



OTTAWA, December 22, 2015

STATEMENT OF REASONS

**Concerning the final determinations
with respect to the dumping 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**

and the 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 regarding the termination of the investigation with respect to
the subsidizing of**

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

DECISION

Pursuant to paragraph 41(1)(a) of the *Special Import Measures Act*, on December 7, 2015, the Canada Border Services Agency made a final determination of dumping respecting 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 and a final determination of subsidizing respecting such goods from the Republic of India.

Pursuant to paragraph 41(1)(b) of the *Special Import Measures Act*, on December 7, 2015, the Canada Border Services Agency terminated the subsidy investigation with respect to such goods from the Russian Federation.

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

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SUMMARY OF EVENTS

[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.

[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 India and Russia 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 (GOR). During these consultations, the GOR 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 GOR in its analysis.

[4] On June 10, 2015, pursuant to subsection 31(1) of SIMA, the CBSA 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.

[5] Upon receiving notice of the initiation of the investigations, the Canadian International Trade Tribunal (CITT) commenced a preliminary injury inquiry, pursuant to subsection 34(2) of SIMA, into whether the evidence discloses a reasonable indication that the alleged dumping and subsidizing of certain hot-rolled carbon steel plate and high-strength low-alloy steel plate from India and Russia have caused injury or retardation or are threatening to cause injury to the Canadian industry producing the goods.

[6] On August 10, 2015, pursuant to subsection 37.1(1) of SIMA, the CITT made a preliminary determination that there is evidence that discloses a reasonable indication that 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 have caused or are threatening to cause injury to the Canadian industry.

[7] On September 8, 2015, as a result of the CBSA’s preliminary investigations and pursuant to subsection 38(1) of SIMA, the CBSA made preliminary determinations of dumping and subsidizing respecting certain hot-rolled carbon steel plate and high-strength low-alloy steel plate originating in or exported from India and Russia.

[8] On September 8, 2015, pursuant to subsection 8(1) of SIMA, provisional duties were imposed on imports of dumped and subsidized goods that were of the same description as any goods to which the preliminary determinations applied, and that were released during the period commencing on the day the preliminary determinations were made.

[9] The CBSA continued its investigation and, on the basis of the results, the CBSA was satisfied that certain hot-rolled carbon steel plate and high-strength low-alloy steel plate originating in or exported from India and Russia had been dumped and that the margins of dumping were not insignificant. Consequently, on December 7, 2015, the CBSA made a final determination of dumping pursuant to paragraph 41(1)(a) of SIMA.

[10] Furthermore, the CBSA was satisfied that certain hot-rolled carbon steel plate and high-strength low-alloy steel plate originating in or exported from India had been subsidized and that the amount of subsidy was not insignificant. As a result, on December 7, 2015, the CBSA also made a final determination of subsidizing pursuant to paragraph 41(1)(a) of SIMA.

[11] On December 7, 2015, pursuant to paragraph 41(1)(b) of SIMA, the CBSA terminated the subsidy investigation with respect to certain hot-rolled carbon steel plate and high-strength low-alloy steel plate originating in or exported from Russia. The goods had been subsidized but the amount of subsidy was insignificant.

[12] The CITT's inquiry into the question of injury to the Canadian industry is continuing, and it has announced that it will issue its decision by January 6, 2016. Provisional duties will continue to apply on imports of subject goods from the named countries until the CITT issues its decision. However, the provisional duties related to the subsidization of goods from Russia will no longer apply, and the provisional duty paid or security posted will be refunded.

PERIOD OF INVESTIGATION

[13] The Period of Investigation (POI) with respect to dumping and subsidizing covered all subject goods released into Canada from January 1, 2014 to March 31, 2015.

PROFITABILITY ANALYSIS PERIOD

[14] The Profitability Analysis Period (PAP) covered domestic sales and costing information for goods sold from October 1, 2013 to March 31, 2015.

BACKGROUND

[15] 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 remain in force. Following is a brief history of the seven previous plate investigations.

Plate I

[16] On May 6, 1993, in Inquiry No. NQ-92-007, the CITT 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 CITT rescinded its finding.

Plate II

[17] On May 17, 1994, in Inquiry No. NQ-93-004, the CITT 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 CITT issued an order continuing its finding. On May 17, 2004, in Expiry Review No. RR-2003-001, the CITT rescinded its order against the goods from the subject countries.

Plate III

[18] On October 27, 1997, in Inquiry No. NQ-97-001, the CITT 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 CITT 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 CITT 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 CITT continued its order against China.

Plate IV

[19] On June 27, 2000, in Inquiry No. NQ-99-004, the CITT 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 CITT rescinded its finding against the goods from the subject countries.

Plate V

[20] On January 9, 2004, in Inquiry No. NQ-2003-002, the CITT 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 CITT continued its finding against the goods from the subject countries. On January 7, 2014, in Expiry Review No. RR-2013-002, the CITT continued its order against the goods from the subject countries.

Plate VI

[21] On February 2, 2010, in Inquiry No. NQ-2009-003, the CITT 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 CITT continued its finding against the goods from the subject country.

Plate VII

[22] On May 20, 2014, in Inquiry No. NQ-2013-005, the CITT 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.

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

INTERESTED PARTIES

Complainant

[24] 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.

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

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

[26] 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.

[27] 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

[28] 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.

[29] 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.

Importers

[30] At the initiation of the investigations, the CBSA identified 20 potential importers of the subject goods based on information provided by the complainant and CBSA import entry documentation.

[31] The CBSA sent an importer Request for Information (RFI) to all potential importers of the goods. The CBSA received five responses to the importer RFI. None of these importers were related to any responding exporter in the investigation.

Exporters

[32] At the initiation of the investigations, the CBSA identified 56 potential exporters of the subject goods from information provided by the complainant and CBSA import entry documentation. The CBSA sent dumping and subsidy RFIs to each of these potential exporters.

[33] The CBSA received responses to the exporter dumping RFI and the exporter subsidy RFI from two exporters in India and one exporter in Russia.

Foreign Governments

[34] For the purpose of these investigations, the “Government of India” (GOI) and the “Government of Russia” (GOR) 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.

[35] The CBSA sent a government subsidy RFI to the GOI and GOR. The CBSA received responses to the government subsidy RFIs from the respective governments of these countries. The nature of the two government responses are summarized in the Subsidy Investigation section of this document.

PRODUCT INFORMATION

Product Definition

[36] 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

[37] 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

[38] 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.

[39] 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".

Product Use

[40] 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

[41] 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

[42] 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 CLASSES OF GOODS

[43] 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.

[44] 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 India and Russia. The goods produced in Canada and in India and Russia are fully interchangeable when manufactured to industry standards and specifications. Subject goods from India and Russia 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.

[45] 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.

[46] In considering the issues of like goods and classes of goods, the CITT 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 a recent inquiry involving Plate VII (NQ-2013-005), the CITT 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.¹

¹ Exhibit 2 (NC) – Certain Hot-rolled Steel Plate Complaint – Attachment 4: Plate VII, paras. 35-48.

[47] Given the CITT'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

[48] The domestic industry is comprised of the complainant, Essar Algoma, two producers who supported the complaint,² Evraz and SSAB, and domestic steel service centres that have the capability to cut plate from coil.

