



OTTAWA, January 22, 2021

## STATEMENT OF REASONS

Concerning the termination of the dumping investigation in respect of  
**HEAVY PLATE EXPORTED FROM TURKEY BY EREĞLI DEMİR VE ÇELİK  
FABRIKALARI T.A.Ş.**

and the final determination with respect to the dumping of

**HEAVY PLATE FROM  
CHINESE TAIPEI AND GERMANY**

## DECISIONS

On January 7, 2021, pursuant to paragraph 41(1)(a) of the *Special Import Measures Act* (SIMA), the Canada Border Services Agency (CBSA) terminated the dumping investigation in respect of certain hot-rolled carbon steel heavy plate and high-strength low-alloy heavy plate exported to Canada from the Republic of Turkey by Ereğli Demir ve Çelik Fabrikaları T.A.Ş.

On the same date, pursuant to paragraph 41(1)(b) of SIMA, the CBSA made a final determination of dumping of certain hot-rolled carbon steel heavy plate and high-strength low-alloy heavy steel plate from the Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu (Chinese Taipei) and the Federal Republic of Germany.

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 6, 2020, the Canada Border Services Agency (CBSA) received a written complaint from Algoma Steel Inc. (Algoma) (hereinafter, “the complainant”), alleging that imports of certain hot-rolled carbon steel heavy plate and high-strength low-alloy heavy steel plate (heavy plate) from the Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu (Chinese Taipei), the Federal Republic of Germany (Germany), the Republic of Korea (South Korea), the Federation of Malaysia (Malaysia), and the Republic of Turkey (Turkey) (hereafter “the named sources”) are being dumped. The complainant alleged that the dumping has caused injury and is threatening to cause injury to the Canadian industry producing like goods.

[2] On April 27, 2020, 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 Chinese Taipei, Germany, Malaysia, South Korea and Turkey that a properly documented complaint had been received.

[3] The complainant provided evidence to support the allegations that heavy plate from the named sources has been dumped. The evidence also discloses a reasonable indication that the dumping has caused injury and is threatening to cause injury to the Canadian industry producing like goods.

[4] On May 27, 2020, pursuant to subsection 31(1) of SIMA, the CBSA initiated an investigation respecting the dumping of heavy plate from Chinese Taipei, Germany, Malaysia, South Korea, and Turkey.

[5] Upon receiving notice of the initiation of the investigation, 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 of the above-mentioned goods has caused injury or retardation or is threatening to cause injury to the Canadian industry producing the like goods.

[6] On July 27, 2020, 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 of heavy plate from the named sources has caused injury or retardation or is threatening to cause injury to the domestic industry.

[7] On August 18, 2020 the CBSA notified interested parties that the preliminary stage of the investigation will be extended pursuant to subsection 39(1) of SIMA.

[8] On October 9, 2020, as a result of the CBSA’s preliminary investigation and pursuant to subsection 38(1) of SIMA, the CBSA made a preliminary determination of dumping of heavy plate from Chinese Taipei, Germany, and Turkey.

[9] On October 9, 2020, pursuant to paragraph 35(2)(a) of SIMA, the CBSA terminated the dumping investigation with respect to heavy plate originating in or exported from Malaysia and South Korea. The volume of subject goods imported during the period of investigation from Malaysia and South Korea were found to be negligible for the purposes of SIMA (i.e. less than 3% of volume of imported goods).

[10] On October 9, 2020, pursuant to subsection 8(1) of SIMA, provisional duty was imposed on imports of dumped goods that are of the same description as any goods to which the preliminary determination applies, and that are released during the period commencing on the day the preliminary determination was made and ending on the earlier of the day on which the CBSA causes the investigation in respect of any goods to be terminated pursuant to subsection 41(1) of SIMA or the day the CITT makes an order or finding pursuant to subsection 43(1) of SIMA.

[11] On October 13, 2020, the CITT initiated an inquiry pursuant to section 42 of SIMA to determine whether the dumping of the above-mentioned goods has caused injury or retardation or is threatening to cause injury to the Canadian industry.

[12] Based on the available evidence, the CBSA is satisfied that heavy plate originating in or exported from Turkey by Ereğli Demir ve Çelik Fabrikaları T.A.Ş. (Erdemir) has not been dumped. As a result, on January 7, 2021, the CBSA terminated the dumping investigation in respect of the goods of this exporter pursuant to paragraph 41(1)(a) of SIMA.

[13] Based on the available evidence, the CBSA is satisfied that heavy plate originating in or exported from Chinese Taipei and Germany has been dumped. Therefore, on January 7, 2021 the CBSA made a final determination of dumping pursuant to paragraph 41(1)(b) of SIMA in respect of those goods.

[14] The CITT's inquiry into the question of injury to the Canadian industry is continuing, and it will issue its decision by February 5, 2021. Provisional duty will continue to be imposed on the subject goods from Chinese Taipei and Germany until the CITT renders its decision. However, provisional anti-dumping duty will no longer be imposed on imports of goods for which the dumping investigation has been terminated. Any provisional duty paid or security posted will be refunded, as appropriate.

### **PERIOD OF INVESTIGATION**

[15] The Period of Investigation (POI) for the dumping investigation is March 1, 2019 to February 29, 2020.

### **PROFITABILITY ANALYSIS PERIOD**

[16] The Profitability Analysis Period (PAP) for the dumping investigation is March 1, 2019 to February 29, 2020.

## **INTERESTED PARTIES**

### **Complainant**

[17] Algoma is a primary iron and steel producer located in Sault Ste. Marie, Ontario, and began producing steel in 1902.

[18] The contact information of the complainant is as follows:

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

[19] The other manufacturers of like goods in Canada are: Janco Steel Ltd. (Janco), SSAB Central Inc. (SSAB), Samuel, Son & Co., Ltd. (Samuel), Tidy Steel-Fab Ltd. (Tidy), and Varsteel Ltd. (Varsteel)<sup>1</sup>. The complaint contained letters of support from Janco and SSAB.<sup>2</sup> Contact information for these manufacturers is as follows:

<b>Company Name</b>	<b>Address</b>
Janco Steel Ltd.	925 Arvin Avenue Stoney Creek, Ontario L8E 5N9
SSAB Central Inc.	1051 Tapscott Road Scarborough, Ontario M1X 1A1
Samuel, Son & Co.	410 Nash Road North Hamilton, Ontario L8H 7R9
Tidy Steel-Fab Ltd.	44313 Progress Way Chilliwack, British Columbia V2R 0L1
Varsteel Ltd.	220 4 Street South Lethbridge, Alberta T1J 4J7

### **Trade Union**

[20] The complainant identified one trade union that represents persons employed in the production of heavy plate in Canada<sup>3</sup>:

United Steel Workers  
234 Eglinton Avenue East, 8th floor  
Toronto, ON M4P 1K7

<sup>1</sup> Exhibit 2 (NC), Heavy Plate Complaint – Page 4.

<sup>2</sup> Exhibit 2 (NC), Heavy Plate Complaint – Attachment 1.

<sup>3</sup> Exhibit 2 (NC), Heavy Plate Complaint – Page 6.

## **Importers**

[21] At the initiation of the investigation, the CBSA identified 34 potential importers of the subject goods based on both information provided by the complainant and CBSA import entry documentation. The CBSA sent an Importer Request for Information (RFI) to all potential importers of the goods. The CBSA received 15 responses to the Importer RFI.

## **Exporters**

[22] At the initiation of the investigation, the CBSA identified 36 potential exporters/producers of the subject goods from CBSA import documentation and from information submitted in the complaint. All potential exporters were sent the CBSA's Dumping RFI.<sup>4</sup>

[23] Eight companies provided responses to the CBSA's Dumping RFI, including one from Chinese Taipei, one from Germany, one from Malaysia, four from South Korea and one from Turkey. The submissions and results for companies from Chinese Taipei, Germany and Turkey have been summarized in the *Results of the Dumping Investigation* section, found below.

