (PRO) - Articles Regarding the Steel Industry, Item 8: "Brazil's steel exports total 987,100 mt in November," December 31, 2010.

⁵³ Exhibit 77 (NC) - Essar Steel Algoma Case Brief, paragraph 121; Exhibit 43 (NC) - USSC response to Producer ERQ, Appendix 3.

⁵⁴ Exhibit 77 (NC) - Essar Steel Algoma Case Brief, paragraph 16.

⁵⁵ Exhibit 59 (PRO) - USSC Submission: "Brazil's CSN files AD case on Chinese coated coils" Steel Business Briefing, January 10, 2011.

⁵⁶ Exhibit 79 (NC) - ArcelorMittal Dofasco Inc. Case Brief, paragraph 141.

[103] According to the report, the goal of the imposed measures is “avoiding the underpricing, which is happening constantly within Asian prices.”⁵⁷

[104] A World Steel Dynamics report was referenced for its estimation that China’s hot-rolled coil and strip capacity for 2010 was significantly outstripping demand. The same report estimated that this situation would continue into 2012.⁵⁸

[105] The CRU monitor was also cited by the Canadian producers for its report on Chinese hot-rolled steel sheet capacity, estimating it to be substantially above the country’s estimated gross production for 2010.⁵⁹

[106] Given that this excess capacity is many times the size of the Canadian market for hot-rolled steel sheet, the Canadian producers fear that there would be ample product available for export to Canada in absence of the Tribunal order.

[107] An article on the record which stated that Chinese steel companies need to export their products in order to deal with the overcapacity issues they face due in part to continued production expansion which cannot be absorbed through domestic demand was also cited to support the Canadian producers’ position. The information cited predicts that this will lead to price wars in the international markets.⁶⁰

[108] To put China’s full production scale into perspective, China’s share of world steel production was characterized as being larger than the combined production of the United States, European Union, Russia and Japan.⁶¹

[109] The CRU Monitor was cited by the Canadian producers again in respect of projections on hot-rolled capacity increases for 2011, where the report estimates China will add significant annual hot-rolling capacity.⁶²

[110] Also identified were several specific hot-rolled capacity additions planned for the coming years, which the Canadian producers allege will put pressure on the already export dependent country.⁶³

⁵⁷ Exhibit 64 (NC) - ArcelorMittal Dofasco Inc. Submission, Item 43: “HRC minimum import prices into Brazil set at \$850/t,” SBB Article, October 27, 2010, page 20.

⁵⁸ Exhibit 63 (PRO) - ArcelorMittal Dofasco Inc. Submission, Item 5: World Steel Dynamics, “Chinese Steel Hits the Great Wall, Part II, Core Report N,” December 2010, page 72.

⁵⁹ Exhibit 61 (PRO) - Essar Steel Algoma Inc. Submission, Attachment 4, pages 179, 288.

⁶⁰ Exhibit 19 (PRO) - Articles Regarding the Steel Industry in China, Attachment 16. “Overcapacity Exacerbated by Recession,” April 12, 2010.

⁶¹ Exhibit 79 (NC) - ArcelorMittal Dofasco Inc. Case Brief, paragraph 56.

⁶² Exhibit 61 (PRO) - Essar Steel Algoma Inc. Submission, Attachment 4, page 94.

⁶³ Exhibit 79 (NC) - ArcelorMittal Dofasco Inc. Case Brief, paragraphs 60-69.

[111] The Canadian producers argued that this immense excess capacity in China is a significant threat to the Canadian hot-rolled steel sheet industry as China will be looking for export markets to absorb production from this excess capacity that cannot be sold on the domestic market.

[112] The Canadian producers emphasized China's dependence on exports of their steel products. Information was provided to support this dependence and to underscore the magnitude of Chinese steel exports.

[113] One report provided estimates that China's exports of flat-rolled products would see a dramatic increase from 2009.⁶⁴

[114] The Canadian producers emphasized the threat to the Canadian industry that this sheer volume of production available for export poses, if the Tribunal order is allowed to expire, as such volume is many times the size of the Canadian market.

[115] One Canadian producer cited influence by the GOC as a suppressor of domestic selling prices of hot-rolled steel sheet in China. They argued that such influence further encourages exports as the exporters in China are attracted to higher selling prices in foreign markets.⁶⁵

[116] Furthermore, the Canadian producers specifically identified the GOC's efforts to encourage exports through regulatory measures such as VAT rebates as a further indication of the importance placed on steel exportation in China.⁶⁶

Position of the Canadian producers regarding Chinese Taipei

[117] The main factors identified by the Canadian producers can be summarized as follows:

- Evidence of a propensity to dump and inability to compete at undumped prices
- Current production and excess capacity in Chinese Taipei
- Chinese Taipei's dependence on exports

[118] The Canadian producers referenced the number of anti-dumping measures in other countries against Chinese Taipei origin flat-rolled products including: cold or hot-rolled flat products in Argentina (2003), hot-rolled carbon steel flat products in the United States (2001) and hot-rolled coil in Indonesia (2008) and Thailand (2003).⁶⁷

⁶⁴ Exhibit 81 (NC) - USSC Case Brief, paragraph 37; Exhibit 33 (PRO) - USSC response to Producer ERQ, Attachment A26, page 350.

⁶⁵ Exhibit 79 (NC) - ArcelorMittal Dofasco Inc. Case Brief, paragraphs 73-77.

⁶⁶ Exhibit 79 (NC) - ArcelorMittal Dofasco Inc. Case Brief, paragraph 84.

⁶⁷ Exhibit 77 (NC) - Essar Steel Algoma Inc. Case Brief, paragraphs 121-123.

[119] The Canadian producers view these measures in other countries as one of the strongest indicators of a likelihood of resumed dumping if the Tribunal order is allowed to expire.

[120] The Canadian producers also cited Chinese Taipei's lack of participation in recent CBSA reinvestigations of normal values and the lack of exports to Canada of hot-rolled steel sheet during the POR as evidence that exporters in Chinese Taipei cannot compete at normal values and would thus dump their goods into Canada in order to make sales in absence of the Tribunal order.

[121] Information provided by one of the exporters in Chinese Taipei was cited as an indication that despite the lack of hot-rolled steel sheet sales to Canada during the POR, they did sell other non-subject steel products to Canada, suggesting a continued interest in the Canadian market when they are not restrained by anti-dumping measures and a corresponding inability to sell hot-rolled steel sheet to Canada at undumped prices.⁶⁸

[122] The Canadian producers cited information on the record which estimates substantial excess annual hot-rolling production capacity for hot-rolled steel sheet in Chinese Taipei.⁶⁹ The Canadian producers consider this excess capacity a significant threat to the Canadian market in absence of the Tribunal order.

[123] The Canadian producers argued that the information provided by the cooperating exporters in Chinese Taipei in this expiry review investigation demonstrates a dependence on export markets given the volume and percentage of production they report as exports relative to domestic market sales.⁷⁰

Position of the Canadian producers regarding India

[124] The main factors identified by the Canadian producers can be summarized as follows:

- Evidence of a propensity to dump and inability to compete at undumped prices
- Current production and excess capacity in India
- Plans for additional hot-rolling capacity in India
- India's dependence on exports

[125] It should be noted that Essar Steel Algoma Inc. provided no arguments regarding the likelihood of continued or resumed dumping from India in absence of the Tribunal order.

⁶⁸ Exhibit 79 (NC) - ArcelorMittal Dofasco Inc. Case Brief, paragraph 99.

⁶⁹ Exhibit 61 (PRO) - Essar Steel Algoma Inc. Submission, Attachment 4, pages 291, 179.

⁷⁰ Exhibit 79 (NC) - ArcelorMittal Dofasco Inc. Case Brief, paragraph 94; Exhibit 76 (PRO) - Essar Steel Algoma Inc. Case Brief, paragraphs 100-101.

[126] The Canadian producers referenced the number of anti-dumping measures in other countries against Indian origin flat-rolled products including: hot-rolled coil in Indonesia (2008) and Thailand (2003) as well as hot-rolled carbon steel flat products in the United States (2001).⁷¹

[127] Coupled with India's apparent inability to compete at normal values for hot-rolled steel sheet during the POR, the Canadian producers regard the number of dumping findings in other countries against Indian origin flat-rolled products as evidence that exporters in that country are likely to dump their goods into Canada in order to make sales of hot-rolled steel sheet if the Tribunal order is allowed to expire.

[128] With reference to industry analysis on the record, the Canadian producers estimated that the hot-rolled steel sheet industry in India has some excess capacity.⁷² Indian production of hot-rolled steel sheet alone is many times the size of the estimated Canadian market.⁷³

[129] In addition, the Canadian producers cited information on the record concerning development plans that would substantially raise hot-rolling capacity in India.

[130] A Ministry of Steel for the Government of India report was cited as confirmation that steelmaking capacity is expected to grow substantially in the near term and beyond.⁷⁴

[131] The Canadian producers reported that there are numerous expansion projects planned by several large scale Indian steel exporters that will substantially increase production capacity for steel in India in the foreseeable future. Essar, Ispat, Jindal and SAIL were all exporters identified as having capacity expansion plans.⁷⁵ The precise amount of hot-rolling capacity attributed to these projects was not reported.

[132] One Canadian producer argued that the continued threat of low-priced imports from China will compel Indian exporters to find additional export markets for their steel as domestic sales will be squeezed.⁷⁶ One cited report indicated that imports into India of hot-rolled steel coils from China rose dramatically in 2010 and that the exporters in India had petitioned the steel ministry to impose duties to combat the surge.⁷⁷

[133] The likelihood that Indian exporters of hot-rolled steel sheet will have to find alternative markets for their product concerns the Canadian producers given the production volumes and capabilities of Indian exporters relative to the size of the Canadian market.

⁷¹ Exhibit 77 (NC) - Essar Steel Algoma Inc. Case Brief, paragraphs 121-123.

⁷² Exhibit 61 (PRO) - Essar Steel Algoma Inc. Submission, Attachment 4, pages 180, 170 and 295.

⁷³ Exhibit 72 (PRO) - Apparent Canadian Market for Hot-Rolled Steel Sheet.

⁷⁴ Exhibit 41 (NC) - Ministry of Steel for Government of India, Annual Report 2009-10, page 13.

⁷⁵ Exhibit 79 (NC) - ArcelorMittal Dofasco Inc. Case Brief, paragraphs 107-109.

⁷⁶ Exhibit 79 (NC) - ArcelorMittal Dofasco Inc. Case Brief, paragraph 117.

⁷⁷ Exhibit 42 (NC) - Articles on steel industry in India, Tab 1, page 80: Breakbulk online, "Cheap Imports Threaten Indian Steel Manufacturers," August 23, 2010.

Position of the Canadian producers regarding South Africa

[134] The main factors identified by the Canadian producers can be summarized as follows:

- Evidence of a propensity to dump and inability to compete at undumped prices
- Current excess capacity in South Africa

[135] It should be noted that Canadian producer ArcelorMittal Dofasco provided no arguments regarding the likelihood of continued or resumed dumping from South Africa in absence of the Tribunal order.

[136] The Canadian producers identified numerous anti-dumping measures against South Africa by other countries for products similar to the subject goods. Argentina (2002) and Thailand (2003) were identified as having anti-dumping measures against South Africa for hot-rolled steel sheet. Argentina (2003) was also cited as having anti-dumping measures against other hot-rolled flat products from South Africa.⁷⁸

[137] Historical data concerning dumping cases involving South Africa which covered similar flat-rolled products were also referenced, the measures for which are no longer in force.⁷⁹ Most notable of these are past measures against South African hot-rolled flat products by the United States (2001-2006).

[138] The substantial difference in exports during the POR as compared to the period of investigation leading to the original Tribunal finding was also cited as evidence of an inability for South Africa to compete at undumped prices.⁸⁰

[139] The Canadian producers cited data which reports South Africa's capacity to produce hot-rolled steel sheet.⁸¹ South Africa's hot-rolled steel sheet capacity utilization for 2010 was considerably below full capacity.⁸²

[140] The Canadian producers regard this substantial excess capacity as increasing the likelihood that dumping of hot-rolled steel sheet will resume if the Tribunal order is allowed to expire.

⁷⁸ Exhibit 43 (NC) - USSC response to Producer ERQ, Appendix 3, page 290; Exhibit 77 (NC) - Essar Steel Algoma Inc. Case Brief, paragraphs 121-123.

⁷⁹ Exhibit 81 (NC) - USSC Case Brief, paragraph 17.

⁸⁰ Exhibit 77 (NC) - Essar Steel Algoma Inc. Case Brief, paragraph 16.

⁸¹ Exhibit 76 (PRO) - Essar Steel Algoma Inc. Case Brief, paragraph 87; Exhibit 61 (PRO) - Essar Steel Algoma Inc. Submission, Attachment 4, page 295.

⁸² Exhibit 76 (PRO) - Essar Steel Algoma Inc. Case Brief, paragraph 89.

Position of the Canadian producers regarding Ukraine

[141] The main factors identified by the Canadian producers can be summarized as follows:

- Evidence of a propensity to dump and inability to compete at undumped prices
- Current production and excess capacity in Ukraine
- Plans for additional hot-rolling production in Ukraine
- Ukraine's dependence on exports
- Recent dumping of flat-rolled steel into Canada

[142] The Canadian producers identified numerous anti-dumping measures against Ukraine in other countries for flat-rolled products, including hot-rolled steel sheet. These include: hot-rolled carbon steel flat products in the United States (2001), hot-rolled steel sheet and plate in Mexico (2000, 2005), cold-rolled and other flat-rolled products in Argentina (2003, 1999), hot and cold-rolled steels in Peru (1999), flat hot-rolled products whether in coils or not in coils in Argentina (2003)⁸³ and hot-rolled carbon steel plate in Canada (2010).⁸⁴

[143] The Canadian producers cited other items on the record to support the position that Ukraine dumps hot-rolled steel sheet into its export markets. For example, a European Confederation of Iron and Steel Industries (Eurofer) report was cited as stating that in the latter part of 2010, hot-rolled coil imports originating mainly from China and Ukraine were undercutting European exporters by up to 25%. The Director General for Eurofer furthered this claim by stating that: "surging imports are unfairly grabbing market share in the EU."⁸⁵

[144] The Canadian producers cited information on the record which reports Ukraine's hot-rolled steel sheet actual production is well below total production capacity and therefore has substantially available excess capacity.⁸⁶

[145] Given the propensity to sell at below home market prices identified above, the Canadian producers regard this excess capacity as a serious threat to the Canadian market if the Tribunal order is allowed to expire.

[146] One Canadian producer referenced comments from Ukrainian exporter Ilyich Iron and Steel Works concerning their plans to raise hot-rolled steel sheet production by about 28% in 2011 from 2010 levels. This is after the company already increased production in 2010 by just over 30% (year on year).⁸⁷

⁸³ Exhibit 77 (NC) - Essar Steel Algoma Inc. Case Brief, paragraph 123.

⁸⁴ Exhibit 79 (NC) - ArcelorMittal Dofasco Inc. Case Brief, paragraphs 167-172; Exhibit 76 (PRO) - Essar Steel Algoma Inc. Case Brief, paragraphs 121 - 123.

