



OTTAWA, May 2, 2014

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STATEMENT OF REASONS

Concerning the final determination with respect to the dumping of

**CERTAIN HOT-ROLLED CARBON STEEL PLATE AND HIGH-STRENGTH
LOW-ALLOY STEEL PLATE FROM THE FEDERATIVE REPUBLIC OF BRAZIL,
THE KINGDOM OF DENMARK, THE REPUBLIC OF INDONESIA, THE ITALIAN
REPUBLIC, JAPAN AND THE REPUBLIC OF KOREA**

And the termination of the investigation with respect to the dumping of

**CERTAIN HOT-ROLLED CARBON STEEL PLATE AND HIGH-STRENGTH LOW
ALLOY STEEL PLATE FROM CHINESE TAIPEI**

DECISIONS

Pursuant to subsection 41(1)(a) of the *Special Import Measures Act*, the President of the Canada Border Services Agency made a final determination of dumping on April 17, 2014, respecting certain hot-rolled carbon steel plate and high-strength low-alloy steel plate originating in or exported from the Federative Republic of Brazil, the Kingdom of Denmark, the Republic of Indonesia, the Italian Republic, Japan, and the Republic of Korea. On the same date, pursuant to paragraph 41(1)(b) of SIMA, the President terminated the dumping investigation of the above-mentioned goods originating in or exported from Chinese Taipei.

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 July 15, 2013, the Canada Border Services Agency (CBSA) received a written complaint from Essar Steel Algoma Inc. (Essar Algoma), of Sault Ste. Marie, Ontario (the complainant), alleging that imports of certain hot-rolled carbon steel plate and high-strength low-alloy steel plate originating in or exported from the Federative Republic of Brazil (Brazil), Chinese Taipei, the Kingdom of Denmark (Denmark), the Republic of Indonesia (Indonesia), the Italian Republic (Italy), Japan, and the Republic of Korea are being dumped. The complainant alleged that the dumping has caused injury and is threatening to cause injury to the Canadian industry producing these goods.

[2] On August 6, 2013, pursuant to paragraph 32(1)(a) of the *Special Import Measures Act* (SIMA), the CBSA informed the complainant that the complaint was properly documented. The CBSA also notified the governments of Brazil, Chinese Taipei, Denmark, Indonesia, Italy, Japan and the Republic of Korea that a properly documented complaint had been received.

[3] The complainant provided evidence to support the allegations that certain hot-rolled carbon steel plate and high-strength low-alloy steel plate originating in or exported from Brazil, Chinese Taipei, Denmark, Indonesia, Italy, Japan, and the Republic of Korea are being dumped. The evidence also disclosed a reasonable indication that dumping has caused injury and is threatening to cause injury to the Canadian industry producing these goods.

[4] On September 5, 2013, pursuant to subsection 31(1) of SIMA, the President of the CBSA (President) initiated an investigation respecting the dumping of certain hot-rolled carbon steel plate and high-strength low-alloy steel plate from Brazil, Chinese Taipei, Denmark, Indonesia, Italy, Japan and the Republic of Korea.

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

[6] On November 4, 2013, pursuant to subsection 37.1(1) of SIMA, the Tribunal made a preliminary determination that there is evidence that discloses a reasonable indication that the dumping of certain hot-rolled carbon steel plate and high-strength low-alloy steel plate from the named countries has caused injury or is threatening to cause injury to the domestic industry.

[7] On November 29, 2013, pursuant to paragraph 39(1)(a) of SIMA, the President made a decision to extend the 90-day period for making a preliminary decision in the investigation to 135 days, due to the complexity and novelty of the issues presented by the investigation.

[8] On January 17, 2014, as a result of the CBSA's preliminary investigation and pursuant to subsection 38(1) of SIMA, the President made a preliminary determination of dumping of certain hot-rolled carbon steel plate and high-strength low-alloy steel plate originating in or exported from Brazil, Chinese Taipei, Denmark, Indonesia, Italy, Japan and the Republic of Korea and began imposing provisional duties on imports of the subject goods pursuant to subsection 8(1) of SIMA.

[9] On January 20, 2014, the Tribunal initiated an inquiry pursuant to section 42 of SIMA to determine whether the dumping of the above-mentioned goods had caused injury or were threatening to cause injury to the Canadian industry.

[10] The CBSA continued its investigation and, on the basis of the results, the President was satisfied that certain hot-rolled carbon steel plate and high-strength low-alloy steel plate originating in or exported from Brazil, Denmark, Indonesia, Italy, Japan and the Republic of Korea had been dumped and that the margins of dumping were not insignificant. Consequently, on April 17, 2014, the President made a final determination of dumping pursuant to paragraph 41(1)(a) of SIMA.

[11] On the same date, pursuant to paragraph 41(1)(b) of SIMA, the President terminated the investigation with respect to certain hot-rolled carbon steel plate and high-strength low-alloy steel plate originating in or exported from Chinese Taipei. The subject goods from Chinese Taipei have been dumped but the margin of dumping of these goods is insignificant, i.e., less than 2% of the export price of the goods. Consequently the collection of provisional duties on imports of subject goods from Chinese Taipei ceased on April 17, 2014, and all provisional duties collected will be refunded.

[12] The Tribunal's inquiry into the question of injury to the Canadian industry is continuing. Provisional duties will continue to be imposed on the subject goods from Brazil, Denmark, Indonesia, Italy, Japan and the Republic of Korea until the Tribunal renders its decision. The Tribunal has announced that it will issue its finding by May 20, 2014.

PERIOD OF INVESTIGATION

[13] The Period of Investigation (POI) with respect to dumping covered all subject goods released into Canada from January 1, 2012 to March 31, 2013.

PROFITABILITY ANALYSIS PERIOD

[14] The Profitability Analysis Period (PAP) covered domestic sales and costing information for goods sold from October 1, 2011 to March 31, 2013.

BACKGROUND

[15] This is the seventh in a series of complaints which have been filed by the Canadian industry in respect of certain steel plate since 1992. In all of the cases the products are generally similar goods. Each of these complaints has resulted in the imposition of either anti-dumping duty or both anti-dumping and countervailing duties against goods imported from various countries. The measures resulting from three of the six investigations are still in force. Following is a brief history of the six previous plate investigations.

Plate I

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

Plate II

[17] On May 17, 1994, in Inquiry No. NQ-93-004, the Tribunal found that dumped imports from Italy, the Republic of Korea, Spain and Ukraine were injuring the production of plate in Canada. On May 17, 1999, in Expiry Review No. RR-98-004, the Tribunal issued an order continuing its finding. On May 17, 2004, in Expiry Review No. RR-2003-001, the Tribunal concluded that the expiry of this order would not likely result in material injury to the domestic industry in the near to medium term and therefore rescinded its order against the named countries.