[24] The CBSA performed verifications by way of Verification Questionnaires for AG der Dillinger Hüttenwerke (Dillinger Hütte), China Steel Corporation (CSC) and Erdemir.

## **Governments**

[25] For the purposes of this investigation, Government of Turkey (GOT), refers 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.

[26] At the initiation of the investigation, the CBSA sent an RFI to the GOT to request information with respect to the CBSA's examination of whether a Particular Market Situation (PMS) exists in the heavy plate market in Turkey. The GOT provided a response to the PMS RFI.

[27] The GOT submission is summarized under the *Dumping Investigation* section of this document.

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<sup>4</sup> Exhibit 17 (NC) – Dumping RFI sent to Exporters.

## **PRODUCT INFORMATION**

### **Definition**<sup>5</sup>

[28] For the purposes 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 greater than 72 inches (+/- 1829 mm) to 152 inches (+/- 3,860 mm) inclusive, and thicknesses from 0.375 inches (+/- 9.525 mm) up to and including 4.5 inches (+/- 114.3 mm) (with all dimensions being plus or minus allowable tolerances contained in the applicable standards), but excluding:*

- *plate in coil form,*
- *plate having a rolled, raised figure at regular intervals on the surface (also known as floor plate), and*
- *plate originating in or exported from the Republic of Korea which is covered by the Tribunal's Finding in NQ-2013-005.*

*For greater certainty, the subject goods include steel plate which contains alloys greater than required by recognized industry standards, provided the steel does not meet recognized industry standards for an alloy-grade steel plate.*

### **Additional Product Information**<sup>6</sup>

[29] Plate is produced to specific grades and standardizations. These grades and standardizations are used for specific end-uses. Common standardizations include American Society for Mechanical Engineers (ASME), and American Society for Testing and Materials (ASTM). For example, ASTM/ASME A36, A283, A573 or A709 may be used for structural plate, which is used in a variety of construction applications. Plate meeting A515 and A516M/A516, grade 70 is used for the construction of pressure vessels, which hold gasses or liquids at high pressure.

[30] Pressure vessel quality (PVQ) plate may be vacuum degassed to achieve desired characteristics, in particular low sulfur, low carbon, low gaseous levels (H<sub>2</sub>, N<sub>2</sub>, O<sub>2</sub>), improved cleanliness and improved ferro alloy recovery. Such characteristics may be used in sour service applications and applications requiring hydrogen-induced cracking (HIC) resistance low temperature fracture toughness.

[31] Some of these gauges and specifications, as well as specific lengths and widths, command a price premium.

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<sup>5</sup> Exhibit 2 (NC), Heavy Plate Complaint – Pages 6-8.

<sup>6</sup> Exhibit 2 (NC), Heavy Plate Complaint – Page 8.

## **Production Process**<sup>7</sup>

[32] While details may vary from mill to mill, the process by which carbon steel plate is produced is essentially the same for all producers world-wide and entails:

- heating slabs before rolling
- descaling
- rolling
- levelling
- cutting to size
- inspection and testing
- shipping

[33] At 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 slab thickness occurs in the breakdown mill where the slab is reduced in gauge depending on the final plate thickness required.

[34] Heavier plate (i.e. 3/8 inches and thicker) goes directly to the 166" plate mill where it is reduced to its final thickness, levelled and then sent to the plate finishing area where it is sized, sides are trimmed, cut to length (either sheared or flame cut), tested and shipped.

[35] For lighter plate, the 166" plate mill acts as a breakdown mill, and the extended slab proceeds to the 106" wide strip mill where it is reduced to its final thickness through 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.

[36] Separately, certain service centres operate cut-to-length lines which cut plate from coil.

## **Product Use**<sup>8</sup>

[37] Heavy plate is 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, ships and barges, and pressure vessels.

## **Classification of Imports**

[38] Subject goods are normally classified under the following tariff classification numbers:

7208.51.00.10	7208.52.00.10
7208.51.00.93	7208.52.00.93
7208.51.00.94	7208.52.00.96
7208.51.00.95	

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<sup>7</sup> Exhibit 2 (NC), Heavy Plate Complaint – Page 10.

<sup>8</sup> Exhibit 2 (NC), Heavy Plate Complaint – Page 11.

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

### **LIKE GOODS AND CLASS OF 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 any identical goods, goods the uses and other characteristics of which closely resemble those of the other goods.

[41] In considering the issue of like goods, the CITT typically looks at a number of factors, including the physical characteristics of the goods, their market characteristics and whether the domestic goods fulfill the same customer needs as the subject goods.

[42] After considering questions of use, physical characteristics and all other relevant factors, the CBSA initiated its investigation under the premise that domestically produced heavy plate is like goods to the subject goods. Further, the CBSA was of the opinion that subject goods and like goods constitute only one class of goods.

[43] In its preliminary injury inquiry for this investigation, the CITT further reviewed the matter of like goods and classes of goods. On August 11, 2020, the CITT issued its preliminary inquiry *Statement of Reasons* for this investigation, indicating that it would “[...] *conduct its analysis on the basis that domestically produced heavy plate that is of the same description as the subject goods are “like goods” in relation to the subject goods*” and additionally, “[...] *that there is a single class of goods.*”<sup>9</sup>

### **THE CANADIAN INDUSTRY**

[44] The complainant, combined with the other supporting producers, account for the vast majority of the domestic production of like goods.

### **IMPORTS INTO CANADA**

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

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<sup>9</sup> Canadian International Trade Tribunal; Heavy Plate Dumping Determination and Reasons (August 11, 2020), PI-2020-001, paragraph 45.

[46] The following table presents the results of the CBSA’s analysis of imports of heavy plate for purposes of the final determination:

**Imports of Heavy Plate**  
(March 1, 2019 to February 29, 2020)

<b>Origin or Source</b>	<b>% of Total Import Volume</b>
Chinese Taipei	4.4%
Germany	16.0%
Turkey	4.6%
All Other Countries	75.0%
<b>Total Imports</b>	<b>100.0%</b>

**INVESTIGATION PROCESS**

[47] Regarding the dumping investigation, information was requested from all known and potential exporters, producers, vendors and importers, concerning shipments of heavy plate exported from the named sources and/or imported into Canada during the POI.

[48] Regarding the PMS allegation, information was requested from the GOT. As well, the RFI sent to all potential exporters/producers of subject goods in Turkey included questions related to PMS.

[49] The GOT and the exporters/producers were notified that failure to submit all required information and documentation, including non-confidential versions, failure to comply with all instructions contained in the RFI, failure to permit verification of any information or failure to provide documentation requested during the verification may result in the margins of dumping and the assessment of anti-dumping duties on subject goods being based on facts available to the CBSA. Further, they were notified that a determination on the basis of facts available could be less favorable to them than if complete, verifiable information was made available.<sup>10</sup>

[50] Several parties requested an extension to respond to their respective RFIs. The CBSA reviewed all requests and all exporters and governments that requested an extension were granted an extension that still provided CBSA adequate time to review their responses for purposes of the preliminary determination of the investigations.

[51] After reviewing the RFI responses, supplemental RFIs were sent to several responding parties to clarify information provided in the responses and request additional information, where necessary.

[52] Verifications were conducted by way of Verification Questionnaires for one exporter in each Chinese Taipei, Germany and Turkey.

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<sup>10</sup> Exhibits 14 (NC), 15 (NC), 17 (NC), 20 (NC) – Requests for Information and initiation letters.

