



OTTAWA, October 20, 2009

STATEMENT OF REASONS

Concerning the making of a preliminary determination with respect to the dumping of

**CERTAIN CARBON STEEL PLATE AND HIGH STRENGTH LOW ALLOY STEEL
PLATE ORIGINATING IN OR EXPORTED FROM UKRAINE**

DECISION

On October 5, 2009, pursuant to subsection 38(1) of the *Special Import Measures Act*, the President of the Canada Border Services Agency made a preliminary determination respecting the alleged injurious dumping of certain carbon steel plate and high strength low alloy steel plate originating in or exported from Ukraine.

Cet *Énoncé des motifs* est également disponible en français. Veuillez consulter la section « Information ». This *Statement of Reasons* is also available in French. Please refer to the “Information” section.

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SUMMARY OF EVENTS

[1] On May 26, 2009, the Canada Border Services Agency (CBSA) received a complaint from Essar Steel Algoma Inc. (Essar Algoma) (the “complainant”), a domestic producer of certain carbon steel plate and high strength low alloy steel plate (certain steel plate). The complaint contained evidence to support the allegations that imports into Canada of certain steel plate originating in or exported from Ukraine (subject goods) have been dumped and that this dumping has caused and threatens to cause material injury to the Canadian industry.

[2] On June 10, 2009, pursuant to paragraph 32(1)(a) of the *Special Import Measures Act* (SIMA), the CBSA informed the complainant that the complaint was properly documented. The CBSA also notified the government of Ukraine that it has received a properly documented complaint.

[3] In accordance with subsection 31(1) of SIMA, the President of the CBSA (President) was of the opinion that there was evidence that the subject goods have been dumped, as well as evidence that disclosed a reasonable indication that the dumping has caused injury or was threatening to cause injury. Accordingly, the President initiated an investigation into the alleged injurious dumping of the subject goods on July 6, 2009.

[4] Upon receiving notice of the initiation of the investigation, the Canadian International Trade Tribunal (Tribunal) commenced a preliminary injury inquiry into whether the evidence disclosed a reasonable indication that the dumping of the subject goods have caused injury or retardation or was threatening to cause injury to the Canadian industry producing these goods. On September 4, 2009, pursuant to subsection 37.1(1) of SIMA, the Tribunal determined that there was evidence that disclosed a reasonable indication that the dumping of the subject goods has caused injury.

[5] On October 5, 2009, pursuant to subsection 38(1) of SIMA, the President made a preliminary determination of dumping with respect to the subject goods.

PERIOD OF INVESTIGATION

[6] The investigation covers all subject goods released into Canada during the period of investigation (POI), that is, from April 1, 2008 to March 31, 2009.

INTERESTED PARTIES

Complainant

[7] The complainant, Essar Algoma, is a major producer of certain steel plate in Canada, accounting for a major proportion of the domestic industry for like goods. The name and address of the complainant is:

Essar Steel Algoma Inc.
105 West Street
Sault Ste. Marie, Ontario
P6A 7B4

Other Canadian Producers Supporting the Complaint

[8] Letters supporting the complaint were provided to the CBSA by two other Canadian producers of the goods, SSAB Central Inc. of Scarborough, Ontario (SSAB)¹ and Evraz Inc. NA² of Regina, Saskatchewan (Evraz). The address of these supporting companies are:

Evraz Inc. NA
P.O. Box 1670
Regina, Saskatchewan
S4P 3C7

SSAB Central Inc.
1051 Tapscott Road
Scarborough, Ontario
M1X 1A1

Exporters

[9] When the investigation was initiated, the CBSA identified 23 possible exporters of subject goods from customs accounting documents and from the complaint. The CBSA sent an exporter Request for Information (RFI) to all identified exporters.

[10] A complete response to the CBSA's exporter RFI was received from one exporter located in Ukraine.

Importers

[11] When the investigation was initiated, the CBSA identified 22 possible importers of the subject goods from customs accounting documents and from the complaint. The CBSA sent an importer RFI to all identified importers.

[12] A complete response was received from three importers.