⁸⁵ Exhibit 58 (PRO) - "Chinese/Ukrainian HRC exporters undercut EU mills by 25%, Eurofer," November 3, 2010; Exhibit 83 (NC) - Evraz Inc. NA Canada Case Brief, paragraph 45.

⁸⁶ Exhibit 78 (PRO) - ArcelorMittal Dofasco Inc. Case Brief, paragraph 127.

⁸⁷ Exhibit 63 (NC) - ArcelorMittal Dofasco Inc. Producer Submission, Attachment 103.

[147] The Canadian producers emphasized that Ukraine's production of hot-rolled steel sheet far surpassed its domestic consumption, supporting the position that Ukraine is very export dependent. Ukraine's domestic consumption accounts for only a small amount of total actual production with the majority of production dedicated for export.⁸⁸

[148] As stated above, as recently as February 2010, the Tribunal issued a finding of injury caused by the dumping of hot-rolled carbon steel plate into Canada from Ukraine. The Canadian producers have identified this as a strong indicator that absent the current order on hot-rolled steel sheet, the exporters in Ukraine will resume dumping the goods into Canada.

Parties contending that continued or resumed dumping is unlikely

EXPORTERS

[149] Only one exporter, USIMINAS of Brazil, made representations through their ERQ response, case arguments and reply submissions that specifically addressed their position that, in absence of the Tribunal order, they are unlikely to resume dumping hot-rolled steel sheet into Canada.

Position of USIMINAS regarding Brazil

[150] Central to USIMINAS' position is that the information on the record, including that provided by the Canadian producers, does not support the view that there is a likelihood of continued or resumed dumping of subject goods from Brazil. USIMINAS further argued that there is no evidence which establishes that global trends or conditions will result in USIMINAS or other Brazilian mills returning to the Canadian market in volumes and at prices which would cause injury to the Canadian producers.⁸⁹

[151] USIMINAS argued that the fact of being found to have dumped injuriously in the past is not grounds for a continuation of the order as there must be demonstrable and compelling expectations of future behaviour, which they suggest the Canadian producers have not presented.⁹⁰

⁸⁸ Exhibit 79 (NC) - ArcelorMittal Dofasco Inc. Case Brief, paragraphs 127-128

⁸⁹ Exhibit 84 (NC) - USIMINAS Case Brief, paragraph 8.

⁹⁰ Exhibit 92 (NC) - USIMINAS Reply Submission, paragraph 40.

[152] USIMINAS clarified that there have been no imports of subject goods during the POR from any Brazilian mills as the Brazilian market has shifted into a deficit and become a net importer of hot-rolled steel sheet.⁹¹ USIMINAS dismissed the allegation that the reason they did not ship to Canada was based on the fact that they could not participate in the Canadian market with measures in place. They argued that this lack of participation was due to the excessively burdensome cost of continuing compliance, the relatively small Canadian market, and that Canadian mills are quick to harass and challenge import competition.⁹²

[153] With regard to export activity, USIMINAS argued that their principle export markets for hot-rolled steel sheet have been South and Latin America and Asia. They further noted that ArcelorMittal Brasil S/A has stated that their principle export markets are Latin America and Asia and that only quantities not demanded by their domestic market are exported.⁹³

[154] With regard to the health of the economy in general, USIMINAS indicated that Brazil experienced growth of close to 7% in 2010 and has projected annual growth of 5-6% through to 2016.⁹⁴

[155] Specifically, with respect to Brazilian domestic demand for hot-rolled steel sheet, USIMINAS noted that demand has returned to pre global economic crisis levels as a result of government incentives such as tax reductions for automotive, construction and home appliance sectors.⁹⁵ USIMINAS further contended that Brazil has moved to a position of net importer⁹⁶ of hot-rolled steel sheet and that in conjunction with government incentives, a growing automotive market, major offshore oil and gas projects, and the large infrastructure requirements for the 2014 World Cup and 2016 Olympic Games, local demand will continue to grow over the next several years.⁹⁷

[156] USIMINAS expects the domestic merchant market for hot-rolled steel sheet to grow significantly through to 2015. They contend that their export market will decline in the next several years and that USIMINAS plans only to maintain exports at the minimum quantities necessary to retain its existing export markets.⁹⁸

⁹¹ Exhibit 84 (NC) - USIMINAS Case Brief, paragraph 19-20.

⁹² Exhibit 92 (NC) - USIMINAS Reply Submission, paragraphs 15-18.

⁹³ Exhibit 84 (NC) - USIMINAS Case Brief, paragraphs 20-21.

⁹⁴ Exhibit 45 (NC) - USIMINAS response to Exporter ERQ, page 20.

⁹⁵ Exhibit 84 (NC) - USIMINAS Case Brief, paragraphs 21-22.

⁹⁶ Exhibit 45 (NC) - USIMINAS response to Exporter ERQ, page 19.

⁹⁷ Exhibit 45 (NC) - USIMINAS response to Exporter ERQ, pages 16 and 20.

⁹⁸ Exhibit 44 (PRO) - USIMINAS response to Exporter ERQ, page 12.

[157] USIMINAS stated that during the economic downturn they reduced production to match demand⁹⁹ and did not increase their exports of subject goods.¹⁰⁰ They stated that USIMINAS' steel is produced to order, not for inventory.¹⁰¹ USIMINAS stated that their focus is on their domestic market and that this concentration is not likely to change in the foreseeable future.¹⁰²

[158] With respect to capacity expansion, USIMINAS submitted that a new hot-rolling mill will be commissioned by the end of 2011. This new mill will significantly increase annual production capacity of hot-rolled steel sheet. USIMINAS stated that Brazilian capacity increases for subject goods appear to be more or less in line with increasing demand for hot-rolled steel sheet.¹⁰³

[159] In addition to this expansion, USIMINAS noted two plate mill expansions at the Ipatinga plant; one completed in 2009 and the other anticipated for 2012. They stated that these expansions will reduce the amount of slab production available to produce hot-rolled steel sheet. Furthermore, in Q2-2011, USIMINAS will initiate production of a second hot-dip galvanizing line. USIMINAS contended that this will increase the percentage of hot-rolled steel sheet processed internally for downstream products.¹⁰⁴

[160] USIMINAS argued that there is little capacity for their current export markets, let alone exports to Canada.¹⁰⁵ They further contended that they have largely abandoned the Canadian market since the initial finding nearly a decade ago and that they no longer have the contacts in the Canadian marketplace they once had. They argued that switching from established markets in Latin America and Europe to Canadian markets, in an environment where their exports are already declining, would be commercially unsound.¹⁰⁶

[161] USIMINAS submitted that neither they nor ArcelorMittal Brasil S/A are dependent on exports to Canada to maintain capacity utilization.¹⁰⁷

[162] USIMINAS stated that exports of subject goods over the POR have been less than 4% of total production. Of this amount, they stated that 90% has been directed to Latin America and Europe.¹⁰⁸ They further argued that over the past five years, around 96% of USIMINAS' production of hot-rolled steel sheet has been sold in the domestic market or consumed in the production of downstream products.¹⁰⁹ USIMINAS stated that it expects exports will remain in the 3 to 5% range of production in 2011.¹¹⁰

⁹⁹ Exhibit 84 (NC) - USIMINAS Case Brief, paragraph 23.

¹⁰⁰ Exhibit 92 (NC) - USIMINAS Reply Submission, paragraph 20.

¹⁰¹ Exhibit 84 (NC) - USIMINAS Case Brief, paragraph 23.

¹⁰² Exhibit 45 (NC) - USIMINAS response to Exporter ERQ, page 16.

¹⁰³ Exhibit 92 (NC) - USIMINAS Reply Submission, paragraph 101.

¹⁰⁴ Exhibit 45 (NC) - USIMINAS response to Exporter ERQ, page 10.

¹⁰⁵ Exhibit 84 (NC) - USIMINAS Case Brief, paragraph 25.

¹⁰⁶ Exhibit 45 (NC) - USIMINAS response to Exporter ERQ, page 16.

¹⁰⁷ Exhibit 92 (NC) - USIMINAS Reply Submission, paragraph 34.

¹⁰⁸ Exhibit 45 (NC) - USIMINAS response to Exporter ERQ, page 19.

¹⁰⁹ Exhibit 45 (NC) - USIMINAS response to Exporter ERQ, page 16.

¹¹⁰ Exhibit 45 (NC) - USIMINAS response to Exporter ERQ, page 19.

[163] With respect to other measures against Brazilian hot-rolled steel sheet, USIMINAS asserted that there is currently only one outstanding finding from the United States. This measure is a continuation from an earlier finding. USIMINAS stated that the original margin of dumping has been reduced from 43.4% to 5.16%.¹¹¹

[164] USIMINAS asserted that no new investigations have been initiated against Brazilian hot-rolled steel sheet in the past five years.¹¹² In addition, they stated that no investigations relating to steel products from Brazil have been initiated by Canada since this current order, now subject to its second expiry review.¹¹³ USIMINAS submitted that the domestic producers cannot seek to rely on the recent sunset review of the United States and that the CBSA and Tribunal must reach their own conclusions.¹¹⁴

[165] With regard to prices, USIMINAS stated that exports have been largely concentrated in the Latin American and European markets where prices are higher than in North America. Moreover, they indicated that at current exchange rates, the prices Brazilian mills can obtain for its steel in the Canadian market are not competitive with the prices in their domestic market.¹¹⁵

[166] USIMINAS noted that the Brazilian market has seen a dramatic increase of imports of hot-rolled steel sheet from China and other sources, reaching a combined 1.4 mmt in the past two years.¹¹⁶ The company argued that a focus on the domestic market to replace these lost sales due to imports will in fact reduce export potential.¹¹⁷ USIMINAS further argued that government incentives such as minimum import prices for customs purposes, will aid in recapturing market share from inexpensive and disruptive imports and will reduce the amount of production available for export.¹¹⁸

[167] USIMINAS asserted that global steel markets have undergone extensive change since the time of the original finding in 2001. They noted that there has been extensive rationalization through mergers and acquisitions in many parts of the global steel industry and that these trans-national companies are less inclined to engage in pricing competition, often described as a “race to the bottom.” They noted that increased raw material costs have reduced margins and eliminated speculative production and sales. They argued that the “fill the mill” philosophy has become much less attractive. USIMINAS stated that it is profit oriented and that it has no desire, nor intent, in disrupting export markets.¹¹⁹

¹¹¹ Exhibit 45 (NC) - USIMINAS response to Exporter ERQ, page 7.

¹¹² Exhibit 84 (NC) - USIMINAS Case Brief, paragraph 28.

¹¹³ Exhibit 84 (NC) - USIMINAS Case Brief, paragraph 36.

¹¹⁴ Exhibit 92 (NC) - USIMINAS Reply Submission, paragraph 49.

¹¹⁵ Exhibit 45 (NC) - USIMINAS response to Exporter ERQ, page 12.

¹¹⁶ Exhibit 45 (NC) - USIMINAS response to Exporter ERQ, page 12.

¹¹⁷ Exhibit 92 (NC) - USIMINAS Reply Submission, paragraph 66.

¹¹⁸ Exhibit 92 (NC) - USIMINAS Reply Submission, paragraph 79.

¹¹⁹ Exhibit 84 (NC) - USIMINAS Case Brief, paragraph 38.

CONSIDERATION AND ANALYSIS - DUMPING

[168] In establishing whether the expiry of the orders are likely to result in the continuation or resumption of dumping, the President may consider any factor specifically identified in paragraphs (a) to (i) of subsection 37.2(1) of the SIMR, as well as any other factors relevant under the circumstances when rendering a determination pursuant to paragraph 76.03(7)(a) of SIMA.

[169] Before presenting a country-by-country analysis on the likelihood of continued or resumed dumping in the absence of the Tribunal's order, there are certain issues that relate to the goods on a broader scale which are as follows:

Commodity nature of hot-rolled steel sheet

[170] The significant number of anti-dumping measures involving steel products, both in Canada and several other jurisdictions, can be related, in large part, to the very nature of the product and the industry.

[171] The factors that relate to the nature of the product include the commodity nature of hot-rolled steel sheet as well as the capital-intensive nature of steel production. The combined effects of these characteristics can have a significant impact on pricing.

[172] Generally speaking, hot-rolled steel sheet produced to a given specification by a exporter in a given country is physically interchangeable with hot-rolled steel sheet produced to the same specification in any other country. As such, the goods compete amongst themselves regardless of origin and share the same channels of distribution and the same potential customers. This characteristic means that hot-rolled steel sheet must compete in a market that is extremely price sensitive, where price is one of the primary factors affecting purchasing decisions from customers. Furthermore, because of this high degree of price sensitivity, prices in a given market may tend to converge over time towards the lowest available price offerings.

Capital-intensive nature of steel production

[173] A second characteristic of the product involves the capital-intensive nature of steel production. As noted previously by the Tribunal, "Steel mills are capital intensive with high fixed costs. In order to recover fixed expenses, steel mills must run at high levels of production capacity. When home market demand drops, exporters will search out foreign markets to maintain capacity utilization to ensure that these fixed costs are recovered."¹²⁰

¹²⁰ Tribunal Expiry Review *Statement of Reasons* on Certain Hot-Rolled Carbon Steel Plate, RR-98-004, pages 13-14.

[174] This is often referred to as the “economics of steel production.” This characteristic is particularly important when there are conditions of overcapacity, as an exporter may find it more feasible to sell excess production in foreign markets at depressed prices rather than reduce production, as long as the exporter’s variable costs are covered.

Steel market developments and trends

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

[176] The most recognizable of these transactions was the 2006 merger of international steel companies Arcelor and Mittal, which now form the ArcelorMittal entity. With its combined steel making facilities ArcelorMittal is now regarded as the largest steel producing company in the world.

[177] Through the acquisition of steel making facilities by large, internationally based steel companies, it is hoped that greater efficiency and rationalization of production and trade will occur, thus preventing some of the dramatic ebbs and flows in the international steel market pricing that at times befell the industry when ownership was more fragmented.

[178] Hot-rolled steel prices continued their trend of volatility during the POR,¹²¹ with the extenuating factor of the global financial crisis in the fall of 2008 having a strong effect. In September 2008, major world markets for hot-rolled steel sheet were above \$1,000 US/mt in places such as the United States (US) and Europe (EU).¹²²

[179] Within six months, prices in these markets would drop by close to half of those levels, before stabilizing in the spring of 2009 and rising through the summer. A short term drop through the fall of 2009 was followed by a steady rise through the spring of 2010.

[180] Prices peaked in the early summer of 2010, with US prices leading the way at over \$800 US/mt. EU prices were not far behind at around \$750 US/mt before levelling off and then dropping to the \$700 US/mt range by year’s end.¹²³

[181] Throughout the second half of 2010, US prices saw a more dramatic drop than those in the EU, dipping well below the EU standard beginning around August 2010 to about \$580 US/mt before rebounding at the close of 2010 to around \$680 US/mt.¹²⁴

¹²¹ Source material actually refers to product as hot-rolled coil (HRC).

¹²² Exhibit 18 (PRO) - Metal Bulletin Research: “Steel Weekly Market Tracker,” Issue 55, March 25, 2010, page 1.

¹²³ Exhibit 18 (PRO) - Metal Bulletin Research: “Steel Weekly Market Tracker,” Issue 68, June 24, 2010, pages 1 and 3.