[53] Details pertaining to the information submitted by the exporters in response to the Dumping RFI as well as the results of the CBSA's dumping investigation, including the PMS, are provided in the *Dumping Investigation* section of this document.

[54] As part of the final phase of the investigation, case arguments were received in the form of additional submissions on the administrative record and/or in case briefs from counsel representing the following parties: the complainant, SSAB, Erdemir, CSC, and Dillinger Hütte. The CBSA received reply submissions on behalf of the complainant, Erdemir, CSC, and Dillinger Hütte. Details of the representations are provided in **Appendix 2**.

## **DUMPING INVESTIGATION**

### **Normal value**

[55] 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 based on either the methodology of 19(a) 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, in accordance with paragraph 19(b) of SIMA.

[56] If, in the opinion of the President, domestic sales of like goods in the country of export do not permit a proper comparison with the sale of the goods to the importer in Canada because a PMS prevails, as alleged in the case of Turkey, the sale of such goods, in accordance with paragraph 16(2)(c) of SIMA, will not be taken into account in determining the normal value under section 15. The CBSA will then look to one of the methodologies of section 19. A PMS can be found to exist in respect of any goods of a particular exporter or of a particular country.

[57] 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.

### **Export Price**

[58] The export price of goods sold to importers in Canada is generally determined in accordance with section 24 of SIMA based on the lesser of the adjusted exporter's sale price for the goods or the adjusted importer's purchase price. 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.

[59] Where there are sales between associated persons or a compensatory arrangement exists, the export price may be determined based on the importer's resale price of the imported goods in Canada to non-associated purchasers, less deductions for all costs incurred in preparing, shipping and exporting the goods to Canada that are additional to those incurred on the sales of like goods for use in the country of export, all costs that are incurred in reselling the goods (including duties and taxes) or associated with the assembly of the goods in Canada, and an amount representative of the average industry profit in Canada, pursuant to paragraphs 25(1)(c) and 25(1)(d) of SIMA. In any cases not provided for under paragraphs 25(1)(c) and 25(1)(d) of SIMA, the export price is determined in such a manner as the Minister specifies, pursuant to paragraph 25(1)(e).

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

### **Margin of Dumping**

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

## **RESULTS OF THE DUMPING INVESTIGATION**

### **Chinese Taipei**

#### **China Steel Corporation**

[62] China Steel Corporation (CSC) is a manufacturer and exporter of subject goods located in Chinese Taipei. CSC is a publicly traded manufacturer of various steel products. The company has one production facility located in Kaohsiung. All of the subject goods shipped to Canada were produced at this facility. The company headquarters is also located in Kaohsiung.

[63] CSC provided responses to the CBSA's Dumping RFI and supplemental RFI. A verification of CSC was conducted in November 2020 by way of Verification Questionnaires. CSC provided a database of domestic sales of heavy plate during the PAP. Where there were sufficient profitable sales of like goods, normal values were determined in accordance with the methodology of section 15 of SIMA, using the exporter's domestic prices of heavy plate in Chinese Taipei market.

[64] Where there were insufficient profitable domestic sales of like goods, or where there were no domestic sales of like goods, normal values were determined using the methodology of 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.

[65] The cost of production was determined in accordance with paragraph 11(1)(a) of the *Special Import Measures Regulations* (SIMR), based on CSC's verified cost data associated with the subject goods shipped to Canada. The amount for profits was determined in accordance with subparagraph 11(1)(b)(ii) of the SIMR, based on CSC's sales of heavy plate in their domestic market, during the PAP, of the same general category as the subject goods sold to Canada.

[66] For subject goods exported to Canada by CSC during the POI, export prices were determined using the methodology of section 24 of SIMA, based on the lesser of the exporter's selling price and the importer's purchase price, 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.

[67] For purposes of the final determination, the total normal value compared to the total export price results in a margin of dumping of 7.0% for CSC, expressed as a percentage of the export price.

## **Germany**

### **Aktien-Gesellschaft der Dillinger Hüttenwerke**

[68] Aktien-Gesellschaft der Dillinger Hüttenwerke (Dillinger Hütte) is a manufacturer and exporter of subject goods located in Germany. Dillinger Hütte is a privately owned manufacturer of heavy plate products. The company has one production facility located in Dillingen, Germany. All of the subject goods shipped to Canada were produced at this facility. The company headquarters is also located in Dillingen.

[69] Dillinger Hütte provided responses to the CBSA's Dumping RFI and supplemental RFI. A verification of Dillinger Hütte was conducted in November 2020 by way of Verification Questionnaires. Dillinger Hütte provided a database of domestic sales of heavy plate during the PAP. Where there were sufficient profitable sales of like goods, normal values were determined in accordance with the methodology of section 15 of SIMA, using the exporter's domestic prices of heavy plate in Germany market.

[70] Where there were insufficient profitable domestic sales of like goods, or where there were no domestic sales of like goods, normal values were determined using the methodology of 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.

[71] The cost of production was determined in accordance with paragraph 11(1)(a) of SIMR, based on Dillinger Hütte's verified cost data associated with the subject goods shipped to Canada. The amount for profits was determined in accordance with subparagraph 11(1)(b)(ii) of the SIMR, based on Dillinger Hütte's sales of heavy plate in their domestic market, during the PAP, of the same general category as the subject goods sold to Canada.

[72] For subject goods exported to Canada by Dillinger Hütte during the POI, export prices were determined using the methodology of section 24 of SIMA, based on the lesser of the exporter's selling price and the importer's purchase price, 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.

[73] For purposes of the final determination, the total normal value compared to the total export price results in a margin of dumping of 6.3% for Dillinger Hütte, expressed as a percentage of the export price.

## **Turkey**

### **Particular Market Situation**

[74] Paragraph 16(2)(c) is a provision of SIMA that may be applied when the President is of the opinion that domestic sales of like goods in the country of export do not permit a proper comparison with the sales of the goods to the importer in Canada because a PMS prevails.

[75] Pursuant to subsection 16(2.1), the President may form the opinion that PMS can exist in respect of any goods of a particular exporter or of a particular country.

[76] In such cases, the CBSA would not determine normal values using the methodology of section 15 of SIMA, which relies on domestic prices. Accordingly, and where such information is available, the CBSA would look to use one of the methodologies of section 19 to determine normal values.

[77] Where the President is of the opinion that a PMS also distorts the cost of inputs that are material in the production of the goods, the President will use information in accordance with subsection 11.2(2) of SIMR that best represents the actual cost of the input to permit a proper comparison.

[78] The CBSA investigated allegations that a PMS exists with respect to Turkey's heavy plate market. A PMS may be found to exist where factors such as government regulations, significant macroeconomic volatility, distorted input costs or any other circumstances in which normal market conditions or patterns of supply and demand do not prevail have had a significant impact on the domestic sales of like goods in the country of export.

[79] The complainant and the supporting Canadian producer made the allegation that a PMS may exist in Turkey's plate market due to the combined effect of a multitude of factors, including:

- government economic policy plans affecting domestic selling prices
- government support programs
- Turkey's excess inflation
- Contraction in the Turkish domestic market
- Government intervention in Turkey's monetary policy
- Conversion of foreign exchange denominated contracts

- State controlled entities Erdemir and Isdemir influence plate prices and
- Low-priced substrate imports

[80] At the initiation of the investigation, the CBSA considered evidence supplied in the complaint and from its own research to be sufficient to examine whether a PMS exists in Turkey. Consequently, the CBSA sent RFIs pertaining to PMS to the GOT and producers and exporters of heavy plate in Turkey. Responses to the RFIs were received from the GOT<sup>11</sup> and Erdemir<sup>12</sup>, the only heavy plate exporter in Turkey. The CBSA also received case briefs and reply submissions from the complainant<sup>13</sup>, the supporting Canadian producer<sup>14</sup> and Erdemir<sup>15</sup>, concerning the allegation that a PMS exists in the heavy plate market in Turkey.