Other Interested Parties

[13] During the preliminary phase of the investigation, representation was submitted by the Embassy of Ukraine on behalf of the Ministry of Economy of Ukraine opposing the initiation of this investigation.³

¹ Letter of support received May 26, 2009 from SSAB can be found in Dumping Exhibit 4.

² Letter of support received June 30, 2009 from Evraz can be found in Dumping Exhibit 13.

³ This representation can be found under Dumping Exhibit 34.

PRODUCT INFORMATION

Product Definition

- [14] For the purpose of this investigation, the subject goods are defined as:
“hot-rolled carbon steel plate and high strength low alloy steel plate not further manufactured than hot-rolled, heat-treated or not, in cut lengths in widths from 24 inches (610 mm) to 152 inches (3,860 mm) inclusive and in thickness from 0.187 inches (4.75 mm) up to and including 3.0 inches (76.0 mm) inclusive (with all dimensions being plus or minus allowable tolerances contained in the applicable standards e.g. ASTM standards A6/A6M and A20/A20M), originating in or exported from Ukraine; excluding universal mill plate, plate for use in the manufacture of pipe and plate having a rolled, raised figure at regular intervals on the surface (also known as floor plate).”

Technical Information

- [15] In general, steel is considered to be carbon steel when the manganese content does not exceed 1.65%, the silicon and copper contents do not exceed 0.60%, and no minimum content is specified for alloying elements such as aluminium, chromium, columbium, molybdenum, nickel and vanadium. If a minimum is specified for copper content, it must be less than 0.40%.

- [16] High strength low alloy (HSLA) steel is carbon steel with alloying elements added. The selection of the particular combination of alloying elements depends on the desired properties of the steel, e.g. greater resistance to atmospheric corrosion, improved weldability or higher strength. HSLA steel generally costs more than carbon steel by weight, but can offer savings because of its superior qualities. References in this report to “certain steel plate” include both carbon steel plate and HSLA steel plate.

- [17] Plate is categorized by different “qualities” which refer to the suitability and integrity of the steel for its intended purpose. In the case of the subject goods, the two most common qualities are structural quality and pressure vessel quality (PVQ). Structural quality plate is intended for general applications such as bridges, buildings, transportation equipment and machined parts. It is usually produced to meet specific composition limits and certain mechanical properties. PVQ plate on the other hand is intended for use in pressure vessels required to hold their contents under pressure and is of higher quality than structural plate.

- [18] Heat-treated or normalized plate is heated in a furnace to homogenize and refine the grain structure in order to improve the steel's ability to resist fracture at low service temperatures. PVQ plate, particularly that which is thicker than 1.5 inches, is usually heat-treated, while structural quality plate tends not to be heat-treated.

- [19] The Canadian Standards Association (CSA) specifications covered by the product definition represent different grades within the broad specification G40.21 that covers steel for general construction purposes.

- [20] In the American Society for Testing & Materials (ASTM), specifications A283M/A283 and A36M/A36 include structural plate; specifications A572M/A572, A588M/A588 and

A242M/A242 include HSLA plate and specifications A515M/A515 and A516M/A516 include PVQ plate.

[21] The ASTM specification A36M/A36 is considered to be equivalent to the CSA specification G40.21, grade 300W/44W and together these are the most common specifications of structural quality plate sold in Canada. The most common specification of PVQ plate sold in Canada is the ASTM specification A516M/A516, grade 70.

Production Process

[22] Carbon steel is, in effect, refined pig iron. Integrated producers make pig iron by combining iron ore, coke, limestone and oxygen and superheating the mixture in a blast furnace. The ensuing hot liquefied pig iron is combined with scrap metal and additional oxygen in a basic oxygen furnace. Mini-mills, on the other hand, produce molten carbon steel in electric arc furnaces (EAF's). The basic raw material used by mini-mills is scrap metal rather than virgin iron ore.

[23] In both integrated and mini-mill production, the molten carbon steel is poured from a ladle into the tundish of a continuous strand caster. From the tundish it flows into the caster's moulds to cool and to form a slab. The slab continues to move through the caster, cooling as it progresses, until it exits the caster, where it is cut to length with a torch. The slab is then either placed in inventory or immediately transferred to a reheat furnace where it is heated to a uniform rolling temperature. The plate is rolled to its final gauge in a series of rolling mills, leveled, identified and inspected for conformance to thickness tolerances and surface requirements. The plate is then either formed directly into rectangular shapes or coiled and later unwound and cut into lengths. The former is known as "discrete plate" and the latter as "plate from coil" or "cut to length plate".