Plate III

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

Plate IV

[19] On June 27, 2000, in Inquiry No. NQ-99-004, the Tribunal found that dumped imports from Brazil, Finland, India, Indonesia, Thailand and Ukraine and subsidized imports from India, Indonesia and Thailand had caused material injury to the domestic industry. On June 27, 2005, in Expiry Review No. RR-2004-004, the Tribunal concluded that the expiry of the finding would not likely result in material injury to the domestic industry in the near to medium term and therefore rescinded its finding against the named countries.

Plate V

[20] On January 9, 2004, in Inquiry No. NQ-2003-002, the Tribunal found that dumped imports from the Republic of Bulgaria, the Czech Republic and Romania had caused material injury to the domestic industry. On January 8, 2009, in Expiry Review No. RR-2008-002, the Tribunal continued its finding against the named countries. On January 7, 2014 in Expiry Review No. RR-2013-002 the Tribunal continued its order in respect of the goods without amendment.

Plate VI

[21] On February 2, 2010, in Inquiry No. NQ-2009-003, the Tribunal found that dumped imports from Ukraine did not cause injury but threatened to cause injury to the domestic industry.

[22] In summary, at this time there are three plate findings/orders being enforced by the CBSA; Plate III against subject goods from China; Plate V against subject goods from the Republic of Bulgaria, the Czech Republic and Romania; and Plate VI against subject goods from Ukraine.

INTERESTED PARTIES

Complainant

[23] The complainant, Essar Algoma 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.

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

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

Importers

[25] At the initiation of the investigation, the CBSA identified 46 potential importers of the subject goods from CBSA import documentation and from information submitted in the complaint.

[26] The CBSA sent a Request for Information (RFI) to all potential importers of the goods and received 11 responses to the Importer RFI, with varying degrees of completeness.

Exporters

[27] At the initiation of the investigation, the CBSA identified 75 potential exporters of the subject goods from CBSA import documentation and from information submitted in the complaint.

[28] The CBSA sent an Exporter RFI to each potential exporter in the named countries and received 9 responses to the Exporter RFI. Each is addressed later in this document.

PRODUCT INFORMATION

Definition

[29] For the purpose of this investigation, 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 Federative Republic of Brazil, Chinese Taipei, the Kingdom of Denmark, the Republic of Indonesia, the Italian Republic, Japan, and the Republic of Korea.

Additional Product Information

[30] For greater certainty, the subject goods include 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.

[31] Hot-rolled carbon steel plate is manufactured to meet certain Canadian Standards Association (CSA) and/or American Society for Testing & Materials (ASTM) 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

[32] 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.

[33] 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".

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

[35] The heavier plates (i.e., 3/8" and thicker) go directly to Essar Algoma's 166" Plate Mill where they are reduced to their final thickness, are levelled and then sent to the plate finishing area where the plate is sized, side trimmed, cut to length (either sheared or flame cut), tested and shipped.

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

Classification of Imports

[37] Imports into Canada of the subject goods described above are normally, but not exclusively, classified under the following Harmonized System (HS) classification numbers for importations that occurred prior to January 1, 2012:

7208.51.10.00	7208.51.99.10	7208.52.19.00
7208.51.91.10	7208.51.99.91	7208.52.90.10
7208.51.91.91	7208.51.99.92	7208.52.90.91
7208.51.91.92	7208.51.99.93	7208.52.90.92
7208.51.91.93	7208.51.99.94	7208.52.90.93
7208.51.91.94	7208.51.99.95	7208.52.90.94
7208.51.91.95	7208.52.11.00	7208.52.90.95

[38] As a result of the amendments made to the 2012 *Customs Tariff*, imports into Canada of the subject goods on or after January 1, 2012 are normally, but not exclusively, classified under the following 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

[39] The listing of HS classification numbers is for convenience of reference only. The HS classification number may include non-subject goods. Also, subject goods may be imported under HS classification numbers that are not listed. Refer to the product definition for the authoritative details regarding the subject goods.

LIKE GOODS

[40] 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 identical goods, goods the uses and other characteristics of which closely resemble those of the other goods.

[41] Steel plate produced by the domestic industry has the same physical characteristics and end uses as the subject goods imported from the named countries. The goods produced in Canada and the named countries are fully interchangeable when manufactured to industry standards and specifications. Subject goods from the named countries compete directly with like goods produced by the complainant. Therefore, the CBSA has concluded that certain steel plate produced by the Canadian industry constitute like goods to the subject goods.

[42] 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 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.

[43] The Tribunal has previously recognized plate as a single class of goods. In considering the issues of like goods and classes of goods, the Tribunal typically looks at a number of factors, including the physical characteristics of the goods, their market characteristics and whether the goods fulfill the same customer needs.

[44] In Expiry Review No. RR-2013-002, in its Orders and Reasons issued January 7, 2014, concerning hot-rolled carbon steel plate and high-strength low-alloy steel plate from the Republic of Bulgaria, the Czech Republic and Romania, the Tribunal again considered the issue of like goods and classes of goods. As a result of this review, the Tribunal is satisfied that the carbon steel plate produced by Canadian industry are like goods in relation to the subject goods and that it comprises a single class of goods.

[45] Given the timeliness of the Tribunal's review, and the fact that there were no changes in circumstances evident during the PAP, the CBSA considers that the like goods produced by the domestic industry and the subject goods are comprised of a single class of goods.

THE CANADIAN INDUSTRY

[46] The domestic industry is comprised of two domestic producers, Essar Algoma and Evraz Inc. NA Canada of Regina, Saskatchewan. In addition, SSAB Central Inc. of Toronto, Ontario is a service centre that, while it does not heat or roll plate in Canada, operates plate dedicated cut-to-length facilities that produce plate from coil and resells discrete plate that it purchases from other manufacturers. Furthermore, there are a few domestic steel service centres that have the capability to cut plate from coil. In recent expiry reviews, the Tribunal included plate cut from hot-rolled coil as part of Canadian production.

IMPORTS INTO CANADA

[47] 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 the purposes of the final phase of the investigation.

TABLE 1
Import Volumes of Certain Steel Plate
January 1, 2012 to March 31, 2013

Imports into Canada	% of Total Import Volume
Brazil	3.7%
Chinese Taipei	0.3%
Denmark	1.6%
Indonesia	2.4%
Italy	2.5%
Japan	1.4%
Republic of Korea	11.9%
Total –Named Countries	23.8%
Total – Other Countries	76.2%
Total All Imports	100%

INVESTIGATION PROCESS

[48] Information was requested from all known and potential exporters, vendors and importers, concerning shipments of certain hot-rolled carbon steel plate and high-strength low-alloy steel plate from Brazil, Chinese Taipei, Denmark, Indonesia, Italy, Japan and the Republic of Korea released into Canada during the dumping POI of January 1, 2012 to March 31, 2013.

[49] After reviewing the responses to the RFIs, supplemental RFIs (SRFI) were sent to some of the responding parties to clarify the information provided or request new information. In addition, on-site verifications were conducted at the premises of selected exporters and one importer during the preliminary and final phases of the investigation.