### ***Competition in the Turkish Heavy Plate Market***

[81] In the course of the investigation, the CBSA analyzed the heavy plate market in Turkey by estimating the apparent domestic market and assessing the level of competition. Overall, the assessment suggests that the domestic market of heavy plate in Turkey faces reasonable competition from imports and no single party has strong control or influence.

### ***Volatility in Economic Conditions in the Home Market***

[82] The CBSA analyzed the volatility in the economic conditions in Turkey's home market, namely the rapid currency depreciation, high inflation, high interest rates and contraction in the domestic heavy plate industry during the POI, which were alleged by the complainant. The CBSA acknowledges that the extent of the volatile economy has the potential to bring instability and unpredictability to the marketplace, especially considering the extent of production inputs that are imported.

[83] However, companies in Turkey have been able to take measures to minimize the effect of such volatility by denominating domestic sales in USD and to use derivative instruments to hedge against currency or interest rate fluctuations. In addition, measures were implemented by the GOT to mitigate the currency risk and inflation pressure in response to the rapid currency depreciation, including<sup>16</sup>:

- The Turkish central bank eased the access and collateral conditions for foreign exchange liquidity for banks
- The Monetary Policy Committee tightened monetary policy
- Banking Regulation and Supervision Agency introduced limitations regarding banks' currency swaps and other similar products with foreign currencies

<sup>11</sup> Exhibit 74 (PRO) and 75 (NC); Response to PMS RFI – Government of Turkey

<sup>12</sup> Exhibit 118 (PRO) and 119 (NC); Response to Dumping RFI – Erdemir

<sup>13</sup> Exhibit 226 (PRO) and 227 (NC); Case Brief, Exhibit 234 (PRO) and 235 (NC); Reply Submission – Algoma Steel

<sup>14</sup> Exhibit 228 (NC); Case Brief – SSAB Central Inc.

<sup>15</sup> Exhibit 222 (PRO) and 223 (NC); Case Brief, Exhibit 232 (PRO) and 233 (NC); Reply Submission – Erdemir

<sup>16</sup> Exhibit 74 (PRO) and 75 (NC); Response to PMS RFI – Government of Turkey; page 23

[84] The adopted measures and overall impact of the economic conditions on heavy plate producers in Turkey were further analyzed and are explained in the sections below, which was found to be not substantial.

### ***Government Economic Policies and Plans***

[85] Further to allegations that government economic policies and plans may be affecting domestic selling prices, the CBSA reviewed several Turkish economic policies<sup>17</sup>, including:

- Turkey's 11<sup>th</sup> Development Plan (2019-2023)
- 2023 Turkey Export Strategy and Action Plan
- Input Supply Strategy (GITES) and Action Plan 2013-2015 and 2017-2019 version

[86] The analysis reveals that government strategies, policies and plans are evidence of the GOT's intentions to influence the direction and development of the Turkish steel industry and to supply adequate inputs for the production of various steel products.

[87] These policies and targets provide context for several of the government support measures. Considering the nature of the specific government actions detailed in these policies, the extent to which these measures may have potentially contributed to a PMS may be related to subsidy amounts attributable to the production and sale of like goods, including any passed-through subsidy from upstream input materials.

### ***Government Support Programs***<sup>18</sup>

[88] On October 16, 2020, the CBSA concluded a subsidy investigation with respect to certain corrosion-resistant steel sheet from Turkey. The final determination terminated the subsidy investigation in respect of goods from the three participating Turkish exporters due to insignificance. The amount of subsidy for all other exporters in Turkey was determined at 3.6%.

[89] The total amount of subsidy determined for a corrosion-resistant steel sheet exporter would include any subsidy to a producer or seller of a significant input that has been determined to have passed through to the user of the input. As such, the total amount of subsidy would include any subsidy provided to the hot-rolled steel or other upstream material producers if it was also determined that the producer or exporter of subject and like goods has benefited from this subsidy, in whole or in part.

[90] The CBSA considered that the subsidy amount for Turkish exporters is not substantial enough to directly indicate that the government actions resulting from these policies or government supports have contributed to Turkey's hot-rolled steel or other upstream steel material sectors in any significant manner.

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<sup>17</sup> Exhibit 74 (PRO) and 75 (NC); Response to PMS RFI – Government of Turkey; Exhibit 8, 9 and 10

<sup>18</sup> Exhibit 2 (NC), Heavy Plate Complaint – Pages 103-105.

### ***State-owned or State-controlled Steel Enterprises***

[91] The CBSA conducted its own research and reviewed the responses from the GOT and Erdemir regarding the structures and relationships between Erdemir, OYAK and GOT, and is of the opinion that the GOT has potential meaningful control over OYAK and Erdemir group, which includes its related subsidiary suppliers Isdemir and Ermaden.

[92] It is noted that assessing whether Erdemir is state-owned or state-controlled is not based on the same criteria as determining a public body in previous CBSA's subsidy investigation as "public body" is a term defined under the jurisprudence of the WTO's ASCM in the Appellate Body Report in DS379, which found that the term "public body" covers only those entities that possesses, exercise or are vested with governmental authority. For the purposes of the subsidy investigation, the CBSA had taken the position that Erdemir is not a public body because there is no evidence that the GOT is exercising its control in a meaningful way. In the PMS context, for the purposes of the dumping investigation, the CBSA has established that Erdemir is state-owned or state-controlled.

### ***Input Cost Distortion***

[93] Further, the CBSA assessed the complainant's allegation that prices of steel input materials in Turkey were distorted. The CBSA compared various input costs for Erdemir such as pellet, lump, fine ore, coking coal, PCI coal and coke with actual input costs incurred by producers in other countries participating in the dumping investigation. Slab cost to Erdemir and hot-rolled coil price in Turkey were also compared to prices in other relevant regions such as Southern Europe and the Black Sea, which are considered to be appropriate benchmarks due to their close geographic locations and similar economic conditions to Turkey's.

[94] The comparisons of various material costs and prices in Turkey with other markets reveal that prices and trends in those markets were similar and correlated to each other in general. The CBSA is of the view that information on the record does not support the allegation that prices of various input materials used by Erdemir were materially distorted such that they do not reflect market prices.

### ***Effect and Impact of the Market Conditions on Domestic Price in Turkey***

[95] To assess the impact of the volatile Turkish economic conditions on domestic price of heavy plate, a comparison was conducted between the actual domestic prices of heavy plate supplied in the response to the CBSA's Dumping RFI by Erdemir with price data in the Black Sea, and Northern and Southern European regions published by Metal Bulletin. The result does not indicate domestic price of heavy plate in Turkey deviated much from the other three benchmark regions.

[96] As a result, based on the information on the administrative record, the CBSA has not formed the opinion that a PMS exists in the heavy plate market in Turkey that affects the domestic sales such that they do not permit a proper comparison with the sales to the importers in Canada.

## **Eregli Demir Ve Celik Fabrikalari T.A.S.**

[97] Erdemir, a fully integrated steel manufacturer, is a producer and exporter of the subject goods located in Istanbul, Turkey. As a publicly-traded joint stock corporation, Erdemir is the main company of the OYAK Mining Metallurgy group.

[98] During the POI, all Turkish subject goods were produced by Erdemir and shipped to an unrelated customer in Canada.