[49] In a recent report by the CITT concerning the Plate VI expiry review, the CITT estimated that the volume of domestic production of plate by Essar Algoma, Evraz, and SSAB accounted for 64% of total domestic production. In that report, the CITT also noted that Canadian steel service centres accounted for the remaining 36% of the domestic production of plate.³

IMPORTS INTO CANADA

[50] During the final phase of the investigations, the CBSA refined the volume of imports based on information from CBSA import entry documentation and other information received from exporters and importers.

[51] The following table presents the CBSA's analysis of imports of certain hot-rolled carbon steel plate and high-strength low-alloy steel plate for purposes of the final decisions:

**Import Volumes of Certain Hot-rolled Carbon Steel Plate
and High-strength Low-alloy Steel Plate
January 1, 2014 to March 31, 2015
(Based on Metric Tonne Volume)**

Imports into Canada	% of Total Import Volume
India	17.2%
Russia	4.0%
All Other Countries	78.8%
Total Imports	100.0%

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

³ Exhibit 2 (NC) – Certain Hot-rolled Steel Plate Complaint – Attachment 10.

INVESTIGATION PROCESS

[52] At the initiation of the dumping investigation, all known and potential exporters, producers and vendors were sent an exporter dumping RFI in order to solicit information required for purposes of determining normal values and export prices of subject goods in accordance with the provisions of the SIMA. Exporters who were not the manufacturer of the goods were asked to forward a copy of the RFI to each of the manufacturers concerned. As such, all exporters were given the opportunity to participate in the investigation. In the RFI, the exporters were notified that failure to submit all required information and documentation, including non-confidential versions, or failure to permit verification of any information, may result in the normal values of the subject goods exported by their company being based on the facts available. It was further stated that such a decision may be less favourable to their company than if full and verifiable information were made available. Information was also requested from potential importers of the subject goods.

[53] At the initiation of the subsidy investigation, the CBSA sent a government subsidy RFI to the GOI and the GOR, as well as an exporter subsidy RFI to all potential exporters/producers of certain hot rolled carbon steel plate and high-strength low-alloy steel plate in India and Russia. Exporters who were not the manufacturer of the goods were asked to forward a copy of the RFI to each of the manufacturers concerned. Information was requested in order to establish whether there had been financial contributions made by any level of government, including State-Owned Enterprises (SOEs) possessing, exercising or vested with government authority, and, if so, to establish if a benefit has been conferred on persons engaged in the production, manufacture, growth, processing, purchase, distribution, transportation, sale, export or import of certain hot rolled carbon steel plate and high-strength low-alloy steel plate; and whether any resulting subsidy was specific in nature. As such, the GOI, the GOR and all exporters were given the opportunity to participate in the investigation.

[54] The GOI and the GOR were also requested to forward the RFIs to all subordinate levels of government that had jurisdiction over the exporters and were notified that failure to submit all required information and documentation, including non-confidential versions, or failure to permit verification of any information, may result in the amount of subsidy on subject goods being based on the facts available to the CBSA.

[55] The exporters/producers were also requested to forward a portion of the exporter subsidy RFI to their input suppliers, who were asked to respond to questions pertaining to their legal characterization as SOEs. They were also notified that failure to submit all required information and documentation, including non-confidential versions, or failure to permit verification of any information, may result in the amount of subsidy on subject goods being based on the facts available to the CBSA.

[56] Three exporters, and both the GOI and GOR, all requested an extension to respond to the RFIs. The CBSA considered these requests but did not grant the extensions as the reasons identified in the request letters did not constitute unforeseen circumstances or unusual burdens that would justify granting an extension of time. At that time, the CBSA indicated that it could not guarantee that submissions received after the due date would be taken into consideration for purposes of the preliminary phase of the investigations.

[57] Details pertaining to the information submitted by the exporters in response to the exporter dumping RFI as well as the results of the CBSA's dumping investigation are provided in the "Dumping Investigation" section of this document. Details pertaining to the information submitted by the exporters and governments in response to the subsidy RFI as well as the results of the CBSA's subsidy investigation are provided in the "Subsidy Investigation" section of this document.

[58] As part of the final stage of the investigations, case briefs and reply briefs were provided by counsel on behalf of complainants, exporters, the GOI and GOR. Details of the representations are provided in **Appendix 3**.

[59] Under Article 15 of the World Trade Organization (WTO) *Anti-dumping Agreement*, developed countries are to give regard to the special situation of developing country members when considering the application of anti-dumping measures under the Agreement. Possible constructive remedies provided for under the Agreement are to be explored before applying anti-dumping duty where they would affect the essential interests of developing country members.

[60] Neither the ASCM nor SIMA defines or provides any guidance regarding the determination of a "developing country". 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. The CBSA's policy as of August 4, 2015, is to refer to the DAC List of ODA Recipients and will regard a country as developing if it is listed as a least developed country, other low income country or lower middle income country or territory. As India is included in these lists, the CBSA extends developing country status to India for purposes of this investigation.

[61] The obligation under Article 15 of the WTO *Anti-dumping Agreement* was met by providing the opportunity for exporters to submit price undertakings. In this particular investigation, the CBSA did not receive any undertaking proposals from exporters in India.

DUMPING INVESTIGATION

[62] The CBSA received responses to the dumping RFI from two exporters located in India and one exporter located in Russia.

Normal Values

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

[64] Where, in the opinion of the CBSA, sufficient information has not been furnished or is not available, normal values are determined pursuant to a ministerial specification in accordance with subsection 29(1) of SIMA.

[65] Sufficient information was provided to determine normal values for one exporter located in Russia. The normal values for this exporter were determined pursuant to paragraph 19(b) of SIMA.

[66] With respect to all other exporters, the normal values for subject goods originating in or exported from India and Russia and imported into Canada during the POI were determined pursuant to subsection 29(1) of SIMA.

Export Prices

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

[68] Where, in the opinion of the CBSA, sufficient information has not been furnished or is not available, export prices are determined pursuant to subsection 29(1) of SIMA.

Results of the Dumping Investigation by Country

[69] With respect to the exporter in Russia that provided sufficient information in response to the exporter dumping RFI, the CBSA determined a margin of dumping by comparing the total normal value with the total export price of the goods. When the total export price was less than the total normal value, the difference was the margin of dumping for that exporter.

[70] For those exporters that did not submit sufficient information in response to the exporter dumping RFI, the normal values of the goods was determined pursuant to subsection 29(1) of SIMA. The margin of dumping was the amount by which the total normal value exceeded the total export price of the goods.

[71] The determination of the volume of dumped goods was calculated by taking into consideration each exporter's net aggregate dumping results. Where a given exporter was determined to be dumping on an overall or net basis, the total quantity of exports attributable to that exporter (i.e., 100%) was considered dumped.

[72] In determining the margin of dumping for each country, the margins of dumping found in respect of each exporter were weighted according to each exporter's volume of subject goods released into Canada during the dumping POI.

[73] Details of the results of the investigation by exporter follow. A summary of each exporter's margin of dumping and the overall margin of dumping for each country is provided in the table at the end of this section and in **Appendix 1**.