[50] As part of the final stage of the investigation, case arguments and reply submissions were provided by counsel representing the complainant and exporters. Details of the representations are provided in **Appendix 2** of this document.

[51] 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. As Brazil, and Indonesia are listed on the *Development Assistance Committee (DAC) List of Official Development Assistance (ODA) Recipients maintained by the Organization for Economic Co-operation and Development (OECD)*¹, the President recognizes Brazil and Indonesia as developing countries for purposes of actions taken pursuant to SIMA.

[52] Accordingly, 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 Brazil and Indonesia

DUMPING INVESTIGATION

[53] The CBSA received responses to the Exporter Dumping RFI from the following companies:

Brazil

Usinas Siderurgias de Minas Gerais S.A.

Chinese Taipei

Shang Chen Steel Co. Ltd.

Tung Ho Steel Enterprise Corporation

Italy

ILVA S.p.A.

Japan

Tokyo Steel Manufacturing Co. Ltd

Republic of Korea

Dongkuk Steel Mill Company Ltd

Hyundai Corporation

Hyundai Steel Company

POSCO / Daewoo International Corporation

[54] Tung Ho Steel Enterprises Corporation (Tung Ho) did not ship subject goods that were released into Canada during the POI. As this investigation focused solely on subject goods released into Canada during the POI, Tung Ho's information was not relevant to this investigation and was not used.

¹ The Organization for Economic Co-operation and Development, DAC List of ODA Recipients Effective for reporting on 2012 to 2013, flows, this document is available at:
<http://www.oecd.org/dac/stats/dacelist>

[55] Tokyo Steel Manufacturing Co. Ltd. provided an incomplete response and later confirmed with the CBSA that it would not further participate in the investigation.

[56] The CBSA's analysis of each exporter's information is addressed separately later in this document.

Normal Values

[57] The normal value of the goods sold to importers in Canada is generally based on the domestic selling prices of like goods in the country of export pursuant to 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, plus a reasonable amount for profits, pursuant to paragraph 19(b) of SIMA. Where, in the opinion of the President, 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.

Export Price

[58] The export price of goods sold to importers in Canada is generally based on the lesser of the adjusted exporter's selling 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. Where, in the opinion of the President, sufficient information has not been furnished or is not available, export prices are determined pursuant to a ministerial specification in accordance with subsection 29(1) of SIMA.

Results of the Dumping Investigation by Country

[59] With respect to each of the exporters that provided a substantially complete response to the RFI, the CBSA determined a margin of dumping by subtracting the total export price from the total normal value of the goods. When the total export price was less than the total normal value, the difference was the margin of dumping for that specific exporter.

[60] For those exporters that did not submit a response to the RFI, the normal value of the goods was determined by advancing the export price by the highest amount by which the normal value exceeded the export price on an individual transaction (59.7%) for an exporter that provided a substantially complete response to the RFI.

[61] 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. Similarly, where a given exporter's net aggregate dumping results were zero, the total quantity of exports considered to be dumped by that exporter was zero.

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

[63] Based on the preceding, 100% of the subject goods originating in or exported from Brazil, Chinese Taipei, Denmark, Indonesia, Italy, Japan and the Republic of Korea, and released into Canada during the POI, was dumped.

[64] Furthermore, the results of the investigation indicate that the subject goods originating in or exported from Chinese Taipei and released into Canada during the POI were dumped by a margin that is insignificant, that is the margin of dumping for Chinese Taipei is less than 2% of the export price of the goods. The margins of dumping of the subject goods from Brazil, Denmark, Indonesia, Italy, Japan and the Republic of Korea are not less than 2% of the export price of the goods and are, therefore, not insignificant.

[65] Details of the results of the investigation by exporter follow, a summary of each exporter's margin of dumping is provided in **Appendix 1** and the overall margin of dumping for each country is provided in **Table 2** at the end of this section.

Brazil

Usinas Siderurgias de Minas Gerais S.A.

[66] Usinas Siderurgias de Minas Gerais S.A. (Usiminas) is a publicly traded company involved in all stages of steel production. Usiminas owns and operates two steel mills in Brazil, Ipatinga (MG) and Cubatão (SP), which produce a full range of steel products including thick plates, hot strips, cold strips and galvanized sheets. Usiminas is also the largest and most modern producer of flat steel products in Latin America and accounts for more than 25% of steel production in Brazil. While both steel mills operated by Usiminas can produce subject goods, subject goods exported to Canada during the POI were all produced by and shipped from the Cubatão Mill. On-site verifications were conducted at the premises of Usiminas in Brazil, in December 2013.

[67] For the purposes of the final determination, normal values for the goods sold to the importer in Canada were determined in accordance with section 15 of SIMA where possible, as there were sufficient domestic sales of like goods to permit a proper comparison with the sales of the goods to the importer in Canada. Adjustments were made to the domestic selling prices of like goods for delivery costs included in the selling price in accordance with section 7 of the *Special Import Measures Regulations* (SIMR), for taxes that were borne by the like goods that were not borne by the subject goods exported to Canada in accordance with section 10 of the SIMR, and for differences in the conditions of sale in accordance with paragraph 5(d) of the SIMR.

[68] For those goods where the normal values could not be determined under section 15 of SIMA by reason that there were not such a number of sales of like goods that complied with all the terms and conditions referred to in section 16 of SIMA, the normal values were determined pursuant to paragraph 19(b) of SIMA, based on the cost of production of the goods, a reasonable amount for administrative, selling and all other costs and a reasonable amount for profits. The cost of production was determined in accordance with paragraph 11(1)(a) of the SIMR, based on verified cost data, while a reasonable amount for administrative, selling and all other costs was determined in accordance with subparagraph 11(1)(c)(i) of the SIMR. Lastly, the amount for profits was determined in accordance with subparagraph 11(1)(b)(i) of the SIMR based on the profits earned by the company on the sales of like goods during the PAP.

[69] Export prices were determined pursuant to section 24 of SIMA, based on Usiminas' selling prices to the importer in Canada, adjusted by deducting the costs, charges and expenses incurred in preparing the goods for shipment to Canada and resulting from the exportation and shipment of the goods.

[70] The total export price was subtracted from the total normal value of all subject goods released into Canada during the POI. The goods exported to Canada by Usiminas were dumped by a margin of dumping of 28.9%, expressed as a percentage of the export price.

Chinese Taipei

Shang Chen Steel Co. Ltd.

[71] Shang Chen Steel Co. Ltd. (Shang Chen) is a private limited company, established in 2009. Shang Chen owns and operates one production facility located in Chinese Taipei, which produces hot-rolled, cold-rolled, and galvanized steel wire, as well as hot-rolled steel plate. The subject goods exported to Canada were all produced by and shipped from the mill in Kaohsiung City, Chinese Taipei.