[99] Erdemir provided a response to the CBSA's Dumping RFI<sup>19</sup> and six supplemental RFIs<sup>20</sup> were sent to gather additional information and seek clarification from Erdemir. One related input supplier had jointly responded to the dumping RFI. A verification was conducted in November 2020 by way of Verification Questions.<sup>21</sup> As per the CBSA's review and verification of Erdemir's information, all issues raised during the course of the investigation were addressed.

[100] Although Erdemir had domestic sales of like goods during the PAP, normal values could not be determined in accordance with section 15 of SIMA as there were not such a number of sales of like goods that complied with all the terms and conditions referred to in sections 15 and 16 of SIMA as to permit a proper comparison with the sales of the goods to the importer in Canada. As such, 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.

[101] The cost of production was determined in accordance with paragraph 11(1)(a) of SIMR, based on Erdemir's verified cost data associated with the subject goods shipped to Canada. The amount for profits was determined in accordance with subparagraph 11(1)(b)(ii) of SIMR by using Erdemir's profitable domestic sales of goods that were of the same general category as the subject goods exported to Canada during the POI.

[102] For the subject goods exported from Erdemir to Canada during the POI, 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.

[103] For the final decision, the total normal value compared to the total export price results in a zero margin of dumping for Erdemir. As such, the dumping investigation in respect of the goods of this exporter was terminated pursuant to paragraph 41(1)(a) of SIMA.

### **All Other Exporters**

[104] Based on the information on the record, 100% of the subject goods originating in and exported from Turkey during the POI, were exported by Erdemir. Therefore, no "all other exporters" margin of dumping for Turkey has been determined for purposes of the final determination.

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<sup>19</sup> Exhibit 118(PRO) & 119(NC), Response to RFI - Erdemir

<sup>20</sup> Exhibit 149(PRO) & 150(NC), 152(PRO) & 153(NC), 192(PRO) & 193(NC), 194(PRO) & 195(NC), 199(PRO) & 200(NC) and 220(PRO) & 221(NC) – Responses to supplemental RFI - Erdemir

<sup>21</sup> Exhibit 216(PRO) & 217(NC), Response to Verification Questionnaires - Erdemir

[105] For exporters of subject goods originating in or exported from Chinese Taipei and Germany that did not provide a response to the Dumping RFI or did not furnish sufficient and reliable information, the normal values and export prices were determined pursuant to a ministerial specification under subsection 29(1) of SIMA, on the basis of facts available.

[106] In establishing the methodology for determining the normal values and export prices under the ministerial specification, the CBSA considered all of the information on the administrative record, including the complaint filed by the domestic industry, the CBSA's estimates at the initiation of the investigation, information submitted by the cooperative exporters, and customs import documentation.

[107] The CBSA decided that the normal values and export prices determined for the cooperative exporters whose submissions were complete and reliable for the final determination, rather than the information provided in the complaint or estimated at initiation, would be used to establish the methodology for determining normal values for all other exporters in each respective named source since it reflects the actual trading practices of exporters during the POI.

[108] As a result, based on the analysis of the facts available presented above, the normal values for all other exporters of subject goods in Chinese Taipei and Germany were determined based on the highest amount by which a normal value exceeded an export price (expressed as a percentage of the export price) on an individual transaction during the POI. For Chinese Taipei and Germany, the normal values for all other exporters in each of these sources was based on the amount determined for an exporter of that source, whose submission was verified and complete for the final determination.

[109] This methodology limits the advantage that an exporter may gain from not providing the necessary information requested in a dumping investigation as compared to an exporter that did provide the necessary information.

[110] Export prices were based on the declared selling prices on import documentation. The CBSA considers this the best available information on which to base the export prices for all other exporters as it reflects actual import data.

[111] Based on the above methodologies, the margin of dumping for all other exporters of subject goods originating in or exported from Chinese Taipei and Germany is listed in the table below.

<b>Origin or export</b>	<b>Margin of Dumping Rate for All Other Exporters*</b>
Chinese Taipei	80.6%
Germany	68.6%

\* Expressed as a percentage of export price

## **Summary of Results - Dumping**

[112] A summary of the results of the dumping investigation respecting all subject goods shipped to Canada during the POI is as follows (also available in **Appendix 1**):

### **Margins of Dumping by Exporter Period of Investigation (March 1, 2019 – February 29, 2020)**

<b>Origin or Export</b>	<b>Margin of Dumping (as % of Export Price)</b>
<b>Chinese Taipei</b>	
CSC	7.0%
All Other Exporters – Chinese Taipei	80.6%
<b>Germany</b>	
Dillinger Hütte	6.3%
All Other Exporters – Germany	68.6%
<b>Turkey*</b>	
Erdemir	0.0%

\*Erdemir accounts for 100% of heavy plate exported from Turkey and released into Canada. Therefore, no “all other exporters” margin of dumping was determined for purposes of the final decisions.

[113] Under paragraph 41(1)(a) of SIMA, the CBSA is required to terminate an investigation in respect of the goods of an exporter if the CBSA is satisfied that the goods have not been dumped or the margin of dumping of the goods of that exporter is insignificant, meaning a margin of dumping that is less than 2% of the export price of the goods.

[114] As can be seen from the table above, goods exported to Canada from Turkey by Erdemir were not dumped. As a result, the CBSA terminated the dumping investigation in respect of these goods pursuant to paragraph 41(1)(a) of SIMA.

[115] The remaining goods under investigation have been dumped and the margins of dumping on the goods are greater than the threshold of 2% and are therefore not considered insignificant. As a result, pursuant to paragraph 41(1)(b) of SIMA, the CBSA made a final determination of dumping respecting heavy plate originating in or exported from Chinese Taipei and Germany.

## **DECISIONS**

[116] Pursuant to paragraph 41(1)(a) of SIMA, on January 7, 2021, the CBSA terminated the dumping investigation with respect to heavy plate exported to Canada from Turkey by Erdemir. On the same date, pursuant to paragraph 41(1)(b) of SIMA, the CBSA made a final determination of dumping respecting heavy plate from Chinese Taipei and Germany

## **FUTURE ACTION**

[117] The provisional period began on October 9, 2020, and will end on the date the CITT issues its finding. The CITT is expected to issue its decision by February 5, 2021. Provisional anti-dumping duty will continue to apply until this date on imports of subject goods from Chinese Taipei and Germany. However, provisional anti-dumping duty will no longer be imposed on imports of heavy plate exported to Canada from Turkey by Erdemir. Any provisional anti-dumping duty paid or security posted in respect of such goods will be returned. For further details on the application of provisional duty, refer to the *Statement of Reasons* issued for the preliminary determination, which is available through the CBSA's website at: [www.cbsa-asfc.gc.ca/sima-lmsi/menu-eng.html](http://www.cbsa-asfc.gc.ca/sima-lmsi/menu-eng.html).

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

[119] If the CITT finds that the dumped goods have caused injury, the anti-dumping duty 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 equal to the margin of dumping.

[120] 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* 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**

[121] Under certain circumstances, anti-dumping duty 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 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 CITT issue a finding that there were recent massive importations of dumped goods that caused injury, imports of subject goods released by the CBSA in the 90 days preceding the day of the preliminary determination could be subject to anti-dumping duty.

## **PUBLICATION**

[122] A notice of this final determination of dumping will be published in the *Canada Gazette* pursuant to paragraph 41(3)(a) of SIMA.

[123] A notice of the termination of the dumping investigation with respect to heavy plate exported to Canada from Turkey by Erdemir will be published in the *Canada Gazette* pursuant to paragraph 41(4)(a) of SIMA.