[182] Throughout this period beginning in 2008, other world markets demonstrated similar up and down trends, essentially mirroring the price movements seen in the US and EU markets, while typically trailing those markets in the reported monthly average prices per tonne.

Latest developments and Hot-rolled steel sheet pricing forecasts

[183] Recent pricing forecasts are strong for Q1-2011, as prices were on the rise at the end of 2010 and expected to continue to rise for the near term. Forecasts for both the US and EU are in the high \$700 US/mt range by the middle of Q2-2011 and prices are expected to level off and begin to dip by the end of Q2-2011.

[184] By comparison, Russian export prices are projected to be substantially below these levels.¹²⁵

[185] Price hikes in raw materials, most notably scrap, coking coal and iron ore, are cited as the major contributors to hot-rolled steel sheet price increases in all major markets.¹²⁶ Information on the record indicates that scrap prices have climbed steadily and substantially since Q4-2008.¹²⁷

¹²⁴ Exhibit 57 (PRO) - Metal Bulletin Research: "Steel Weekly Market Tracker," Issue 94, December 23, 2010, pages 1 and 3.

¹²⁵ Exhibit 57 (PRO) - Metal Bulletin Research: "Steel Weekly Market Tracker," Issue 94, December 23, 2010, pages 1, 3 and 10.

¹²⁶ Exhibit 63 (PRO) - ArcelorMittal Dofasco Inc. Submission, Item 49: World Steel Dynamics, "Steel Scorecard #9," January 6, 2011, pages 3-5.

¹²⁷ Exhibit 18 (PRO) - Metal Bulletin Research: "Steel Weekly Market Tracker," Issue 91, December 2, 2010, page 4.

Likelihood of Continued or Resumed Dumping

[186] Guided by the factors in the aforementioned SIMR and having considered the information on the administrative record, the ensuing list represents a summary of the factors considered most relevant to the analysis conducted in this review with respect to the likelihood of continued or resumed dumping of the goods:

- There is a significant over-supply in global markets, driven by the supply surplus in China and Asian markets
- Excess capacity and production in the Named Countries has led to export dependence
- New capacity and production is being added, leading to continuing supply increases
- Export dependent suppliers are increasingly directing export volumes to alternate markets;
- Recent pricing data indicates that the exporters are selling at “dumped” prices in these alternate markets
- The exporters in the Named Countries sold little tonnage into Canada while the orders were in place, suggesting that they cannot compete in the Canadian market at undumped prices
- Trade measures by other countries, including the United States, mean there are fewer “open” markets, increasing the risk that significant export volumes will be directed to Canada in the absence of the anti-dumping measures

[187] The following country specific analysis of the likelihood of continued or resumed dumping begins with Brazil, followed by China, Chinese Taipei, India, Ukraine and South Africa.

Brazil

[188] The CBSA received ERQ responses from two Brazilian exporters of hot-rolled steel sheet, USIMINAS and ArcelorMittal Brasil S/A. USIMINAS further provided case arguments and reply submissions. USIMINAS was the only Brazilian exporter to provide arguments contending that resumed or continued dumping from Brazil is unlikely should the Tribunal order be allowed to expire.

[189] Four Brazilian exporters participated in the 2006 expiry review; USIMINAS, Companhia Siderúrgica Nacional (CSN), Companhia Siderúrgica Paulista (COSIPA) and Companhia Siderúrgica de Tubarão (CST). When ArcelorMittal began operations in Brazil in 2005, they acquired CST. COSIPA has since been acquired by USIMINAS. CSN, USIMINAS and COSIPA, were all named in the original Tribunal finding on August 17, 2001.¹²⁸

¹²⁸ Tribunal *Statement of Reasons* on Certain Flat Hot-Rolled Carbon and Alloy Steel Sheet and Strip, April 13, 2006.

[190] There has been no participation from Brazilian exporters during the last two CBSA re-investigations of normal values and export prices for hot-rolled steel sheet.

[191] During the POR, a commercially small amount of hot-rolled steel sheet from Brazil entered the Canadian market.¹²⁹ There were no exports during the POR of hot-rolled steel sheet from either of the Brazilian exporters which participated in this investigation.

[192] This lack of export activity during the POR, in stark contrast to the period leading up to the original Tribunal finding, indicates an inability for Brazilian exporters to compete with the measures in place.

[193] According to the Brazil Steel Institute (BSI), the steel industry in Brazil is comprised of 28 mills, controlled by nine business groups. The country ranks ninth in the world with regard to volume of steel production,¹³⁰ with installed capacity of 42.1 mmt.¹³¹ Crude steel output in 2010 was up 24% from 2009 levels as mills began to return to production levels seen prior to the global economic crisis. The nation's apparent steel consumption was up 43% in 2010 from 2009.¹³² Brazil is the world's 15th largest steel exporter by volume, and the world's fifth largest net exporter.¹³³

[194] Presently, the supply of hot-rolled steel sheet to the domestic market is dominated by three Brazilian companies; USIMINAS, ArcelorMittal Brasil S/A and CSN. These three companies account for 90% of the domestic market, with the remainder accounted for by imports.¹³⁴

[195] The two Brazilian exporters which responded to the CBSA's ERQ provided data indicating that they represented the majority of Brazilian hot-rolled steel sheet production during the POR.¹³⁵ USIMINAS also indicated that they are the largest flat steel producer in Latin America.¹³⁶

¹²⁹ Exhibit 70 (PRO) - Enforcement Statistics for Period of Review.

¹³⁰ Exhibit 19 (PRO) - Articles regarding the steel industry, Tab 13: World Steel Association "List of Countries by steel production," August 2010.

¹³¹ Exhibit 65 (PRO) - Articles regarding the steel industry, Tab 6: Brazil Steel Institute - Market Figures, page 1.

¹³² Exhibit 65 (PRO) - Articles regarding the steel industry, Tab 7: Brazil 2010 Crude Steel Output Up 23.8% on year to 32.8 Million Tons - IABr, page 1.

¹³³ Exhibit 65 (PRO) - Articles regarding the steel industry, Tab 6: Brazil Steel Institute - Market Figures, page 1.

¹³⁴ Exhibit 45 (NC) - USIMINAS Response to Exporter ERQ, page 20.

¹³⁵ Exhibit 29 (PRO) - ArcelorMittal Brasil S/A response to Exporter ERQ, page 11; Exhibit 44 (PRO) - USIMINAS response to Exporter ERQ, page 15.

¹³⁶ Exhibit 44 (PRO) - USIMINAS Response to Exporter ERQ, page 2.

[196] ArcelorMittal Brasil S/A produces subject goods at the Tubarao plant's hot strip mill. They are currently undergoing capacity expansion and are expected to increase their annual capacity for hot-rolled steel sheet by 43%, in 2011.¹³⁷

[197] USIMINAS currently produces subject goods at two plant locations; Ipatinga and Cubatao.¹³⁸ The Cubatao plant is currently undergoing expansion which is expected to increase annual capacity of hot-rolled steel sheet for the group by 38%.¹³⁹

[198] CSN, who did not participate in this investigation, has a rated annual hot-rolled steel sheet capacity similar to USIMINAS.¹⁴⁰ No information regarding expansion projects have been identified for CSN.

[199] Upon completion of these expansion projects, annual hot-rolled steel sheet capacity in Brazil is expected to increase by 23%.¹⁴¹

[200] With regard to future capacity expansion plans, information on the record indicates that production of a new mill has been announced which will add an additional one mmt per year of hot-rolled steel sheet capacity. This new mill, commissioned by Companhia Siderurgica de Suape, is expected to begin production by 2014.¹⁴²

[201] When comparing current domestic capacity with domestic production, the record indicates an excess hot-rolled steel sheet capacity of 17%.¹⁴³

[202] Gross consumption of hot-rolled steel sheet in 2010 was slightly above total production.¹⁴⁴ During this period, Brazil became a net importer of hot-rolled steel sheet, attracting imports from offshore sources such as China.¹⁴⁵

[203] Information on the record indicates that this status as a net importer will be brief, and that in 2011, Brazil will revert back to being a net exporter of hot-rolled steel sheet.¹⁴⁶ When the capacity expansion projects are completed in 2011, it is estimated that Brazilian capacity for hot-rolled steel sheet will continue to outstrip domestic consumption.¹⁴⁷

¹³⁷ Exhibit 32 (NC) - ArcelorMittal Brasil S/A response to Exporter ERQ, page 11; Exhibit 45 (NC) - USIMINAS Response to Exporter ERQ, page 10.

¹³⁸ Exhibit 45 (NC) - USIMINAS Response to Exporter ERQ, page 4.

¹³⁹ Exhibit 45 (NC) - USIMINAS Response to Exporter ERQ, page 9.

¹⁴⁰ Exhibit 61 (PRO) - Essar Steel Algoma Inc. Submission, Attachment 4, page 293.

¹⁴¹ Exhibit 61 (PRO) - Essar Steel Algoma Inc. Submission, Attachment 4, page 293.

¹⁴² Exhibit 60 (NC) - USSC Submission, page 20. Steel Business Briefing Article: "Brazil's new flats works relying on Trasteel and Danieli," December 14, 2010, document page 1.

¹⁴³ Exhibit 61 (PRO) - Essar Steel Algoma Inc. Submission, Attachment 4, pages 182 and 293.

¹⁴⁴ Exhibit 61 (PRO) - Essar Steel Algoma Inc. Submission, Attachment 4, pages 182 and 293.

¹⁴⁵ Exhibit 44 (PRO) - USIMINAS Response to Exporter ERQ, page 12.

¹⁴⁶ Exhibit 61 (PRO) - Essar Steel Algoma Inc. Submission, Attachment 4, page 182.

¹⁴⁷ Exhibit 61 (PRO) - Essar Steel Algoma Inc. Submission, Attachment 4, page 182.

[204] With respect to domestic demand for hot-rolled steel sheet, the CBSA consulted various independent trade publications and news articles. For example, the CRU Monitor estimated that the growth in domestic demand for hot-rolled steel sheet on a year over year basis will slow from 2011 to 2013. They estimated that 2011 will experience a 13% increase over 2010, and then growth will drop to 6.4% in 2012 and further to 3% in 2013.¹⁴⁸

[205] USIMINAS stated that domestic demand has returned to pre global economic crisis levels as a result of government incentives such as tax reductions for the automotive, construction and home appliance sectors.¹⁴⁹ They further contended that, in conjunction with these government incentives, a growing automotive market, major offshore oil and gas projects, and the large infrastructure requirements for the 2014 World Cup and 2016 Olympic Games, local demand will continue to grow over the next several years.¹⁵⁰

[206] This is supported by the BSI who indicated that the success of Brazil's rebound, with respect to steel production, will be the result of the government stimulus provided to various sectors such as civil construction, automotive, and capital goods.¹⁵¹

[207] Other commentary on the record, regarding the health of the Brazil economy, stated that although they continue to grow through energy infrastructure investments and strong consumer spending, the continuation of this growth, particularly in manufacturing, is threatened by a stronger currency (Real), high tax burdens, and low productivity gains.¹⁵²

¹⁴⁸ Exhibit 61 (PRO) - Essar Steel Algoma Inc. Submission, Attachment 4, page 182.

¹⁴⁹ Exhibit 84 (NC) - USIMINAS Case Brief, paragraphs 21-22.

¹⁵⁰ Exhibit 45 (NC) - USIMINAS Response to Exporter ERQ, pages 16 and 20.

¹⁵¹ Exhibit 65 (PRO) - Articles regarding the steel industry, Tab 6: Brazil Steel Institute – Market Figures, page 1.

¹⁵² Exhibit 60 (NC) - USSC Submission, page 2. Steel Business Briefing Article: "2011 steel growth: momentum but risks, says Accenture," January 14, 2011, document page 1.

[208] Information on the record from the BSI characterizes the Brazilian steel industry as follows:

“Brazil is capable today of producing 42.1 mmt/y of crude steel. This capacity will receive, this year, an additional 6 mmt/y from new mills. Our current production capacity is approximately 100% higher than the domestic demand forecast for the year and enables the sector to maintain its high exporting position. Nevertheless, we will keep investing.”

“Forecast expansion projects comprise R\$ 71.6 billion, which should increase the country's production capacity to approximately 77 mmt/y by 2016. Resume (sic) of expansion projections demonstrates the steel industry's belief in Brazil's sustainable growth and reinforces its willingness to remain supplying in full the domestic market and expand its participation in international markets.”¹⁵³

[209] As of January 2011, Metal Bulletin Research characterized the Brazilian steel market as being oversupplied at the end of 2010, indicating it will take a fall in imports and rise in exports for the market to return to equilibrium.¹⁵⁴

[210] USIMINAS has expressed confidence in the strength of their domestic market for hot-rolled steel sheet and indicated that their business strategy is to focus on the domestic market over the export market and attempt to regain lost market share from offshore imports. Notwithstanding this optimism for domestic growth, the information on the record indicates that Brazil will likely continue to maintain a dependency on exports due to excess capacity and increasing competition from imports.

[211] With respect to export behaviour, information provided by USIMINAS indicated that most of their exports are destined for South America and Europe.¹⁵⁵ Information provided by ArcelorMittal Brasil S/A indicated that their principle export markets are Latin America and Asia, and that only quantities not demanded by their domestic market are exported.¹⁵⁶

¹⁵³ Exhibit 46 (PRO) - Articles regarding the steel industry in China, Brazil and South Africa, Tab 16: “Brazilian steelmakers show optimism: Brazil Steel Conference 2010,” page 1.

¹⁵⁴ Exhibit 65 (PRO) - CBSA - Articles regarding the steel industry, Tab 10: Metal Bulletin Research – Regional date focus: South America, page 1.

¹⁵⁵ Exhibit 45 (NC) - USIMINAS response to Exporter ERQ, page 19.

¹⁵⁶ Exhibit 84 (NC) - USIMINAS Case Brief, paragraphs 20-21.

[212] According to the BSI, 34% of total Brazilian steel output was exported in 2009, indicating that in general, Brazil is still very export oriented with respect to overall steel production.¹⁵⁷ With respect to hot-rolled steel sheet, reported exports by ArcelorMittal Brazil S/A and USIMINAS, although below the above level established for total steel exports, still comprise a significant portion of their total production, which is indicative of export dependence.¹⁵⁸

[213] With respect to import pressures of hot-rolled steel sheet, USIMINAS presented information indicating that imports from offshore sources have reached a combined 1.4 mmt in the past two years.¹⁵⁹ This is supported by a report from Goldman Sachs which indicated that “strong steel imports are not just a short-term event” in Brazil. This report presents additional data indicating that in Q2 and Q3 of 2010, one quarter of apparent consumption of flat steel products in Brazil were from imports.¹⁶⁰

[214] This is supported by information on the record indicating that Brazil’s total steel imports from January to November 2010 increased to 5.46 mmt from the previous year’s total of 2.11 mmt. This source indicated that the increase can be largely attributed to a continuously appreciating Real, elevated local steel prices and heightened steel demand.¹⁶¹

[215] The presence of high volume imports, at prices lower than the Brazilian domestic prices, are likely to compete with Brazilian exporters for domestic market share creating an incentive for these exporters to export hot-rolled steel sheet.