[72] For the purposes of the final determination, normal values for the goods sold to the importer in Canada were determined in accordance with section 15 of SIMA where possible, as there were sufficient domestic sales of like goods to permit a proper comparison with the sales of the goods to the importer in Canada. Adjustments were made to the domestic selling prices of like goods for delivery costs included in the selling price in accordance with section 7 of the SIMR.

[73] For those goods where the normal values could not be determined under section 15 by reason that there were not such a number of sales of like goods that complied with all the terms and conditions referred to in section 16 of SIMA, the normal values were determined pursuant to paragraph 19(b) of SIMA, based on the cost of production of the goods, a reasonable amount for administrative, selling and all other costs and a reasonable amount for profits. The cost of production was determined in accordance with paragraph 11(1)(a) of the SIMR, based on verified cost data, while a reasonable amount for administrative, selling and other costs was determined in accordance with subparagraph 11(1)(c) (i) of the SIMR. Lastly, the amount for profits was determined pursuant to subparagraph 11(1)(b)(ii) of the SIMR based on the profits earned by the company on sales of goods of the same general category as the goods sold to the importer in Canada during the PAP.

[74] Export prices were determined pursuant to section 24 of SIMA, based on Shang Chen's selling prices to the importer in Canada, adjusted by deducting the costs, charges and expenses incurred in preparing the goods for shipment to Canada and resulting from the exportation and shipment of the goods.

[75] The total export price was subtracted from the total normal value of all subject goods released into Canada during the POI. The goods exported to Canada by Shang Chen were dumped by a margin of dumping of 1.0%, expressed as a percentage of the export price.

Italy

ILVA S.p.A.

[76] ILVA S.p.A (ILVA) is a privately held partnership that produces flat carbon steel products including coils, plates and large diameter welded steel pipes. ILVA has 15 production sites, 12 of which are located in Italy, in addition to plants in France, Greece and Tunisia. The subject goods were all produced in Taranto, Italy.

[77] While ILVA provided responses to the dumping RFI and several SRFIs, ILVA's financial statements for 2012 were not provided. ILVA has been at the centre of legal actions since July 2012 regarding environmental remediation, and various government legal actions at the plant where the subject goods were manufactured. ILVA's 2012 annual corporate report which includes the report of the auditing company has not, as of the date of the final determination been released. As a result, critical information concerning ILVA's full costs are not available.

[78] Notwithstanding ILVA's efforts in providing other material to the CBSA, the ministerial specification as per subsection 29(1) of SIMA was applied, as in the opinion of the President, sufficient information was not furnished or was not available to enable the determination of normal values as provided in sections 15 to 23 of SIMA. In accordance with the ministerial specification, the normal values of the goods sold to the importer in Canada were determined by advancing the export prices of the subject goods by the highest amount by which normal value exceeded the export price on an individual transaction (59.7%) for an exporter that provided a substantially complete response to the RFI. Export prices were determined pursuant to a ministerial specification under subsection 29(1) of SIMA, based on import pricing available from the CBSA's import documentation.

Republic of Korea

[79] Four exporters from the Republic of Korea provided responses to the RFI. Two of these exporters are Hyundai Corporation and Hyundai Steel Company. Hyundai Corporation and Hyundai Steel Company are separate legal entities and are not associated with each other as defined in subsection 2(2) of SIMA.

Dongkuk Steel Mill Company Ltd.

[80] Dongkuk Steel Mill Company Ltd. (DSM) is a publicly listed company on the Korean Stock Exchange and a manufacturer of steel products including carbon steel bars, flats and steel plate. The company produces subject goods at facilities in Dangjin and Pohang, Republic of Korea.

[81] DSM and its affiliate in the United States, Dongkuk International Inc. provided responses to the CBSA's RFI on January 10, 2014.

[82] The CBSA's review of the submissions revealed substantial deficiencies and issues that required further clarification. A SRFI was then issued to DSM to which a response was received near the close of record date on February 27, 2014. After a review of the SRFI, it was determined that there remained substantial issues to resolve in order to calculate normal values and export prices and the record was now closed.

[83] Consequently, the ministerial specification as per subsection 29(1) of SIMA was applied, as in the opinion of the President, sufficient information was not furnished or was not available to enable the determination of normal values as provided in sections 15 to 23 of SIMA. In accordance with the ministerial specification, the normal values of the goods sold to the importer in Canada were determined by advancing the export prices of the subject goods by the highest amount by which normal value exceeded the export price on an individual transaction (59.7%) for an exporter that provided a substantially complete response to the RFI. Export prices were determined pursuant to a ministerial specification under subsection 29(1) of SIMA, based on import pricing available from the CBSA's import documentation.

Hyundai Corporation

[84] Hyundai Corporation is a general trading company, which is owned by Hyundai Heavy Motors. As a trading company, it facilitates sales of steel products for import and export. For the purposes of this investigation, Hyundai Corporation is the exporter for SIMA purposes due to its role as principal in the export transaction to Canada. In Canada, Hyundai Corporation facilitates its sales to the Canadian market through its subsidiary, Hyundai Canada. On-site verifications were conducted at the premises of Hyundai Canada in Canada in February 2014.

[85] For the purposes of the final determination, the normal values were determined pursuant to paragraph 19(b) of SIMA, based on the cost of production of the goods, a reasonable amount for administrative, selling and all other costs and a reasonable amount for profits. The cost of production was determined in accordance with paragraph 11(1)(a) of the SIMR, based on verified cost data, while a reasonable amount for administrative, selling and all other costs was determined in accordance with subparagraph 11(1)(c)(ii) of the SIMR. Lastly, the amount for profits was determined in accordance with subparagraph 11(1)(b)(iv) of the SIMR based on the weighted average profit made producers in Korea on sales of goods of the same general category as the goods sold to the importer in Canada.

[86] Hyundai Corporation exported subject goods during the POI to its associated importer, Hyundai Canada. As the exporter and importer were associated, a reliability test was performed to determine whether the section 24 export prices were reliable as envisaged by SIMA. This test was conducted by comparing the section 24 export prices with the section 25 “deductive” export prices based on the importer’s resale prices of the imported goods in Canada to purchasers not associated with the importer, less deductions for all additional costs incurred in preparing, shipping and exporting the goods to Canada, all costs included in the resale prices that were incurred in reselling the goods in Canada (including duties and taxes) and an amount for profit. This amount for profit was determined pursuant to paragraph 22(b) of SIMR, based on sales of goods of the same general category by vendors in Canada who are at the same or substantially the same trade level as Hyundai Canada. The test revealed that the export prices determined in accordance with section 24 of SIMA were reliable and therefore, export prices were determined pursuant to section 24 of SIMA, based on the lesser of the importer’s purchase price and the exporter’s selling price less all costs, charges and expenses resulting from the exportation of the goods.

[87] The total export price was subtracted from the total normal value of all subject goods released into Canada during the POI. It was found that the goods exported by Hyundai Corporation were dumped by a margin of 20.9%, expressed as a percentage of the export price.