## **INFORMATION**

[124] This *Statement of Reasons* is posted on the CBSA's website at the address below. For further information, please contact the officers identified as follows:

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

**Telephone:** Serena Major 343-553-2004  
Wayne Tian 343-553-1583

**E-mail:** [simaregistry@cbsa-asfc.gc.ca](mailto:simaregistry@cbsa-asfc.gc.ca)

**Web site:** [www.cbsa-asfc.gc.ca/sima-lmsi](http://www.cbsa-asfc.gc.ca/sima-lmsi)

Doug Band  
Director General  
Trade and Anti-dumping Programs Directorate

## **ATTACHMENTS**

**Appendix 1: Summary of Margins of Dumping**  
**Appendix 2: Dumping Representations**

**APPENDIX 1 - SUMMARY OF MARGINS OF DUMPING**

<b>Origin or Export</b>	<b>Margin of Dumping (% of Export Price)</b>
<b>Chinese Taipei</b>	
CSC	7.0%
All Other Exporters – Chinese Taipei	80.6%
<b>Germany</b>	
Dillinger Hütte	6.3%
All Other Exporters – Germany	68.6%
<b>Turkey</b>	
Erdemir*	0.0%

\*Erdemir accounts for 100% of heavy plate exported from Turkey and released into Canada. Therefore, no “all other exporters” margin of dumping was determined for purposes of the final decisions.

**NOTE:** The margins of dumping reported in this table were determined by the Canada Border Services Agency (CBSA) for the purposes of the termination of the dumping investigation in respect of any goods of an exporter or the final determination of dumping. These margins may 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 Canadian International Trade Tribunal, normal values for future shipments to Canada have been provided to the exporters who provided sufficient information to the CBSA, as appropriate. 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 exporters. Normal values for all other exporters will be determined in accordance with a Ministerial specification pursuant to subsection 29(1) of SIMA. The application of the Ministerial specification will result in anti-dumping duty rates equivalent to the margins of dumping found for “all other exporters” at the final determination. Please consult the [SIMA Self-Assessment Guide](#) for more detailed information explaining how to determine the amount of *Special Import Measures Act* (SIMA) duties owing.

Normally, normal values will not be applied retroactively. However, normal values may be applied retroactively in cases where the parties have not advised the CBSA in a timely manner of substantial changes that affect values for SIMA purposes. Therefore, where substantial changes occur in prices, market conditions, costs associated with production and sales of the goods, the onus is on the concerned parties to advise the CBSA.

## **APPENDIX 2 – DUMPING REPRESENTATIONS**

In the final stage of the investigation, submissions containing case arguments were received on behalf of Ereğli Demir Ve Çelik Fabrikalari T.A.S. (Erdemir)<sup>22</sup>.

Following the November 16, 2020 closing of the record, case briefs were received on behalf of the following parties: the complainant<sup>23</sup>, Aktien-Gesellschaft der Dillinger Hüttenwerke (Dillinger Hütte)<sup>24</sup>, China Steel Corporation (CSC)<sup>25</sup>, Erdemir<sup>26</sup>, and SSAB Central Inc. (SSAB)<sup>27</sup>.

The CBSA received reply submissions on behalf of the complainant<sup>28</sup>, CSC<sup>29</sup>, Dillinger Hütte<sup>30</sup>, and Erdemir<sup>31</sup>.

Certain details provided in case briefs and reply submissions were designated as confidential information by the submitting counsel. This has restricted the ability of the CBSA to discuss all issues raised in these submissions.

The CBSA has provided responses below to representations that relate to the final determination of dumping. The CBSA will not address representations pertaining to future enforcement in this *Statement of Reasons*.

The material issues raised by the parties are summarized as follows:

### **REPRESENTATIONS**

#### **Accuracy and Completeness of Submissions**

##### **Case Briefs**

Counsel for the complainant made representations regarding the accuracy, completeness and verifiability of information submitted by all exporters in response to the Dumping RFI and supplemental RFIs. Counsel stated that in the absence of onsite verifications, the CBSA must be extra vigilant in confirming information provided<sup>32</sup>.

Counsel made specific representations regarding CSC's submissions, claiming inconsistencies in Appendix 1, and incompleteness of Appendixes 4A and 4B<sup>33</sup>.

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<sup>22</sup> Exhibit 203 (NC) – Remarks on Preliminary Determination from Ereğli Demir Ve Çelik Fabrikalari T.A.S.

<sup>23</sup> Exhibits 226 (PRO) and 227 (NC) – Case Brief filed on behalf of Algoma Steel Inc.

<sup>24</sup> Exhibits 229 (PRO) and 230 (NC) – Case Brief filed on behalf of Dillinger Hütte.

<sup>25</sup> Exhibits 224 (PRO) and 225 (NC) - Case Brief filed on behalf of China Steel Corporation.

<sup>26</sup> Exhibits 222 (PRO) and 223 (NC) – Case Brief filed by Erdemir.

<sup>27</sup> Exhibit 228 (NC) – Case Brief filed on behalf of SSAB Central Inc.

<sup>28</sup> Exhibits 234 (PRO) and 235 (NC) – Reply Submissions filed on behalf of Algoma Steel Inc.

<sup>29</sup> Exhibits 236 (PRO) and 237 (NC) – Reply Submissions filed on behalf of China Steel Corporation.

<sup>30</sup> Exhibits 238 (PRO) and 239 (NC) – Reply Submissions filed on behalf of Dillinger Hütte.

<sup>31</sup> Exhibits 232 (PRO) and 233 (NC) – Reply Submissions filed by Erdemir.

<sup>32</sup> Exhibits 226 (PRO) and 227 (NC) – Case Brief filed on behalf of Algoma Steel Inc. – Pages 2, 8-9.

<sup>33</sup> Exhibits 226 (PRO) and 227 (NC) – Case Brief filed on behalf of Algoma Steel Inc. – Pages 56-57, 59-60.

## **Reply Submissions**

Counsel for CSC responded to the complainant's arguments, stating that they provided all information required by the CBSA in order to calculate normal values and margins of dumping, including explanations of how appendices were prepared. Counsel further noted that the complainant's method of comparing amounts between appendices is incorrect<sup>34</sup>.

## **CBSA's Response**

The CBSA has reviewed the responses from the exporters and suppliers to the RFIs and supplemental RFIs. The CBSA has also conducted verifications of the exporters' submissions through Verification Questionnaires. All exporter submissions were considered complete for the purposes of the final determination, and the CBSA determined normal values, export prices and a margin of dumping on the basis of the exporters' submissions.

## **Like Goods and Domestic Sales (CSC)**

### **Case Briefs**

Counsel for the complainant made representations regarding CSC's databases of domestic sales of heavy plate, including noting sales that should be disregarded for the purpose of determining normal values<sup>35</sup>.

### **Reply Submissions**

Counsel for CSC submitted that the complainant's allegations are irrelevant in terms of proper comparison<sup>36</sup>.

### **CBSA's Position**

A profitability test was performed on CSC's domestic sales that met the requirements of sections 15 and 16 of SIMA. Where there were sufficient domestic sales of like goods, normal values were determined pursuant to section 15 of SIMA. Where there were insufficient domestic sales of like goods, normal values were determined in accordance with section 19 of SIMA.

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<sup>34</sup> Exhibits 236 (PRO) and 237 (NC) – Reply Submissions filed on behalf of China Steel Corporation – Pages 2-5.

<sup>35</sup> Exhibits 226 (PRO) and 227 (NC) – Case Brief filed on behalf of Algoma Steel Inc. – Pages 57-59.

<sup>36</sup> Exhibits 236 (PRO) and 237 (NC) – Reply Submissions filed on behalf of China Steel Corporation – Pages 2-4.

## **Product Groupings (CSC)**

### **Case Briefs**

Counsel for CSC made representations regarding its product groupings, stating the groupings are relevant and reasonable, and reflect market practice. They further stated that normal values should be determined based on the groupings<sup>37</sup>.