[216] This import pressure from offshore sources is projected to continue,¹⁶² compelling Brazilian exporters to either reduce prices in order to compete, or increase exports into current or new markets, in order to maintain market share (domestically) and capacity utilization rates.¹⁶³

¹⁵⁷ Exhibit 65 (PRO) - Articles regarding the steel industry, Tab 6: Brazil Steel Institute Article – Destination of Exportations of Steel Products - 2009, page 2.

¹⁵⁸ Exhibit 31 (PRO) - ArcelorMittal Brasil S/A response to Exporter ERQ, Appendix 3 – Total Value of Sales and Unit Selling Prices for Certain Hot-Rolled Steel Sheet Products and Exhibit 44 (PRO) - USIMINAS response to Exporter ERQ, Appendix 3, Table 1 – Total Value of Sales and Unit Selling Prices for Certain Hot-Rolled Steel Sheet Product.

¹⁵⁹ Exhibit 45 (NC) - USIMINAS response to Exporter ERQ, page 12.

¹⁶⁰ Exhibit 44 (PRO) - USIMINAS response to Exporter ERQ, Exhibit 17B – Goldman Sachs: Global Steel 2011 – A tale of two worlds, page 45.

¹⁶¹ Exhibit 59 (PRO) - USSC Submission, page 21. Steel Orbis Article: “Steel imports surge in Brazil, January 13, 2011,” page 1.

¹⁶² Exhibit 44 (PRO) - USIMINAS response to Exporter ERQ, Exhibit 17B – Goldman Sachs: Global Steel 2011 – A tale of two worlds, page 45.

¹⁶³ Exhibit 65 (PRO) - Articles regarding the steel industry, Tab 6: Brazil Steel Institute Article: “The steel industry in Brazil and the effects of the crisis,” page 1. (According to the Brazil Steel Institute, steelmaking is a capital intense industry, with high fixed costs; thus, the operation of mills at 50 – 60% of their capacity has relevant negative effects on the company’s results).

[217] Lowering domestic prices will be difficult, as information on the record indicates that raw material costs have seen dramatic increases since the recovery from the global economic crisis.¹⁶⁴ USIMINAS indicated that raw material prices are “high and are expected to remain high.”¹⁶⁵

[218] As a result of domestic inflationary pressures and high raw material costs, coupled with the growing presence of offshore imports from markets such as China, who are increasing capacity,¹⁶⁶ Brazilian exporters will be pressured to continue to rely on exports.

[219] An analysis of hot-rolled steel sheet sales as provided by USIMINAS and ArcelorMittal Brasil S/A revealed similar trends with respect to domestic and export pricing.

[220] Information provided in both USIMINAS¹⁶⁷ and ArcelorMittal Brasil S/A’s¹⁶⁸ submissions indicate that, upon removing estimated delivery costs, the average sales price per unit of hot-rolled steel sheet sold into their export markets is well below the average sales price per unit in their domestic market.

[221] The large disparity between selling prices is significant enough to suggest that hot-rolled steel sheet products are being sold in export markets at dumped prices. Since the Brazilian exporters provided no evidence to the contrary, the best available information on the record indicates that Brazilian exporters have recently been dumping hot-rolled steel sheet into their export markets.

[222] This has been further supported by a recent review conducted by the United States Department of Commerce (US DOC) against hot-rolled carbon steel flat products from Brazil. In 2010, a US DOC administrative review determined that shipments of hot-rolled carbon steel flat products to the United States from Brazil between March 1, 2008 and February 28, 2009 had been dumped by a margin of 5.16%.¹⁶⁹

[223] This finding is currently the only such measure in place against hot-rolled steel sheet from Brazil by a country other than Canada. This original 1999 finding was continued against Brazil in 2005 by the United States International Trade Commission (USITC).¹⁷⁰

¹⁶⁴ Exhibit 59 (PRO) - USSC Submission, page 9. Market Watch Article: “China steel outlook dim despite rising prices,” December 15, 2010, document page 1.

¹⁶⁵ Exhibit 45 (NC) - USIMINAS response to Exporter ERQ, page 14.

¹⁶⁶ Exhibit 59 (PRO) - USSC Submission, page 8. Steel Business Briefing Article: “China’s three major mills see output rise in 2010,” January 4, 2011, document page 1.

¹⁶⁷ Exhibit 44 (PRO) - USIMINAS response to Exporter ERQ, Appendix 3, Table 1 – Total Value of Sales and Unit Selling Prices for Certain Hot-Rolled Steel Sheet Product.

¹⁶⁸ Exhibit 31 (PRO) - ArcelorMittal Brasil S/A response to Exporter ERQ, Appendix 3 – Total Value of Sales and Unit Selling Prices for Certain Hot-Rolled Steel Sheet Products.

¹⁶⁹ Exhibit 38 (PRO) - Evraz Inc. NA Canada response to Exporter ERQ, Tab 13: “Commerce slaps duties on Brazil hot-rolled,” AMM Report, page 1; Exhibit 44 (PRO) - USIMINAS response to Exporter ERQ, page 7.

¹⁷⁰ Exhibit 77 (NC) - Essar Steel Algoma Inc Case Arguments, paragraph 121.

[224] Canada has no other measures in place concerning the dumping of steel products from Brazil. The United States has six other active findings in place against steel and steel related products from Brazil, as of August 2010.¹⁷¹ In addition, the EU, Mexico, Turkey and Argentina all have measures against steel and steel related products from Brazil, as of August 2010.¹⁷²

President's Determination - Brazil

[225] Based on the information on the record in respect of: the lack of a demonstrated ability to compete in Canada at undumped prices; the considerable capacity expansion plans of hot-rolled steel sheet currently coming online; the continuing pressure to export to maintain high capacity utilization rates in response to pressure from offshore imports; the volume of hot-rolled steel sheet available for export; the present outlook for the Brazilian domestic market; the recent behaviour of the Brazilian exporters which suggests they have been dumping into their export markets; and the recent review by the US DOC indicating that Brazil has been dumping into the United States, the President determined that the expiry of the order in respect of hot-rolled steel sheet originating in or exported from Brazil is likely to result in the continuation or resumption of dumping of these goods into Canada.

China

[226] As noted earlier, no Chinese hot-rolled steel sheet exporters provided a response to the ERQ, nor did any Chinese exporters file case arguments or reply briefs.

[227] In the absence of participation from Chinese exporters, the CBSA relied on other information on the record in assessing the likelihood of continued or resumed dumping should the Tribunal order be allowed to expire.

[228] Under SIMA, China is a "prescribed" country and normal values may be determined under section 20 of SIMA, in situations where in the opinion of the President, domestic prices are substantially determined by the government of that country and there is sufficient reason to believe that they are not substantially the same as they would be if they were determined in a competitive market.

[229] Since June 2005, the CBSA has conducted four dumping re-investigations and three section 20 inquiries on steel products within the Chinese flat-rolled steel industry. This involved two re-investigations on the current goods under review, hot-rolled steel sheet, and two re-investigations concerning hot-rolled steel plate.

¹⁷¹ Exhibit 79 (NC) - ArcelorMittal Dofasco Inc. Case Brief, Table 5, paragraph 169.

¹⁷² Exhibit 79 (NC) - ArcelorMittal Dofasco Inc. Case Brief, Table 6, paragraph 170.

[230] In respect of each of these products, the President has consistently maintained the opinion under section 20 that domestic prices are substantially determined by the Government of China (GOC) and that there is sufficient reason to believe that they are not substantially the same as they would be if they were determined in a competitive market.

[231] Neither the GOC nor the exporters in China co-operated in the CBSA's most recent hot-rolled steel sheet re-investigation, which concluded in November 2010.

[232] During the POR, Chinese exporters continued to maintain a commercial presence in the Canadian market and accounted for a substantial proportion of the import activity of hot-rolled steel sheet from the Named Countries.¹⁷³

[233] However, when compared to total imports of hot-rolled steel sheet from all countries, the total tonnage shipped from China and the other Named Countries is relatively small.

[234] Import volumes from China are also considerably smaller over the POR than in the period leading up to the original Tribunal finding in 2001, when they were the third largest exporting country to Canada of subject goods of all the Named Countries.¹⁷⁴

[235] China continues to be a world leader in steel production. In the first nine months of 2008, world steel markets were on the upswing until the global financial crisis lowered the demand for steel, and prices fell. In response to the reduced demand and uncertain market conditions, producers worldwide drastically cut back on their steel between 2007 and 2009.¹⁷⁵

[236] However, in direct contrast to almost all other steel producers in the world and against the market trend, Chinese crude steel production increased over the same 2007 to 2009 period.¹⁷⁶

[237] China is the world's largest steel producer and in 2009 is reported to have produced massive amounts of crude steel, accounting for approximately 47% of total world crude steel production.¹⁷⁷

¹⁷³ Exhibit 70(PRO) - Final Import and Enforcement Statistics.

¹⁷⁴ Canada Customs and Revenue Agency (now Canada Border Services Agency) Final Determination *Statement of Reasons – Final Determination of Dumping and Subsidizing on Certain Hot-rolled Carbon Steel Sheet*, July 18, 2001, Appendix 2.

¹⁷⁵ Exhibit 19 (PRO) - Articles regarding the steel industry in China, Tab 13: World Steel Association "List of Countries by steel production," August 2010.

¹⁷⁶ Exhibit 19 (PRO) - Articles regarding the steel industry in China, Tab 13: World Steel Association "List of Countries by steel production," August 2010.

¹⁷⁷ Exhibit 20 (PRO) - Articles regarding the steel industry in China, Tab 13: World Steel Association "List of Countries by steel production," August 2010.

[238] While indications are that global steel production is gradually recovering, crude steel production levels for most major world economies have yet to return to 2008 production levels.¹⁷⁸ However, China continues to increase its steel production by double digits. In the first eleven months of 2010, China's crude steel production and finished steel output significantly increased over the same period in 2009.¹⁷⁹ Hot-rolled steel sheet is a significant component of the Chinese steel industry when including hot-rolled steel sheet destined for downstream steel production such as cold-rolled, galvanized, coated steel and welded pipe.¹⁸⁰

[239] Information on the record indicates that China was a net exporter of hot-rolled steel sheet over the 2007 to 2010 period, with the exception of 2009. The data indicates that China is substantially active on the export market to alleviate its excess steel production.¹⁸¹

[240] Without co-operation from Chinese exporters in this expiry review investigation, determining exact figures for China's hot-rolled steel sheet production and capacity is difficult as information in published data varies.

[241] World Steel Dynamics reported Chinese hot-rolled coil and strip excess production capacity for 2009 was approximately 12% of total production capacity for the goods. World Steel Dynamics also estimated that Chinese producers added an additional 8% of annual hot-rolled coil and strip production capacity in 2010.¹⁸² This comes at a time when world demand for steel continues to be at reduced levels.

[242] By comparison, CRU International estimated Chinese capacity utilization rate of hot-rolled steel sheet in 2010 to be at 45%. This figure, being higher than the World Steel Dynamics estimates, may reflect hot-rolled steel sheet produced for captive use in the production of downstream products.

[243] While there are obvious variances in the hot-rolled steel sheet production capacity amongst industry experts, the reports of significant capacity underutilization in the Chinese industry are consistent and the magnitude is a clear threat to markets without trade restrictions.

¹⁷⁸ Exhibit 44 (PRO) - USIMINAS response to Exporter ERQ, Attachment 17A: World Steel Dynamics Inside Track #109, pages 9-10.

¹⁷⁹ Exhibit 48 (PRO) - Reports regarding the steel industry in China, pages 52-53: "China Steel Report December 13-17, 2010," document pages 20-21.

¹⁸⁰ Exhibit 48 (PRO) - Reports regarding the steel industry in China, pages 52-53: "China Steel Report December 13-17, 2010," document pages 20-21.

¹⁸¹ Exhibit 17 (PRO) - Weekly China Steel Reports: "China Steel Report No. 30," January 2010, pages 42-46; Exhibit 15 (PRO) - China Steel Yearbook - Selected Excerpts 2008, Tables 12 and 13.

¹⁸² Exhibit 63 (PRO) - ArcelorMittal Dofasco Inc. Submission, Item 5: World Steel Dynamics, "Chinese Steel Hits the Great Wall, Part II, Core Report N," December 2010, page 72.

[244] Furthermore, the increase in Chinese steel production which is in surplus of any domestic demand growth has prompted continued warnings by the GOC of steel over-supply, including hot-rolled steel sheet.¹⁸³ The record indicates that there are high levels of inventory in China and oversupply is identified as a key factor that will impact the Chinese domestic steel market in 2011.¹⁸⁴

[245] Information on the record also indicates that as new production capacity became operational in China as recently as 2010,¹⁸⁵ steel supplies have sharply exceeded downstream demand and “most of the local hot-rolled producers have suffered a loss since July” (2010).¹⁸⁶

[246] Despite recent efforts of the GOC to shut down inefficient steel production, increases in Chinese steel production capacity outpace the demand. There remains a significant volume of Chinese production capacity that is underutilized and there are significant steel inventories that are in excess of domestic demand and therefore available for export, including hot-rolled steel sheet.

[247] World Steel Dynamics and CRU Monitor reported that substantial additional hot-rolled steel sheet capacity was expected to be added in China in the next couple of years.¹⁸⁷

[248] Information on the record reports that the GOC’s macro-economic measures and policies have mandated Chinese steel exporters to increase export volumes.¹⁸⁸ The GOC has historically been active in promoting and providing incentives for steel exports from China.

[249] According to World Steel Dynamics, China’s steel consumed per unit of Gross Domestic Product (GDP) is “almost certain to decline significantly the next few years.”¹⁸⁹ This is in part due to greater economic growth in more technical sectors which are less steel intensive.

¹⁸³ Exhibit 19 (PRO) - Articles regarding the steel industry in China.

¹⁸⁴ Exhibit 48 (PRO) - Reports regarding the steel industry in China, pages 95-96: “China Steel Report December 27-31, 2010,” document pages 4-5.

¹⁸⁵ Exhibit 17 (PRO) - Weekly China Steel Reports: “China Steel Report No. 60,” August 30 - Sept 3, 2010, page 16; Exhibit 64 (NC) - ArcelorMittal Dofasco Producer Submission, Item 52: “Cangzhou Zhongtie commissions 1,780 mm hot rolling line,” SteelOrbis Article, August 3, 2010.

¹⁸⁶ Exhibit 17 (PRO) - Weekly China Steel Reports: “China Steel Report No. 56,” August 2-6, 2010, page 12.

¹⁸⁷ Exhibit 61 (PRO) - Essar Steel Algoma Inc. Submission, Attachment 4, pages 93-94, Table 3.23; Exhibit 63 (PRO) - ArcelorMittal Dofasco Inc. Submission, Item 5: World Steel Dynamics, “Chinese Steel Hits the Great Wall, Part II, Core Report N,” December 2010, page 16.

¹⁸⁸ Exhibit 46 (NC) - Articles regarding the steel industry in China, Brazil and South Africa, Tab 1: “*Blueprint for the Adjustment and Revitalization of the Steel Industry*,” General Office of the State Council, March 20, 2009.

¹⁸⁹ Exhibit 44 (PRO) - USIMINAS response to Exporter ERQ, Attachment 17A: World Steel Dynamics Inside Track #109, page 18.

