Canada Border Services Agency | Agence des services frontaliers du Canada

OTTAWA, June 25, 2015

STATEMENT OF REASONS

Concerning the initiation of investigations into the dumping and subsidizing of

CERTAIN HOT-ROLLED CARBON STEEL PLATE AND HIGH-STRENGTH LOW-ALLOY STEEL PLATE ORIGINATING IN OR EXPORTED FROM THE REPUBLIC OF INDIA AND THE RUSSIAN FEDERATION

DECISION

Pursuant to subsection 31(1) of the *Special Import Measures Act*, the President of the Canada Border Services Agency initiated investigations on June 10, 2015, respecting the alleged injurious dumping and subsidizing of certain hot-rolled carbon steel plate and high-strength low-alloy steel plate originating in or exported from the Republic of India and the Russian Federation.

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

Canada

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SUMMARY

[1] On April 20, 2015, Essar Steel Algoma Inc., (hereinafter "the complainant") filed a complaint with the Canada Border Services Agency (CBSA) alleging that imports of certain hot-rolled carbon steel plate and high-strength low-alloy steel plate originating in or exported from the Republic of India (India) and the Russian Federation (Russia) have been dumped and subsidized and have caused and are threatening to cause injury to Canadian producers of like goods. These countries will be referred to collectively as "the named countries" throughout this document.

[2] On May 11, 2015, 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 governments of the named countries were notified that a properly documented complaint had been received, were provided with a copy of the non-confidential version of the subsidy portion of the complaint and were invited for consultations prior to the initiation of the investigations, pursuant to Article 13.1 of the *Agreement on Subsidies and Countervailing Measures* (ASCM).

[3] On June 8, 2015, consultations pursuant to Article 13.1 of the ASCM were held between the Government of Canada and the Government of Russia. During these consultations, the Government of Russia made representations concerning the sufficiency of the evidence of subsidization in the non-confidential version of the subsidy portion of the complaint. The CBSA considered the representations made by the Government of Russia in its analysis.

[4] The complainant provided evidence to support the allegations that certain hot-rolled carbon steel plate and high-strength low-alloy steel plate originating in or exported from India and Russia have been dumped and subsidized. The evidence also discloses a reasonable indication that the dumping and subsidizing have caused injury and are threatening to cause injury to the Canadian industry producing like goods.

[5] On June 10, 2015, pursuant to subsection 31(1) of SIMA, the President of the Canada Border Services Agency (President) initiated investigations respecting the dumping and subsidizing of certain hot-rolled carbon steel plate and high-strength low-alloy steel plate originating in or exported from India and Russia.

BACKGROUND

[6] This is the eighth in a series of complaints which have been filed by the Canadian industry in respect of certain hot-rolled carbon steel plate and high-strength low-alloy steel plate since 1992. Each of these complaints has resulted in the imposition of either anti-dumping duties or both anti-dumping and countervailing duties against goods imported from various countries. The measures resulting from four of the seven investigations are still in force. Following is a brief history of the seven previous plate investigations.

Plate I

[7] On May 6, 1993, in Inquiry No. NQ-92-007, the Canadian International Trade Tribunal (Tribunal) found that dumped imports from the Kingdom of Belgium, the Federative Republic of Brazil (Brazil), the Czech Republic, the Kingdom of Denmark (Denmark), the Federal Republic of Germany, Romania, the United Kingdom and the Former Yugoslav Republic of Macedonia were injuring the production of plate in Canada. On May 5, 1998, in Expiry Review No. RR-97-006, the Tribunal rescinded its finding.

Plate II

[8] On May 17, 1994, in Inquiry No. NQ-93-004, the Tribunal found that dumped imports from the Italian Republic (Italy), the Republic of Korea, the Kingdom of Spain and Ukraine were injuring the production of plate in Canada. On May 17, 1999, in Expiry Review No. RR-98-004, the Tribunal issued an order continuing its finding. On May 17, 2004, in Expiry Review No. RR-2003-001, the Tribunal rescinded its order against the goods from the subject countries.

Plate III

[9] On October 27, 1997, in Inquiry No. NQ-97-001, the Tribunal found that dumped imports from the United Mexican States (Mexico), the People's Republic of China (China), the Republic of South Africa (South Africa) and Russia were threatening to cause material injury to the domestic industry. On January 10, 2003, in Expiry Review No. RR-2001-006, the Tribunal continued its finding against China, South Africa and Russia and rescinded its finding against Mexico. On January 9, 2008, in Expiry Review No. RR-2007-001, the Tribunal continued its order against China and rescinded its order against South Africa and Russia. On January 8, 2013, in Expiry Review No. RR-2012-001, the Tribunal continued its finding against China.

Plate IV

[10] On June 27, 2000, in Inquiry No. NQ-99-004, the Tribunal found that dumped imports from Brazil, the Republic of Finland, India, the Republic of Indonesia (Indonesia), the Kingdom of Thailand (Thailand) and Ukraine and subsidized imports from India, Indonesia and Thailand had caused material injury to the domestic industry. On June 27, 2005, in Expiry Review No. RR-2004-004, the Tribunal rescinded its finding against the goods from the subject countries.

Plate V

[11] On January 9, 2004, in Inquiry No. NQ-2003-002, the Tribunal found that dumped imports from the Republic of Bulgaria (Bulgaria), the Czech Republic and Romania had caused material injury to the domestic industry. On January 8, 2009, in Expiry Review No. RR-2008-002, the Tribunal continued its finding against the goods from the subject countries. On January 7, 2014, in Expiry Review No. RR-2013-002, the Tribunal continued its order against the goods from the subject countries.

Plate VI

[12] On February 2, 2010, in Inquiry No. NQ-2009-003, the Tribunal found that dumped imports from Ukraine did not cause injury to the domestic industry but threatened to cause injury to the domestic industry. On January 30, 2015, in Expiry Review No. RR-2014-002, the Tribunal continued its finding against the goods from the subject country.

Plate VII

[13] On May 20, 2014, in Inquiry No. NQ-2013-005, the Tribunal found that dumped imports from Brazil, Chinese Taipei, Denmark, Indonesia, Italy, Japan, and the Republic of Korea did not cause injury to the domestic industry but threatened to cause injury to the domestic industry.

[14] In summary, at this time there are four plate findings/orders being enforced by the CBSA; Plate III against subject goods from China; Plate V against subject goods from Bulgaria, the Czech Republic and Romania; Plate VI against subject goods from Ukraine; and Plate VII against subject goods from Brazil, Chinese Taipei, Denmark, Indonesia, Italy, Japan, and the Republic of Korea.

INTERESTED PARTIES

COMPLAINANT

[15] The complainant is a major producer of hot-rolled carbon steel plate and high-strength low-alloy steel plate in Canada. The complainant's goods are produced at a manufacturing facility located in Sault Ste. Marie, Ontario.

[16] The name and address of the complainant is:

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

[17] Essar Steel Algoma Inc. (Essar Algoma) is a primary iron and steel producer that produces plate on its 166" plate mill and its 106" wide strip mill. This includes carbon steel plate in widths of up to 152" (3,860 mm) and in thicknesses of up to 3.0" (76.2 mm) and other carbon and alloy steel plate and hot-rolled sheet. Essar Algoma also produces cold-rolled sheet at its facility.

[18] Algoma was incorporated on June 1, 1992 and on January 29, 2002 the company was reorganized under a Plan of Arrangement and Reorganization pursuant to the *Companies' Creditors Arrangement Act.* Algoma became a part of Essar Steel Holdings Limited as a wholly owned subsidiary of Algoma Holdings B.V. in June 2007. On May 8, 2008, the company changed its name to Essar Steel Algoma Inc.

OTHER PRODUCERS

[19] There are two other significant domestic producers of certain hot-rolled carbon steel plate and high-strength low-alloy steel plate in Canada, namely, Evraz Inc. NA Canada (Evraz), of Regina, Saskatchewan and SSAB Central Inc. (SSAB), of Scarborough, Ontario. Both Evraz and SSAB support this complaint.[1]

[20] In addition to the three domestic mills, Essar Algoma, Evraz, and SSAB, there are also domestic steel service centres which have the capability to cut plate from coil. In a recent expiry review respecting Plate VI, RR-2014-002, the Tribunal included plate cut from hot-rolled coil as part of Canadian production. However, the Tribunal noted that the combined production of the three domestic mills accounted for well over half of the total domestic production of certain hot-rolled carbon steel plate and high-strength low-alloy steel plate during the Tribunal's period of review.[2]

IMPORTERS

[21] The CBSA has identified 20 potential importers of the subject goods from CBSA import documentation and from information submitted in the complaint.

EXPORTERS

[22] The CBSA identified 56 potential exporters of the subject goods from CBSA entry documentation and from information submitted in the complaint.

GOVERNMENTS OF INDIA AND RUSSIA

[23] For the purpose of these investigations, the "Government of India" and the "government of Russia" refer to all levels of government, i.e., federal, central, provincial/state, regional, municipal, city, township, village, local, legislative, administrative or judicial, singular, collective, elected or appointed. It also includes any person, agency, enterprise, or institution acting for, on behalf of, or under the authority of, or under the authority of any law passed by, the government of that country or that provincial, state or municipal or other local or regional government.

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[1] Exhibit 2 (NC) - Certain Hot-rolled Steel Plate Complaint – Attachment 5.

[2] Tribunal Expiry Review No. RR-2014-002, *Order and Reasons - Final - Hot-Rolled Carbon Steel Plate and High-Strength Low-Alloy Steel Plate Originating in or Exported from Ukraine*, February 13, 2015, paras. 29-31.