Hyundai Steel Company

[88] Hyundai Steel Company (Hyundai Steel) is a publicly traded company and part of the Hyundai Motors Group. For the purposes of this investigation, Hyundai Steel is a producer and an exporter of subject goods. The company headquarters are located in Seoul, Republic of Korea. The company owns three steel mills in the Republic of Korea (Incheon, Pohang, Dangjin) and one steel mill in China (Qingdao). The subject goods were all produced in the steel mill in Dangjin, Republic of Korea. On-site verifications were conducted at the premises of Hyundai Steel in the Republic of Korea in December 2013.

[89] For the purposes of the final determination, normal values for the goods sold to the importer in Canada were determined in accordance with section 15 of SIMA where possible, as there were sufficient domestic sales of like goods to permit a proper comparison with the sales of the goods to the importer in Canada. Adjustments were made to the domestic selling prices of like goods for delivery costs included in the selling price in accordance with section 7 of the SIMR and for differences in the conditions of sale in accordance with paragraph 5(d) of the SIMR.

[90] For those goods where the normal values could not be determined under section 15 of SIMA by reason that there were not such a number of sales of like goods that complied with all the terms and conditions referred to in section 16 of SIMA, the normal values were determined pursuant to paragraph 19(b) of SIMA, based on the cost of production of the goods, a reasonable amount for administrative, selling and all other costs and a reasonable amount for profits. The cost of production was determined in accordance with paragraph 11(1)(a) of the SIMR, based on verified cost data, while a reasonable amount for administrative, selling and all other costs was determined in accordance with subparagraph 11(1)(c)(i) of the SIMR. Lastly, the amount for profits was determined in accordance with subparagraph 11(1)(b)(i) of the SIMR based on the profits earned by the company on the sales of like goods during the PAP.

[91] Export prices were determined pursuant to section 24 of SIMA, based on Hyundai Steel's selling prices to the importers in Canada, adjusted by deducting all costs, charges and expenses incurred in preparing the goods for shipment to Canada and resulting from the exportation and shipment of the goods.

[92] The total export price was subtracted from the total normal value of all subject goods released into Canada during the POI. It was found that the goods exported by Hyundai Steel were dumped by a margin of 1.9%, expressed as a percentage of the export price.

POSCO / Daewoo International Corporation

[93] POSCO is a publicly listed company and an integrated steel manufacturer that produces a wide range of steel products including hot-rolled sheet and coil, cold-rolled sheet and coil, galvanized steel sheet and coil, plate, wire rod, and stainless steel sheet and coil. POSCO has two steel mills, Pohang and Kwangyang. The subject goods were produced and exported from both mills. Daewoo International Corporation (Daewoo International) and the wholly owned subsidiary, Daewoo America are the related trading arms involved in the export sales. On-site verifications were conducted at the premises of Daewoo International and POSCO in the Republic of Korea in December 2013.

[94] For the purposes of the final determination, normal values for the goods sold to the importer in Canada were determined in accordance with section 15 of SIMA where possible, as there were sufficient domestic sales of like goods to permit a proper comparison with the sales of the goods to the importer in Canada. Adjustments were made to the domestic selling prices of like goods for delivery costs included in the selling price in accordance with section 7 of the SIMR, and for differences in the conditions of sale in accordance with paragraph 5(d) of the SIMR.

[95] For those goods where the normal values could not be determined under section 15 of SIMA by reason that there were not such a number of sales of like goods that complied with all the terms and conditions referred to in section 16 of SIMA, the normal values were determined pursuant to paragraph 19(b) of SIMA, based on the cost of production of the goods, a reasonable amount for administrative, selling and all other costs and a reasonable amount for profits. The cost of production was determined in accordance with paragraph 11(1)(a) of the SIMR, based on verified cost data, while a reasonable amount for administrative, selling and all other costs was determined in accordance with subparagraph 11(1)(c)(i) of the SIMR. Lastly, the amount for profits was determined in accordance with subparagraph 11(1)(b)(i) of the SIMR based on the profits earned by the company on the sales of like goods during the PAP.

[96] With respect to the subject goods exported from the Pohang mill, export prices were determined pursuant to section 24 of SIMA, based on the lesser of POSCO's selling prices to Daewoo International, and the importer's purchase price from Daewoo America adjusted by deducting the costs, charges and expenses incurred in preparing the goods for shipment to Canada and resulting from the exportation and shipment of the goods.

[97] Regarding the goods exported from the Kwangyang mill, export prices were determined pursuant to section 24 of SIMA, based on the lesser of POSCO's selling prices or the importer's purchase prices adjusted by deducting the costs, charges and expenses incurred in preparing the goods for shipment to Canada and resulting from the exportation and shipment of the goods.

[98] The total export price was subtracted from the total normal value of all subject goods released into Canada during the POI. The goods exported to Canada by POSCO (Pohang mill) and POSCO (Kwangyang mill) were dumped by a margin of dumping of 12.7% and 20.8%, respectively, expressed as a percentage of the export price.

All Other Exporters

[99] For all other exporters that did not provide the requested information during the course of the investigation, normal values were determined pursuant to subsection 29(1) of SIMA based on ministerial specification, as in the opinion of the President, sufficient information was not furnished or was not available to enable the determination of normal values as provided in sections 15 to 23 of SIMA. In accordance with the ministerial specification, the normal values of the goods sold to the importer in Canada were determined by advancing the export prices of the goods as determined under subsection 29(1) of SIMA by the highest amount by which normal value exceeded the export price on an individual transaction (59.7%) for an exporter that provided a substantially complete response to the RFI.

[100] For all of the other exporters, import pricing available from the CBSA's import documentation was used for the purposes of determining export prices by ministerial specification under subsection 29(1) of SIMA.

[101] The subject goods exported to Canada by all other exporters during the POI were found to be dumped by a margin of dumping of 59.7%, expressed as a percentage of the export price.

Summary of the Results of the Dumping Investigation

[102] The following table summarizes the results of the dumping investigation respecting all goods released into Canada during the POI.

TABLE 2
Summary of Final Results of the Dumping Investigation
Period of investigation – January 1, 2012 to March 31, 2013

Country	Volume of Dumped Goods as Percentage of Country Imports	Margin of Dumping	Volume of Country Imports as Percentage of Total Imports	Volume of Dumped Goods as Percentage of Total Imports
Brazil	100%	29.0%	3.7%	3.7%
Chinese Taipei	100%	1.5%	0.3%	0.3%
Denmark	100%	59.7%	1.6%	1.6%
Indonesia	100%	59.7%	2.4%	2.4%
Italy	100%	59.7%	2.5%	2.5%
Japan	100%	59.7%	1.4%	1.4%
Republic of Korea	100%	29.2%	11.9%	11.9%

[103] Under paragraph 41(1)(a) of SIMA, the President shall make a final determination of dumping when he 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. The margins of dumping of certain hot-rolled carbon steel plate and high-strength low-alloy steel plate originating in or exported from Brazil, Denmark, Indonesia, Italy, Japan and the Republic of Korea are not less than 2% of the export price of the goods and are, therefore, not insignificant.