India

Jindal Steel and Power Limited

[74] Jindal Steel and Power Limited (JSPL) is a producer and exporter of the subject goods and its exports of subject goods represent a majority of the total volume of subject goods exported to Canada from India during the POI. JSPL is a fully integrated producer of a broad range of steel products and is also a generator and marketer of electrical power. JSPL is a publicly traded company and produces the subject goods at two different steel mills in India located in Raigarh, Chhattisgarh and Angul, Odisha. JSPL's corporate office is located in New Delhi, India.

[75] As noted in the CBSA's *Statement of Reasons* issued with respect to the preliminary determinations, JSPL was notified that its responses to the dumping RFI and dumping Supplemental Requests for Information (SRFIs) were incomplete and that its information had not been used for purposes of the preliminary determination. At that time, JSPL was advised that if the company provided sufficient information to the CBSA and which allowed sufficient time for the information to be analyzed and verified, the CBSA would endeavour to use that information for purposes of the final decision.

[76] Throughout the course of the investigation, JSPL submitted multiple revisions to its information as well as additional information to the CBSA. However, in reviewing those submissions, the CBSA determined that JSPL had not provided all of the information requested and that its response to the dumping investigation remained incomplete and insufficient.

[77] On September 21, 2015, the CBSA issued a deficiency letter⁴ to JSPL detailing all of the deficiencies that remained following a review of the information submitted. JSPL submitted information⁵ in response to that deficiency letter on October 9, 2015, which included complete revisions of its costing and sales data. However, in reviewing that submission, the CBSA found that significant deficiencies remained as a number of errors and inconsistencies were identified and information specifically requested by the CBSA had not been provided. As such, the CBSA found that JSPL's response in the dumping investigation, as a whole, was incomplete and that the information could not be relied upon.

[78] Further, there were issues with the timing of JSPL's submission in response to the CBSA's deficiency letter. In dumping and subsidy investigations, the CBSA sets a date after which no new information submitted by parties will be placed on the administrative record or considered as part of the CBSA's investigation. This is referred to as the "Closing of the Record date." This allows participants time to prepare their case briefs and reply briefs based on the information that is on the administrative record. For this investigation, the administrative record closed on October 27, 2015. The timing of JSPL's submission precluded the CBSA from having sufficient time to analyze and verify that information, given that it was filed in such close proximity to the Closing of the Record date and the legislated deadline for completion of the investigation.

[79] As the CBSA was unable to use JSPL's information to determine a margin of dumping for the purposes of the final determination, the CBSA determined normal values for JSPL by advancing the export price of the goods by 98.1%, pursuant to a ministerial specification under subsection 29(1) of SIMA based on the methodology explained in the section below entitled "All Other Exporters".

[80] With respect to the determination of the export prices, the CBSA considered that the information submitted on the CBSA import entry documentation was the best information on which to determine the export price of the goods as it reflects actual import data. This information is more comprehensive than what was available in the complaint.

[81] Based on the above, the margin of dumping for the subject goods exported to Canada by JSPL is 98.1% expressed as a percentage of the total export price.

⁴ Exhibit 188 (PRO) – Deficiency Letter – Jindal Steel and Power Limited.

⁵ Exhibit 193 (PRO) – Response to Deficiency Letter – Jindal Steel and Power Limited.

Steel Authority of India Limited

[82] Steel Authority of India Limited (SAIL) is a producer and exporter of the subject goods and its exports of subject goods represent the remaining volume of subject goods exported to Canada from India during the POI. SAIL's head office is located in New Delhi, India. The company is 75% owned by the GOI.

[83] As noted in the CBSA's *Statement of Reasons* issued with respect to the preliminary determinations, SAIL was notified that its responses to the dumping RFI and dumping SRFIs were incomplete and that its information had not been used for purposes of the preliminary determination. The CBSA notified SAIL of the missing information and also requested additional information and clarification. At that time, SAIL was advised that if the company provided sufficient information to the CBSA and which allowed sufficient time for the information to be analyzed and verified, the CBSA would endeavour to use that information for purposes of the final decision.

[84] SAIL provided some additional information on October 5, 2015, well after the due dates established by the CBSA. However, SAIL did not provide complete cost of production and total cost information for the subject and like goods. Furthermore, the late provision of requested information precluded the CBSA from having sufficient time to analyze and verify that information, given that it was filed in such close proximity to the Closing of the Record date and the legislated deadline for completion of the investigation. Due to the deficiencies in SAIL's response to the dumping RFI and lack of timely responses to dumping SRFI questions, the CBSA was unable to use the company's information to determine normal values, export prices and a margin of dumping for the purposes of the final determination.

[85] As the CBSA was unable to use SAIL's information to determine a margin of dumping for the purposes of the final determination, the CBSA determined normal values for SAIL by advancing the export price by 98.1%, pursuant to a ministerial specification under subsection 29(1) of SIMA based on the methodology explained in the section below entitled "All Other Exporters".

[86] With respect to the determination of the export prices, the CBSA considered that the information submitted on the CBSA import entry documentation was the best information on which to determine the export price of the goods as it reflects actual import data. This information is more comprehensive than what was available in the complaint.

[87] Based on the above, the margin of dumping for the subject goods exported to Canada by SAIL is of 98.1% expressed as a percentage of the total export price.

Other Exporters

[88] Based on the information available to the CBSA through customs documentation, importer RFI responses, and the information received from both SAIL and JSPL, SAIL and JSPL were both the producers and exporters of all the subject goods exported to Canada from India during the POI. All of the subject goods originating in India were shipped directly from India to Canada. Therefore there were no other exporters of subject goods during the POI.

Russia

PAO Severstal

[89] PAO Severstal (Severstal) is a producer and exporter of the subject goods and its exports of subject goods represent 100% of the volume of subject goods exported directly from Russia to Canada during the POI. Severstal's exports of subject goods represent approximately 99% of the total volume of subject goods originating in Russia, and released into Canada during the POI.

[90] Severstal provided a substantially complete RFI response, and in the final stage of the investigation, provided responses to SRFIs. CBSA officers conducted on-site verification meetings at Severstal's premises October 19, 2015 to October 23, 2015.

[91] The products sold domestically during the POI were made to different national specifications and grades than the products sold to Canada. The CBSA found that there were not such a number of sales of goods that satisfied paragraphs 15(a) to (e) of SIMA, taking into account section 16. Therefore normal values were determined pursuant to paragraph 19(b) of SIMA, based on the aggregate of the cost of production of the goods, a reasonable amount for administrative, selling and all other costs, and a reasonable amount for profits.

[92] The cost of production was determined pursuant to paragraph 11(1)(a) of the *Special Import Measure Regulations (SIMR)*, based on Severstal's verified cost data associated with the production of the subject goods exported to Canada. The amount for administrative, selling and all other costs that were used in determining normal values pursuant to paragraph 19(b) of SIMA were based on the amounts incurred on sales of subject goods to Canada, pursuant to subparagraph 11(1)(c)(ii) of SIMR. The amount for profits was calculated in accordance with subparagraph 11(1)(b)(ii) of SIMR, taking into account paragraph 13(a) of SIMR, on the basis of profitable domestic sales of goods that were of the same general category as the subject goods exported to Canada during the POI.

[93] For the subject goods exported by Severstal to Canada, export prices were determined in accordance with section 24 of SIMA, based on the exporter's selling price less all costs, charges and expenses resulting from the exportation of the goods. The total normal value was then compared to the total export price, resulting in a margin of dumping of 15.3%, expressed as a percentage of export price.