PRODUCT INFORMATION

PRODUCT DEFINITION

[24] For the purpose of these investigations, 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 thicknesses from 0.187 inches (+/- 4.75 mm) up to and including 3.0 inches (76.2 mm) (with all dimensions being plus or minus allowable tolerances contained in the applicable standards), but excluding plate for use in the manufacture of pipe and tube (also known as skelp), plate in coil form, plate having a rolled, raised figure at regular intervals on the surface (also known as floor plate), originating in or exported from the Republic of India and the Russian Federation. For greater certainty, the Subject Goods includes steel plate which contains alloys greater than required by recognized industry standards provided that the steel does not meet recognized industry standards for an alloy-grade steel plate. Hot-rolled carbon steel plate and high-strength low-alloy steel plate are manufactured to meet certain Canadian Standards Association (CSA) and/or ASTM specifications, or equivalent specifications.

Also excluded from the Subject Goods is hot-rolled carbon steel plate manufactured to:

ASME SA-516/SA-516M or ASTM A-516/A-516M
ASME SA-285/SA-285M or ASTM A-285/A-285M
ASME SA-299/SA-299M or ASTM A-299/A-299M
ASME SA-537/SA-537M or ASTM A-537/A-537M
ASME SA-515/SA-515M or ASTM A-515/A-515M
ASME SA-841/SA-841M or ASTM A-841/A-841M

which is both vacuum-degassed while molten and has a sulfur content of less than 0.005 percent.

Also excluded from the Subject Goods is hot-rolled carbon steel plate manufactured to:

ASME SA-516/SA-516M or ASTM A-516/A-516M
ASME SA-285/SA-285M or ASTM A-285/A-285M
ASME SA-299/SA-299M or ASTM A-299/A-299M
ASME SA-537/SA-537M or ASTM A-537/A-537M
ASME SA-515/SA-515M or ASTM A-515/A-515M

that is normalized (heat-treated) and has a sulfur content of less than 0.005 percent.

ADDITIONAL PRODUCT INFORMATION

[25] Hot-rolled carbon steel plate and high-strength low-alloy steel plate are manufactured to meet certain Canadian Standards Association (CSA), American Society for Testing & Materials (ASTM), and/or American Society of Mechanical Engineers (ASME) specifications, or equivalent specifications. CSA specification G40.21 covers steel for general construction purposes. In the ASTM specifications, for instance, specification A36M/A36 comprises structural plate; specification A572M/A572 comprises high-strength low-alloy steel plate; and specification A516M/A516 comprises pressure vessel quality plate. ASTM standards, such as A6/A6M and A20/A20M, recognize permissible variations for dimensions.

PRODUCTION PROCESS

[26] 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 iron ore.

[27] 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".

[28] At Essar Algoma, slabs are charged into re-heating furnaces and are progressively brought forward and heated to approximately 2370 °F (1300 °C) before being discharged then descaled by high pressure water sprays. The first reduction of steel thickness occurs in the breakdown mill where the slab is reduced in gauge depending on the final plate thickness required.

[29] The heavier plate (i.e., 3/8" and thicker) goes directly to Essar Algoma's 166" plate mill where it is reduced to its final thickness, levelled, and then sent to the plate finishing area where the plate is sized, side trimmed, cut-to-length (either sheared or flame cut), tested and shipped.

[30] For lighter plate, Essar Algoma's 166" plate mill acts as a breakdown mill and the extended slab proceeds to the 106" wide strip mill where it is reduced to its final thickness through a 6-stand operation and then coiled. The coils are sent to the #1 finishing line, where they are uncoiled, levelled, cut-to-length, tested, bundled and shipped.

PRODUCT USE

[31] The subject goods and the like goods are used in a number of applications, the most common of which are the production of rail cars, oil and gas storage tanks, heavy machinery, agricultural equipment, bridges, industrial buildings, high-rise office towers, automobile and truck parts, ships and barges, and pressure vessels.

CLASSIFICATION OF IMPORTS

[32] Imports into Canada of the subject goods described above are normally, but not exclusively, classified under the following Harmonized System (HS) classification numbers:

7208.51.00.10	7208.51.00.94	7208.52.00.92
7208.51.00.91	7208.51.00.95	7208.52.00.93
7208.51.00.92	7208.52.00.10	7208.52.00.94
7208.51.00.93	7208.52.00.91	7208.52.00.95

[33] The listing of HS classification numbers is for convenience of reference only. Refer to the product definition for the authoritative details regarding the subject goods.

LIKE GOODS AND CLASS OF GOODS

[34] Subsection 2(1) of SIMA defines "like goods" in relation to any other goods as goods that are identical in all respects to the other goods, or in the absence of any such goods, goods the uses and other characteristics of which closely resemble those of the other goods.

[35] Certain hot-rolled carbon steel plate and high-strength low-alloy steel plate produced by the domestic industry in Canada has the same physical characteristics and end uses as the subject goods imported from the named countries. The goods produced in Canada and the named countries are fully interchangeable when manufactured to industry standards and specifications. Subject goods from the named countries compete directly with like goods produced by the complainant. Therefore, the CBSA has concluded that certain hot-rolled carbon steel plate and high-strength low-alloy steel plate produced by the Canadian industry constitutes like goods to the subject goods.

[36] Like goods and the subject goods are made from the same primary input materials and in similar manufacturing processes. When chemical and dimensional specifications of either subject or like goods meet industry standards, the only differentiating factor is price. When sold, certain hot-rolled carbon steel plate and high-strength low-alloy steel plate is sold in the same channels of distribution, whether subject or like goods, to the same types of customers and in many cases, to the same customers.

[37] In considering the issues of like goods and classes of goods, the Tribunal typically looks at a number of factors, including the physical characteristics of the goods, their market characteristics and whether the goods fulfill the same customer needs. In the most recent inquiry involving Plate VII (NQ-2013-005), the Tribunal found that the subject goods and domestically produced hot-rolled carbon steel plate products of the same description were like goods and that they constituted a single class of goods.[3]

[38] Given the Tribunal's views expressed in the recent inquiry above and because there has been no evident change of circumstances, the CBSA is of the opinion that certain hot-rolled carbon steel plate and high-strength low-alloy steel plate produced by the domestic industry forms a single class of like goods to the subject goods for the purposes of these investigations.

THE CANADIAN INDUSTRY

[39] The domestic industry is mainly comprised of the complainant, Essar Algoma, and two other producers who support the complaint[4], Evraz and SSAB. In addition, domestic steel service centres that have the capability to cut plate from coil are also considered to form part of the domestic industry.

[40] In a recent report by the Tribunal concerning the Plate VI expiry review, the Tribunal estimated that the volume of domestic production of plate by Essar Algoma, Evraz, and SSAB accounted for 64%. In that report, the Tribunal also noted that Canadian steel service centres accounted for the remaining 36% of the domestic production of plate.[5]

STANDING

[41] Subsection 31(2) of SIMA requires that the following conditions for standing be met in order to initiate an investigation:

- the complaint is supported by domestic producers whose production represents more than 50% of the total production of like goods by those domestic producers who express either support for or opposition to the complaint; and

- the production of the domestic producers who support the complaint represents 25% or more of the total production of like goods by the domestic industry.

[3] Exhibit 2 (NC) - Certain Hot-rolled Steel Plate Complaint – Attachment 4: Plate VII, paras. 35-48.
[4] Exhibit 2 (NC) - Certain Hot-rolled Steel Plate Complaint – Attachment 5.
[5] Exhibit 2 (NC) - Certain Hot-rolled Steel Plate Complaint – Attachment 10.

[42] Based on the analysis of the information in the complaint, including domestic production statistics compiled by the Tribunal from recent proceedings, the complainant and the two other Canadian producers supporting the complaint represent over 50% of the domestic production of certain hot-rolled carbon steel plate and high-strength low-alloy steel plate. As a result, the CBSA has determined that the requirements for standing as set out in subsection 31(2) of SIMA are satisfied.

THE CANADIAN MARKET

[43] According to the complainant, subject goods and domestic like goods are distributed through the same channels and the conditions of competition apply to plate whether produced in the named countries or by the domestic industry, or from any other import source.[6]

[44] The domestic industry markets its plate to customers across Canada. Producers may sell plate directly to end-users or through service centres which may resell standard cut-to-length sizes and grades, or which offer custom cutting services. The majority of cut-to-length plate is sold through service centres. The balance goes directly to end-users.

[45] When plate is imported from outside North America by end-users and large service centres, it is generally through agents, brokers or trading companies. The complainant cites that customers for imported plate are essentially the same as for domestically-produced like goods. Producers in the named countries, for the most part, compete in the same channels of distribution as the Canadian producers.

[46] The complainant estimated the Canadian market for certain hot-rolled carbon steel plate and high-strength low-alloy steel plate for the years 2011 to 2014 based on its own domestic sales, the domestic sales information provided by SSAB, the estimated sales of other Canadian producers and on publicly available import data obtained from Statistics Canada.

[47] The CBSA conducted its own analysis of imports of subject goods based on actual import data. The CBSA's import data demonstrated similar trends and volumes as the information provided by the complainant.

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[6] Exhibit 2 (NC) - Certain Hot-rolled Steel Plate Complaint – Attachment 4. In the most recent inquiry involving plate, the Tribunal concluded that plate is a commodity product that competes with the like goods largely on the basis of price.

[48] Detailed information regarding the volume of subject imports and domestic production cannot be divulged for confidentiality reasons. The CBSA has, however, prepared the following table to show the estimated import share of subject goods in Canada.