### **Reply Submissions**

Counsel for the complainant responded to these comments, stating the CBSA should match goods based on detailed and specific dimensions where possible, and indicates subsection 2(1) of SIMA directs the CBSA to prefer goods with identical characteristics<sup>38</sup>.

### **CBSA's Position**

The CBSA has reviewed the information submitted by CSC, and has found that the product groupings used by CSC are reasonable, and reflect common market practices, therefore these groupings were used in determining normal values.

## **Matching reference number (Dillinger Hütte)**

### **Case Arguments**

Counsel for Algoma argues that Dillinger's grouping of goods and matching reference numbers are unreliable for the purpose of the final determination. Counsel for Algoma submits that Dillinger's production costs differ greatly between comparable like goods and within the same matching reference numbers.<sup>39</sup>

Counsel for Algoma argues that Dillinger's cost data is deficient. Specifically, counsel for Algoma submits that the cost data provided by Dillinger does not account for additional costs related to some of the subject goods produced by Dillinger. Counsel for Algoma notes that in some cases, either the grade/specification or the customer will require that testing be done on the plate to confirm its properties. This testing is also an additional cost borne by the producer, which is generally transferred to the customer through a price extra.<sup>40</sup>

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<sup>37</sup> Exhibits 224 (PRO) and 225 (NC) – Case Brief filed on behalf of China Steel Corporation – Pages 3-4.

<sup>38</sup> Exhibits 234 (PRO) and 235 (NC) – Reply Submissions filed on behalf of Algoma Steel Inc. – Pages 7-8.

<sup>39</sup> Exhibits 226 (PRO) and 227 (NC) – Case Brief filed on behalf of Algoma Steel Inc. – Pages 60 - 80.

<sup>40</sup> Exhibits 226 (PRO) and 227 (NC) – Case Brief filed on behalf of Algoma Steel Inc. – Pages 60 - 80.

## **Reply Submissions**

Counsel for Dillinger submits that the arguments made by Algoma overstate the cost differences and that the matching reference number is reliable for the purpose of the final determination. Dillinger submits that differences in circumstances will create some cost variability between very similar products. Counsel for Dillinger indicate that it provided extensive information regarding Dillinger's product characteristics in case that the CBSA chooses to group the products differently than Dillinger.<sup>41</sup>

Dillinger submits the cost data provided is accurate and represents a high degree of detail and precision. Specifically, they refer to the cost summary sheets listed in Exhibits D31(a) and D31(b). Dillinger argues that these cost summary sheets summarize, in a highly detailed manner, all costs that are related to the production of plate. Further, counsel for Dillinger notes that testing costs appear in each of the cost summary sheets provided.<sup>42</sup>

## **CBSA's Position**

Based on the information on the administrative record, the CBSA finds that the product groupings established by Dillinger are not based on the most clear or logical parameters. The CBSA has therefore adjusted the product groupings to reflect the product equivalencies determined by the CBSA. The other metrics used in matching reference numbers were accepted with slight modifications, as the CBSA found them to be reasonable, and reflect common market practices.

With respect to Dillinger's cost of production information, the CBSA was able to adequately verify the costing reported in Dillinger's export and domestic sales databases during the verification. Based on the information gathered throughout the course of this investigation, including during the verification, the CBSA was satisfied with the costing information and has made certain adjustments where necessary.

## **Trade levels (Dillinger Hütte)**

### **Case Arguments**

Counsel for Dillinger submits that the CBSA must take into account the different trade levels of Dillinger's domestic and Canadian customers when determining normal values. Dillinger provided information on three trade levels for their domestic and Canadian customers: national distributor, service centres, and end-users.<sup>43</sup>

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<sup>41</sup> Exhibits 236 (PRO) and 237 (NC) – Reply Submissions filed on behalf of AG der Dillinger Hüttenwerke.

<sup>42</sup> Exhibits 236 (PRO) and 237 (NC) – Reply Submissions filed on behalf of AG der Dillinger Hüttenwerke.

<sup>43</sup> Exhibits 226 (PRO) and 227 (NC) – Case Brief filed on behalf of AG der Dillinger Hüttenwerke.

## Reply Submissions

Counsel for Algoma submits that Dillinger's reported transactions were made to customers at only two trade levels: distributors/service centres and end-users. Algoma submits that sales activities required to sell to national distributors and service centres are the same.<sup>44</sup>

## CBSA's Position

Dillinger consistently reported to the CBSA in the response to the original RFI and the first supplemental RFI that its domestic customers in Germany operated at the same trade level as the importers of subject goods sold to Canada by Dillinger.<sup>45</sup> Only on the day of the close of the record did Dillinger provide new information which identified its customers in Germany and in Canada as operating at various levels of trade (service centres, end users, etc).<sup>46</sup> This information was provided after the verification and did not allow the CBSA sufficient time to verify or request additional information.

The CBSA considered the information provided by Dillinger prior to the close of the record, however, the CBSA did not find that the new information concerning the respective trade levels of its customers in Germany and Canada could be relied upon for the purposes of the final determination. Accordingly, the CBSA found that the customers in Canada and in Germany operated at the same, or substantially the same trade level.

## A Reasonable Amount for Profit (Dillinger Hütte)

### Case Arguments

Counsel for Algoma submits that the CBSA should use a subset of reported transactions from Appendix 3A. Counsel for Algoma argues that Dillinger has only selected the "most similar goods" in Appendix 3A and has therefore excluded domestic sales of goods of the same description sold during the Profitability Analysis Period. Counsel for Algoma submits that the CBSA should include all goods of the same description for the purposes of determining an amount for profit for Dillinger.

Algoma also argues that the CBSA should continue using subparagraph 11(1)(b)(ii) of the *Special Import Measures Regulations* (SIMR) in determining a reasonable amount for profit.<sup>47</sup>

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<sup>44</sup> Exhibits 234 (PRO) and 235 (NC) – Reply Submissions filed on behalf of Algoma Steel Inc. – Page 3 - 6

<sup>45</sup> Exhibits 112, 188 & 201 (PRO) and 113, 189 & 202 (NC) - Dillinger RFI Response and SRFI Response

<sup>46</sup> Exhibits 209 (PRO) and 210 (NC) - Dillinger Final SRFI Response

<sup>47</sup> Exhibits 226 (PRO) and 227 (NC) – Case Brief filed on behalf of Algoma Steel Inc. – Pages 60 - 80.

As part of their case brief counsel for Dillinger provided a walkthrough of the methodology they argued should be applied in calculating normal values for Dillinger. As part of this exercise counsel for Dillinger made a number of specific arguments concerning how the CBSA should determine normal values, including the argument that any amount for profit should be determined pursuant to subparagraph 11(a)(b)(i) of SIMR.<sup>48</sup>

## **Reply Submissions**

Counsel for Dillinger argues that the CBSA should use Appendix 3B as its starting point for the purposes of determining normal values. Counsel for Dillinger submits that there are sufficient sales in Appendix 3B which meet the conditions of SIMA and that these goods permit a proper comparison with the goods sold to Canada. Finally, counsel for Dillinger argues that the CBSA should determine the amount for profit pursuant to subparagraph 11(1)(b)(i) of SIMR.<sup>49</sup>

Counsel for Algoma submits that the CBSA should not rely on Dillinger's Appendix 3B generally, as its conclusions are based on a narrow, and restricted set of Dillinger's reported transactions and should continue using subparagraph 11(1)(b)(ii) of SIMR in determining a reasonable amount for profit.<sup>50</sup>

## **CBSA's Position**

The CBSA considered all of the information on the administrative record and determined that the subject goods sold in Canada and goods of the same description sold by Dillinger in Germany are not identical, but are of the same general category as the goods sold to Canada. The CBSA also found that the Appendix 3B provided by Dillinger did not include certain goods which were of the same general category as the goods sold to Canada.