All Other Exporters

[94] Based on the information available to the CBSA, Severstal was the only exporter of subject goods that were shipped directly from Russia to Canada during the POI. A small amount of subject goods originating in Russia, representing approximately 1% of the total volume of subject goods originating in Russia, were exported to Canada by exporters located in other countries. The CBSA did not receive any RFI responses from the exporters located in other countries.

[95] For exporters who, in the opinion of the CBSA, did not provide sufficient information to enable the determination of normal values and export prices under sections 15 to 28 of SIMA, normal values and export prices were determined under a ministerial specification pursuant to subsection 29(1) of SIMA on the basis of facts available. In establishing the methodology for determining normal values and export prices under the ministerial specification, the CBSA examined all information on the record, including information provided in the complaint, information provided by the exporters, and customs documentation.

[96] The CBSA considered that the normal values and export prices determined for the responding exporter, rather than the information provided in the complaint, was the best information on which to base the methodology for determining normal values. The CBSA examined the difference between the normal value and the export price of each individual transaction for the responding exporter in order to obtain an appropriate amount for the normal value methodology. The transactions were also examined to ensure that anomalies were not considered, however, there were no anomalies.

[97] The CBSA considers that the highest amount by which the normal value exceeded the export price found on an individual transaction (expressed as a percentage of the export price) is an appropriate basis for determining normal values. This method of determining normal values is based on information on the record and limits the advantage that an exporter may gain from not providing necessary information requested in a dumping investigation as compared to an exporter that did provide the necessary information. Therefore, the normal values were determined based on the export price, plus an amount equal to 98.1% of that export price.

[98] The CBSA considered that the information submitted on the CBSA customs entry documentation was the best information on which to determine the export price of the goods as it reflects actual import data. This information is more comprehensive than what was available in the complaint.

[99] Based on the above methodologies, the subject goods exported to Canada by all other exporters were found to be dumped by a margin of dumping of 98.1%, expressed as a percentage of the export price.

Summary Results - Dumping

[100] A summary of the results of the dumping investigation respecting all subject goods released into Canada during the POI follows:

Summary of Results of the Dumping Investigation Period of Investigation – January 1, 2014 to March 31, 2015

Exporters	Margin of Dumping as % of Export Price
India – Steel Authority of India Limited	98.1%
India – Jindal Steel and Power Limited	98.1%
Total – India	98.1%
Russia – PAO Severstal	15.3%
Russia – All other exporters	98.1%
Total – Russia	16.2%

[101] Under paragraph 41(1)(a) of SIMA, the CBSA shall make a final determination of dumping when it is satisfied that the goods have been dumped and that the margin of dumping of the goods of a country is not insignificant. Pursuant to subsection 2(1) of SIMA, a margin of dumping of less than 2% of the export price of the goods is defined as insignificant.

[102] The margins of dumping of certain hot-rolled carbon steel plate and high-strength low-alloy steel plate from India and Russia are above 2% of the export price of the goods and are, therefore, not insignificant.

[103] For the purpose of a preliminary determination of dumping, the CBSA is responsible for determining whether the actual or potential volume of dumped goods is negligible. After a preliminary determination of dumping, the CITT assumes this responsibility. In accordance with subsection 42(4.1) of SIMA, if the CITT determines the volume of dumped goods from a country is negligible, the CITT is required to terminate its injury inquiry in respect of those goods.

SUBSIDY INVESTIGATION

[104] In accordance with section 2 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 World Trade Organization (WTO) Agreement that confers a benefit.

[105] Pursuant to subsection 2(1.6) of SIMA, there is a financial contribution by a government of a country other than Canada 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) 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.

[106] Where subsidies exist they may be subject to countervailing measures if they are specific in nature. According to subsection 2(7.2) of SIMA a subsidy is considered to be specific when it is limited, in a legislative, regulatory or administrative instrument, or other public document, to a particular enterprise within the jurisdiction of the authority that is granting the subsidy; or is a prohibited subsidy.

[107] A “prohibited subsidy” is either an export subsidy or a subsidy or portion of a subsidy that is contingent, in whole or in part, on the use of goods that are produced or that originate in the country of export. An export subsidy is a subsidy or portion of a subsidy contingent, in whole or in part, on export performance. An “enterprise” is defined as including a group of enterprises, an industry and a group of industries. These terms are all defined in section 2 of SIMA.

[108] Notwithstanding that a subsidy is not specific in law, under subsection 2(7.3) of SIMA a subsidy may also be considered specific having regard as to whether:

- (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.

[109] 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 is subject to countervailing measures if the persons engaged in the production, manufacture, growth, processing, purchase, distribution, transportation, sale, export or import of goods under investigation have benefited from the subsidy.

[110] Financial contributions provided by SOEs may also be considered to be provided by the government for the purposes of this investigation. A 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.

[111] The following presents the final results of the investigation into the subsidizing of certain hot-rolled carbon steel plate and high-strength low-alloy steel plate originating in or exported from India and Russia. A summary of each exporter’s amount of subsidy is provided in **Appendix 1**.

India

[112] In conducting its investigation, the CBSA requested information respecting 55 identified programs, as listed in **Appendix 2**.

[113] The CBSA received responses to the exporter subsidy RFI from SAIL and JSPL and a response to the government subsidy RFI from the GOI. Both exporters and the GOI were sent SRFIs.

Government of India

[114] The responses to the RFI and SRFIs from the GOI were considered incomplete for purposes of the final determination. The GOI did not provide information in its response for all of the alleged subsidy programs, and it did not provide copies of relevant legislation and regulations as requested for all of the alleged subsidy programs being investigated. Furthermore, the GOI did not provide any information regarding the use of the identified programs by exporters of subject goods or by other producers of hot-rolled carbon steel plate and high-strength low alloy steel plate in India.

[115] This limited the CBSA’s ability to determine the amount of subsidy in the prescribed manner, as the required information relating to the financial contribution, benefit and specificity, was not provided. It also limited the CBSA’s ability to determine whether producers, or other suppliers of goods and services, including the providers of financial services, are public bodies. Therefore amounts of subsidy were determined under ministerial specification pursuant to subsection 30.4(2) of SIMA.

Jindal Steel and Power Limited

[116] As noted in the CBSA's *Statement of Reasons* issued with respect to the preliminary determinations, JSPL was notified that its responses to the subsidy RFI and subsidy SRFI were incomplete and that its information had not been used for purposes of the preliminary determination. At that time, JSPL was advised that if the company provided sufficient information to the CBSA which allowed sufficient time for the information to be analyzed and verified, the CBSA would endeavour to use that information for purposes of the final decision.

[117] On September 21, 2015, the CBSA issued a letter⁶ to JSPL detailing all of the deficiencies that remained following a review of the information they had submitted with respect to the subsidy investigation. On October 27, 2015, the Closing of the Record date, JSPL submitted a response⁷ to the CBSA's deficiency letter. However, given that their response was filed on the day the CBSA's record closed, the CBSA was precluded from having sufficient time to analyze and verify that information, given that it was filed in such close proximity to the Closing of the Record date and the legislated deadline for completion of the investigation. Finally, in reviewing that submission, the CBSA found that JSPL had not provided all of the necessary information that had been previously requested. As such, the CBSA found that JSPL's response in the subsidy investigation, as a whole, was incomplete and that the information could not be used for purposes of the final determination.