TABLE 1
CBSA'S ESTIMATES OF IMPORTS (% OF VOLUME)

COUNTRY	2012	2013	2014	2014 & Q1-2015
Named Country Imports:				
India	0.5%	1.6%	18.2%	17.1%
Russia	2.3%	1.4%	4.7%	3.9%
Total – Named Countries	**2.8%**	**3.0%**	**22.9%**	**21.0%**
Countries Currently Covered by Anti-Dumping Findings:				
Bulgaria	0.0%	0.0%	0.0%	0.0%
Brazil	4.4%	0.0%	0.0%	0.0%
China	0.0%	0.0%	0.1%	0.6%
Chinese Taipei	0.3%	0.1%	0.4%	0.7%
Czech Republic	0.0%	0.0%	0.0%	0.0%
Denmark	1.3%	0.6%	0.0%	0.0%
Indonesia	2.9%	0.0%	0.0%	0.0%
Italy	2.8%	1.5%	0.1%	0.1%
Japan	1.4%	1.3%	0.0%	0.3%
Republic of Korea	11.7%	9.1%	3.9%	4.5%
Romania	0.0%	0.0%	0.0%	0.0%
Ukraine	0.0%	0.0%	0.0%	0.0%
Total – Countries with Findings	**24.8%**	**12.6%**	**4.5%**	**6.2%**
Other Countries:				
United States	65.2%	76.1%	60.7%	60.5%
Germany	3.0%	3.0%	3.7%	3.5%
Mexico	0.0%	3.9%	1.8%	2.8%
All Other Countries	4.2%	1.4%	6.4%	6.0%
Total - Other Countries	**72.4%**	**84.4%**	**72.6%**	**72.8%**
Total All Imports (%)	**100%**	**100%**	**100%**	**100%**

EVIDENCE OF DUMPING

[49] The complainant alleged that subject goods from the named countries have been injuriously dumped into Canada. Dumping occurs when the normal value of the goods exceeds the export price to importers in Canada.

[50] Normal values are generally based on the domestic selling price of like goods in the country of export where competitive market conditions exist or on the cost of production of the goods, plus a reasonable amount for administrative, selling and all other costs, plus a reasonable amount for profits.

[51] The export price of goods sold to importers in Canada is generally the lesser of the exporter's selling price and the importer's purchase price, less all costs, charges, expenses, duties and taxes resulting from the exportation of the goods.

[52] The CBSA's analysis of the alleged dumping is based on a comparison of the complainant's estimated normal values, with adjustments, with estimated export prices based on the declared value for duty during the period of investigation (POI), January 1, 2014 to March 31, 2015.

[53] Estimates of normal values and export prices by both the complainant and the CBSA are discussed below.

NORMAL VALUES

[54] In order to estimate normal values, the complainant conducted a survey of home market pricing in each named country and obtained pricing information from publicly available documents. Using the home market pricing for each named country, the complainant estimated normal values using a methodology based on section 15 of SIMA.

[55] The CBSA found the complainant's estimated normal values to be reasonable and representative. As such, the CBSA used some of the complainant's domestic pricing information as a basis for estimating its own normal values for each named country using a methodology based on section 15 of SIMA.

India

[56] For India, the complainant obtained home market pricing information respecting three producers of subject goods namely Jindal[7], SAIL[8], and the complainant's parent company, Essar Steel India Ltd. (Essar Steel India).[9] The normal values estimated by the complainant for India were based on monthly pricing reported publicly by Jindal[10] and SAIL[11] and confidential monthly pricing obtained from Essar Steel India.[12]

[57] For subject goods exported to Canada during 2014, the complainant estimated monthly normal values based on an average of the domestic selling prices reported by SAIL, Jindal and Essar Steel India in Indian Rupees per metric tonne (MT) for each month.[13] The monthly normal values were then converted from Indian Rupees to Canadian Dollars at the Bank of Canada's average exchange rate for that month in order to make the comparison to the estimated export prices in the same month.

[58] The CBSA estimated monthly normal values for 2014 based on the average of the monthly pricing reported by SAIL and Essar Steel India as provided in the complaint. In reviewing the complainant's pricing information submitted with respect to Jindal[14], it was noted that Jindal's investor presentations did not specify actual monthly prices. The investor presentations only included line graphs with points plotted for each month which fell within a range of prices in which a specific price could not be determined. While the price points appeared to fall within the range of pricing reported by the other two Indian companies, the CBSA chose not to include Jindal's pricing in estimating normal values as a specific price could not be accurately determined.

[59] As the CBSA's POI includes the first quarter of 2015, the CBSA also estimated monthly normal values for this period. However, as the complainant focused on imports of subject goods in 2014, the monthly pricing information contained in the complaint was limited to 2014 for SAIL. As a result, the CBSA relied solely upon Essar India's monthly pricing in estimating normal values for the first three months of 2015 as this information was available in the complaint.

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[7] Exhibit 2 (NC) - Certain Hot-rolled Steel Plate Complaint, para 17 – For reference the Complainant notes that "Jindal" refers to both JSW Steel and Jindal Steel and Power Ltd as both are owned by the same parent company.
[8] Exhibit 2 (NC) - Certain Hot-rolled Steel Plate Complaint, para 334 – SAIL refers to the Steel Authority of India.
[9] Exhibit 2 (NC) - Certain Hot-rolled Steel Plate Complaint, para 75.
[10] Exhibit 2 (NC) - Certain Hot-rolled Steel Plate Complaint – Attachment 69: Jindal Steel And Power Ltd., Investor Presentations dated November 2014 and September 2014.
[11] Exhibit 2 (NC) - Certain Hot-rolled Steel Plate Complaint – Attachment 13: SAIL, "Ex-Plant Base Price for Representative Steel Items" as on the first of each month of 2014.
[12] Exhibit 1 (PRO) - Certain Hot-rolled Steel Plate Complaint – Attachment 6: Confidential Statement of Evidence of Laura Devoni; and Confidential Attachment 173: Essar Steel India, Indian Home Market Pricing.
[13] Exhibit 2 (NC) - Certain Hot-rolled Steel Plate Complaint, para 59.
[14] Exhibit 2 (NC) - Certain Hot-rolled Steel Plate Complaint – Attachment 69: Jindal Steel and Power Ltd. Investor Presentations, November 2014, September 2014 and February 2015.

[60] Using the domestic pricing information as explained above, the CBSA estimated normal values for each month during the POI. As the domestic selling prices in India were reported in Indian Rupees per MT, the CBSA also converted the monthly estimated normal values to Canadian Dollars at the Bank of Canada's monthly average exchange rate.

Russia

[61] For Russia, home market pricing was obtained by the complainant though publicly available documents issued by Severstal.[15] The normal values estimated by the complainant for subject goods exported to Canada in 2014 from Russia were based on pricing reported by Severstal in its quarterly operational results reports.[16] The complainant converted the reported average sales price for plate in each quarter from U.S. Dollars to Canadian Dollars using the Bank of Canada's monthly average exchange rate.

[62] In estimating monthly normal values for Russia, the CBSA also used Severstal's quarterly pricing information provided in the complaint. However, as the complaint only contained pricing for 2014, the CBSA obtained Severstal's publicly available quarterly operational results report for the first quarter of 2015 from Severstal's website in order to estimate normal values during the first three months of 2015.[17] As Severstal's prices are reported in U.S. Dollars per MT, the CBSA converted the estimated monthly normal values to Canadian Dollars at the Bank of Canada's monthly average exchange rate for the corresponding month in order to compare to estimated export prices reported in Canadian Dollars.

EXPORT PRICES

[63] The export price of goods sold to an importer in Canada is generally determined in accordance with section 24 of SIMA as being an amount equal to the lesser of the exporter's sale price for the goods and the price at which the importer has purchased or agreed to purchase the goods adjusted by deducting all costs, charges, expenses, and duties and taxes resulting from the exportation of the goods.

[64] The complainant estimated export prices based on statistics reported by the United Nations Commodity Trade Statistics Database ("UN Comtrade") for exports made from the named countries classified under the HS codes 7208.51 and 7208.52.[18] The complainant used the UN Comtrade data instead of data reported by Statistics Canada as the UN Comtrade data is reported at the port of export and is less likely to include "other costs, charges and expenses resulting from the exportation of the goods, such as ocean freight, stevedoring and brokerage charges in Canada".[19]

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[15] Exhibit 2 (NC) - Certain Hot-rolled Steel Plate Complaint, para 54.
[16] Exhibit 2 (NC) - Certain Hot-rolled Steel Plate Complaint – Attachment 15: Severstal Operational Results Reports, Q4 2013 through Q3 2014.
[17] Exhibit 3 (PRO) - Complaint Analysis Attachment 4 - Severstal Operational Results Report Q1 2015, page 3.
[18] Exhibit 2 (NC) - Certain Hot-rolled Steel Plate Complaint, para 55.
[19] Exhibit 2 (NC) - Certain Hot-rolled Steel Plate Complaint, para 68.

[65] The UN Comtrade values, which are reported in U.S. Dollars, were converted by the complainant to Canadian Dollars using the Bank of Canada's average monthly exchange rate in estimating an export price for a particular month.[20] Following the conversion, the complainant adjusted the UN Comtrade values for each of the named countries to remove inland freight charges and port, handling and clearance charges, as the UN Comtrade values are reported FOB port of export.[21]

[66] With respect to India, the complainant further adjusted the UN Comtrade value by deducting an amount to account for premiums on non-subject goods that would be included in the UN Comtrade data.[22] No such adjustment for product premiums was made by the complainant in estimating export prices for subject goods from Russia.

[67] The CBSA estimated export prices based on actual customs entry documentation and import data for the POI, January 1, 2014 to March 31, 2015.[23] In reviewing the customs entry documentation, the CBSA adjusted the import data to remove any non-subject goods identified as well as corrected any errors identified with respect to reported volumes and values. The CBSA will continue to review customs entry documents in respect of subjectivity, volumes and values for the purposes of the preliminary decision.

[68] The CBSA estimated export prices for the subject goods based on the value for duty reported in the import data and adjusted it where necessary based on the review of customs entry documentation.

[69] With respect to India, the CBSA also adjusted the value for duty to remove an amount for inland freight charges and port, handling and clearance charges based on information provided in the complaint, which was found to be reasonable. The CBSA did not make an adjustment for the inclusion of pricing premiums related to non-subject goods as the analysis of customs entry documentation resulted in the removal of non-subject goods from the import data.

[70] In estimating export prices for Russia, the CBSA also used the value for duty reported in the import data. However, the CBSA did not make an adjustment to the reported value for duty, for inland freight charges and port, handling and clearance charges as the complaint did not contain sufficient documentation to support such an adjustment.