[104] The margin of dumping of the subject goods from Chinese Taipei is less than 2% of the export price of the goods and is, therefore, insignificant. Accordingly, the CBSA terminated this investigation with respect to certain hot-rolled carbon steel plate and high-strength low-alloy steel plate from Chinese Taipei in accordance with paragraph 41(1)(b) of SIMA.

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

REPRESENTATIONS CONCERNING THE INVESTIGATION

[106] Following the March 4, 2014 close of the record, case arguments were received by the CBSA, from counsel for Essar Algoma, the complainant. Reply submissions were received from Dongkuk, Hyundai Steel, POSCO, Usiminas and Essar Algoma. The issues raised by participants through the case arguments and reply submissions as well as the CBSA's response to these issues are provided in **Appendix 2**.

DECISIONS

[107] On the basis of the results of the dumping investigation, the President is satisfied that certain hot-rolled carbon steel plate and high-strength low-alloy steel plate originating in or exported from Brazil, Denmark, Indonesia, Italy, Japan and the Republic of Korea has been dumped and that the margins of dumping are not insignificant. Consequently, on April 17, 2014, the President made a final determination of dumping pursuant to paragraph 41(1)(a) of SIMA.

[108] Furthermore, the President is satisfied that the margin of dumping of certain hot-rolled carbon steel plate and high-strength low-alloy steel plate originating in or exported from Chinese Taipei is insignificant. As a result, on April 17, 2014, the President terminated the investigation with respect to these goods pursuant to paragraph 41(1)(b) of SIMA.

[109] **Appendix 1** contains a summary of the margins of dumping relating to the final determination.

FUTURE ACTION

[110] The provisional period began on January 17, 2014, and will end on the day the Tribunal issues its finding. The Tribunal is expected to issue its decision by May 20, 2014. Imports of certain hot-rolled carbon steel plate and high-strength low-alloy steel plate originating in or exported from Brazil, Denmark, Indonesia, Italy, Japan and the Republic of Korea during the provisional period will continue to be assessed provisional duties based on rates determined at the time of the preliminary determination.

[111] As of April 17, 2014, provisional duties will no longer be collected on imports of certain hot-rolled carbon steel plate and high-strength low-alloy steel plate originating in or exported from Chinese Taipei. The provisional duties that have been collected on the goods from Chinese Taipei will be returned to the importers in accordance with subsection 8(2) of SIMA.

[112] For further details on the application of provisional duties, refer to the *Statement of Reasons* issued for the preliminary determination, which is available online on the CBSA's Web site at www.cbsa-asfc.gc.ca/sima-lmsi

[113] The Tribunal's inquiry concerning the question of injury to the domestic industry is continuing with respect to Brazil, Denmark, Indonesia, Italy, Japan and the Republic of Korea. The Tribunal will issue its decision by May 20, 2014.

[114] If the Tribunal finds that the dumped goods have not caused injury and do not threaten to cause injury, all proceedings relating to this investigation will be terminated. In this situation, all provisional duties paid or security posted by importers will be returned.

[115] If the Tribunal finds that the dumped goods have caused injury, the anti-dumping duties payable on subject goods released by the CBSA during the provisional period will be determined pursuant to section 55 of SIMA. Specific normal values for future shipments of the goods have been provided to the exporters that provided substantially complete submissions. These specific normal values have been determined solely for the goods that were released into Canada during the POI. In the event of an injury finding, these normal values will come into effect the day after the injury finding. Information regarding normal values of the goods should be obtained from the exporter.

[116] Exporters who did not provide sufficient information in the dumping investigation will have normal values established by advancing the export price by 59.7% 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.

[117] 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*² 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.

RETROACTIVE DUTY ON MASSIVE IMPORTATIONS

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

PUBLICATION

[119] A notice of this final determination of dumping in respect of Brazil, Denmark, Indonesia, Italy, Japan and the Republic of Korea, will be published in the *Canada Gazette* pursuant to paragraph 41(3)(a) of SIMA. A notice of the termination of the investigation in respect of Chinese Taipei will be published in the *Canada Gazette* pursuant to paragraph 41(4)(a) of SIMA.

² *Customs Act* R.S.C. 1985

INFORMATION

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

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

Telephone: Barbara Chouinard 613-954-7399
Jason Huang 613-954-7388

Fax: 613-948-4844

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

Web site: www.cbsa-asfc.gc.ca/sima-lmsi



for
Brent McRoberts
Director General
Trade and Anti-dumping Programs Directorate

Attachments

APPENDIX 1 – SUMMARY OF MARGINS OF DUMPING

Country – Exporter	Margin of Dumping
Brazil	
Usinas Siderugias de Minas Gerais S.A.	28.9%
All Other Exporters	59.7%
Denmark	
All Exporters	59.7%
Indonesia	
All Exporters	59.7%
Italy	
All Exporters	59.7%
Japan	
All Exporters	59.7%
Republic of Korea	
Hyundai Corporation	20.9%
Hyundai Steel	1.9%
POSCO (Pohang)	12.7%
POSCO (Kwangyang)	20.8%
All Other Exporters	59.7%

* Expressed as percentage of the export price

NOTE: The margins of dumping reported in this table are the margins determined by the CBSA for 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 a finding of injury by the Tribunal, normal values have been provided to the exporters that provided substantially complete submissions for future shipments to Canada. These specific normal values have been determined solely for the goods that were released into Canada during the POI. These normal values would come into effect the day after an injury finding. Information regarding normal values of the subject goods should be obtained from the exporter. Imports from exporters that did not provide complete information to the CBSA during the dumping investigation will be subject to an anti-dumping duty rate of 59.7%, expressed as a percentage of the export price, in accordance with a ministerial specification. Please check the SIMA Self-Assessment Guide for more detailed information explaining how to determine the amount of SIMA duties owing.

APPENDIX 2 – REPRESENTATIONS

One case argument was received by the CBSA, from counsel for the complainant, Essar Algoma.³ Reply submissions were received from counsels for Dongkuk,⁴ Hyundai Steel,⁵ POSCO,⁶ Usiminas⁷ and Essar Algoma.⁸ When an issue raised by Essar Algoma was similarly addressed by multiple exporters in their respective reply submissions, these were presented together as a general issue.

1. General Issue – Essar Steel Algoma Case Arguments – Absence of RFI responses

Essar Algoma submitted that complete responses to the importer RFI are absolutely necessary to the issuance of normal values and serve as a check against the Exporter RFI response. Essar Algoma stated that the CBSA should not issue company specific margins of dumping and normal values where not all of an exporter's importers have filed complete responses.

POSCO, Hyundai Steel, Dongkuk Reply Submissions

These exporters had common replies mainly that the primary purpose of the Importer's RFI is to determine the importer's purchase price of the goods in order to establish the export price. When there is no importer response, the CBSA's alternate source of information is from internal import data.