[118] As a result of the incomplete information of JSPL and the GOI, the CBSA determined the amount of subsidy for JSPL under ministerial specification pursuant to subsection 30.4(2) of SIMA on the basis of facts available.

[119] In establishing the methodology for determining the amount of subsidy, the CBSA examined all information on the record, including information from the complaint, and publically available information. Given the lack of information, the CBSA considered that the methodology used at the initiation of the investigation was the most appropriate. Therefore, the amount of subsidy for JSPL, is equal to 7,844 Indian rupees per metric tonne (approximately \$160 CAD per metric tonne), which is equal to 20.3% of the export price of the goods. This percentage is the amount which the full cost, as estimated by the CBSA at the initiation of the investigation, exceeded the total export price of the subject goods released into Canada during the POI.

⁶ Exhibit 188 (PRO) – Deficiency Letter – Jindal Steel and Power Limited.

⁷ Exhibit 207 (NC) – Response to Deficiency Letter (Subsidy) – Jindal Steel and Power Limited.

Steel Authority of India Limited

[120] As noted in the CBSA's *Statement of Reasons* issued with respect to the preliminary determinations, SAIL was notified that its responses to the subsidy RFI and subsidy SRFI were incomplete and that its information had not been used for purposes of the preliminary determination. The CBSA notified SAIL of the missing information and also requested additional information and clarification. At that time, SAIL was advised that if the company provided sufficient information to the CBSA which allowed sufficient time for the information to be analyzed and verified, the CBSA would endeavour to use that information for purposes of the final decision.

[121] SAIL provided some additional information late in the investigation process and well after the deadlines established by the CBSA. However, SAIL did not provide complete information required for a full analysis of all of the subsidy programs under investigation. Furthermore, the late provision of requested information precluded the CBSA from having sufficient time to analyze and verify that information, given that it was filed in such close proximity to the Closing of the Record date and the legislated deadline for completion of the investigation. Due to the remaining deficiencies in SAIL's response to the subsidy RFI and their lack of timely responses to subsidy SRFI questions, the CBSA was unable to use the company's information to determine an amount of subsidy for the purposes of the final determination.

[122] As a result of the incomplete information of SAIL and the GOI, the CBSA determined the amount of subsidy for SAIL under ministerial specification pursuant to subsection 30.4(2) of SIMA on the basis of the facts available.

[123] In establishing the methodology for determining the amount of subsidy, the CBSA examined all information on the record, including information from the complaint, and publically available information. Given the lack of information, the CBSA considered that the methodology used at the initiation of the investigation was the most appropriate. Therefore, the amount of subsidy for SAIL, is equal to 7,844 Indian rupees per metric tonne (approximately \$160 CAD per metric tonne), which is equal to 20.3% of the export price of the goods. This percentage is the amount which the full cost, as estimated by the CBSA at the initiation of the investigation, exceeded the total export price of the subject goods released into Canada during the POI.

Other Exporters

[124] Based on the information available to the CBSA through customs documentation, importer RFI responses, and the limited information received from both SAIL and JSPL, SAIL and JSPL were both the producers and exporters of all the subject goods exported to Canada from India during the POI. All of the subject goods originating in India were shipped directly from India to Canada. Therefore there were no other exporters for purposes of the final determination.

[125] The overall weighted average amount of subsidy for India is equal to 20.3%, when expressed as a percentage of the total export price of the subject goods.

Russia

[126] In conducting its investigation, the CBSA requested information respecting 15 identified programs, as listed in **Appendix 2**.

[127] The CBSA received an incomplete response to the government subsidy RFI from the GOR by the deadline, and was therefore considered incomplete for purposes of the preliminary determination. In the final stage of the investigation, the GOR provided a response to a SRFI⁸ and as a result its submission was considered substantially complete. CBSA officers conducted on-site verification meetings at the GOR's premises on October 16, 2015.

[128] It was determined that of the 15 programs being investigated, the only program used by the sole exporter was Program 7: Preferential Loans from State-Controlled Banks.

PAO Severstal

[129] The CBSA received an incomplete response to the exporter subsidy RFI from Severstal by the deadline, and was therefore considered incomplete for purposes of the preliminary determination. In the final stage of the investigation, Severstal provided a response to SRFIs⁹ and as a result its submission was considered substantially complete. CBSA officers conducted on-site verification meetings at Severstal's premises October 19, 2015 to October 23, 2015.

[130] Based on the information on the administrative record, it was determined that of the 15 programs being investigated, Severstal only used Program 7: Preferential Loans from State-Controlled Banks. The financial contribution was in the form of a loan from a state-controlled bank. Severstal provided sufficient information to show that neither the rate nor the terms of the loan agreement were preferential, and that all interest due to the government was paid during the POI, hence there was no benefit conferred to Severstal from the use of this program. Therefore, the amount of subsidy determined for Severstal was zero.

All Other Exporters

[131] A small amount of subject goods released into Canada during the POI originated in Russia and were exported to Canada from other countries. However, none of these other exporters provided a response to the CBSA's subsidy RFI, and for this reason, the CBSA could not determine the manufacturer of the goods.

⁸ Exhibit 112 (NC) - Subsidy - Response to SRFI#1 - Government of Russia.

⁹ Exhibit 104 (NC) – Subsidy – Response to SRFI#1 – Severstal; Exhibit 136 (NC) – Subsidy – Response to SRFI#2.

[132] As a result of the incomplete information, the CBSA determined the amounts of subsidy under ministerial specification pursuant to subsection 30.4(2) of SIMA on the basis of the facts available.

[133] In establishing the methodology for determining the amounts of subsidy, the CBSA examined all information on the record, including information from the complaint, the responding exporter, and the GOR. Given the lack of information concerning who the Russian producers of the subject goods were, the CBSA considered the methodology used at the initiation of the investigation to be the most appropriate. Therefore, the amount of subsidy for all other exporters is equal to 4,373 Russian rubles per metric tonne (approximately \$92 CAD per metric tonne), or 18.9% of the export price of the goods. This percentage is the amount by which the full cost, as estimated by the CBSA at the initiation of the investigation, exceeded the total export price of the subject goods released into Canada during the POI.

[134] The overall weighted average amount of subsidy for Russia is equal to 0.2%, when expressed as a percentage of the total export price of the subject goods.

Summary Results - Subsidy

[135] A summary of the final results of the subsidy investigation respecting all subject goods released into Canada during the subsidy POI is provided below:

Summary of Results - Subsidy Period of Investigation - January 1, 2014 to March 31, 2015

Country	Amount of Subsidy/MT	Amount of Subsidy as a Percentage of Export Price	Volume of Country Imports as a Percentage of Total Imports
India	7,844 Rupees	20.3%	17.2%
Russia	4,373 Rubles	0.2%	4.0%

[136] In making a final determination of subsidizing under paragraph 41(1)(a) of SIMA, the CBSA must be satisfied that the subject goods have been subsidized and that the amount of subsidy on the goods of a country is not insignificant. According to subsection 2(1) of SIMA, an amount of subsidy that is less than 1% of the export price of the goods is considered insignificant.