[24] Heat-treated plate is manufactured in the manner as described above. However, after rolling, it is placed in a heat furnace (charged), reheated to a uniform temperature, removed from the furnace and allowed to cool.

Classification of Imports

[25] The certain steel plate subject to this investigation is normally imported into Canada under the following 18 Harmonized System (HS) classification numbers:

- | | | |
|-----------------|-----------------|-----------------|
| • 7208.51.91.10 | • 7208.51.99.10 | • 7208.52.90.10 |
| • 7208.51.91.91 | • 7208.51.99.91 | • 7208.52.90.91 |
| • 7208.51.91.92 | • 7208.51.99.92 | • 7208.52.90.92 |
| • 7208.51.91.93 | • 7208.51.99.93 | • 7208.52.90.93 |
| • 7208.51.91.94 | • 7208.51.99.94 | • 7208.52.90.94 |
| • 7208.51.91.95 | • 7208.51.99.95 | • 7208.52.90.95 |

[26] This listing of HS codes is for convenience of reference only. Refer to the product definition for authoritative details regarding the subject goods.

THE CANADIAN INDUSTRY

[27] The Canadian industry producing certain steel plate is currently comprised of the following three companies:

- Essar Steel Algoma Inc. of Sault Ste. Marie, Ontario
- SSAB Central Inc. of Scarborough, Ontario⁴
- Evraz Inc. NA of Regina, Saskatchewan

[28] Together, these three producers account for the vast majority of the total domestic production of certain steel plate and the CBSA will consider them to constitute the domestic industry for the purpose of this investigation. However, it should be noted that in addition to these three producers, some Canadian steel service centers also cut certain steel plate to length from coils. These service centers account for the remaining volume of the domestic production of like goods.

IMPORTS INTO CANADA

[29] During the preliminary phase of the investigation, the CBSA refined the estimated volume of imports based on information from its internal customs accounting documents, and other information received from exporters, importers and other parties.

[30] The following table presents the CBSA's estimates of imports of certain steel plate for purposes of the preliminary determination.

**CBSA ESTIMATES OF IMPORT SHARE DURING THE PERIOD OF INVESTIGATION
(APRIL 1, 2008 TO MARCH 31, 2009)**

Country	Percentage of Total Imports Based on Volume
Ukraine	6.3 %
U.S.A.	78.4 %
Other Countries	15.3 %
Total Imports	100 %

INVESTIGATION PROCESS

[31] At the initiation of the investigation, the CBSA requested information from 23 potential exporters and 22 potential importers.

⁴ In July 2007, IPSCO Inc. was purchased by SSAB of Sweden. Subsequently, on June 12, 2008, Evraz Group S.A. purchased a number of operations from SSAB of Sweden, including the plate mill and cut-to-length plate facility in Regina, Saskatchewan and the cut-to-length facility in Surrey, British Columbia. SSAB of Sweden retained ownership of the cut-to-length plate facility in Scarborough, Ontario following the sale to Evraz Group S.A.

[32] The CBSA received a complete submission from one exporter of subject goods and an incomplete submission from one other. In addition, six exporters responded and indicated that they did not export subject goods or did not wish to participate in the investigation.

[33] The CBSA received three complete responses to the importer RFI and two incomplete responses. In addition, six importers responded and indicated that they did not import subject goods or did not wish to participate in the investigation.

DUMPING INVESTIGATION

Normal Value

[34] Normal values of goods sold to importers in Canada are generally based on the domestic selling prices of like goods in the country of export, pursuant to section 15 of SIMA, or based on the aggregate of the cost production of the goods, a reasonable amount for administrative, selling and all other costs, and a reasonable amount for profits, pursuant to paragraph 19(b) of SIMA.

Export Price

[35] The export price of goods sold to importers in Canada is generally based on the lesser of the adjusted exporter's sale price for the goods or the adjusted importer's purchase price, pursuant to section 24 of SIMA. These prices are adjusted where necessary by deducting the costs, charges, expenses, duties and taxes resulting from the exportation of the goods as provided for in subparagraphs 24(a)(i) to 24(a)(iii) of SIMA.