[71] As the CBSA's estimated export prices are based on actual import data and customs entry documentation, the CBSA considers its estimates to be more accurate and conservative than those contained in the complaint.

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[20] Exhibit 2 (NC) - Certain Hot-rolled Steel Plate Complaint, para 70.
[21] Exhibit 2 (NC) - Certain Hot-rolled Steel Plate Complaint, para 69.
[22] Exhibit 2 (NC) - Certain Hot-rolled Steel Plate Complaint, para 74.
[23] Exhibit 3 (PRO) – Complaint Analysis, Attachment 5.

ESTIMATED MARGINS OF DUMPING

[72] The CBSA compared the estimated normal values with the estimated export prices for the subject imports. The estimated margins of dumping were then calculated by deducting the estimated total export price from the estimated total normal value and expressing the result as a percentage of the estimated total export price of the subject goods for each named country.

[73] Based on this analysis, it is estimated that the subject goods from India and Russia were dumped. The estimated margin of dumping for each named country is shown in the table below.

TABLE 2
CBSA'S ESTIMATED MARGINS OF DUMPING
(Expressed as a percentage of export price)

Country	Estimated Margins of Dumping
India	4.8%
Russia	20.1%

ESTIMATED MARGIN OF DUMPING AND VOLUME OF DUMPED GOODS

[74] Under section 35 of SIMA, if, at any time before making a preliminary determination the President is satisfied that there is insufficient evidence of dumping to justify proceeding, the margin of dumping of the goods of a country is insignificant or the actual and potential volume of dumped goods of a country is negligible, the President must terminate the investigation with respect to goods of that country.

[75] Pursuant to subsection 2(1) of SIMA, a margin of dumping of less than 2% of the export price is defined as insignificant and a volume of dumped goods is considered negligible if it accounts for less than 3% of the total volume of goods that are released into Canada from all countries that are of the same description as the dumped goods.

[76] On the basis of the estimated margins of dumping and the estimated volumes of dumped imports for the period of January 1, 2014 to March 31, 2015, summarized in the following table below, the estimated margins of dumping and the estimated volumes of dumped goods are greater than the thresholds outlined above.

TABLE 3
ESTIMATED MARGINS OF DUMPING AND VOLUMES OF DUMPED GOODS
January 1, 2014 to March 31, 2015

Country	Estimated Share of Total Imports by Volume	Estimated Dumped Goods as % of Total Imports by Volume	Estimated Margin of Dumping as a % of Export Price
India	17.1%	17.1%	4.8%
Russia	3.9%	3.9%	20.1%
Total Named Countries	**21.0%**	-	-
All Other Countries	**79.0%**	-	-
Total Imports	**100%**	-	-

EVIDENCE OF SUBSIDIZING

[77] The complainant has alleged that the subject goods originating in or exported from India and Russia have been subsidized and that exporters of subject goods in these countries have benefitted from actionable subsidies.

[78] According to subsection 2(1) of SIMA, a subsidy exists if there is a financial contribution by a government of a country other than Canada that confers a benefit on persons engaged in the production, manufacture, growth, processing, purchase, distribution, transportation, sale, export or import of goods. A subsidy also exists in respect of any form of income or price support, within the meaning of *Article XVI of the General Agreement on Tariffs and Trade, 1994,* being part of Annex 1A to the *WTO Agreement*, that confers a benefit.

[79] Pursuant to subsection 2(1.6) of SIMA, a financial contribution exists where:

a) practices of the government involve the direct transfer of funds or liabilities or the contingent transfer of funds or liabilities;
b) amounts that would otherwise be owing and due to the government are exempted or deducted or amounts that are owing and due to the government are forgiven or not collected;
c) the government provides goods or services, other than general governmental infrastructure, or purchases goods, or;
d) the government permits or directs a non-governmental body to do anything referred to in any of paragraphs (*a*) to (*c*) above where the right or obligation to do the thing is normally vested in the government and the manner in which the non-governmental body does the thing does not differ in a meaningful way from the manner in which the government would do it.

[80] A state-owned enterprise (SOE) may be considered to constitute "government" for the purposes of subsection 2(1.6) of SIMA if it possesses, exercises, or is vested with, governmental authority. Without limiting the generality of the foregoing, the CBSA may consider the following factors as indicative of whether the SOE meets this standard: 1) the SOE is granted or vested with authority by statute; 2) the SOE is performing a government function; 3) the SOE is meaningfully controlled by the government; or some combination thereof.

[81] If a subsidy is found to exist, it may be subject to countervailing measures if it is specific. A subsidy is considered to be specific when it is limited, in law or in fact, to a particular enterprise or is a prohibited subsidy. An "enterprise" is defined under SIMA as also including a "group of enterprises, an industry and a group of industries". Any subsidy which is contingent, in whole or in part, on export performance or on the use of goods that are produced or that originate in the country of export is considered to be a prohibited subsidy and is, therefore, specific according to subsection 2(7.2) of SIMA for the purposes of a subsidy investigation.

[82] Notwithstanding that a subsidy is not specific in law, it may still be considered to be specific in fact under subsection 2(7.3) of SIMA, in the event that:

a) there is exclusive use of the subsidy by a limited number of enterprises;
b) there is predominant use of the subsidy by a particular enterprise;
c) disproportionately large amounts of the subsidy are granted to a limited number of enterprises; and
d) the manner in which discretion is exercised by the granting authority indicates that the subsidy is not generally available.

[83] For purposes of a subsidy investigation, the CBSA refers to a subsidy that has been found to be specific as an "actionable subsidy," meaning that it may be subject to countervailing measures.

[84] In its analysis of the complainant's allegations, the CBSA reviewed the information contained in the supporting documents submitted in the complaint as well as in other publicly available reference material to determine whether the programs listed could constitute financial contributions in accordance with subsections 2(1) and 2(1.6) of SIMA. These programs were further examined to establish whether they could also be considered specific under subsections 2(7.2) or 2(7.3) of SIMA.

[85] A country by country summary of the programs to be investigated follows below.

PROGRAMS BEING INVESTIGATED – INDIA

[86] The complainant identified 58 subsidy programs, which it alleges have conferred benefits to the producers of subject goods in India, and that have in turn resulted in the actionable subsidizing of exports of subject goods from India to Canada. Information from the CBSA's previous subsidy investigations involving India as well as other reference material reviewed by the CBSA and/or included in the complaint, all provide support for the complainant's allegations that the goods have been subsidized.

[87] Of the 58 alleged subsidy programs identified by the complainant, the CBSA found that all may be available for use by plate producers and exporters in India. The CBSA's analysis also revealed that 56 of the programs constitute a potential financial contribution by a government and a benefit thereby conferred onto the recipient in accordance with the definition of "subsidy" in subsection 2(1) of SIMA. In this respect, the CBSA, upon review of all the programs identified by the complainant, concluded that the "Towns of Export Excellence" and "Export and Trading Houses" programs involved benefits that did not constitute a financial contribution from any level of government and were removed from the investigation. With respect to the "Towns of Export Excellence" program, the complaint noted that the program provided producers with better access to other countervailable subsidy programs. Providing access to other subsidy programs does not constitute a financial contribution. With respect to the "Export and Trading Houses" program, the complaint alleged that the program provides preferential regulatory treatment, which also does not constitute a financial contribution.

[88] A further two programs were also removed from consideration as they appear to be the same as other alleged subsidy programs. The CBSA believes that program 44 from the complainant's list, "Tax Exemptions and Other Financial Incentives for Companies Operating in SEZs" and program 58 from the complainant's list, "Tax Exemptions Available to Units in Free Trade Zones, SEZs and EPZs" would both already be described and covered under the group of listed programs available in SEZs.[24]

[89] The remaining 54 programs were further examined and all were considered to be potentially specific either in law or in fact within the meaning of subsections 2(7.2) and 2(7.3) of SIMA. The CBSA also added one program, "Duty Exemption/Remission Schemes – Duty Drawback Scheme". This program, under the group of programs "Duty Exemption/Remission Schemes", was found to be countervailable in the recent CBSA final determination concerning certain oil country tubular goods from India.[25]

[90] In the case of programs where an enterprise's eligibility or degree of benefit is contingent upon export performance or the use of goods that are produced or originate in the country of export, such programs may constitute prohibited subsidies under SIMA.

[91] For those programs where incentives are provided to enterprises operating in Special Economic Zones or other designated areas inside the territory of a granting authority, the CBSA considers that these may constitute actionable subsidies for the reason that eligibility is limited to enterprises operating in such regions or is limited to certain enterprises operating within those regions.

[92] As well, the CBSA is satisfied that there is sufficient evidence indicating that the exporters of subject goods may receive subsidies in the form of grants, preferential loans, relief from duties or taxes, and provision of goods and services, which provide a benefit and that are not generally granted to all companies in the territory of the granting authority.

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[24] Exhibit 2 (NC) - Certain Hot-rolled Steel Plate Complaint - Attachment 20.
[25] Certain Oil Country Tubular Goods (OCTG II) – Final Determination - *Statement of Reasons*, Appendix 2, page 52.

[93] As a result, the 55 programs listed in **Appendix 1** will be investigated by the CBSA.

PROGRAMS BEING INVESTIGATED – RUSSIA

[94] The complainant identified 14 subsidy programs which it alleges have conferred benefits to the producers of subject goods in Russia, and that have in turn resulted in the actionable subsidizing of exports of subject goods from Russia to Canada. The information provided to the CBSA, along with reference material included in the complaint and reviewed by the CBSA, supports the complainant's allegations that the goods have been subsidized.

[95] Further to its analysis of the identified programs, the CBSA is satisfied that the 14 identified programs may result in a potential financial contribution by a government and a benefit may thereby be conferred onto the recipient in accordance with the definition of "subsidy" in subsection 2(1) of SIMA. As well, all were considered to be potentially specific either in law or in fact within the meaning of subsections 2(7.2) and 2(7.3) of SIMA. As a result, these programs, as listed in **Appendix 1**, will be investigated by the CBSA.