[250] In 2009, China's GDP growth was 8.7% and in 2010 it was estimated to be 10%.¹⁹⁰ GDP in China is projected to rise 8.5% in 2011 and 8% in 2012.¹⁹¹

[251] Over the longer haul, China's average annual GDP growth from 2008 to 2017 is forecast to slow to 7.7%. With the increased fixed asset investment (FAI) in steel production capacity it does not appear that Chinese domestic demand will be sufficient to absorb the forecasted new additional steel production capacity.

[252] Currently, China's high FAI rate is "the biggest force driving GDP growth."¹⁹² World Steel Dynamics maintains that at estimated 73% of GDP in 2010, this level of FAI will cause industry oversupplying. This assessment of the Chinese economy further supports the view that there is an excess capacity/demand imbalance in the Chinese steel industry.

[253] Since the opinion of the President is that section 20 conditions exist in the flat-rolled steel industry in China, which includes hot-rolled steel sheet, Chinese domestic selling prices are not considered by the CBSA when analyzing indications of dumping in other export markets. To facilitate such an analysis, other domestic market prices were examined as a surrogate and compared with Chinese export prices.

[254] The indication from this analysis is that Chinese exporters were dumping hot-rolled steel sheet during the POR.

[255] For example, a comparison of 2010 US domestic hot-rolled coil prices with Chinese export prices of the same revealed that the Chinese export prices were below the US prices by an average of 10%. A similar comparison between Chinese export and EU domestic hot-rolled coil prices revealed Chinese prices were 12% lower.¹⁹³

[256] Chinese hot-rolled steel sheet export prices are projected to be substantially below those of other major world markets.¹⁹⁴

[257] There are other indications on the record that Chinese exporters routinely dump product, including hot-rolled steel sheet.

¹⁹⁰ Exhibit 63 (PRO) - ArcelorMittal Dofasco Inc. Submission, Item 5: World Steel Dynamics, "Chinese Steel Hits the Great Wall, Part II, Core Report N," December 2010, page 31.

¹⁹¹ Exhibit 63 (PRO) - ArcelorMittal Dofasco Inc. Submission, Item 5: World Steel Dynamics, "Chinese Steel Hits the Great Wall, Part II, Core Report N," December 2010, page 30.

¹⁹² Exhibit 63 (PRO) - ArcelorMittal Dofasco Inc. Submission, Item 5: World Steel Dynamics, "Chinese Steel Hits the Great Wall, Part II, Core Report N," December 2010, page 28.

¹⁹³ Exhibit 50 (PRO) - Articles and Statistics from Metal Bulletin Research: Global Flat Product Prices for Domestic and International prices.

¹⁹⁴ Exhibit 57 (PRO) - Metal Bulletin Research: "Steel Weekly Market Tracker," Issue 94, December 23, 2010, pages 1 and 3.

[258] For example, China is a named country in over two dozen injury findings in respect of dumping, including a wide variety of steel products in numerous countries. The United States has over 20 anti-dumping measures in place against China. Both the United States and Indonesia have anti-dumping measures in place against China for flat hot-rolled steel sheet products.¹⁹⁵

[259] Additional information on the record indicates that Brazil, India¹⁹⁶ and the EU have expressed recent concerns that Chinese exporters are dumping hot-rolled steel sheet into their markets.¹⁹⁷

President's Determination - China

[260] Based on the information on the record in respect of: the decrease in export activity to Canada since the measures went into effect; the current and planned additional hot-rolled steel sheet capacity in excess of Chinese domestic demand; the continuing over-supply of hot-rolled steel sheet in China; the demonstrated need to export hot-rolled steel sheet; the recent indications of dumping hot-rolled steel sheet into other markets and the anti-dumping measures in place by other countries, the President determined that the expiry of the order in respect of hot-rolled steel sheet originating in or exported from China is likely to result in the continuation or resumption of dumping of these goods into Canada.

Chinese Taipei

[261] As noted earlier, China Steel Corporation (CSC) and its affiliate, Chung Hung Steel Corporation (CHS) provided responses to the exporter ERQ as part of the current expiry review proceeding. However, neither company provided case briefs or reply submissions concerning the likelihood of continued or resumed dumping if the order in respect of hot-rolled steel sheet originating in or exported from Chinese Taipei is allowed to expire.

¹⁹⁵ Exhibit 64 (NC) - ArcelorMittal Dofasco Inc. Submission, Item 8: US ITC Anti-Dumping and Countervailing Duty Orders in place as of August 12, 2010; Item 9: World Trade Organization, Committee on Anti-dumping Practices, Semi-Annual Reports under Article 16.4 of the Agreement for the period of January 1- June 30, 2010.

¹⁹⁶ Exhibit 42 (NC) - Articles on steel industry in India, Tab 1, page 95: Breakbulk, August 23 2010, "Cheap Imports Threaten Indian Steel Manufacturers," document page 1.

¹⁹⁷ Exhibit 64 (NC) - ArcelorMittal Dofasco Inc. Submission, Item 76: "Cheap Chinese steel imports threatening Latin American markets – Gerdau CEO," Business News America, October 27, 2010; Item 43: "HRC minimum import prices into Brazil set at \$850/t," SBB, October 27, 2010, document page 20; Exhibit 58 (PRO) - Articles regarding the steel industry in China, Brazil, India and Ukraine, page 18. Metal Bulletin Article: "Chinese/Ukrainian HRC exporters undercut EU mills by 25%>, Eurofer," November 3, 2010.

[262] Neither of these exporters co-operated in the CBSA's most recent hot-rolled steel sheet re-investigation, which concluded in November 2010. Furthermore, no exporter in Chinese Taipei has applied for and received normal values since the last expiry review.

[263] According to the information provided by CSC and CHS, both companies did not export any subject goods to Canada during the POR.¹⁹⁸ Information on the record indicates that a negligible volume of hot-rolled steel sheet was exported from Chinese Taipei to Canada during the POR.¹⁹⁹ The absence of sales activity to Canada provides a strong indication that exporters in Chinese Taipei are unable to compete at undumped prices.

[264] Chinese Taipei is a major steel producer, ranking 12th in crude steel production in the world and fifth in Asia behind China, Japan, India and South Korea.²⁰⁰ CSC is the largest²⁰¹ and only integrated steel producer²⁰² in Chinese Taipei. In 2009, CSC ranked 24th in crude steel production in the world.²⁰³ According to submissions on the record, CSC indicated it held the majority of market share of Chinese Taipei's total domestic sales of hot-rolled steel sheet in 2009.²⁰⁴ CHS reported that its sales of hot-rolled steel sheet represented a smaller but substantial share of the total domestic market in Chinese Taipei during the POR.²⁰⁵

[265] Based on the information provided by CSC, its hot-rolled steel sheet production capacity increased between 2009 and 2010.²⁰⁶ CHS reported no increases in hot-rolled steel sheet production capacity during the POR.²⁰⁷ Statistical data on the record indicates that the annual production capacity of hot-rolled steel sheet in Chinese Taipei in 2009 was approximately four times the size of the total Canadian market.²⁰⁸

¹⁹⁸ Exhibit 25 (PRO) - CSC response to the Exporter ERQ, Appendix 3; Exhibit 27 (PRO), CHS response to the Exporter ERQ, Appendix 3.

¹⁹⁹ Exhibit 70 (PRO) - Import and Enforcement Statistics.

²⁰⁰ Exhibit 21 (NC) - Articles regarding the steel industry in Chinese Taipei, Article 6, 2008 Minerals Yearbook – Taiwan, September 2009, page 251.

²⁰¹ Exhibit 25 (PRO) - CSC response to the exporter ERQ, page 2.

²⁰² Exhibit 21 (NC) - Articles regarding the steel industry in Chinese Taipei, Article 2. "2010 Taiwan Industrial Outlook – Steel Industry," page 180.

²⁰³ Exhibit 21 (NC) - Articles regarding the steel industry in Chinese Taipei, Article 4. "Worldsteel Member Companies - 2009 Crude Steel Production over 3 Million Tonnes."

²⁰⁴ Exhibit 25 (PRO) - CSC response to the Exporter ERQ, page 24.

²⁰⁵ Exhibit 27 (PRO) - CHS response to the Exporter ERQ, page 13.

²⁰⁶ Exhibits 25 (PRO) - CSC response to the Exporter ERQ, Appendix 1.

²⁰⁷ Exhibits 27 (PRO) - CHS response to the Exporter ERQ, Appendix 1.

²⁰⁸ Exhibit 72 (PRO) - Apparent Canadian Market for Hot-Rolled Steel Sheet.

[266] In terms of economic activity, Chinese Taipei experienced GDP growth of only 0.1 per cent in 2008.²⁰⁹ This is forecasted to increase to 1.4 per cent in 2011.²¹⁰ Chinese Taipei's economy is heavily integrated with the economy of mainland China. This integration extends to the steel industry as well such that as of 2008, China has become the largest export destination for Chinese Taipei origin steel.²¹¹

[267] In their response to the ERQ, CSC forecasts that its neighboring Asian countries, particularly China, continue to be its major export markets.²¹² However, as mentioned earlier in the report concerning China, the rising excess production capacity of hot-rolled steel sheet in China is not only displacing Chinese Taipei imports in China, but is also leading to increasing Chinese exports into Chinese Taipei and other Asian markets.

[268] Historically, Chinese Taipei has been a major steel exporter. It was reported that the import volume of steel from January to November 2009 was 1.92 mmt, however, the export volume of steel from Chinese Taipei for the same period was 7.43 mmt. As a result, the net export volume of steel from Chinese Taipei over that period was approximately 5.5 mmt.²¹³

[269] Based on figures provided by CSC,²¹⁴ there is a significant volume of hot-rolled steel sheet available for export each year during the POR.

[270] In their response to the ERQ, CSC stated that it exported a substantial volume of its hot-rolled steel sheet production in 2008 and 2009. Furthermore this trend continued during the first three quarters of 2010.²¹⁵

[271] In a similar trend, CHS also reported that a substantial volume of its hot-rolled steel sheet production was exported in 2008, 2009 and during the first three quarters of 2010.²¹⁶ The data clearly indicates that Chinese Taipei hot-rolled steel sheet producers are export dependent.

²⁰⁹ Exhibit 21 (NC) - Articles regarding the steel industry in Chinese Taipei, Article 7. "Economy of Taiwan."

²¹⁰ Exhibit 21 (NC) - Articles regarding the steel industry in Chinese Taipei, Article 5. "Taiwan Metals Report Q4 2010," October 20, 2010.

²¹¹ Exhibit 21 (NC) - Articles regarding the steel industry in Chinese Taipei, Article 1. "2009 Taiwan Industrial Outlook – Steel Industry," page 153.

²¹² Exhibit 25 (PRO) - CSC response to the Exporter ERQ, page 18-19.

²¹³ Exhibit 21 (NC) - Articles regarding the steel industry in Chinese Taipei, Article 2. "2010 Taiwan Industrial Outlook – Steel Industry," page 188.

²¹⁴ Exhibit 25 (PRO) - CSC response to the Exporter ERQ, Exhibit B19.

²¹⁵ Exhibit 25 (PRO) - CSC response to the Exporter ERQ, Appendix 3.

²¹⁶ Exhibit 27 (PRO) - CHS response to the Exporter ERQ, Appendix 3.

[272] Hot-rolled steel sheet export prices for both CSC and CHS were below domestic selling prices for most periods of the POR. Information on the record revealed that hot-rolled steel sheet is frequently sold by these two exporters to their export markets below home market prices.²¹⁷

[273] In addition to Canadian anti-dumping measures against Chinese Taipei for hot-rolled steel sheet, other jurisdictions, including the United States (2001), Argentina (2003), Indonesia (2008)²¹⁸ and Thailand (2003),²¹⁹ also have anti-dumping measures in place against imports of hot-rolled steel sheet from Chinese Taipei. There are also several anti-dumping measures in place concerning other steel products from Chinese Taipei in the United States, European Union, Argentina and South Africa.²²⁰ Numerous anti-dumping measures in place with respect to steel products from Chinese Taipei demonstrate the propensity of steel exporters in Chinese Taipei to dump their goods.

President's Determination – Chinese Taipei

[274] Based on the information on the record in respect of: the lack of a demonstrated ability to compete in Canada at undumped prices; hot-rolled steel sheet production capacity in excess of domestic demand in Chinese Taipei; the dependency on export markets; the apparent dumping of hot-rolled steel sheet in export markets; and numerous anti-dumping measures in place against Chinese Taipei origin steel products in the United States and other countries, the President determined that the expiry of the order in respect of hot-rolled steel sheet originating in or exported from Chinese Taipei is likely to result in the continuation or resumption of dumping of these goods into Canada.

India

[275] As noted earlier in this report, the CBSA received no responses to its ERQ from exporters of hot-rolled steel sheet in India. As well, no exporters in India provided case arguments or reply submissions concerning the likelihood of continued or resumed dumping if the anti-dumping measures against India are allowed to expire.

[276] As a result, the CBSA relied on the information that was submitted by the interested parties in this expiry review investigation, as well as on public and proprietary data obtained from various government, industry, and organizational Web sites and through the trade publication Metal Bulletin Research. The CBSA also found information in online publications, as well as the published annual reports of several exporters.

²¹⁷ Exhibit 27 (PRO) - CHS response to the Exporter ERQ, Appendix 3; Exhibit 25 (PRO) - CSC response to the Exporter ERQ, Appendix 3.

²¹⁸ Exhibit 78 (PRO) - ArcelorMittal Dofasco Inc., Case Brief, page 48.

²¹⁹ Exhibit 76 (PRO) - Essar Steel Algoma Inc., Case Brief, page 37.

²²⁰ Exhibit 78 (PRO) - ArcelorMittal Dofasco Inc., Case Brief, page 50-52.

[277] In the period leading up to the Tribunal's original finding in 2001, India was the largest source of subject goods of all the Named Countries. During the 21 months ending September 2000, imports from India totalled over 400,000 mt or approximately 35% of subject goods from the Named Countries.²²¹

[278] Subsequent to the imposition of the anti-dumping measures in 2001, Indian exporters indicated their continuing interest in the Canadian market through active participation in all of the CBSA's re-investigations, other than the most recent re-investigation, which was concluded in November 2010.

[279] However, despite the fact that throughout this period at least two Indian exporters have continuously held specific normal values for hot-rolled steel sheet, which they obtained through the re-investigation process, exports to Canada from India have remained negligible. This absence of sales activity since the imposition of the anti-dumping measures provides a strong indication that Indian exporters are unable to compete at undumped prices.

[280] The information on the administrative record indicates that a negligible volume of hot-rolled steel sheet was exported to Canada from India during the POR. Subject goods from India comprised less than 0.01% of total imports of hot-rolled steel sheet into Canada on both a volume and value basis.²²²

[281] Since the time of the original Tribunal finding, India has emerged as the third largest steel producing nation in the world. Annual crude steel output rose from 42 million metric tonnes (mmt) in 2004, to 58 mmt in 2008, and 63 mmt in 2009, whereas output in all other major steel-producing countries other than China, contracted in this period of global recession.²²³ During this time, India became a net importer of steel, by an average of 2.4 mmt annually.²²⁴

²²¹ Canada Customs and Revenue Agency (now Canada Border Services Agency) *Statement of Reasons – Preliminary Determination of dumping and subsidizing – Appendix 1*, April 19, 2001; *Statement of Reasons – Final Determination of dumping and subsidizing – Appendix 2*, July 18, 2001.