[137] However, according to section 41.2 of SIMA, the CBSA is required to take into account Article 27.10 of the *WTO Agreement on Subsidies and Countervailing Measures* (ASCM) when conducting a subsidy investigation. This provision stipulates that a countervailing duty investigation involving a product from 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.

[138] Neither the ASCM nor SIMA defines or provides any guidance regarding the determination of a “developing country” for purposes of Article 27.10 of the WTO ASCM. 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. The CBSA’s policy as of August 4, 2015, is to refer to the DAC List of ODA Recipients and will regard a country as developing if it is listed as a least developed country, other low income country or lower middle income country or territory. As India is included in these lists, the CBSA extends developing country status to India for purposes of this investigation.

[139] The amount of subsidy of certain hot-rolled carbon steel plate and high-strength low-alloy steel plate originating in or exported from India was found to be above 2% and was, therefore, determined not to be insignificant.

[140] The amount of subsidy of certain hot-rolled carbon steel plate and high-strength low-alloy steel plate originating in or exported from Russia did not exceed 1% of the value calculated on a per unit basis and was, therefore, determined to be insignificant.

[141] For the purposes of a preliminary determination of subsidizing, the CBSA is responsible for determining whether the actual and potential volume of subsidized goods is negligible. After a preliminary determination of subsidizing, the CITT assumes this responsibility. In accordance with subsection 42(4.1) of SIMA, if the CITT determines the volume of subsidized goods from a country is negligible, the CITT is required to terminate its injury inquiry in respect of those goods.

DECISIONS

[142] Pursuant to paragraph 41(1)(a) of the *Special Import Measures Act* (SIMA), on December 7, 2015, the CBSA made a final determination of dumping respecting certain hot-rolled carbon steel plate and high-strength low-alloy steel plate originating in or exported from India and Russia.

[143] On the same day, pursuant to paragraph 41(1)(a) of SIMA, the CBSA made a final determination of subsidizing respecting certain hot-rolled carbon steel plate and high-strength low-alloy steel plate originating in or exported from India.

[144] Pursuant to paragraph 41(1)(b) of SIMA, on December 7, 2015, the CBSA terminated the subsidy investigation with respect to certain hot-rolled carbon steel plate and high-strength low-alloy steel plate originating in or exported from Russia.

FUTURE ACTION

[145] The provisional period began on September 8, 2015, and will end on the date the CITT issues its finding. The CITT is expected to issue its decision by January 6, 2016. Provisional duties related to anti-dumping will continue to apply until this date on imports of subject goods from India and Russia. However, the provisional duties related to the subsidization of the goods originating in or exported from Russia will no longer apply, and such provisional duty paid or security posted will be refunded. For further details on the application of provisional duties, refer to the *Statement of Reasons* issued for the preliminary determinations, which is available on the CBSA's website at www.cbsa-asfc.gc.ca/sima-lmsi.

[146] If the CITT finds that the dumped and subsidized goods have not caused injury and do not threaten to cause injury, all proceedings relating to these investigations will be terminated. In this situation, all provisional duties paid or security posted by importers will be refunded.

[147] If the CITT finds that the dumped and subsidized goods have caused injury, the anti-dumping and/or countervailing duties payable on subject goods released by the CBSA during the provisional period will be finalized pursuant to section 55 of SIMA. Imports released by the CBSA after the date of the CITT's finding will be subject to anti-dumping duty and countervailing duty.

[148] The importer in Canada shall pay all applicable duties. If the importers of such goods do not indicate the required SIMA code or do not correctly describe the goods in the customs documents, an administrative monetary penalty could be imposed. The provisions of the *Customs Act*¹⁰ apply with respect to the payment, collection or refund of any duty collected under SIMA. As a result, failure to pay duty within the prescribed time will result in the application of interest.

[149] In the event of an injury finding by the CITT, normal values and amounts of subsidy have been provided to the exporters who provided sufficient information for future shipments to Canada and these normal values and amounts of subsidy would come into effect the day after an injury finding. Information regarding normal values of the subject goods should be obtained from the exporter.

[150] Exporters of subject goods who did not provide sufficient information in the dumping investigation will have normal values established by advancing the export price by 98.1% based on a ministerial specification pursuant to subsection 29(1) of SIMA. Anti-dumping duty will apply based on the amount by which the normal value exceeds the export price of the subject goods. Similarly, exporters of subjects goods from India will be subject to countervailing duties of 7,844 Rupees per metric tonne, based on a ministerial specification pursuant to subsection 30.4(2) of SIMA.

¹⁰ *Customs Act* R.S.C. 1985.

RETROACTIVE DUTY ON MASSIVE IMPORTATIONS

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

[152] In respect of importations of subsidized goods that have caused injury, 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. In such a case, the amount of countervailing duty applied on a retroactive basis will equal the amount of subsidy on the goods that is a prohibited subsidy. An export subsidy is a prohibited subsidy according to subsection 2(1) of SIMA.

PUBLICATION

[153] A notice of these final determinations of dumping and subsidizing will be published in the *Canada Gazette* pursuant to paragraph 41(3)(a) of SIMA.

[154] A notice of the termination of the subsidy investigation in respect of Russia will be published in the *Canada Gazette* pursuant to paragraph 41(4)(a) of SIMA.

INFORMATION

[155] 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
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Attachments

APPENDIX 1 – SUMMARY OF MARGINS OF DUMPING AND AMOUNTS OF SUBSIDY

Exporters	Margin of Dumping as % of Export Price	Amounts of Subsidy as % of Export Price	Amount of Subsidy/MT
India – Steel Authority of India Limited	98.1%	20.3%	7,844 Rupees
India – Jindal Steel and Power Limited	98.1%	20.3%	7,844 Rupees
Total – India	98.1%	20.3%	
Russia – PAO Severstal	15.3%	0%	N/A
Russia – All other exporters	98.1%	18.9%	*4,373 Rubles
Total – Russia	16.2%	0.2%	

*** The amount of subsidy for all other exporters of goods originating in Russia is included only for purposes of the final determination, and any amount collected during the provisional period will be refunded.**

NOTE: The margins of dumping reported in this table are the margins determined by the CBSA for the purposes of the final determination of dumping. These margins do not reflect the amount of anti-dumping duty to be levied on future importations of dumped goods. In the event of an injury finding by the CITT, normal values for future shipments to Canada have been provided to the exporter who provided sufficient information in their response to the CBSA’s dumping RFI. These normal values would come into effect the day after an injury finding. Information regarding normal values of the subject goods and amounts of subsidy should be obtained from the exporters. Imports from exporters that did not provide sufficient information to the CBSA during the dumping investigation will be subject to an anti-dumping duty rate of 98.1%, expressed as a percentage of the export price, in accordance with a ministerial specification. Future imports from exporters located in India that did not provide sufficient information to the CBSA during the subsidy investigation will also be subject to a countervailing duty rate of 7,844 Rupees per metric tonne in accordance with a ministerial specification. Please consult the SIMA Self-Assessment Guide at www.cbsa-asfc.gc.ca/sima-lmsi/self-auto-eng.html for more detailed information explaining how to determine the amount of SIMA duties owing.