[96] In the case of programs where an enterprise's eligibility or degree of benefit is contingent upon export performance or the use of goods that are produced or originate in the country of export, such programs may constitute prohibited subsidies under SIMA.

[97] For those programs where incentives are provided to enterprises operating in Special Economic Zones or other designated areas inside the territory of a granting authority, the CBSA considers that these may constitute actionable subsidies for the reason that eligibility is limited to enterprises operating in such regions or is limited to certain enterprises operating within those regions.

[98] As well, the CBSA is satisfied that there is sufficient evidence indicating that the exporters of subject goods may receive subsidies in the form of grants, preferential loans, relief from duties or taxes, and provision of goods and services, which provide a benefit and that are not generally granted to all companies in the territory of the granting authority.

ESTIMATED AMOUNTS OF SUBSIDY

[99] The complainant estimated the amounts of subsidy by using the difference between the estimated total cost to produce plate in each named country and the estimated average export price in each named country. The total estimated cost of production of plate included Essar Algoma's own cost of goods manufactured, and other expenses that were based on the financial statements from plate producers in the named countries.

[100] When estimating the amount of subsidy, the CBSA used the estimated cost of production in each named country submitted by the complainant.[26] The average cost of production estimate was compared with the CBSA's average export price estimates for each named country. The CBSA's analysis of the information indicates that subject goods imported into Canada during the period of January 1, 2014 to March 31, 2015, were subsidized. The CBSA's estimated amounts of subsidy are 20.3% for India and 18.9% for Russia, expressed as a percentage of export price.

ESTIMATED AMOUNT OF SUBSIDY AND VOLUME OF SUBSIDIZED GOODS

[101] Under section 35 of SIMA, if, at any time before making a preliminary determination, the President is satisfied that there is insufficient evidence of subsidizing to justify proceeding, the amount of subsidy on the goods of a country is insignificant or the actual and potential volume of subsidized goods of a country is negligible, the President must terminate the investigation with respect to the goods of that country. Under subsection 2(1) of SIMA, an amount of subsidy of less than 1% of the export price of the goods is defined as insignificant and a volume of subsidized goods is considered negligible if it accounts for less than 3% of the total volume of goods that are released into Canada from all countries that are of the same description as the subsidized goods, the same threshold for the volume of dumped goods.

[102] However, according to section 41.2 of SIMA, the President is required to take into account Article 27.10 of the WTO *Agreement on Subsidies and Countervailing Measures* when conducting a subsidy investigation. This provision stipulates that a countervailing duty investigation involving a developing country should be terminated as soon as the authorities determine that the overall level of subsidies granted upon the product in question does not exceed 2% of its value calculated on a per unit basis or the volume of subsidized imports represents less than 4% of the total imports of the like product in the importing Member.

[103] SIMA does not define or provide any guidance regarding the determination of a "developing country" for purposes of Article 27.10 of the WTO *Agreement on Subsidies and Countervailing Measures*. As an administrative alternative, the CBSA refers to the *Development Assistance Committee List of Official Development Assistance Recipients* (DAC List of ODA Recipients) for guidance.[27] As India is included in the listing, the CBSA extends developing country status to India for purposes of this investigation.

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[26] Exhibit 2 (NC) - Certain Hot-rolled Steel Plate Complaint – Attachment 22.

[27] The Organization for Economic Co-operation and Development, DAC List of ODA Recipients (effective for reporting on 2014, 2015, and 2016 flows). Document is available at www.oecd.org/dac/stats/documentupload/DAC%20List%20of%20ODA%20Recipients%202014%20final.pdf.

[104] The CBSA used actual import data for all countries for the period of January 1, 2014 to March 31, 2015. On the basis of this information, the volume of subsidized goods as a percentage of the volume of total imports is estimated as follows:

TABLE 4
ESTIMATED AMOUNT OF SUBSIDY AND VOLUME OF SUBSIDIZED GOODS
January 1, 2014 to March 31, 2015

Country	Percentage of Total Imports	Estimated Subsidized Goods as % of Total Imports	Estimated amount of subsidy as a % of Export Price
India	17.1%	17.1%	20.3%
Russia	3.9%	3.9%	18.9%

[105] The volume for India, a developing country, is greater than 4% of the total volume and is not considered negligible. The volume of imports for Russia is greater than 3% of the total volume and is not considered negligible. The amount of subsidy for India, estimated to be 20.3% of the export price, is above the threshold of 2%, and is not considered insignificant. The amount of subsidy for Russia, estimated to be 18.9% of the export price, is above the threshold of 1%, and is not considered insignificant.

EVIDENCE OF INJURY

[106] The complainant alleges that the subject goods have been dumped and subsidized, and that such dumping and subsidizing has caused material injury to the hot-rolled carbon steel plate and high-strength low-alloy plate industry in Canada. In support of its allegations, the complainant provided evidence of: price undercutting, erosion and suppression; lost sales and market share; negative financial results; and reduced production and capacity utilization.

[107] SIMA refers to material injury caused to the domestic producers of like goods in Canada. The CBSA has concluded that plates produced by the complainant are like goods to those imported from the named countries.

PRICE UNDERCUTTING, EROSION AND PRICE SUPPRESSION

[108] The complainant alleges that dumped and subsidized imports of subject goods have captured market share at the expense of the Canadian industry by aggressively undercutting their prices. Even with the expense of shipping plate long distances, plate from the named countries is still priced substantially below the prices offered by the Canadian producers.

TABLE 5
COMPARATIVE IMPORT SELLING PRICES IN THE CANADIAN MARKET[28]
(CAD/MT)

Country	2011	2012	2013	2014
Named Countries	$981	$847	$749	$752
United States	$1,023	$966	$855	$1,008
Other Countries	$1,008	$936	$847	$988

[109] The table above, prepared by the complainant, shows that the average selling prices from the named countries have been the lowest priced product in the Canadian market over the entire period, particularly in 2013 and 2014. During these two years, plate selling prices in Canada rose significantly year-over-year from all sources other than from the named countries. The subject goods are the price leaders in the Canadian market and undercut comparable domestic producer prices. By keeping prices essentially unchanged in 2014 over 2013 and undercutting the domestic producers, the named countries captured a significant share of the market in 2014.

[110] The complainant also provided evidence of price suppression and erosion in the Canadian market in the form of Import Activity Reports (IAR), which detailed specific low-priced offers of subject plate from the named countries in 2014.[29] There were numerous examples where Essar Algoma reduced its selling price to compete with the low-priced subject goods offers. Even with reduced price offerings, Essar Algoma was still unable to secure orders, or sold reduced volumes on the orders.[30]

[111] Based on the CBSA's analysis of the information contained in the complaint, the CBSA finds that the claim of price undercutting, suppression and price erosion are well supported and sufficiently linked to the allegedly dumped and subsidized goods.

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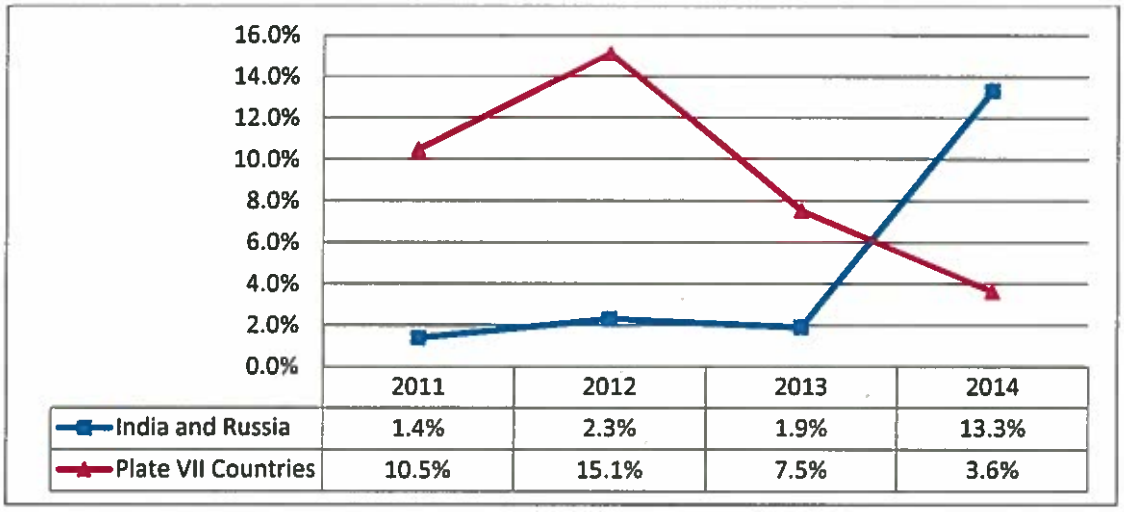
[28] Exhibit 2 (NC) - Certain Hot-rolled Steel Plate Complaint – Attachment 7.
[29] Exhibit 2 (NC) - Certain Hot-rolled Steel Plate Complaint – Attachment 26 – Import Activity Reports (IARs).
[30] *Ibid.*

LOST SALES & LOST MARKET SHARE

[112] The complainant's estimate of imports of subject goods into the Canadian market, based on Statistics Canada data, indicates that the import volumes of subject goods grew from an estimated 24,000 MT in 2012 to 150,000 MT in 2014.[31] This increase in imports resulted in the market share for the subject goods from the named countries increasing from 2% in 2012 to 13% in 2014. Over this same period the domestic industry's market share remained flat, from 35% in 2012 to 36% in 2014.[32]

[113] It is also important to bear in mind that the 2012 year itself was a year where the domestic industry faced lost market share to the countries subject to the Plate VII investigation. The complainant provided the following chart demonstrating the market share swap between the Plate VII subject countries and the named countries in this complaint.[33]

CHART 1
COMPLAINANT'S ESTIMATED MARKET SHARE FOR NAMED COUNTRIES



	2011	2012	2013	2014
India and Russia	1.4%	2.3%	1.9%	13.3%
Plate VII Countries	10.5%	15.1%	7.5%	3.6%

[114] In their reasons for the Plate VII finding, the Tribunal found that the Plate VII subject countries had increased their market share significantly, to a high of 15.1% in 2012, at the expense of the domestic industry. The Tribunal found that the domestic industry had lost market share in 2011 and lost further share in 2012.[34] The complainant contends that in normal market conditions the domestic industry would be expected to regain this lost market share once the injury caused by the dumped Plate VII importations was remedied.[35] However, due to the source switching to imports from the named countries, the domestic industry's market share has been unable to recover and remained at the depressed 2012 level.