²²² Exhibit 71 (NC) - CBSA Finalized Import and Enforcement Statistics.

²²³ Exhibit 42 (NC) - Articles on steel industry in India, Tab 1, pages 69-70: Dhanlaxmi Bank, "Steel in the Veins," document pages 4-5.

²²⁴ Exhibit 42 (NC) - Articles on steel industry in India, Tab 8, page 52: JSW Steel Limited, "Annual Report 2009-2010," document page 25.

[282] Steel production in India continued to increase throughout 2010 and is expected to grow even more rapidly within the next few years. Production rose by 11% during 2009-10, and India's Ministry of Steel has indicated that crude steel production capacity will increase from 74 mmt in 2009-2010, to 127 mmt in 2012-2013.²²⁵ This means that India could soon become the world's second-largest producer of crude steel.²²⁶ In total, 222 Memoranda of Understanding have now been signed between seven Indian States and both Indian and International steel manufacturers, entailing capacity expansion plans of around 275 mmt.²²⁷

[283] It is also worth noting that current estimates predict additional annual steelmaking capacity of 230-240 mmt to be operational by 2020,²²⁸ whereas the Government of India National Steel Policy of 2005 had projected that in 2020 annual capacity in India would stand at only 110 mmt.²²⁹

[284] Information on the administrative record indicates that all major steel producers in India have either recently commissioned or will soon commission major new production facilities.

[285] For example, Steel Authority of India Ltd. (SAIL), India's largest public-sector steel producer, plans to increase its annual crude steelmaking capacity in 2012-2013 to nearly 25 mmt.²³⁰ In the private sector, Tata Steel Ltd. (Tata) is currently expanding its annual steelmaking capacity of its main plant from 6.8 mmt to 10 mmt. The company also has several large greenfield projects in place to bring its total steelmaking capacity to 13 mmt by 2013. As well, JSW Steel Limited (JSW) has recently increased its crude steelmaking capacity from 7.8 mmt to 10.8 mmt, while Essar Steel Ltd. (Essar) will have an annual capacity of 9.7 mmt in the coming year, up from 4.6 mmt in 2009.²³¹

[286] India's capacity expansion for the production of hot-rolled steel sheet is also expected to increase by a correspondingly large margin. For example, Essar is currently completing a new 5.1 mmt hot-rolled coil facility,²³² while JSW is on target to install 5 mmt of additional capacity for hot-rolled steel sheet by March 2011.²³³

²²⁵ Exhibit 42 (NC) - Articles on steel industry in India, Tab 8, page 52: JSW Steel Limited, "Annual Report 2009-2010," document page 25.

²²⁶ Exhibit 39 (NC) - Evraz Inc. NA Canada response to Producer ERQ, Attachment 11: IBEF, "Steel," October 27, 2010.

²²⁷ Exhibit 41 (NC) - Ministry of Steel Government of India, "Annual Report 2009-2010," page 4.

²²⁸ Exhibit 64 (NC) - ArcelorMittal Dofasco Inc. Submission, Item 90: "69th OECD Steel Committee Meeting," December 2-3, 2010, page 8.

²²⁹ Exhibit 41 (NC) - Ministry of Steel Government of India, "Annual Report 2009-2010," page 13.

²³⁰ Exhibit 41 (NC) - Ministry of Steel Government of India, "Annual Report 2009-2010," page 6.

²³¹ Exhibit 41 (NC) - Ministry of Steel Government of India, "Annual Report 2009-2010," page 43-45.

²³² Exhibit 42 (NC) - Articles on steel industry in India, Tab 3, page 8: Livemint Corporate News, "4 firms being merged to strengthen Essar Steel," document page 4.

²³³ Exhibit 42 (NC) - Articles on steel industry in India, Tab 8, page 39: JSW Steel Limited, "Annual Report 2009-2010," document page 12.

[287] Bhushan Steel Ltd., a smaller steel producer in India, which only began producing hot-rolled steel coil in 2009, is expected to have an annual production capacity for these goods of 3.6 mmt by 2012.²³⁴

[288] On the basis of information on the record, the CBSA has calculated that in the next two years, India's annual production capacity for hot-rolled steel sheet will increase by 56% from the current estimate.²³⁵ As a matter of comparison, this projection means that by the end of 2012 India will have an annual production capacity for hot-rolled steel sheet that will be close to ten times the size of the entire Canadian market.²³⁶

[289] The Indian economy and the demand for steel are also expected to expand within the coming years, but at a considerably lower rate than the expansion forecasts for hot-rolled steel sheet capacity noted above. GDP in India is projected to grow by between 7% and 9% annually,²³⁷ while according to the World Steel Association, steel consumption in India is to increase by 14% in 2010 and 2011, mainly in the construction and automobile sectors.²³⁸

[290] Capacity utilization for steel producers in India was close to 90% for most of the past decade, but fell to 85% in 2009.²³⁹ Considering the magnitude of the increases in capacity that will occur in the next two years and the fact that Indian domestic consumption is not expected to increase at the same rate, capacity utilization is projected to further decrease within the coming years and India will in all likelihood return to its position of being a net exporter of steel, as was the case until 2007.²⁴⁰

[291] As noted in the Metal Bulletin:

“Over the next few years, these trends will work in tandem to create significant over supply in the Indian steel marketplace. We expect this to result in a domestic capacity overhang of over 12 million tonnes by FY2012.”²⁴¹

²³⁴ Exhibit 41 (NC) - Ministry of Steel Government of India, “Annual Report 2009-2010,” page 46.

²³⁵ Exhibit 61 (PRO) - Essar Steel Algoma Inc. Submission, Attachment 4, page 295.

²³⁶ Exhibit 72 (PRO) - Apparent Canadian Market for Hot-Rolled Steel Sheet.

²³⁷ Exhibit 64 (NC) - ArcelorMittal Dofasco Inc. Submission, Item 90: “69th OECD Steel Committee Meeting,” December 2-3, 2010, page 2.

²³⁸ Exhibit 42 (NC) - Articles on steel industry in India, Tab 1, page 69: Dhanlaxmi Bank, “Steel in the Veins,” document page 4.

²³⁹ Exhibit 42 (NC) - Articles on steel industry in India, Tab 1, page 95: IBEF, “Market Overview, Steel, April 2010,” document page 9.

²⁴⁰ Exhibit 42 (NC) - Articles on steel industry in India, Tab 8, page 52: JSW Steel Limited, “Annual Report 2009-2010,” document page 25.

²⁴¹ Exhibit 50 (PRO) - Metal Bulletin Article, page 5: “New rules of the game in the Indian steel market,” March 22, 2010, document page 31.

[292] Also worthy of note is that steel producers in India are currently facing fierce competition in their domestic market from low-priced Chinese goods. Imports of hot-rolled steel sheet, mostly from China, have displaced domestic production to such a degree that Indian steel producers recently requested that their government impose protective trade remedy measures against imports of hot-rolled steel sheet from China.²⁴²

[293] In short, information on the administrative record indicates that India is increasing its hot-rolled steel sheet capacity well in excess of forecasted domestic demand levels and is thus likely to become a significantly larger exporter in the near future. Further, India's capacity build-up is occurring at a time where China is generating a much larger surplus of hot-rolled steel sheet products, as documented earlier in this report.

[294] Indian export prices reflect the pressures from low-priced Chinese product on the world market. Data gathered from Metal Bulletin Research reveals that export prices for Indian hot-rolled coil over 2009 and 2010 were consistently lower than domestic prices by an average of 9%, indicating a propensity to dump on the part of the Indian exporters.

[295] In addition to the Canadian anti-dumping measures against India, other jurisdictions, including the United States, have also taken measures against imports of steel products from India, including hot-rolled steel sheet. The following measures are currently in place respecting hot-rolled steel products from India: hot-rolled carbon steel flat products in the United States (2001),²⁴³ hot-rolled coil in Indonesia (2008),²⁴⁴ and flat hot-rolled in coils and not in coils in Thailand (2003).²⁴⁵

[296] Altogether, there are 26 anti-dumping measures in place against steel products from India,²⁴⁶ including seven in the United States.²⁴⁷ These measures indicate not only a propensity to dump on the part of the steel exporters in India; they also raise the possibility that dumped exports from India would be diverted to Canada if the order is allowed to expire, since these measures restrict Indian steel exporters from selling in other markets. Without the anti-dumping measures currently in place, there is a strong likelihood that India will try to increase exports to markets such as Canada, to help alleviate the supply-demand imbalance that is imminent in Asian markets.

²⁴² Exhibit 42 (NC) - Articles on steel industry in India, Tab 1, page 80: Breakbulk, August 23 2010, "Cheap Imports Threaten Indian Steel Manufacturers," document page 1.

²⁴³ Exhibit 64 (NC) - ArcelorMittal Dofasco Inc. Submission, Item 8: USITC Anti-dumping and Countervailing Orders in effect as of August 12, 2010.

²⁴⁴ Indonesia - WTO Semi-Annual Report Article 16.4 Notification G/ADP/N/202/IDN, October 22, 2010.

²⁴⁵ Thailand - WTO Semi-Annual Report Article 16.4 Notification G/ADP/N/202/THA, September 23, 2010.

²⁴⁶ Exhibit 42 (NC) - Articles on steel industry in India, Tab 1, page 124: WTO, "Anti-dumping Sectoral Distribution of Measures," document page 3.

²⁴⁷ Exhibit 64 (NC) - ArcelorMittal Dofasco Inc. Submission, Item 8: USITC Anti-dumping and Countervailing Orders in Place as of August 12, 2010, 5 pages.

President's Determination - India

[297] Based on the information on the record in respect of: the past export activity to Canada at dumped prices and apparent inability to compete in Canada at undumped prices; the significant new hot-rolled steel sheet capacity well in excess of projected domestic demand; the anticipated need for Indian exporters to access export markets such as Canada in competition with low-priced imports, particularly from China; the evidence of recent dumping in export markets; and the significant number of anti-dumping measures in place against Indian origin steel, including hot-rolled steel products, the President determined that the expiry of the order in respect of hot-rolled steel sheet originating in or exported from India is likely to result in the continuation or resumption of dumping of these goods into Canada.

Ukraine

[298] The CBSA did not receive a response to the ERQ from any exporter of hot-rolled steel sheet in Ukraine. Similarly, no exporters in Ukraine provided case arguments or reply submissions concerning the likelihood of continued or resumed dumping if the order in respect of goods from Ukraine is allowed to expire.

[299] As a result, the CBSA relied on the information that was submitted by the interested parties in this expiry review investigation, as well as on public and proprietary data found on various industry, organizational and media Web sites. The CBSA also obtained information through the trade publication Metal Bulletin Research.

[300] Although Ukrainian exporters of subject goods did not participate in either this expiry review investigation nor in the CBSA's latest re-investigation concluded in November 2010, a Ukrainian exporter did co-operate in the CBSA's re investigation of 2007.

[301] The information on the administrative record indicates that a negligible volume of hot-rolled steel sheet was exported to Canada from Ukraine during the POR. The record indicates that subject goods from Ukraine comprised slightly over 0.01% of total imports of hot-rolled steel sheet into Canada, as measured on a volume basis.²⁴⁸

[302] Therefore, notwithstanding the fact that a Ukrainian exporter held specific normal values in the period between 2007 and 2010, sales of hot-rolled rolled steel from Ukraine to Canada remained virtually nil. Indeed, the absence of sales activity from Ukraine to Canada since the imposition of the measures provides an indication that Ukrainian exporters are unable to compete at undumped prices.

²⁴⁸ Exhibit 71 (NC) - CBSA Finalized Import and Enforcement Statistics.

[303] Ukraine is currently ranked as the world's eighth largest steelmaker, with 33 mmt of crude steel produced in 2010.²⁴⁹ Production was higher in 2010 than in 2009, when 29.8 mmt were made, but it remained considerably lower than during the period before the global economic crisis, when Ukrainian annual crude steel production totaled over 40 mmt.²⁵⁰

[304] Over three-quarters of Ukraine's steel production is targeted for the export market and, throughout the last decade, Ukraine has stood as either the third or fourth largest steel exporter in the world.²⁵¹ In contrast, the country's domestic market has remained very weak since the break-up of the Soviet Union, with an average of 8.6 mmt of steel consumed annually between 2005 and 2010, compared to 26.1 mmt in 1990.²⁵²

[305] These chronic weaknesses in Ukraine's domestic market, coupled with the recent global economic crisis, have resulted in the presence of considerable excess capacity for steel. Whereas Ukrainian steel plants operated at close to 90% capacity in 2007, utilization fell drastically to a low of 32.7% in October 2008, eventually recovering to an average of 70% over the first ten months of 2010.²⁵³

[306] Information from CRU International Limited indicates that production figures respecting hot-rolled steel sheet in Ukraine follow similar patterns. With an annual capacity of 6.8 mmt, Ukraine produced 4.5 mmt of hot-rolled steel sheet in 2010, compared to 3.9 mmt in 2009, 5.2 mmt in 2008 and 6.2 mmt in 2007.²⁵⁴

[307] Information on the record indicates that the major producers of hot-rolled steel sheet in Ukraine are Metinvest Ilyich Iron and Steel Works of Mariupol (Ilyich) and Zaporizhstal Integrated Iron & Steel Works JSC (Zaporizhstal). Other minor producers of subject goods include PJSC Alchevsk Iron and Steel Works (Alchevsk)²⁵⁵ and Metinvest Azovstal Iron and Steel Works (Azovstal);²⁵⁶ however, production volumes of hot-rolled steel sheet for the latter companies were not attainable.

²⁴⁹ Exhibit 54 (NC) - Reference Material on Ukraine, Tab 4, page 11: Reuters, "Ukraine steel mill says to raise output in 2011."

²⁵⁰ Exhibit 54 (NC) - Reference Material on Ukraine, Tab 1, page 15: Vlasjuk V.S., "World Steel Market and Ukrainian metallurgy in 2010," document page 4.

²⁵¹ Exhibit 61 (PRO) - Essar Steel Algoma Inc. Submission, Attachment 3, pages 63-64.

²⁵² Exhibit 54 (NC) - Reference Material on Ukraine, Tab 1, page 17: Vlasjuk V.S., "World Steel Market and Ukrainian metallurgy in 2010," document page 6.

²⁵³ Exhibit 54 (NC) - Reference Material on Ukraine, Tab 1, page 15: Vlasjuk V.S., "World Steel Market and Ukrainian metallurgy in 2010," document page 4.

²⁵⁴ Exhibit 61 (PRO) - Essar Steel Algoma Inc. Submission, Attachment 4, pages 178 and 292.

²⁵⁵ Exhibit 54 (NC) - Reference Material on Ukraine, Tab 6, pages 3-4

²⁵⁶ Exhibit 54 (NC) - Reference Material on Ukraine, Tab 8, page 13: "Azovstal Flagship of the Steel Sector Recovery," Eavex Capital Report, document page 13.