CBSA Response to the Case Arguments and Reply Submissions

Where exporters provided substantially complete responses to the RFI, and the information was verified, the CBSA is satisfied that the information used in determining normal values and export prices is accurate.

2. General Issue – Essar Steel Algoma Case Arguments – Requests for normal values of products not shipped during the POI

Essar Algoma argued that that requests for future normal values should be addressed in the section 55 determination or subsequent re-investigations.

³ CBSA Exhibits 315 (PRO) and 316 (NC).

⁴ CBSA Exhibits 319 (PRO) and 320 (NC).

⁵ CBSA Exhibit 323 (NC).

⁶ CBSA Exhibits 317 (PRO) and 318 (NC).

⁷ CBSA Exhibits 321 (PRO) and 322 (NC).

⁸ CBSA Exhibits 324 (PRO) and 325 (NC).

POSCO and Hyundai Steel *Reply Submissions*

POSCO submitted that in respect of normal values for future shipments, the CBSA agreed to consider to provide normal values for future shipments of plate that was not exported to Canada during the POI. Both POSCO and Hyundai Steel submitted that in the event of a finding, the section 55 does not have the same coverage. Normal values for future shipments of plate products that were not imported during the POI should be established at the final determination to lessen the disruption of international trade by anti-dumping actions. Both exporters submitted that the CBSA disregard Essar Algoma's argument.

CBSA Response to the *Case Arguments and Reply Submissions*

For the purposes of the final determination the CBSA determines normal values, export prices and margins of dumping with respect to the products investigated that were released during the POI. Determinations pursuant to section 55 of SIMA address solely the subject goods released into Canada during the provisional period, from the day on which the preliminary determination was made until the day the Tribunal makes a finding. Any products or models for which the CBSA has not yet calculated a normal value would be covered by the ministerial specification. Normal values are typically determined during the course of a re-investigation and only with respect to goods that have been released into Canada. Further, upon full payment of the duties owing, an importer may request a re-determination, providing that the exporter or producer of the goods submits the necessary information to determine normal values and export prices.

3. General Issue – Essar Steel Algoma Case Arguments – Targeted dumping

Essar Algoma argued that the data before the CBSA established that targeted dumping occurred for certain exporters and requested that the CBSA apply section 30.2(2) of SIMA.

POSCO & Hyundai Steel *Reply Submissions*

In respect of the data provided by Essar Algoma in support of targeted dumping, POSCO and Hyundai Steel submitted that supporting evidence regarding the source and reliability of the information is missing. Furthermore Essar Algoma did not provide an explanation of the data, nor demonstrate that there were significant variations in the selling prices on the sales to Canada. The exporters submitted that Essar Algoma's representations concerning targeted dumping are not applicable in this investigation and that the conditions set out by subsection 30.2(2) of SIMA were not met.

CBSA response to the *Case Arguments and Reply Submissions*

Targeted dumping is a practice whereby exporters engage in dumping through sales that are targeted to certain purchasers, to certain regions or during certain periods of time. These targeted dumped sales are masked through other sales that are not dumped or are significantly less dumped with no pattern of being targeted. In the exceptional circumstances of targeted dumping, subsection 30.2(2) of SIMA provides that the margin of dumping may be based on a set of export transactions that the President considers relevant.

In respect of this investigation, the CBSA's analysis of sales and imports of subject goods released into Canada did not reveal significant variations in prices among purchasers, regions or time periods. Accordingly, the CBSA is satisfied that targeted dumping did not occur during the POI.

4. General Issue 4 – Essar Steel Algoma Case Arguments – Amount for profits

Essar Algoma submitted that in cases where a section 19 normal value is necessary and the CBSA needs a reasonable amount for profit, and where subsections 11(b)(i) to (vi) of the SIMRs are not applicable, the CBSA must revert to the plain meaning of a “reasonable amount for profits.” With respect to the use of subsections 11(b) (i) to (vi), Essar Algoma noted that the useable sales of like goods must be “such to permit a proper comparison” and if there are distortions in a company's organizational or sales structures that do not allow the profit on like goods being “such to allow a proper comparison” then another reasonable amount for profit is needed. Essar Algoma referred to a report by McKinsey & Company that for long-term sustainability, steel mills require an average EBIT DA (earnings before interest, taxes, depreciation and amortization) margin of 17%. Essar Algoma maintained that this is a reasonable amount for profit.

POSCO & Hyundai Steel Reply Submissions

POSCO and Hyundai Steel cited that the quoted 17% EBITDA by McKinsey & Company is earnings in 2007 and is inappropriate to be applied in the determination of a normal value. The exporters maintain that the CBSA verified POSCO and Hyundai Steel's domestic sales and cost of production through respective on-site verifications and the CBSA should rely on each company's verified amount for profit.

CBSA Response to the Case Arguments and Reply Submissions

POSCO and Hyundai Steel's information was verified and the CBSA is satisfied with the information and the amounts for profit used were determined pursuant to subparagraph 11(1)(b)(i) of the SIMR. In the case of Hyundai Corporation the CBSA is satisfied with information provided and the amounts for profit used were determined pursuant to subparagraph 11(1)(b)(iv) of the SIMR.

5. Essar Algoma Case Argument – Dongkuk – Late submission, absence of supporting documentation, related party transactions, VAT and like goods issues

Essar Algoma raised several arguments regarding Dongkuk's submission. The submission was filed 91 days after the case was initiated, there was an absence of supporting documentation, there were related party transactions, VAT refund issues and like goods concerns.

Furthermore, Essar Algoma submitted that the CBSA only had time to send out one SRFI and there would have been need for further clarification and follow-up. Essar Algoma maintained that Dongkuk's late filing made it impossible for the CBSA to have time to complete a detailed review of the submission and that under the circumstances Dongkuk should be issued a ministerial specification.

Dongkuk Reply Submission

Dongkuk disputed Essar Algoma's claim that the CBSA had insufficient time to review Dongkuk's submission and argued that the CBSA had sufficient time to review the information as a SRFI was sent out. Dongkuk argued that its submission is substantially complete and a company specific margin of dumping can be determined by the CBSA.

Dongkuk argued that Essar Algoma's claim that related party transactions may have resulted in an understatement of costs without supporting evidence is not justified and should be ignored by the CBSA. In addition in response to Essar Algoma's VAT argument that Dongkuk relied on unsupported statements, Dongkuk replied that VAT is accounted for separately in its records as demonstrated in confidential information submitted to the CBSA. Dongkuk disagreed with Essar Algoma's statement that the CBSA had no opportunity to follow-up with Dongkuk on the information provided and was unable to satisfy itself of the accuracy and completeness of Dongkuk's information. Dongkuk submitted that the CBSA had the right to request clarification of any information right up to the final determination.