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[31] Exhibit 2 (NC) - Certain Hot-rolled Steel Plate Complaint – Attachment 7.
[32] *Ibid.*
[33] Exhibit 2 (NC) - Certain Hot-rolled Steel Plate Complaint, page 44.
[34] Exhibit 2 (NC) - Certain Hot-rolled Steel Plate Complaint – Attachment 4, paragraphs 90-92.
[35] Exhibit 2 (NC) - Certain Hot-rolled Steel Plate Complaint, page 45.

[115] Based on the CBSA's analysis of the information contained in the complaint, the CBSA finds the claims of lost sales and lost market share are well supported and sufficiently linked to the allegedly dumped and subsidized goods.

NEGATIVE FINANCIAL RESULTS

[116] The complainant provided information that demonstrates the company's negative income results for sales of domestic like goods.[36] Essar Algoma suffered net income losses in each year from 2012 to 2014 on its sales of domestic like goods in Canada.

[117] The CBSA's review of the complainant's supporting documentation indicates that their declining financial performance is likely due to price undercutting, price erosion and price suppression resulting from imports of allegedly dumped and subsidized goods.

UNDERUTILIZATION OF CAPACITY

[118] The complainant contends that the domestic industry has been operating with substantial excess capacity. Information in the complaint showed the domestic industry's total capacity utilization on equipment used to produce plate at 45% in 2012, 44% in 2013, and falling to 40% in the first half of 2014.[37]

[119] The complainant notes that their own total utilization rate for all products has remained low. The complainant states that it should have been able to increase its like goods capacity utilization rate in 2014 following the imposition of preliminary and final duties against the Plate VII subject goods, especially since there was also a 21% year-over-year increase in the apparent Canadian consumption of plate in 2014.[38]

[120] The complainant argues that significant capacity underutilization has a negative impact on the company's operating performance as fixed costs are allocated over a smaller volume of production and resulting in higher costs of production per MT. If subject goods from the named countries continue to enter Canada at low prices and in significant volumes, Essar Algoma submits that the domestic industry will suffer progressively worsening injury in the form of decreasing capacity utilization and growing financial losses.[39]

[121] Based on the information provided, the CBSA finds the claim of underutilized production capacity to be reasonable and well supported.

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[36] Exhibit 2 (NC) - Certain Hot-rolled Steel Plate Complaint – Attachment 8.
[37] Exhibit 2 (NC) - Certain Hot-rolled Steel Plate Complaint – Attachment 10, Hot-Rolled Steel Plate from Ukraine, Expiry Review RR-2014-002, Volume 1.1, Public Pre-Hearing Investigation Report, table 47.
[38] Exhibit 2 (NC) - Certain Hot-rolled Steel Plate Complaint, page 50.
[39] *Ibid.*

IMPACT ON CAPITAL INVESTMENTS

[122] The complainant notes that capital investments are crucial to the continuing viability and competitiveness of their plate facility. The complaint explains that these capital investments are funded through internally generated income, so the ability to fund these investments depends entirely on Essar Algoma's financial performance. If injurious dumped and subsidized goods from the named countries continue entering Canada, Essar Algoma alleges it will be unable to support necessary capital investments and it is unlikely that plant improvements will go ahead.[40]

[123] The CBSA finds that a potential future impact on Essar Algoma's capital investments does not support a claim of current injurious impact on capital investments linked to the imports of the allegedly dumped and subsidized goods.

THREAT OF INJURY

[124] The complaint contains reasonable evidence regarding the threat of injury due to increasing import volumes of subject goods from the named countries. The increasing volumes of imports of subject goods, at prices that substantially undercut domestic producer pricing will continue to depress or suppress domestic prices and take market share from the Canadian producers. The adverse volume and price effects of increasing dumped and subsidized imports will cause domestic producers to suffer further declines in production, capacity underutilization, employment, market share, prices, operating income, return on investment and other indicators of material injury.[41]

[125] Without protection, the complainant believes that the domestic industry will be threatened by imports of subject goods from the named countries for the reasons summarized as follows.

GLOBAL MARKET CONDITIONS

[126] There are two global developments and each of these situations will make the domestic industry susceptible to injury from dumped and subsidized imports from the named countries. Firstly, the global economic outlook is weak and the market for plate is still recovering from the global economic crisis. The complainant has provided supporting information which includes economic assessments by the *CRU*[42], Ernst & Young, and the OECD Steel Committee.[43] In the recent Plate V expiry review, the Tribunal also commented on the bleak outlook for the steel industry, and plate in particular.[44]

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[40] *Ibid.*
[41] Exhibit 2 (NC) - Certain Hot-rolled Steel Plate Complaint – Part V - Evidence of Threat of Injury of complaint narrative.
[42] CRU Group - www.crugroup.com/.
[43] Organization for Economic Co-operation and Development.
[44] Exhibit 2 (NC) - Certain Hot-rolled Steel Plate Complaint – Part V - Evidence of Threat of Injury of complaint narrative.

[127] Secondly, there is presently a massive global over-capacity problem, driven primarily by China. The OECD has stated that there is significant excess capacity in the steel industry which has outpaced demand.[45] Concerning global plate capacity utilization, the complaint showed that global plate capacity continues to grow year over year regardless of (and in spite of contracting) underlying demand.

INFLUENCE OF CHINA

[128] The complaint noted that, while plate from China is currently covered by an anti-dumping finding, the impact of plate production overcapacity in China exacerbates the threat of injury posed to domestic industry by producers in the named countries. Persistent overproduction in the face of contracting demand caused steel prices in China to drop to record lows in 2014.[46] Making matters worse, China is projected to continue to produce at relatively high rates in the face of soft domestic and global demand.[47]

[129] The complainant explained that continued steel output and surplus inventories are expected to cause export volumes to expand year-over-year as producers in China cut overseas prices to boost their trade. This has entailed an expansion from China's traditional markets, such as the Republic of Korea and the United States, to other emerging markets such as India. The export of large volumes of low-priced plate on the international market by Chinese producers has made and will make international market conditions challenging for India and Russia. The above-noted expansion of low-priced Chinese plate into India's home market raises the likelihood that Indian producers will look increasingly to export markets to absorb production.

MARKET CONDITIONS IN INDIA

[130] The complaint noted that Indian steel producers face significant challenges in the short and medium term. While India's economy as a whole is projected to be strong in 2015, this strength will be based at least partially on an increase in exports.[48]

[131] Production of plate in India is projected to exceed demand in the next 12 to 24 months, and plate prices are experiencing downward pressure from oversupply and low-priced imports. The complainant provided evidence of recent announced plate price decreases by both SAIL and Jindal, which will put significant pressure on Indian plate producers in their home market.[49]

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[45] *Ibid.*
[46] Exhibit 2 (NC) - Certain Hot-rolled Steel Plate Complaint – Attachment 51: Mail Online (Reuters), "China Daily Steel Output Rises to Near Record High in Sept" (October 21, 2014), page 1.
[47] Exhibit 2 (NC) - Certain Hot-rolled Steel Plate Complaint –Attachment 36: Ernst & Young Report 2014, page 40.
[48] Exhibit 2 (NC) - Certain Hot-rolled Steel Plate Complaint – Attachment 47: IMF World Economic Outlook, page 53.
[49] Exhibit 2 (NC) - Certain Hot-rolled Steel Plate Complaint – Attachment 25: CRU February Plate Outlook, page 7.

MARKET CONDITIONS IN RUSSIA

[132] The complaint described declining economic conditions in Russia due to Western economic sanctions, collapsing oil prices and a falling ruble. The complainant further noted that as a result, Russian exporters will need to look increasingly to export markets in order to maintain the production necessary to cover their high fixed costs.[50]

DOMESTIC MARKET CONDITIONS

[133] The complainant explains that the Canadian steel industry and domestic plate market have not fully recovered from the 2008 global economic crisis. The complaint shows that the overall plate market in Canada has remained below pre-crisis levels in the past three years. For example, the volume of the total apparent market in 2013 was 28% lower than it was in 2008.[51]

[134] In terms of economic outlook, the Bank of Canada has recently reported strengthening demand in the Canadian economy.[52] However, as noted by the Bank of Canada, this positive demand outlook is most significantly buoyed by Canada's export sector.[53] Collapsing global oil prices are a main source of downward pressure in the Canadian economic outlook.[54] The Bank of Canada has noted that falling oil prices have "significantly dampened" the outlook for firms that are related to the energy sector, directly or indirectly.[55]

[135] The complainant notes that the conditions described above are consistent with what they are currently experiencing in the Canadian plate market. Essar Algoma has perceived a drop in investment by its Western Canadian customers, who are reviewing and postponing capital expenditure projects due to the impact that collapsing oil prices have had on that region's economy. This has already had, and will continue to have, a significant effect on steel demand figures in the Canadian market as a whole.