[308] In 2010, Ilyich implemented a series of overhauls to ensure its rolling mills operated at full capacity and increased its hot-rolled steel sheet output by 30.1%. The company also announced plans to boost production by 29% in 2011.²⁵⁷ Zaporizhstal's production remained stagnant in 2010,²⁵⁸ although the company had earlier announced plans to construct a new continuous hot-rolling mill by 2014.²⁵⁹ Alchevsk launched two new oxygen converters in 2007 and 2008, with a capacity to produce up to 6 mmt of steel annually, including hot-rolled steel sheet.²⁶⁰

[309] In 2010, the Ukrainian hot-rolled steel sheet production exceeded domestic consumption by 62%.²⁶¹ As such, any expanded capacity for hot-rolled steel sheet production in Ukraine will only exacerbate the country's dependence on foreign markets.

[310] This dependency has forced Ukrainian hot-rolled steel exporters to sell at very low prices in the export market. Indeed, the European Confederation of Iron and Steel Industries has recently claimed that hot-rolled steel sheet imports mainly originating in China and Ukraine are undercutting European producer prices by up to 25%.²⁶² Additional data obtained from Metal Bulletin Research reveals that export prices for Ukrainian hot-rolled coil in recent years have been the lowest in the world and are even lower than those from China.²⁶³

[311] Ukrainian export prices for hot-rolled steel sheet are also much lower than those in the domestic market. In the first 10 months of 2010, export prices for this product were consistently around 30% below domestic prices, which averaged \$824 US/mt, indicating a solid propensity to dump on the part of the Ukrainian exporters.²⁶⁴

[312] This propensity is not expected to change in the near future. As noted in a Metal Expert industry forecast from November 2010:

“In the Ukrainian market for flat products, prices will be relatively stable in the period under review. The oligopoly established in the domestic market and producers' policy will keep domestic prices unchanged when export ones go down.”²⁶⁵

²⁵⁷ Exhibit 54 (NC) - Reference Material on Ukraine, Tab 4, pages 7, 9 and 11.

²⁵⁸ Exhibit 54 (NC) - Reference Material on Ukraine, Tab 2, page 1.

²⁵⁹ Exhibit 54 (NC) - Reference Material on Ukraine, Tab 5, page 4.

²⁶⁰ Exhibit 54 (NC) - Reference Material on Ukraine, Tab 6, pages 4-5.

²⁶¹ Exhibit 61 (PRO) - Essar Steel Algoma Inc. Submission, Attachment 4, pages 168.

²⁶² Exhibit 58 (PRO) - Articles regarding the steel industry in China, Brazil, India and Ukraine, page 18. Metal Bulletin Article: “Chinese/Ukrainian HRC exporters undercut EU mills by 25%, Eurofer,” November 3, 2010.

²⁶³ Exhibit 50 (PRO) - Metal Bulletin Research, Global Flat Product Prices page 8.

²⁶⁴ Exhibit 54 (NC) - Reference Material on Ukraine, Tab 2, pages 4-12.

²⁶⁵ Exhibit 64 (NC) - ArcelorMittal Dofasco Inc. Submission, Item 114: “Ukraine: Market Outlook,” Quarterly Flat Products Forecasts, Metal Expert, November 2010, Document page 13.

[313] Events relating to the importation of flat hot-rolled carbon steel plate (steel plate) into Canada provide another indicator of a propensity to dump on the part of Ukrainian exporters. In the early 2000's, steel plate from Ukraine was covered by two Tribunal injury findings. After the expiry of these findings in 2004 and 2005, Ukrainian exporters resumed dumping steel plate into Canada in sufficient volumes to again injure the Canadian industry.

[314] As a result, Canadian producers eventually filed a new dumping complaint respecting steel plate from Ukraine in 2009. Following the CBSA's subsequent determination of dumping of this product, the Tribunal issued a new injury finding against steel plate from Ukraine in 2010.²⁶⁶ It should be noted that the same companies which produce steel plate also produce hot-rolled steel sheet.

[315] In addition to the Canadian injury findings concerning the dumping of the goods from Ukraine, other jurisdictions have also taken measures against imports of steel products from Ukraine, including hot-rolled steel sheet. These measures include: hot-rolled carbon steel flat products by the United States (2000),²⁶⁷ flat-rolled products of iron and non-alloy steel by Argentina (1999),²⁶⁸ hot-rolled steel sheet by Mexico (1998),²⁶⁹ hot and cold-rolled steels by Peru (1999)²⁷⁰ and flat hot-rolled in coils and not in coils in Thailand (2003).²⁷¹

[316] Currently, there are 41 anti-dumping measures in place against steel products from Ukraine,²⁷² including three in the United States.²⁷³ These measures provide yet another indicator of the propensity to dump on the part of the Ukrainian steel exporters.

[317] This also increases the likelihood that dumped exports from Ukraine would be diverted to Canada if the order in respect of hot-rolled steel sheet from Ukraine is allowed to expire, since these measures restrict Ukrainian steel exporters from selling in other markets.

[318] Without the anti-dumping measures currently in place, there is a strong likelihood that to alleviate the heavy supply-demand imbalance in Ukraine's domestic market, Ukrainian exporters will try to increase dumped exports of hot-rolled steel sheet to markets such as Canada, in the same way as occurred in the case of steel plate.

²⁶⁶ Tribunal Inquiry No. NQ-2009-003

²⁶⁷ Exhibit 64 (NC) - ArcelorMittal Dofasco Inc. Submission, Item 8: US ITC Anti-dumping and Countervailing Orders in effect as of August 12, 2010, 5 pages.

²⁶⁸ Exhibit 64 (NC) - ArcelorMittal Dofasco Inc. Submission, Item 9: WTO Semi-Annual Report Article 16.4 Notification Argentina, August 9, 2010, page 18.

²⁶⁹ Exhibit 64 (NC) - ArcelorMittal Dofasco Inc. Submission, Item 9: WTO Semi-Annual Report Article 16.4 Notification Mexico, September 14, 2010, page 7.

²⁷⁰ Peru - WTO Semi-Annual Report Article 16.4 Notification G/ADP/N/202/PER, September 22, 2010.

²⁷¹ Thailand - WTO Semi-Annual Report Article 16.4 Notification G/ADP/N/202/THA, September 23, 2010.

²⁷² Exhibit 42 (NC) - Articles on steel industry in India, Tab 1, page 124: WTO "Anti-dumping Sectoral Distribution of Measures," document page 3.

²⁷³ Exhibit 64 (NC) - ArcelorMittal Dofasco Inc. Submission, Item 8: U.S. ITC Anti-dumping and Countervailing Orders in Place as of August 12, 2010, 5 pages.

President's Determination - Ukraine

[319] Based on the information on the record in respect of: the demonstrated lack of ability to compete in Canada at undumped prices; the volume of hot-rolled steel sheet available for export; the continuing pressure to export in light of insufficient domestic demand; the evidence of recent dumping in export markets; the activities of Ukrainian exporters respecting steel plate; and the significant number of anti-dumping measures in place against Ukrainian origin steel, including hot-rolled steel products, the President determined that the expiry of the order in respect of hot-rolled steel sheet originating in or exported from Ukraine is likely to result in the continuation or resumption of dumping of these goods into Canada.

South Africa

[320] ArcelorMittal SA and Evraz Highveld Steel and Vanadium Corp. (Highveld) are the two hot-rolled steel exporters in South Africa. Neither of the two companies participated in the CBSA's expiry review investigation nor did they file case arguments or reply briefs. As a result, the CBSA relied on information from the South African Steel Institute, other steel industry publications and information obtained from the Web sites of the two South African steel exporters which was on the record.

[321] South African exports of hot-rolled steel sheet into Canada during the POR were negligible and in 2010 there were no imports into Canada of hot-rolled steel sheet from South Africa. The record indicates that over the entire POR, subject goods from South Africa comprised less than 0.01% of total imports of hot-rolled steel sheet into Canada, as measured on a volume basis.²⁷⁴

[322] Neither of these South African steel exporters participated in the last two CBSA re-investigations in respect of hot-rolled steel sheet.

[323] South Africa is one of the world's major steel producing countries. The country ranked 19th in the world in respect of crude steel output in 2007.²⁷⁵ According to CRU International, in 2010, South Africa production of hot-rolled steel sheet was less than half of the country's hot-rolled steel sheet production capacity.²⁷⁶

[324] South Africa exported approximately 561,000 mt of hot-rolled steel sheet in the first 10 months of 2010 and as such export volumes are much smaller when compared to massive hot-rolled steel sheet exporting countries like China.

²⁷⁴ Exhibit 72 (PRO) - Apparent Canadian Market for Hot-Rolled Steel Sheet; Exhibit 70 (PRO) - Enforcement Statistics for Period of Review.

²⁷⁵ Exhibit 19 (PRO) - Articles regarding the steel industry in China, Tab 13: World Steel Association List of countries by production.

²⁷⁶ Exhibit 61 (PRO) - Essar Steel Algoma Inc. Submission, Attachment 4, Table S.16 and Table S.114.

[325] There is no information on the record confirming any significant additions to South African production capacity in the next few years. In fact, a statement on ArcelorMittal South Africa's Web site stated that plans for expansion of crude steel have been postponed due to the uncertainty with the world economy.²⁷⁷

[326] According to South African customs and excise data from 2009 and 2010, exports of hot-rolled steel (includes both sheet and strip) comprised 23% of all South African primary steel exports in 2009 and increased to 26% in the first ten months of 2010.²⁷⁸ In 2010, South Africa shipped primary steel products mainly to other African countries and also to, in order of importance: the Far East, the EU, the Middle East, North America and South America.²⁷⁹

[327] ArcelorMittal SA's hot-rolled steel sheet plant, Saldana, is considered the company's export oriented hot-rolled steel sheet facility.²⁸⁰ ArcelorMittal SA stated that its marketing strategy is to ship a substantial proportion of its total hot-rolled production to export markets and that sub-Saharan Africa is the predominant target market.²⁸¹

[328] As a result of the recent global consolidation of steel companies, both of the South African steel exporters have sister companies in Canada, who are also producers of hot-rolled steel sheet.²⁸² Consequently, it does not appear that the South African hot-rolled steel sheet exporters are interested in the Canadian market and are leaving this market to their Canadian affiliates. Furthermore, corporate strategy for these entities is likely to discourage any disruption in an affiliated company's home market.

[329] While no recent anti-dumping measures have been imposed against South Africa, Argentina (2002) and Thailand (2003) both have anti-dumping measures against South Africa in respect of hot-rolled steel products.²⁸³ Measures against South African hot-rolled flat products by the United States (2001-2006) are no longer in force and no further dumping investigations have been initiated.

²⁷⁷ Exhibit 65 (PRO) - Articles regarding the steel industry, Tab 13, page 4: ArcelorMittal - Company Prospects.

²⁷⁸ Exhibit 46 (PRO) - Articles regarding the steel industry in China, Brazil and South Africa, Tab 24: "South African Exports of Primary Steel Products – SA Customs & Excise."

²⁷⁹ Exhibit 46 (PRO) - Articles regarding the steel industry in China, Brazil and South Africa, Tab 24: "South African Exports of Primary Steel Products – SA Customs & Excise."

²⁸⁰ Exhibit 65 (PRO) - Articles regarding the steel industry, Tab 13, page 8: ArcelorMittal SA – Saldanha Works Overview.

²⁸¹ Exhibit 65 (PRO) - Articles regarding the steel industry, Tab 13, page 1: ArcelorMittal SA – Company Strategy.

²⁸² ArcelorMittal Dofasco Inc. and Evraz Inc. NA Canada are separately owned by the same parent company as ArcelorMittal South Africa and Evraz Highveld respectively.

²⁸³ Exhibit 76 (PRO) - Essar Steel Algoma Inc. Case Brief, paragraph 123.

[330] Information concerning South Africa hot-rolled coil prices both in the domestic and export markets is sparse. In short, there is no recent pricing information available that indicates the South African steel exporters are dumping hot-rolled steel into export markets. Information that was available on the record indicates that in the last 15 months of the POR, South African export prices for hot-rolled coil were lower by a negligible amount than domestic prices and that South African steel exporters are generally able to compete in the international markets at undumped prices.²⁸⁴

President's Determination – South Africa

[331] Based on the information on the record in respect of: the apparent lack of interest in the Canadian market by the South African hot-rolled steel sheet exporters; the apparent corporate strategies of the exporters which is unlikely to result in dumping into an affiliate market, and the lack of evidence that supports any recent dumping in export markets, the President determined that the expiry of the order in respect of hot-rolled steel sheet originating in or exported from South Africa is unlikely to result in the continuation or resumption of dumping of these goods into Canada.

POSITION OF THE PARTIES - SUBSIDIZING

Parties contending that continued or resumed subsidizing is likely

CANADIAN PRODUCERS

[332] The Canadian producers made limited representations specifically concerning subsidizing in India.

[333] It should also be noted that Essar Steel Algoma Inc. provided no arguments supporting the likelihood of continued or resumed subsidizing from India in absence of the Tribunal order in respect of these goods.

Position of the Canadian Producers regarding India

[334] The main factors identified by the Canadian producers can be summarized as follows:

- Government of India's (GOI) influence in promoting capacity growth
- Countervailing measures in effect against India

[335] The Canadian producers submitted information that alleged the GOI is strongly promoting and supporting additional capacity growth in the steel industry, including hot-rolled steel sheet in the coming years.²⁸⁵

²⁸⁴ Exhibit 18 (PRO) - 2010 Metal Bulletin Research. MBR: Steel Weekly Market Tracker – Global flat steel product prices, Domestic & International.

²⁸⁵ Exhibit 78 (PRO) - ArcelorMittal Dofasco Inc. Case Brief, paragraphs 102-105.

[336] One of the Canadian producers tied this involvement by the Government of India to their past practice of providing financial incentives, including subsidization, to the steel industry to assist in its cost management and in its growth.²⁸⁶

[337] The Canadian producers also provided information on similar countervailing measures against Indian origin hot-rolled steel sheet by the United States (2001).²⁸⁷

CONSIDERATION AND ANALYSIS - SUBSIDIZING

[338] In establishing whether the expiry of the order in respect of goods from India is likely to result in the continuation or resumption of subsidizing of these goods, the President may consider any factor specifically identified in paragraphs (b) to (i) of subsection 37.2(1) of the SIMR, as well as any other factors relevant under the circumstances when rendering a determination pursuant to paragraph 76.03(7)(a) of SIMA.

Likelihood of Continued or Resumed Subsidizing

[339] Guided by the factors in paragraph 37.2(1)(b) of the SIMR, the CBSA has examined the information on the administrative record respecting the likelihood of continued or resumed subsidizing of hot-rolled steel sheet from India. The following list summarizes the most relevant aspects of the CBSA's analysis:

- Continued presence of subsidy programs used by hot-rolled steel exporters
- Recurring benefit stream resulting from subsidies received
- Availability of additional subsidy programs
- Imposition of countervailing measures by authorities other than Canada in respect of hot-rolled steel and other goods

²⁸⁶ Exhibit 78 (PRO) - ArcelorMittal Dofasco Inc. Case Brief, paragraph 118.

²⁸⁷ Exhibit 78 (PRO) - ArcelorMittal Dofasco Inc. Case Brief, paragraphs 165 - 172; Exhibit 33 (PRO) - USSC response to Producer ERQ, Appendix 2, pages 283 - 292.