APPENDIX 2 – LIST OF SUBSIDY PROGRAMS INVESTIGATED

India

As noted in the body of this document, the GOI and responding exporters did not provide complete responses to the subsidy RFIs, which limited the CBSA's ability to conduct an analysis of the programs for the final determination. As a result of the incomplete information, the CBSA determined the amounts of subsidy on the subject goods from India under ministerial specification pursuant to subsection 30.4(2) of SIMA.

This appendix consists of a listing of 55 subsidy programs which were reviewed by the CBSA in the current subsidy investigation. Descriptions of the following Indian subsidy programs, and references to source information, can be found in the non-confidential version of the complaint.¹¹

- 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
- 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

¹¹ Exhibit 2 (NC) – Certain Hot-rolled Steel Plate Complaint, pages 94-150.

- 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 Chhattisgarh (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

Russia

The following is the list of programs that were investigated by the CBSA as potentially conferring a benefit to manufacturers and exporters of subject goods in Russia.

- 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 Novgorod Oblast, Carrying out Technical Re-equipment of Fixed Assets
- Program 4. Provision of Natural Gas for Less Than Adequate Remuneration
- Program 5. Provision of Freight Transportation for Less Than Adequate Remuneration
- Program 6. Preferential Loans from State-Controlled Banks
- Program 7. Export Financing Provided by VEB and EXIAR
- Program 8. Lower Income Tax Rates for SEZs
- Program 9. Property Tax Exemptions for SEZs
- Program 10. Land Tax Exemptions for SEZs
- Program 11. VAT Exemptions for SEZs
- Program 12. Duty Exemptions for SEZs
- Program 13. Transport Tax Exemptions for SEZs
- Program 14. Other Tax Incentives for SEZs

APPENDIX 3 – DUMPING AND SUBSIDY REPRESENTATIONS

India

Completeness and Timeliness of the Information Submitted by JSPL

Case Briefs

Counsel for JSPL noted that the company provided a substantive amount of information before the close of the record and argued that the information provided by JSPL was complete and must be used in calculating normal values, export prices, and amounts of subsidy at the Final Determination.¹² Counsel for JSPL further argued that JSPL's information had been submitted "in a timely fashion sufficient for [the CBSA] to examine and verify the data"¹³.

Counsel for the complainant (Essar Algoma) argued that JSPL's information was "incomplete and otherwise deficient" and that the CBSA "does not have information upon which it can arrive at company-specific normal values or amounts of subsidy".¹⁴ This argument was based on deficiencies and inconsistencies identified by counsel respecting JSPL's dumping¹⁵ and subsidy¹⁶ responses which, according to counsel, had not been addressed by JSPL prior to the close of the record. As such, counsel argued that the final results for JSPL be determined pursuant to ministerial specification.¹⁷

Reply Briefs

Counsel for JSPL responded to the complainant's arguments by stating it had addressed all of the deficiencies identified by the CBSA to the best of its ability prior to the close of the record.¹⁸ Counsel further noted that arguments submitted by counsel for the complainant did not take into account additional information filed by JSPL after September 15, 2015.¹⁹

Counsel for the complainant provided arguments respecting information submitted to the CBSA by JSPL prior to the close of record. Counsel for the complainant had not previously addressed these arguments in their case brief and these arguments were not in reply to arguments presented by counsel for JSPL. As such, the CBSA will not address these arguments for the reasons explained in the section below concerning the objection made with respect to that particular reply brief.

¹² Exhibit 218 (NC) – Case Brief – Jindal Steel and Power Limited; paragraphs 14, 17, and 68.

¹³ Exhibit 218 (NC) – Case Brief – Jindal Steel and Power Limited; paragraph 70.

¹⁴ Exhibit 222 (NC) – Case Brief – Essar Steel Algoma; paragraph 3.

¹⁵ Exhibit 222 (NC) – Case Brief – Essar Steel Algoma; paragraphs 16 to 39.

¹⁶ Exhibit 222 (NC) – Case Brief – Essar Steel Algoma; paragraphs 40 to 53.

¹⁷ Exhibit 222 (NC) – Case Brief – Essar Steel Algoma; paragraph 54.

¹⁸ Exhibit 226 (NC) – Reply Brief – Jindal Steel and Power Limited; paragraph 12.

¹⁹ Exhibit 226 (NC) – Reply Brief – Jindal Steel and Power Limited; paragraphs 2 and 11.

As such, the CBSA notes that the reply brief submitted by counsel for the complainant “reaffirms and rests on its arguments made in its case brief” which submits that JSPL “has not provided sufficient information to constitute a complete and reliable response to the CBSA’s RFIs and SRFIs” and that JSPL’s information “cannot be used by the CBSA” for purposes of determining a margin of dumping and an amount of subsidy.²⁰

CBSA’s Response to Case Briefs and Reply Briefs

As noted in the earlier sections of this *Statement of Reasons* respecting the results of the CBSA’s dumping and subsidy investigations, the information submitted by JSPL, including its response to the CBSA’s deficiency letter dated September 21, 2015, was found to be incomplete and insufficient for purposes of the investigations. Further, the information submitted by JSPL to address the CBSA’s deficiency letter on October 9, 2015 and October 27, 2015 was not submitted in time to allow the CBSA sufficient time to analyze and verify the information.

Objection Concerning the Reply Brief Submitted by Essar Steel Algoma Inc.

On November 17, 2015, counsel for JSPL submitted a letter²¹ to the CBSA objecting to comments made by counsel for the complainant in paragraph 24 of its reply brief²². Specifically, counsel for JSPL objected to the comments made in the complainant’s reply brief concerning information submitted by JSPL after September 15, 2015 as these comments had not been included in the complainant’s case brief despite JSPL’s filings having been posted to the CBSA’s exhibit listing prior to the closing of the record.

Counsel for JSPL further noted that the reply brief is not a second opportunity to file what the counsel for the complainant did not include in its case brief. As such, counsel for JSPL argued that the complainant’s omission of those comments in its case brief denies JSPL the proper opportunity to respond to those comments which is the purpose of a reply brief. As a result, counsel for JSPL argued that the complainant’s reply brief was improperly filed and that paragraph 24 of that reply brief should be struck from the record.

The CBSA did not receive any further correspondence concerning this issue from counsel for JSPL or any other counsel or parties involved in the investigations.

²⁰ Exhibit 225 (NC) – Reply Brief – Essar Steel Algoma; paragraph 25.

²¹ Exhibit 229 (NC) - Correspondence from JSPL regarding Essar Steel Algoma Inc’s Reply Brief.

²² Exhibit 225 (NC) – Reply Brief – Essar Steel Algoma.

CBSA's Response

In reviewing the letter submitted by counsel for JSPL in conjunction with the case brief and reply brief filed by counsel for the complainant, the CBSA concluded that the comments made in paragraph 24 of the complainant's reply brief are new comments that were not included in its case brief and are not in reply to arguments made by other parties in their case briefs.

As a result, the CBSA did not take the comments presented by the complainant in paragraph 24 of its reply brief into account for purposes of the final determinations.

Completeness and Timeliness of the Information Submitted by SAIL

Case Briefs

Counsel for SAIL argued that the company provided substantially complete information sufficient for the CBSA to determine normal values, export prices, and amounts of subsidy at the Final Determination.²³ Counsel for SAIL further argued that SAIL's information had been submitted "in a timely fashion sufficient for [the CBSA] to examine and verify the data"²⁴.