OTHER INJURY INDICATORS

[136] Other factors considered in determining whether or not the domestic industry faces a threat of injury from the importation of dumped and subsidized goods included the potential for product shifting. Essar Algoma can make both hot-rolled plate and hot-rolled coiled sheet and this is the case for many producers of flat hot-rolled products. Canada currently has trade measures against hot-rolled sheet products from India. This situation compels flat-rolled steel producers to shift production to plate and focus on markets, like Canada, which are free of trade restrictions for their plate products.[56]

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[50] Exhibit 2 (NC) - Certain Hot-rolled Steel Plate Complaint, pages 64-65.
[51] Exhibit 2 (NC) - Certain Hot-rolled Steel Plate Complaint – Attachment 28: Hot-Rolled Steel Plate from Ukraine, Inquiry NQ-2009-003, Public Pre-Hearing Staff Report, Table 17; Attachment 10: Hot-Rolled Steel Plate from Ukraine, Expiry Review RR-2014-002, Volume 1.1, Public Pre-Hearing Investigation Report, Table 18.
[52] Exhibit 2 (NC) - Certain Hot-rolled Steel Plate Complaint – Attachment 55: Bank of Canada "Business Outlook Survey" (January 12, 2015).
[53] *Ibid.*
[54] *Ibid*, page 5.
[55] *Ibid*, page 1.
[56] Exhibit 2 (NC) - Certain Hot-rolled Steel Plate Complaint – Part V – pages 69-70.

[137] Another factor that can be considered in determining whether or not the domestic industry faces a threat of injury is the freely disposable production capacity of exporters of like goods. Including both reversing/steckel mill capacity (which is dedicated to plate production) and hot-rolled coil capacity, which can be used to produce both coil plate and hot-rolled sheet, the total estimated production capacity for plate mills in the named countries is over 90 million MT. If only reversing mills/steckel[57] are considered, the named countries have the capacity to produce 21 million MT of discrete[58] plate which is 18 times the size of the Canadian market.[59] The excess capacity alone of reversing mills in the named countries is 12 million MT, or approximately 10 times the size of the apparent Canadian market.[60]

[138] The complainant submits that Canada is an attractive market for foreign producers because of the high prices in Canada relative to the rest of the world. As noted by the Tribunal in the Plate VII inquiry, the Canadian price generally tracks the U.S. Midwest price for plate.[61] The complaint showed that the US Midwest pricing has been consistently higher than other markets, and that this is projected to continue through 2017.

[139] The complainant provided a listing of findings by Canada against India as evidence that certain producers have a propensity to dump to Canada.[62] In respect of trade remedies by other countries, both India and Russia have trade remedies and/or decisions pending on various flat steel products, including plate products. The complainant submits that producers from the named countries will seek markets free of dumping measures like Canada and this threatens to cause injury to domestic producers.[63]

[140] The complaint showed that in 2013, the named countries together exported a total of 17,971 MT of plate to Canada; 9,504 MT from India and 8,467 from Russia.[64] In 2014, the named countries increased their exports of plate to Canada by over 700% from 2013. India alone increased its exports almost twelve-fold, from 9,504 MT in 2013 to 111,280 in 2014.[65] Russia increased its exports to Canada more than four-fold in 2014, to 38,481 MT.[66] The market share for plate from the named countries increased from 1.9% to 13.3% during this same period.[67] The complainant argues that without SIMA measures in place, the volumes of subject goods will continue to increase at the expense of Canadian production.

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[57] Steckel - known as a reversible finishing mill, is similar to a reversing rolling mill except two coilers are used to feed the material through the mill.
[58] Discrete plate is flat plate usually thicker than 1/2 inch.
[59] Exhibit 2 (NC) - Certain Hot-rolled Steel Plate Complaint – Part V – pages 70-71.
[60] *Ibid.*
[61] Exhibit 2 (NC) - Certain Hot-rolled Steel Plate Complaint – Public Attachment 4: Plate VII, para 171.
[62] Exhibit 2 (NC) - Certain Hot-rolled Steel Plate Complaint ,pages 87-88.
[63] *Ibid.*
[64] Exhibit 2 (NC) - Certain Hot-rolled Steel Plate Complaint – Confidential Attachment 7.
[65] *Ibid.*
[66] *Ibid.*
[67] *Ibid.*

[141] The above threat of injury factors sufficiently support the complainant's allegation that dumped and subsidized imports of plate from the named countries threaten to cause injury to the production of like goods in Canada. The CBSA finds the complainant's above allegations of the threat of injury to be reasonable and well supported.

CAUSAL LINK – DUMPING/SUBSIDIZING AND INJURY

[142] The CBSA finds that the complainant has sufficiently linked the injury it has suffered to the alleged dumping and subsidizing of subject goods imported into Canada. The injury includes price undercutting, erosion and suppression; lost sales and market share; negative financial results; and production capacity underutilization.

[143] This injury relates directly to the price advantage the apparent dumping and subsidizing has produced between the subject imports and the Canadian-produced goods. Evidence has been provided to establish this link in the form of market data, price quotes and financial information. The industry in Canada is further threatened with future material injury. This threat is based on evidence of: market conditions for plate globally, in the named countries and in the Canadian market; the freely disposable production capacity of plate in the named countries; the imposition and current anti-dumping and countervailing measures on plate and other flat-rolled steel products by Canada and other countries; the significant rate of increase of dumped and subsidized imports; and the potential impact of the subject goods on the price of like goods.

CONCLUSION

[144] Based on information provided in the complaint, other available information, and the customs entry documentation, the President is of the opinion that there is evidence that certain hot-rolled carbon steel plate and high-strength low-alloy steel plate originating in or exported from India and Russia have been dumped and subsidized, and there is a reasonable indication that such dumping and subsidizing has caused and is threatening to cause injury to the Canadian industry. As a result, based on the CBSA's examination of the evidence and its own analysis, dumping and subsidy investigations were initiated on June 10, 2015.

SCOPE OF THE INVESTIGATION

[145] The CBSA is conducting investigations to determine whether the subject goods have been dumped and/or subsidized.

[146] The CBSA requested information from all potential exporters and importers to determine whether or not subject goods imported into Canada, during the POI of January 1, 2014 to March 31, 2015, were dumped. The information requested will be used to determine the normal values, export prices and margins of dumping, if any.

[147] The CBSA also requested information from the government of each of the named countries and all potential exporters in the named countries to determine whether or not subject goods imported into Canada, during the POI of January 1, 2014 to March 31, 2015, were subsidized. The information requested will be used to determine the amounts of subsidy, if any.

[148] All parties have been clearly advised of the CBSA's information requirements and the time frames for providing their responses.

FUTURE ACTION

[149] The Tribunal will conduct a preliminary inquiry to determine whether the evidence discloses a reasonable indication that the alleged dumping and subsidizing of the goods has caused or is threatening to cause injury to the Canadian industry. The Tribunal must make its decision on or before the 60th day after the date of the initiation of the investigations, by August 10, 2015. If the Tribunal concludes that the evidence does not disclose a reasonable indication of injury to the Canadian industry, the investigations will be terminated.

[150] If the Tribunal finds that the evidence discloses a reasonable indication of injury to the Canadian industry and should the CBSA determine in the preliminary phase of the investigations that the goods have been dumped and/or subsidized, the CBSA will make a preliminary determination of dumping and/or a preliminary determination of subsidizing within 90 days after the date of the initiation of the investigations, by September 8, 2015. Where circumstances warrant, this period may be extended to 135 days from the date of the initiation of the investigations.

[151] If, in respect of subject goods of any country, the CBSA investigation(s) reveal that imports of the subject goods have not been dumped and/or subsidized, that the margin of dumping and/or amount of subsidy is insignificant or that the actual and potential volume of dumped or subsidized goods is negligible, the investigation(s) will be terminated.

[152] Imports of subject goods released by the CBSA on and after the date of preliminary determinations of dumping and/or subsidizing may be subject to provisional duty in an amount not greater than the estimated margin of dumping or the estimated amount of subsidy on the imported goods.

[153] Should the CBSA make preliminary determinations of dumping and/or subsidizing, the investigations will be continued for the purpose of making final determinations within 90 days after the date of the preliminary determinations.

[154] If final determinations of dumping and/or subsidizing are made, the Tribunal will continue its inquiry and hold public hearings into the question of material injury to the Canadian industry. The Tribunal is required to make a finding with respect to the goods to which the final determinations of dumping and/or subsidizing apply, not later than 120 days after the CBSA's preliminary determinations.

[155] In the event of an injury finding by the Tribunal, imports of subject goods released by the CBSA after that date will be subject to anti-dumping duty equal to the applicable margin of dumping and countervailing duty equal to the amount of subsidy on the imported goods. Should both anti-dumping and countervailing duties be applicable to subject goods, the amount of any anti-dumping duty may be reduced by the amount that is attributable to an export subsidy.

RETROACTIVE DUTY ON MASSIVE IMPORTATIONS

[156] When the Tribunal conducts its inquiry concerning injury to the Canadian industry, it may consider if dumped and/or subsidized goods that were imported close to or after the initiation of an investigation constitute massive importations over a relatively short period of time and have caused injury to the Canadian industry.

[157] Should the Tribunal issue such a finding, anti-dumping and countervailing duties may be imposed retroactively on subject goods imported into Canada and released by the CBSA during the period of 90 days preceding the day of the CBSA making preliminary determinations of dumping and/or subsidizing.

[158] In respect of importations of subsidized goods that have caused injury, however, this provision is only applicable where the CBSA has determined that the whole or any part of the subsidy on the goods is a prohibited subsidy, as explained in the previous "Evidence of Subsidizing" section. In such a case, the amount of countervailing duty applied on a retroactive basis will be equal to the amount of subsidy on the goods that is a prohibited subsidy.

UNDERTAKINGS

[159] After a preliminary determination of dumping by the CBSA, an exporter 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. An acceptable undertaking must account for all or substantially all of the exports to Canada of the dumped goods.

[160] Similarly, after a preliminary determination of subsidizing by the CBSA, a foreign government may submit a written undertaking to eliminate the subsidy on the goods exported or to eliminate the injurious effect of the subsidy, by limiting the amount of the subsidy or the quantity of goods exported to Canada. Alternatively, exporters with the written consent of their government may undertake to revise their selling prices so that the amount of the subsidy or the injurious effect of the subsidy is eliminated.