CBSA Response to the Case Arguments and Reply Submissions

A review of Dongkuk's submission outlined substantial deficiencies and issues that required further clarification. A SRFI was then issued to Dongkuk. The response to the SRFI was received near the close of record date. After a review of the response to the SRFI, it was determined that there remained substantial issues to resolve in order to calculate normal values and export prices. Consequently, there was insufficient information available to determine a margin of dumping for Dongkuk for the final determination. The ministerial specification was applied.

6. Essar Algoma Case Arguments – Hyundai Corporation, Hyundai Steel Company & Hyundai Canada

Essar Algoma submitted that there is considerable confusion on whether or not the companies are related/associated and notwithstanding the CBSA position that Hyundai Steel and Hyundai Corporation are not related the two companies act as related parties by their conduct. Essar Algoma argued that a single margin of dumping should be calculated based on all sales by the combined group. In addition the CBSA should examine when Hyundai Corporation is re-selling plate from Hyundai Steel that such sales are not sold below full cost. As a result, the domestic sales information is not a basis for a proper comparison and the Hyundai group should not be issued specific normal values, if section 19 is used, a surrogate amount of profit should be used.

Hyundai Steel Reply Submission

Hyundai Steel argued that the explanations provided to the CBSA with regards to the relationship between Hyundai Steel and Hyundai Corporation are clear that these companies are separate legal entities and are not related as defined in subsection 2(3) of SIMA and each company should receive its own margins of dumping. Hyundai Steel stated that its domestic sales were subject to on-site verification by the CBSA, and any profit margin be based on the sales and costing information provided by Hyundai Steel.

CBSA Response to Case Arguments and Reply Submission

Hyundai Motor Group, parent company of Hyundai Steel and Hyundai Heavy Industry, parent company of Hyundai Corporations are two distinct legal persons, and are not associated with each other, pursuant to the definition of associated persons provided in subsection 2(2) of SIMA. A submission was received from Hyundai Steel with respect to its relationship with Hyundai Corporation that stated that the companies are not associated under subsection 2(2) of the SIMA. The analysis conducted by the CBSA in this regard included ensuring that Hyundai Steel was not selling subject goods at a loss to Hyundai Corporation and that Hyundai Corporation was recouping all costs in its sales to Hyundai Canada.

7. Essar Algoma Case Arguments – Hyundai Corporation

Essar Algoma argued that this submission was provided to the CBSA more than two (2) months beyond the deadline and with this late filing the CBSA was not afforded the time to conduct its analysis of the file. With the extent of the ongoing revisions by the Hyundai group, the CBSA cannot be satisfied as to the completeness and veracity of the submissions and a ministerial specification should be applied.

Hyundai Steel Reply Submission

Hyundai Steel submitted that Hyundai Corporation did not realize that it was required to respond until it was notified by the CBSA. In respect of revisions, Hyundai Steel replied that the parties have the right to correct or modify the information placed on the Administrative Record and this argument by Essar Algoma should be disregarded by the CBSA.

CBSA Response to the Case Arguments and Reply Submission

The CBSA requested a response from Hyundai Corporation, as it was identified as a separate entity from Hyundai Steel Company. Hyundai Corporation provided responses to the RFI and SRFIs in a timely manner. The CBSA verified the information and was satisfied with the accuracy and completeness of the information.

8. Essar Algoma Case Arguments – POSCO – Shot blasting and primer coating

Essar Algoma stated that shot blasting and primer coating the goods are minor surface finishing operations and the resulting goods remain subject goods.

POSCO Reply Submission

POSCO submitted that shot blasting and primer coating operations are not done by the complainant or by POSCO. During the POI, POSCO sent the subject goods to a third party for the shot blasting and primer coating as requested by a Canadian customer. POSCO maintained that since the plate was further manufactured, the goods are excluded from the subject goods definition.

CBSA Response to Case Arguments and Reply Submission

Based on the available information, the shot blasting and primer coating are minor operations that simply affect the surface of the plate. Consequently, the CBSA considers shot blasted and primer coated plate to be subject goods.

9. Essar Algoma Case Arguments – POSCO – Collection days/credit cost

Essar Algoma submitted that there have been several POSCO filings regarding collection days/credit cost. Essar Algoma's argument is based on confidential information provided to the CBSA that cannot be addressed here. Essar Algoma argued that given the inconsistent positions taken by POSCO on this issue and the last minute change in position it is not appropriate to grant POSCO's request.

POSCO Reply Submission

POSCO responded that the collection days adjustment was part of a process in clarifying items following a disclosure meeting with the CBSA. Additional representations were made prior to the closing of the record. POSCO submits that it is not aware of a deadline prior to the closing of the record for the submission of information.

CBSA Response to the Case Arguments and Reply Submissions

For the purposes of the final determination the CBSA considered the difference in the conditions of sale between the like goods and the subject goods and made an adjustment pursuant to paragraph 5(d) of the SIMR based on the verified information provided by POSCO.

10. Essar Algoma Case Arguments – POSCO – Like goods

Essar Algoma objected to the CBSA's acceptance of POSCO's methodology regarding a particular like good. The details of the argument are confidential and cannot be addressed here. Essar Algoma submitted that the CBSA should either use the domestic sales or calculate the applicable normal value using paragraph 19(b).

POSCO Reply Submission

POSCO argued that such sales were not reflective of the ordinary course of normal Korean product sales and instead normal values were determined based on prime quality like goods normally sold in the Republic of Korea.

CBSA Response to the Case Arguments and Reply Submission

The CBSA conducted on-site verification of POSCO's information and is satisfied with the like goods identified in this particular issue and for this particular good, determined normal values based on section 15 of SIMA.

11. Essar Algoma Case Arguments – Shang Chen Steel Co. Ltd – Revisions & deficiencies

Essar Algoma argued that the importer submission was unusable and that Shang Chen's information and databases changed with each supplementary response to the extent that the CBSA cannot be satisfied with the completeness and veracity of these submissions. As a result Essar Algoma submitted that the ministerial specification should be applied to Shang Chen.

CBSA Response to the Case Arguments

The CBSA requested and received supporting documentation from Shang Chen during the investigation process. The information was thoroughly examined, analyzed, and verified. The CBSA is satisfied that the information received from Shang Chen was sufficient to allow the determination of normal values for this company.

12. Essar Algoma Case Arguments – Usiminas – Like goods and related parties

Essar Algoma submitted arguments concerning the comparison of like goods. The details of these arguments submitted by Essar Algoma were designated confidential and cannot be addressed in detail here.

Usiminas Reply Submission

Usiminas responded to the like goods argument by noting that the two particular specifications referenced by Essar Algoma in their arguments are not comparable because they are produced in different mills. As such, the domestic sales of those two products should not be considered together for purposes of a like goods comparison.

CBSA Response to the Case Arguments and Reply Submission

As subject goods exported to Canada during the POI were only produced by Usiminas at their Cubatão Mill, goods produced at the mill located in Ipatinga were not used for purposes of determining a margin of dumping with respect to the subject goods.