India

[340] At the time of the original investigation in 2001, the Commissioner of the Canada Customs and Revenue Agency (now the President of the CBSA) determined that the GOI had conferred a benefit to exporters of hot-rolled steel sheet under the following programs totaling 3,150 rupees per metric tonne (r/mt) exported, currently about \$70 CDN.²⁸⁸

1. *Duty Entitlement Pass Book Scheme*
2. *Advance Licences*
3. *Special Import Licences*
4. *Export Promotion Capital Goods Scheme*
5. *Pre-shipment Export Financial Assistance*
6. *Post-shipment Export Financial Assistance*
7. *Forgiveness of Loans from the Steel Development Fund* and
8. *Forgiveness of Loans from the Government of India*

[341] Of the programs listed, programs 1 – 6 were determined to be specific since, being contingent on export performance, they were prohibited subsidies under SIMA. Programs 7 and 8 constituted specific subsidies for the reason that they were limited to a particular enterprise.

[342] Detailed descriptions of the programs and explanations as to why they were regarded as subsidies subject to countervailing duties are contained in the *Statement of Reasons* issued at the final determination.²⁸⁹

[343] At the time of the first expiry review concluded in 2006, the President determined that the expiry of the finding was likely to result in the continuation or resumption of subsidizing from India. It was ascertained at that time that seven of the eight subsidy programs listed above were still in effect, with only Program 3, respecting Special Import Licences, having been terminated.

²⁸⁸ Canada Customs and Revenue Agency (now Canada Border Services Agency) *Statement of Reasons – Final Determination of Dumping and Subsidizing*, July 18, 2001, page 24.

²⁸⁹ Canada Customs and Revenue Agency (now Canada Border Services Agency) *Statement of Reasons – Final Determination of Dumping and Subsidizing*, July 18, 2001.

[344] In 2007, the CBSA conducted its third re-investigation of the amounts of subsidy of hot-rolled steel sheet from India, at which time the GOI and two exporters provided complete responses to the CBSA's subsidy request for information (RFI).²⁹⁰ On the basis of the information received, the CBSA was able to determine specific subsidy rates for the two co-operating exporters and to confirm that the following programs were still used by producers of hot-rolled steel sheet in India:

- *Duty Entitlement Pass Book Scheme*
- *Export Promotion Capital Goods Scheme*
- *Post-shipment Export Financial Assistance*
- *Forgiveness of Loans from the Steel Development Fund*
- *Forgiveness of Loans from the Government of India*

[345] During the 2007 re-investigation, it was also found that certain programs which had not been previously investigated, as listed below, had conferred actionable benefits to the co-operating exporters:

- *Duty Free Replenishment Certificates*
- *Sales Tax and Electricity Duty Exemptions*

[346] On November 16, 2010, the CBSA completed its latest re-investigation to update the amounts of subsidy for hot-rolled steel sheet from India. No exporter submissions were received in response to the CBSA's subsidy RFI, although the GOI did provide its response describing subsidies in India.

[347] Due to the lack of participation on the part of the Indian exporters, the ministerial specification of 3,150 r/mt, which represents the highest amount of subsidy found under all programs utilized at the final determination dated July 2001, currently applies to all subject goods shipped to Canada from India.²⁹¹ Information on the administrative record indicates that the volume of hot-rolled steel sheet exported to Canada from India during the POR was less than 0.01% of total imports over that period.²⁹²

[348] Neither the GOI nor the exporters in India provided responses to the CBSA for this expiry review investigation. As a result, the CBSA relied on the information that was submitted by the GOI in the 2010 re-investigation, as well as on publicly available data found on various government, organizational and media Web sites.

²⁹⁰ CBSA Hot-rolled Steel Sheet Reinvestigation 2007 Listing of Subsidy Exhibits: s6 (PRO), s8 (PRO) and s11 (PRO) - <http://www.cbsa-asfc.gc.ca/sima-lmsi/ri-re/ad1262/ad1262-r06-sx-eng.html>.

²⁹¹ CBSA Hot-rolled Steel Sheet Reinvestigation 2007 Listing of Subsidy Exhibits: s24 (PRO) - <http://www.cbsa-asfc.gc.ca/sima-lmsi/ri-re/ad1262/ad1262-r06-sx-eng.html>.

²⁹² Exhibit 71 (NC) - CBSA Finalized Import and Enforcement Statistics.

Subsidy Programs Used by Exporters

[349] In its analysis into the likelihood of continued or resumed subsidizing of hot-rolled steel sheet from India, the CBSA reviewed the GOI subsidy programs, which were found in the original subsidy investigation and in subsequent re-investigations to have been utilized by the exporters of this product. Following is a summary of the current status of each program.

A. Duty Entitlement Passbook Scheme

[350] The GOI's Duty Entitlement Pass Book (DEPB) scheme is an Indian duty exemption program, which has conferred benefits to exporters that the CBSA has deemed to be actionable subsidies. Although originally scheduled to expire in 2005,²⁹³ the DEPB scheme is included in the latest GOI Foreign Trade Policy for 2009-2014, and the GOI's submission from 2010 confirms that there are currently no plans to replace the program.²⁹⁴

B. Advance Licences

[351] Information on the administrative record indicates that the GOI's system of Advance Licences has been replaced by a new duty-free program entitled the ***Advance Authorisation Scheme***. The new program is more WTO compliant than was its predecessor, but it still entitles its users to benefits that are actionable under SIMA.²⁹⁵

C. Export Promotion Capital Goods Scheme

[352] The GOI's Export Promotion Capital Goods (EPCG) scheme allows exporters to import capital equipment and components at reduced or nil rates of import duty. Duty exemption for such goods is considered an actionable subsidy under SIMA. The GOI Foreign Trade Policy for 2009-2014 indicates that not only does the EPCG scheme remain in existence, but that benefits under this program have recently been further expanded.²⁹⁶

[353] It should also be noted that under SIMA, when a subsidy is used by the recipient to acquire capital assets, the amount of the subsidy is generally amortized over the useful life of the assets rather than being expensed in the period in which the subsidy is received. Therefore, exporters will continue to benefit from the duty exemptions and reductions received under the EPCG scheme over the life of the imported equipment, even in the event that the program itself is abolished.

²⁹³ CBSA Hot-Rolled Steel Sheet Expiry Review, *Statement of Reasons*, April 13, 2006, par. 451.

²⁹⁴ Exhibit s46 (NC) - Reference Material on Subsidies in India, Tab 2, page 8: GOI Response in 2010 CBSA Re-investigation, document page 17.

²⁹⁵ Exhibit s47 (NC) - Government of India, "Foreign Trade Policy 27th August 2009 – 31st March 2014," August 23, 2010, par.4.1.5.

²⁹⁶ Exhibit s47 (NC) - Government of India, "Foreign Trade Policy 27th August 2009 – 31st March 2014," August 23, 2010, chapter 5.

D. Pre and post shipment Export Financial Assistance

[354] Under programs administered by the Reserve Bank of India (RBI), banks are mandated to extend pre-shipment and post-shipment loans to exporters at preferential rates set by the RBI. Information on the administrative record confirms that India's pre and post-shipment export financial assistance programs are still in effect and that the interest rates available to exporters under these programs remain preferential.²⁹⁷

E. Forgiveness of Loans from the GOI and the Steel Development Fund

[355] During the original 2001 investigation into the subsidizing of hot-rolled steel sheet, India's state-owned steel producer, the Steel Authority of India (SAIL), reported the forgiveness of certain long-term loans it had received from the GOI and from the Steel Development Fund. For the final determination of subsidizing, the CBSA calculated the amounts of subsidy derived from the forgiveness of these loans as distributed over 10 years.²⁹⁸ The benefits to SAIL attributable to the loan waivers have now expired.

F. Duty Free Replenishment Certificates

[356] The GOI has replaced its system of Duty Free Replenishment Certificates with a program called the ***Duty Free Import Authorisation Scheme***. Information on the record indicates that, under this program, exporters are entitled to benefits that are actionable under SIMA.²⁹⁹

G. Sales Tax and Electricity Duty Exemptions

[357] During the CBSA's latest re-investigation, which concluded in November 2010, it was found that exporters of hot-rolled steel sheet in India had received exemptions from sales tax and electricity duty, benefits that were deemed actionable under SIMA. There is no information on the administrative record to indicate that such programs have been abolished.

[358] The above analysis indicates that the majority of the GOI subsidy programs, which had been found in the original and/or subsequent re-investigations to be conferring actionable benefits to Indian exporters of hot-rolled steel sheet, are still in place. It is therefore likely that these subsidy programs will continue to be used by exporters in the foreseeable future.

²⁹⁷ Exhibit s46 (NC) - Reference Material on Subsidies in India, Tab 5, page 8: Reserve Bank of India, "Interest Rate on Rupee Export Credit – UCBs," January 11, 2011.

²⁹⁸ Canada Customs and Revenue Agency (now Canada Border Services Agency) *Statement of Reasons – Final Determination of Dumping and Subsidizing*, July 18, 2001, page 40.

²⁹⁹ Exhibit s47 (NC) - Government of India, "Foreign Trade Policy 27th August 2009 – 31st March 2014," August 23, 2010, paragraph 4.2.6.

Availability of Subsidy Programs In India

[359] In addition to the subsidy programs described above, the GOI has in place the following promotional measures aimed specifically at encouraging exports:

- *Assistance to States for Developing Export Infrastructure and Allied Activities*
- *Market Development Assistance*
- *Market Access Initiative*
- *Towns of Export Excellence*
- *Export and Trading Houses*
- *Brand Promotion & Quality*
- *Test Houses*
- *Assistance in Trade Disputes Affecting Trade Relations*
- *Focus Market Scheme*³⁰⁰

[360] The measures were implemented by India's Minister of Commerce and Industry, who, in announcing the 2010 update to the GOI Foreign Trade Policy for 2009-2014, stated:

“...over the remaining 3 years of Policy, we should be able to come back on the high export growth trajectory of 25% per annum and by 2014, we expect to double India's exports of goods and services.”³⁰¹

[361] Although the additional subsidy programs have not been investigated in detail by the CBSA, their presence increases the likelihood that Indian exporters of hot-rolled steel sheet will continue to receive actionable subsidies from the Indian government within the next five years.

[362] Another item of note is that much of the new capacity expansion for steel production that is planned to take place in India is to be located in Special Economic Zones and in Free Trade and Warehousing Zones.³⁰² Companies located in these zones become eligible for additional benefits available from the GOI.³⁰³

³⁰⁰ Exhibit s47 (NC) - Government of India, “Foreign Trade Policy 27th August 2009 – 31st March 2014,” August 23, 2010, Chapter 3.

³⁰¹ Exhibit s47 (NC) - Government of India, “Foreign Trade Policy 27th August 2009 – 31st March 2014,” August 23, 2010, page v.

³⁰² Exhibit s46 (NC) – Reference Material on Subsidies in India, Tab 1: Lists of Special Economic Zones in India.

³⁰³ Exhibit s47 (NC): Government of India, “Foreign Trade Policy 27th August 2009 – 31st March 2014,” August 23, 2010, pages 27,31 and 38.

[363] Information on the administrative record indicates that between 1995 and 2010, WTO member countries initiated 48 subsidy investigations on their importations from India, 17 of which involved steel products. In 30 of these cases, definitive countervailing measures were subsequently imposed.³⁰⁴ Imports of hot-rolled carbon steel flat products from India are currently also subject to a countervailing duty order issued by the US DOC.³⁰⁵

[364] The existence of these other countervailing measures are further indications that hot-rolled steel sheet and other products from India are being subsidized at this time and that they will likely continue to be subsidized in the foreseeable future. They also increase the likelihood that subsidized exports from India would be diverted to Canada if the order in respect of the goods from India is allowed to expire, since these countervailing measures restrict Indian steel exporters from selling in other markets.

President's Determination - India

[365] Based on the information on the record in respect of: the continued presence of subsidy programs used by hot-rolled steel exporters; recurring benefit stream resulting from subsidies received; availability of additional subsidy programs and; imposition of countervailing measures by authorities other than Canada in respect of hot-rolled steel and other goods from India, the President determined that the expiry of the order in respect of hot-rolled steel sheet originating in or exported from India is likely to result in the continuation or resumption of subsidizing of these goods into Canada.

³⁰⁴ Exhibit s46 (NC) – Reference Material on Subsidies in India, Tab 6: WTO Statistics on Countervailing Measures.

³⁰⁵ Exhibit s46 (NC) – Reference Material on Subsidies in India, Tab 3: Articles on USDOC Countervailing Findings.

CONCLUSION

[366] For the purposes of making determinations in this expiry review investigation, the CBSA conducted its analysis within the scope of the factors contained in subsection 37.2(1) of the SIMR. Based on the foregoing consideration of pertinent factors and analysis of the information on the record, the President determined that:

- (i) the expiry of the orders made by the Tribunal on August 16, 2006, in Expiry Review No. RR-2005-002, concerning certain flat hot-rolled carbon and alloy steel sheet and strip originating in or exported from Brazil, China, Chinese Taipei, India and Ukraine is likely to result in the continuation or resumption of dumping of these goods into Canada;
- (ii) the expiry of the order made by the Tribunal on August 16, 2006, in Expiry Review No. RR-2005-002, concerning certain flat hot-rolled carbon and alloy steel sheet and strip originating in or exported from South Africa is unlikely to result in the continuation or resumption of dumping of these goods into Canada; and
- (iii) the expiry of the order made by the Tribunal on August 16, 2006, in Expiry Review No. RR-2005-002, concerning certain flat hot-rolled carbon and alloy steel sheet and strip originating in or exported from India is likely to result in the continuation or resumption of subsidizing of these goods into Canada.

FUTURE ACTION

[367] On April 1, 2011, the Tribunal commenced its inquiry to determine whether the expiry of its orders concerning the dumping of flat hot-rolled carbon and alloy steel sheet and strip from Brazil, China, Chinese Taipei, India and Ukraine and the subsidizing of these goods from India is likely to result in injury or retardation to the Canadian industry. The Tribunal has announced that it will issue its decision by August 15, 2011.

[368] If the Tribunal determines that the expiry of the orders with respect to goods from Brazil, China, Chinese Taipei, India (dumping and subsidizing) and Ukraine is likely to result in injury or retardation, the orders will be continued in respect of those goods, with or without amendment. If this is the case, the CBSA will continue to levy anti-dumping duties on dumped importations of flat hot-rolled carbon and alloy steel sheet and strip originating in or exported from these countries and countervailing duties on subsidized importations of flat hot-rolled carbon and alloy steel sheet and strip from India.

[369] If the Tribunal determines that the expiry of the orders with respect to the goods from Brazil, China, Chinese Taipei, India and Ukraine is unlikely to result in injury or retardation, the orders, in respect of those goods will be rescinded. Anti-dumping and countervailing duties would no longer be levied on importations of flat hot-rolled carbon and alloy steel sheet and strip beginning on the date the orders are rescinded.

[370] Given that the President has determined that the expiry of the order in respect of flat hot-rolled carbon and alloy steel sheet and strip originating in or exported from South Africa was unlikely to result in the continuation or resumption of dumping of the goods, the Tribunal will not consider these goods in its determination of the likelihood of material injury or retardation and will issue a decision rescinding the order in respect of these goods. Therefore anti-dumping duties will not be applicable on importations of these goods from South Africa as of the date that the order is rescinded.

INFORMATION

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