[161] Interested parties may provide comments regarding the acceptability of undertakings within nine days of the receipt of an undertaking by the CBSA. The CBSA will maintain a list of parties who wish to be notified should an undertaking proposal be received. Those who are interested in being notified should provide their name, telephone and fax numbers, mailing address and e-mail address to one of the officers identified in the "Information" section of this document.

[162] If an undertaking were to be accepted, the investigations and the collection of provisional duties would be suspended. Notwithstanding the acceptance of an undertaking, an exporter may request that the CBSA's investigations be completed and that the Tribunal complete its injury inquiries.

PUBLICATION

[163] Notice of the initiation of these investigations is being published in the Canada Gazette pursuant to subparagraph 34(1)(*a*)(ii) of SIMA.

INFORMATION

[164] Interested parties are invited to file written submissions presenting facts, arguments, and evidence that they feel are relevant to the alleged dumping and subsidizing. Written submissions should be forwarded to the attention of one of the officers identified below.

[165] To be given consideration in this phase of these investigations, all information should be received by the CBSA by July 17, 2015.

[166] Any information submitted to the CBSA by interested parties concerning these investigations is considered to be public information unless clearly marked "confidential". Where the submission by an interested party is confidential, a non-confidential version of the submission must be provided at the same time. This non-confidential version will be made available to other interested parties upon request.

[167] Confidential information submitted to the President will be disclosed on written request to independent counsel for parties to these proceedings, subject to conditions to protect the confidentiality of the information. Confidential information may also be released to the Tribunal, any court in Canada, or a WTO/NAFTA dispute settlement panel. Additional information respecting the Directorate's policy on the disclosure of information under SIMA may be obtained by contacting one of the officers identified below or by visiting the CBSA's website.

[168] The investigations schedules and a complete listing of all exhibits and information are available at www.cbsa-asfc.gc.ca/sima-lmsi/i-e/menu-eng.html. The exhibits listing will be updated as new exhibits and information are made available.

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

Mail: SIMA Registry and Disclosure Unit
Trade and Anti-dumping Programs Directorate
Canada Border Services Agency
100 Metcalfe Street, 11th floor
Ottawa, Ontario K1A 0L8
Canada

Telephone: Rob Wright 613-954-1643
Matthew Lerette 613-954-7398

Fax: 613-948-4844

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

Website: www.cbsa-asfc.gc.ca/sima-lmsi

Brent McRoberts
Director General
Trade and Anti-dumping Programs Directorate

Attachment

APPENDIX 1 - IDENTIFIED PROGRAMS AND INCENTIVES

INDIA

Descriptions of the following alleged Indian subsidy programs, and references to source information, can be found in the non-confidential version of the complaint.[68]

Program 1. Duty-Free Importation of Capital Goods and Raw Materials, Components, Consumables, Intermediates, Spare Parts and Packing Material in Special Economic Zones (SEZs)

Program 2. Export Income Tax Exemptions in SEZs

Program 3. Exemption in SEZs from Minimum Alternate Tax

Program 4. Exemption in SEZs from Payment of Central Sales Tax on Purchases of Capital Goods and Raw Materials, Components, Consumables, Intermediates, Spare Parts and Packing Material

Program 5. Exemption in SEZs from Service Tax

Program 6. Discounted Land Fees and Leases in SEZs

Program 7. Discounted Electricity Rates in SEZs

Program 8. Exemption in SEZs from State Sales Tax and Other Levies as Extended by State Governments

Program 9. Duty-Free Importations for Companies Designated as Export Oriented Units (EOUs)

Program 10. Reimbursement to EOUs of Central Sales Tax

Program 11. Duty Drawback for EOUs on Fuel Procured from Domestic Oil Companies

Program 12. Credit for Service Tax paid by EOUs

Program 13. Exemptions from Income Tax for EOUs

Program 14. Exemption from Central Excise Duty on Goods Procured from Domestic Tariff Areas and On Goods Manufactured in India

Program 15. Assistance to States for Developing Export Infrastructure and Allied Activities

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[68] Exhibit 2 (NC) - Certain Hot-rolled Steel Plate Complaint, pages 94-150.

Program 16. Market Access Initiative

Program 17. Market Development Assistance

Program 18. Meeting Expenses for Statutory Compliances in Buyer Country for Trade Related Matters

Program 19. Brand Promotion and Quality

Program 20. Test Houses

Program 21. Focus Product Scheme

Program 22. Rupee/Foreign Currency Export Credit & Customer Service to Exporters

Program 23. Export Promotion Capital Goods Scheme

Program 24. Duty Exemption/Remission Schemes – Duty-Free Import Authorization Scheme

Program 25. Duty Exemption/Remission Schemes – Advance Authorization Scheme

Program 26. Duty Exemption/Remission Schemes – Duty Entitlement Passbook Scheme

Program 27. Duty Exemption/Remission Schemes – Duty Drawback Scheme

Program 28. Provision of Captive Mining Rights for Minerals Including Iron Ore and Coal

Program 29. Purchase of Iron Ore From State-owned Enterprises for Less Than Fair Market Value

Program 30. 80-IB Income Deduction Program

Program 31. 80-IA Income Tax Deduction Program

Program 32. Steel Development Fund Loans

Program 33. Steel Development Fund R&D Grants

Program 34. State Government of Maharashtra (SGOM) – Industrial Promotion Subsidy

Program 35. SGOM – Exemption from Electricity Duty

Program 36. SGOM – Waiver of Stamp Duty

Program 37. SGOM – Power Tariff Subsidy

Program 38. SGOM – Incentives to Strengthen Micro, Small and Medium Enterprises (MSME)

Program 39. SGOM – Special Incentives of the SGOM for Mega Projects

Program 40. State Government of Gujarat (SGOG) – Assistance to MSMEs – Interest Subsidy

Program 41. SGOG – Assistance to MSMEs – Quality Certification

Program 42. SGOG – Sales Tax Exemptions and Deferrals On Purchase of Goods

Program 43. SGOG – VAT Remission Scheme

Program 44. SGOG – Scheme for Assistance to Industrial Parks/Industrial Estates Set Up By Private Institutions

Program 45. SGOG – Critical Infrastructure Projects

Program 46. State Government of Chhattisgargh (SGOC) – Industrial Policy 2009-2014: Fixed Capital Investment Subsidy

Program 47. SGOC – Industrial Policy 2009-2014: Interest Subsidy

Program 48. SGOC – Industrial Policy 2009-2014: Quality Certification

Program 49. SGOC – Industrial Policy 2009-2014: Electricity Duty Exemption

Program 50. SGOC – Industrial Policy 2009-2014: Stamp Duty Exemption

Program 51. SGOC – Industrial Policy 2009-2014: Provision of Land for Less than Adequate Remuneration

Program 52. State Government of Jharkhand (SGOJ) – Comprehensive Project Investment Subsidy

Program 53. SGOJ – Stamp Duty and Registration

Program 54. SGOJ – Incentive for Quality Certification

Program 55. SGOJ – VAT and Tax Incentives

DETERMINATIONS OF SUBSIDY AND SPECIFICITY - INDIA

Available information indicates that the programs identified above may constitute a financial contribution pursuant to subsection 2(1.6) of SIMA. The available information indicates that financial contributions may exist due to: the direct transfer of funds or liabilities or the contingent transfer of funds or liabilities from the Government of India (GOI); amounts that would otherwise be owing and due to the GOI are reduced or exempted, and would confer a benefit to the recipient equal to the amount of the reduction/exemption; and the GOI may provide goods or services, other than general governmental infrastructure.

Further, the benefits provided may be limited to certain types of enterprises or limited to enterprises located in certain geographic areas and may be considered specific pursuant to paragraph 2(7.2)(*a*) of SIMA. Other programs may be considered specific pursuant to subsection 2(7.3) of SIMA in that the manner in which discretion is exercised by the granting authority indicates that the subsidy may not be generally available.

RUSSIA

Descriptions of the following alleged Russian subsidy programs, and references to source information, can be found in the non-confidential version of the complaint.[69]

Program 1. Subsidies by the Government of Russia to Machinery Manufacturers on Technical Re-equipment

Program 2. Support of Technical Re-equipment of Certain Enterprises (Nizhni Novgorod Oblast)

Program 3. State Support of Industrial and Scientific Organizations of the Nizhni

Program 4. Novgorod Oblast, Carrying out Technical Re-equipment of Fixed Assets

Program 5. Provision of Natural Gas for Less Than Adequate Remuneration

Program 6. Provision of Freight Transportation for Less Than Adequate Remuneration

Program 7. Preferential Loans from State-Controlled Banks

Program 8. Export Financing Provided by VEB and EXIAR

Program 9. Lower Income Tax Rates for SEZs

Program 10. Property Tax Exemptions for SEZs

Program 11. Land Tax Exemptions for SEZs

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[69] Exhibit 2 (NC) - Certain Hot-rolled Steel Plate Complaint, pages 152-170.

Program 12. VAT Exemptions for SEZs

Program 13. Duty Exemptions for SEZs

Program 14. Transport Tax Exemptions for SEZs

Program 15. Other Tax Incentives for SEZs

DETERMINATIONS OF SUBSIDY AND SPECIFICITY - RUSSIA

Available information indicates that the programs identified above may constitute a financial contribution pursuant to subsection 2(1.6) of SIMA. The available information indicates that financial contributions may exist due to: the direct transfer of funds or liabilities or the contingent transfer of funds or liabilities from the Government of Russia (GOR); amounts that would otherwise be owing and due to the GOR are reduced or exempted, and would confer a benefit to the recipient equal to the amount of the reduction/exemption; and the GOR may provide goods or services, other than general governmental infrastructure.

Further, the benefits provided may be limited to certain types of enterprises or limited to enterprises located in certain geographic areas and may be considered specific pursuant to paragraph 2(7.2)(*a*) of SIMA. Other programs may be considered specific pursuant to subsection 2(7.3) of SIMA in that the manner in which discretion is exercised by the granting authority indicates that the subsidy may not be generally available.