Counsel for the complainant argued that SAIL's information was "materially deficient" and that the CBSA does not have sufficient information upon which to determine company-specific normal values or amounts of subsidy.²⁵

Reply Briefs

Counsel for SAIL responded to the complainant's arguments by stating that the evidence it had provided to the CBSA was substantially complete, and that it had provided the CBSA with all of the information it could within reasonable timeframes to the best of its ability.²⁶

Counsel for the complainant argued that SAIL failed to submit information in a timely manner, precluding proper analysis and verification.²⁷ Counsel for the complainant also reaffirmed its case brief arguments that SAIL "has not provided sufficient information to constitute a complete and reliable response to the CBSA's RFIs and SRFIs" and that SAIL's information "cannot be used by the CBSA" for purposes of determining a margin of dumping and an amount of subsidy.²⁸

²³ Exhibit 219 (NC) – Case Brief – Steel Authority of India Limited; Part C.

²⁴ Exhibit 219 (NC) – Case Brief – Steel Authority of India Limited; paragraph 81.

²⁵ Exhibit 222 (NC) – Case Brief – Essar Steel Algoma; paragraphs 59 and 80.

²⁶ Exhibit 228(NC) – Reply Brief – Steel Authority of India Limited; paragraph 22.

²⁷ Exhibit 225 (NC) – Reply Brief – Essar Steel Algoma; paragraph 6.

²⁸ Exhibit 225 (NC) – Reply Brief – Essar Steel Algoma; paragraph 22.

CBSA's Response to Case Briefs and Reply Briefs

As noted in the earlier sections of this *Statement of Reasons* respecting the results of the CBSA's dumping and subsidy investigations, the information submitted by SAIL was found to be incomplete and insufficient. Further, the information submitted by SAIL on October 5, 2015 was submitted well after the deadlines established by the CBSA for the SRFI responses and was not submitted in time to allow the CBSA sufficient time to analyze and verify the information.

Completeness of the Information Submitted by the GOI

Case Briefs

Counsel for the complainant argued that the GOI's response to the subsidy RFI is deficient by "not providing information specific to the companies in receipt of benefits from the programs being investigated".²⁹ The complainant submits that the information provided by the GOI is "incomplete, unreliable and cannot be used in the formulation of amounts of subsidy in this investigation".³⁰

CBSA's Response

As noted in the earlier sections of this *Statement of Reasons* respecting the results of the CBSA's subsidy investigation for India, the information submitted by GOI was found to be incomplete and insufficient for the purposes of determining the amounts of subsidy in the investigation.

Russia

Severstal's and GOR's subsidy submissions remain incomplete and deficient.

Case Briefs

Counsel for the complainant submitted that Severstal's dumping and subsidy submissions remain incomplete and deficient, and that certain related parties did not provide a response to the RFIs. Counsel also argued that the GOR's subsidy submission remains incomplete and deficient with respect to certain specific subsidy programs.

²⁹ Exhibit 222 (NC) – Case Brief – Essar Steel Algoma; paragraph 103.

³⁰ Exhibit 222 (NC) – Case Brief – Essar Steel Algoma; paragraph 111.

The GOR submitted that all requested material was submitted, and that information on the record should be considered for the final determination. Furthermore, the GOR argued that information on the record should have been considered for purposes of the preliminary determination, and that this information demonstrates that none of the subsidy programs under investigation benefited any exporters of subject goods, and that the investigation should have been terminated. Regardless, the information submitted to the record should be considered for purposes of the final determination.

Reply Briefs

Counsel for Severstal submitted that sufficient information had been submitted concerning subsidies by both Severstal and the GOR to make final determinations of subsidy in the prescribed manner, contrary to the complainant's argument.

Counsel for the complainant replied to Severstal's reply that certain information was still missing from the submissions.

CBSA's Response to Case Briefs and Reply Briefs

The CBSA considered both Severstal's and the GOR's submissions to be substantially complete. These submissions were verified during on-site verification meetings and the CBSA considered the information to be accurate. These submissions were used by the CBSA to determine the amount of subsidy on the subject goods exported by Severstal. On December 7, 2015, the CBSA terminated the investigation concerning the subsidization of the subject goods originating in or exported from Russia.

Product equivalencies to be used for purposes of calculating normal values

Case Briefs

Counsel for Severstal provided suggested equivalent products sold in the domestic market to those sold for export to Canada in order to calculate normal values pursuant to section 15 of SIMA.

CBSA's Response to Case Briefs

Upon further review, the CBSA considered other products as equivalent to those sold for export to Canada during the POI. However, there were not such a number of sales that satisfied paragraphs 15(a) to (e) of SIMA, taking into account section 16, to calculate normal values pursuant to section 15 of SIMA.

Procedural Errors

Case Briefs

Counsel for the complainant submitted that freight was included in the value for duty, which may distort results of the final determinations. The GOR submitted arguments concerning the complaint filed by Essar, arguing that sufficient information was not provided to support initiating investigations. Also, the GOR submitted that the estimated dumping margin calculations, as well as the *Statement of Reasons* concerning the preliminary determination of dumping and subsidizing of certain hot-rolled carbon steel plate and high-strength low-alloy steel plate issued on September 23, 2015 contained errors, and for this reason, the CBSA should consider all information submitted to the record in order to calculate margins of dumping in accordance with the *WTO Anti-dumping Agreement*, and called for the subsidy investigation to be terminated.

CBSA's Response to Case Briefs

Freight, and all other expenses incurred on exporting the goods from the place of direct shipment to Canada were taken into account and deducted from the export price for purposes of the final determination.

The CBSA initiated investigations concerning the alleged dumping and subsidizing of certain hot-rolled carbon steel plate and high-strength low-alloy steel plate based on the properly documented complaint it received from Essar. The information presented by the complainant, together with supplementary data available to the CBSA and CBSA import documentation, substantiated the complainant's allegations that certain hot-rolled carbon steel plate and high-strength low-alloy steel plate originating in or exported from the Russian Federation were dumped and subsidized. The evidence also disclosed a reasonable indication the dumping and subsidizing had caused injury and are threatening to cause injury to the Canadian industry producing like goods.

On December 7, 2015, the CBSA made a final determination of dumping concerning the subject goods originating in or exported from Russia and terminated the investigation concerning the subsidization of the subject goods originating in or exported from Russia. Details respecting the margins of dumping for the subject goods originating in or exported from Russia are provided in the narrative of this *Statement of Reasons*.

Certain subsidy programs under investigation benefited the steel industry and conferred a benefit to exporters of subject goods

Case Briefs

Counsel for the complainant argued that the GOR and Severstal did not provide sufficient information to prove that program 5 is not a subsidy.

The GOR submitted that there was a lack of positive evidence with respect to some of the programs that allegedly conferred a benefit to exporters of subject goods. Furthermore, the GOR submits that it provided all necessary information to support that these programs did not confer a benefit to exporters of subject goods.

CBSA's Response to Case Briefs

Based on the information on the administrative record, the CBSA has terminated the subsidy investigation with respect to the subject goods originating in or exported from Russia.

Late Submissions

CBSA's Response to late submission

The GOR submitted a letter with further arguments dated November 19, 2015. However, the CBSA did not receive this letter until November 24, 2015, eleven days after the case briefs submission deadline. Therefore the CBSA did not consider the arguments contained in this letter.