[36] For purposes of the preliminary determination, export prices were estimated using reported export pricing data provided by the cooperating exporter of the goods. For non-cooperative exporters, import pricing information from the CBSA's customs accounting documents was used for purposes of estimating export price.

Preliminary Results of the Investigation

[37] All subject goods imported into Canada during the POI from any exporter are included in the determination of the margin of dumping of goods of that exporter. The margin of dumping by exporter is equal to the amount by which the total normal value exceeds the total export price of the goods, expressed as a percentage of the total export price. Where the total normal value of the goods does not exceed the total export price of the goods, the margin of dumping is zero.

[38] With respect to the cooperative exporter, company-specific information was utilized for the preliminary determination in estimating normal values and export prices for goods shipped to Canada based on information provided in that exporter's response to the RFI.

[39] For those exporters that did not submit a complete response to the exporter RFI, normal values were estimated by advancing export prices by the highest amount by which the normal value exceeded the export price on an individual transaction for the cooperating exporter.

[40] In calculating the estimated margin of dumping for Ukraine, the estimated margins of dumping found in respect of each exporter were weighted according to each exporter's volume of subject goods exported to Canada during the POI.

Azovstal Iron And Steel Works And The Metinvest Group Of Companies

[41] The exporter that provided a complete response to the exporter RFI is composed of Azovstal Iron and Steel Works (Azovstal), Metinvest International S.A., Metinvest Holding LLC, Metinvest SMC, and Metinvest Ukraine (Metinvest Group of Companies). The producer of the goods, Azovstal, shipped subject goods to Canada through the Metinvest Group of Companies. As Azovstal and the Metinvest Group of Companies are all related and perform specific functions with regard to export sales and domestic sales of the goods, the CBSA is considering the group together to be the exporter for SIMA purposes.

[42] As Azovstal and the Metinvest Group of Companies were the only exporter to submit a substantially complete response to the exporter RFI, normal values and margins of dumping were estimated using the information they provided.

[43] Normal values could not be established under section 15 of SIMA as there were insufficient domestic sales of like goods to more than one unrelated customer during the 60 day period corresponding to the export sale to Canada. As such, normal values were estimated under paragraph 19(b) of SIMA using an aggregate of the costs of production of the goods, a reasonable amount for administrative, selling and all other costs, and a reasonable amount for profits. These costs were based on unverified data provided by the exporter. Verification of this information will be conducted on-site for purposes of the final phase of the investigation.

[44] The estimated normal values were compared to the export prices of the subject goods exported to Canada to estimate a margin of dumping for the cooperating exporter. The amount by which the normal value exceeded the export price on individual transactions ranged from 5.9% to 20.2%, expressed as a percentage of export price. The CBSA estimates that 100% of the subject goods imported into Canada from the Ukraine during the POI were dumped. The estimated margin of dumping for the cooperating exporter is equal to 14.7%, expressed as a percentage of the export price.

[45] Imports of subject goods released from the CBSA on or after October 5, 2009, exported by Azovstal and the Metinvest Group of Companies will be subject to provisional duty equal to 14.7% of the export price.

Summary of Results

[46] The estimated margin of dumping for all other exporters is based on the highest amount by which the normal value exceeded the export price on an individual transaction for the cooperating exporter. For this investigation, the estimated margin of dumping for all other exporters is 20.2%, expressed as a percentage of export price. Therefore, imports of subject goods released from the CBSA on or after October 5, 2009, originating in or exported from Ukraine will be subject to provisional duty equal to 20.2% of the export price.

**SUMMARY OF RESULTS - PERIOD OF INVESTIGATION
(APRIL 1, 2008 TO MARCH 31, 2009)**

Country	Estimated Dumped Goods as Percentage of Country Imports	Estimated Margin of Dumping *	Country Imports as Percentage of Total Imports	Estimated Dumped Goods as Percentage of Total Imports
Ukraine	100%	18.2%	6.3%	6.3%

* As percentage of the export price

[47] Under subsection 35(1) of SIMA, the President is required to terminate an investigation prior to the preliminary determination if he is satisfied that the margin of dumping of the goods of a country is insignificant or that the volume of dumped goods of a country is negligible. Pursuant to subsection 2(1) of SIMA, a margin of dumping of less than 2% is defined as insignificant, whereas a volume of dumped goods from a country forming less than 3% of total imports is considered negligible.

[48] As shown in the table above, the estimated margin of dumping of subject goods from Ukraine is above 2% and is, therefore, not insignificant. As well, the volume of dumped goods from Ukraine is above 3%, and is, therefore, not negligible.

[49] The table below summarizes the estimated margins of dumping and provisional duty payable by exporter.

ESTIMATED MARGINS OF DUMPING AND PROVISIONAL DUTY PAYABLE BY EXPORTER

Exporter of Ukraine Origin Subject Goods	Estimated Margin of Dumping*	Provisional Duty*
Azovstal and the Metinvest Group of Companies	14.7%	14.7%
All Other Exporters	20.2%	20.2%

* As percentage of the export price

REPRESENTATIONS RECEIVED FROM INTERSTED PARTIES

[50] During the preliminary phase of the investigation, a representation was submitted to the Tribunal and the CBSA from the Ministry of Economy of Ukraine (MEU) opposing the complaint. The MEU submitted that imports of the subject goods had not caused injury and are not threatening to cause injury to the Canadian domestic industry in the form of increased volumes of imports, a decline in financial performance, a decline in shipments, and underutilization of production capacity, as presented by the complainant.

[51] MEU contends that the Canadian market is not a priority for Ukrainian exports of subject goods and that their export volumes are not able to significantly influence or injure the Canadian economy. Rather, they submit that other factors could be causing injury to the Canadian domestic industry such as low priced imports from the United States and the People's Republic of China and the global economic crisis.

[52] The CBSA was satisfied at the time of the initiation of the investigation that volume of subject goods were not negligible as per subparagraph 35(1)(a)(iii) of SIMA. As mentioned above, the preliminary results of the investigation show that the volume of subject goods from Ukraine is not negligible. In addition, the CBSA was also satisfied at that time that there was prima facie evidence of injury as per subsection 31(1) of SIMA. The Tribunal has determined in its preliminary injury inquiry that there is a reasonable indication that the dumping of subject goods has caused injury. A full inquiry into the question of injury has begun and the Tribunal is expected to issue a finding by February 2, 2010.

DECISION

[53] Based on the preliminary results of the investigation, the CBSA on October 5, 2009, made a preliminary determination of dumping respecting the subject goods originating in or exported from Ukraine, pursuant to subsection 38(1) of SIMA.

PROVISIONAL DUTY

[54] Pursuant to subsection 8(1) of SIMA, provisional duties will be applied to dumped subject goods that are released during the provisional period commencing on the day the preliminary determination is made, and ending on the earlier of the day on which the CBSA causes the investigation to be terminated pursuant to subsection 41(1) or the day on which the Tribunal makes an order or finding under subsection 43(1).

[55] Provisional anti-dumping duty is based on the estimated margin of dumping and is expressed as a percentage of the export price of the goods. The estimated margins of dumping and the rates of provisional duties, payable on subject goods released from the CBSA on or after October 5, 2009, is provided in the Appendix.

[56] Provisional duties are payable by the importer in Canada. Importers are required to pay provisional duties in cash or by certified cheque. Alternatively, they may post security equal to the amount payable. Importers should contact their CBSA regional office if they require further information on the payment of provisional duty or the posting of security. If the importers of such goods do not indicate the required SIMA code or do not correctly describe the goods in the CBSA documents, an administrative monetary penalty could be imposed. The imported goods are also subject to the *Customs Act*. As a result, failure to pay duties within the specified time will result in the application of the provisions of the *Customs Act* regarding interest.

FUTURE ACTION

The Canada Border Services Agency

[57] The CBSA will continue its investigation and will make a final decision by January 4, 2010.

[58] If the CBSA is satisfied that the goods were dumped and that the margin of dumping is not insignificant, a final determination will be made. Otherwise, the CBSA will terminate the investigation and any provisional duties paid, or security posted, will be returned to importers.

The Canadian International Trade Tribunal

[59] The Tribunal has begun its full inquiry into the question of injury to the Canadian industry. The Tribunal is expected to issue its finding by February 2, 2010.

[60] If the Tribunal finds that the dumping has not caused injury or is not threatening to cause injury, the proceedings will be terminated and all provisional duties collected, or security posted, will be returned. If the Tribunal makes a finding of injury, imports released from the CBSA after the date of that finding will be subject to anti-dumping duty in an amount equal to the margin of dumping.

[61] For purposes of the preliminary determination of dumping, the CBSA has responsibility for determining whether the actual and potential volume of dumped goods is negligible. After the preliminary determination of dumping, the Tribunal assumes this responsibility. In accordance with subsection 42(4.1) of SIMA, the Tribunal is required to terminate its inquiry in respect of any goods if the Tribunal determines that the volume of dumped goods from a country is negligible.

RETROACTIVE DUTY ON MASSIVE IMPORTATIONS

[62] Under certain circumstances, anti-dumping duty can be imposed retroactively on subject goods imported into Canada. When the Tribunal conducts its inquiry on material injury to the Canadian industry, it may consider if dumped goods that were imported close to or after the initiation of the investigation constitute massive importations over a relatively short period of time and have caused injury to the Canadian industry. Should the Tribunal issue a finding that there were recent massive importations of dumped goods that caused injury, imports of subject goods released by the CBSA in the 90 days preceding the day of the preliminary determination could be subject to anti-dumping duty.

UNDERTAKINGS

[63] After a preliminary determination of dumping, exporters may submit a written undertaking to revise selling prices to Canada so that the margin of dumping or the injury caused by the dumping is eliminated.

[64] Acceptable undertakings must account for all or substantially all of the exports to Canada of the dumped goods. In the event that an undertaking is accepted, the required payment of provisional duty on the goods would be suspended.

[65] In view of the time needed for consideration of undertakings, written undertaking proposals should be made as early as possible, and no later than 60 days after the preliminary determination of dumping. Further details regarding undertakings can be found in the CBSA's Memorandum D14-1-9, available online at:
www.cbsa-asfc.gc.ca/publications/dm-md/d14/d14-1-9-eng.html.

[66] SIMA allows interested parties to make representations concerning any undertaking proposals. The CBSA will maintain a list of interested parties and will notify them should an undertaking proposal be received. Persons wishing to be notified must provide their name,

address, telephone, fax or e-mail address to one of the officers listed below. Interested parties may also consult the CBSA's Web site noted below for information on undertakings offered in this investigation. A notice will be posted on the CBSA's Web site when an undertaking proposal is received. Interested parties have nine days from the date the undertaking offer is received to make representations.

PUBLICATION

[67] Notice of the preliminary determination is being published in the Canada Gazette pursuant to subparagraph 38(3)(a) of SIMA.

INFORMATION

[68] This *Statement of Reasons* has been provided to persons directly interested in these proceedings. It is also posted on the CBSA's Web site at the address below. For further information, please contact the officers identified as follows:


Mail: SIMA Registry and Disclosure Unit
Anti-dumping and Countervailing Program
Canada Border Services Agency
100 Metcalfe Street, 11th Floor
Ottawa, K1A 0L8
Canada

Telephone: Matthew Lerette 613-954-7398
Benjamin Walker 613-952-8665

Fax: 613-948-4844

E-mail: simaregistry@cbsa-asfc.gc.ca

Web site: <http://www.cbsa-asfc.gc.ca/sima-lmsi/i-e/menu-eng-html>



M.R. Jordan
Director General
Trade Programs Directorate

SUMMARY OF ESTIMATED MARGINS OF DUMPING AND PROVISIONAL DUTY PAYABLE

**CERTAIN CARBON STEEL PLATE AND HIGH STRENGTH LOW ALLOY STEEL PLATE
ORIGINATING IN OR EXPORTED FROM UKRAINE**

Exporter of Ukraine Origin Subject Goods	Estimated Margin of Dumping*	Provisional Duty*
Azovstal and the Metinvest Group of Companies	14.7%	14.7%
All Other Exporters	20.2%	20.2%

* As percentage of the export price