For the purposes of the final determination the CBSA has used a subset of reported transactions from Appendix 3A and determined a reasonable amount for profit pursuant to subparagraph 11(1)(b)(ii) of SIMR.

## **Significant Factor (Dillinger Hütte)**

### **Case Arguments**

Counsel for Algoma provided market pricing for pig iron at close of record of the investigation. Counsel for Algoma submits in its case brief that in determining normal values for Dillinger the CBSA must also consider subparagraph (c) of SIMR 11.2(1), being "the price in the country of export of the same or substantially the same inputs.". Algoma notes that Dillinger purchases the significant input factor from its related party.<sup>51</sup>

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<sup>48</sup> Exhibits 226 (PRO) and 227 (NC) – Case Brief filed on behalf of AG der Dillinger Hüttenwerke.

<sup>49</sup> Exhibits 236 (PRO) and 237 (NC) – Reply Submissions filed on behalf of AG der Dillinger Hüttenwerke.

<sup>50</sup> Exhibits 234 (PRO) and 235 (NC) – Reply Submissions filed on behalf of Algoma Steel Inc. – Page 3 - 6

<sup>51</sup> Exhibits 226 (PRO) and 227 (NC) – Case Brief filed on behalf of Algoma Steel Inc. – Pages 60 - 80.

## Reply Submissions

Dillinger argues that the CBSA should reject both sets of benchmark pricing data because they are not representative and do not meet the requirements under the SIMR. Dillinger notes that data is reporting pig iron prices in Baltic countries that are part of the Commonwealth of Independent States (CIS). Germany is an EU country that is not a member of the CIS.<sup>52</sup>

Dillinger requests that CBSA determine pig iron prices based on those purchase prices reported by Dillinger pursuant to paragraph 11.2(1)(a) of the SIMR, as these are the highest available German prices on the record.<sup>53</sup>

## CBSA's Position

The CBSA finds that there is insufficient information available on the record to determine pig iron prices pursuant to Section 11.2(1)(c) of SIMR, as the CBSA is unable to verify its applicability to exporters in Germany.

For the purpose of final determination, the CBSA applied the cost of pig iron pursuant to paragraph 11.2(1)(a) of the SIMR, based on the greater amount of (a), (b), (c)(i) or (c)(ii).

## Particular Market Situation

### Case Briefs

Counsel for the complainant maintained its position as in the complaint that a Particular Market Situation (PMS) exists in respect of Erdemir and the Turkish heavy plate market as a whole, due to the combined effect of a multitude of factors as follows<sup>54</sup>:

- Volatility in economic conditions
- Government involvement
- Government support programs
- Government control over Erdemir and its affiliates
- Distorted costs of inputs acquired from state-controlled entities

Erdemir emphasized that both OYAK's and Erdemir are not under government control or act on behalf of the government based on SIMA and WTO rules<sup>55</sup>.

## Reply Submissions

Counsel for Algoma submitted that a "public body" analysis is not required for determination of whether Erdemir is a government owner or controlled entity for PMS purposes<sup>56</sup>.

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<sup>52</sup> Exhibits 236 (PRO) and 237 (NC) – Reply Submissions filed on behalf of AG der Dillinger Hüttenwerke.

<sup>53</sup> Exhibits 236 (PRO) and 237 (NC) – Reply Submissions filed on behalf of AG der Dillinger Hüttenwerke.

<sup>54</sup> Exhibits 226 (PRO) and 227 (NC) – Case Brief filed on behalf of Algoma Steel Inc. – Pages 9- 36.

<sup>55</sup> Exhibits 222 (PRO) and 223 (NC) – Case Brief filed by Erdemir – Pages 1- 4.

<sup>56</sup> Exhibits 236 (PRO) and 237 (NC) – Reply Submissions filed on behalf of Algoma Steel Inc. – Pages 1-2.

Erdemir submitted that with the European Union, Turkey has an exclusive free trade agreement which strictly prohibits state control over the market but also any kind of incentive/aid to steel manufacturers. Erdemir further underlined that both Erdemir and OYAK are functioning purely in line with the commercial stipulations and aim to maximize profits.<sup>57</sup>

### **CBSA's Position**

The CBSA conducted its own research and analysis of the following PMS factors:

- Competition in the Turkish heavy plate market
- Volatility in economic conditions in the home market
- Government economic policies and plans
- Government support programs
- State-owned or state-controlled steel enterprises
- Input cost distortion
- Effect and impact of the market conditions on domestic price in Turkey

Based on the research and analysis conducted, the CBSA is of the view that insufficient information is available to support an opinion that input costs or domestic prices in Turkey have been materially affected by PMS existence which does not permit a proper comparison of the sale of like goods with the goods to importers in Canada.

### **Issues regarding Domestic Sales, Cost of Production, Selling and Administrative Expenses and other Expenses (Erdemir)**

#### **Case Briefs**

Counsel for the complainant argued that Erdemir had not provided proper explanations or substantiations in response to issues identified by the CBSA in its supplemental RFIs, namely the currency of domestic sales, slab, iron ore and coal input costs, domestic rebates, domestic specific administrative expenses, negative interest and other expenses. Counsel for the complainant submitted that the CBSA should reject Erdemir's selling price, input costs, administrative expenses and other expenses.<sup>58</sup>

Erdemir reiterated that it cooperated with the CBSA during the process of investigation by providing valuable information and documents with utmost transparency. Erdemir further explained how information provided by its SAP accounting system is reliable.<sup>59</sup>

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<sup>57</sup> Exhibits 232 (PRO) and 233 (NC) – Reply Submissions filed by Erdemir – Pages 1-5.

<sup>58</sup> Exhibits 226 (PRO) and 227 (NC) – Case Brief filed on behalf of Algoma Steel Inc. – Pages 37- 54.

<sup>59</sup> Exhibits 222 (PRO) and 223 (NC) – Case Brief filed by Erdemir – Page 5.

## Reply Submissions

Counsel for Algoma submitted that while Erdemir described its monitoring and tracking of costs under SAP, this does nothing to justify or explain Erdemir's calculation of costs for inputs acquired from associated entities, which Algoma submits are unreliable.<sup>60</sup> Erdemir responded to the complainant's arguments by explaining<sup>61</sup> that:

- Domestic sales were denominated in USD
- CRU's mill-specific costs provided by the complainant are not reliable
- Transfer pricing between related companies in Erdemir is determined in line with OECD practices together with domestic legislation and Erdemir's own policy documents
- Discounts and rebates can be reconciled and traced into accounting ledgers
- Selling, administrative, interest and other expenses were resubmitted based on the CBSA's supplemental requests

## CBSA's Position

The CBSA addressed those issues through supplemental requests and verification questionnaires during the investigation. Taking materiality into consideration, the CBSA is satisfied with information submitted by Erdemir in response to the requests for clarification and substantiation of domestic sales and various cost items.

## Product Code and Grouping (Erdemir)

### Case Briefs

Counsel for the complainant made representations regarding Erdemir's approach of identifying like goods in Appendix 2 and product grouping without considering heat treatment<sup>62</sup>.

Erdemir explained the way they keep track of costs through their accounting SAP system and production control system. Erdemir further illustrated their approach of product grouping and its reasonableness in order to respond to the request of the CBSA's RFI<sup>63</sup>.

### Reply Submissions

Counsel for the complainant maintained its position as stated in its case brief that costing reported by Erdemir was not properly justified and the product grouping should not be accepted.<sup>64</sup>

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<sup>60</sup> Exhibits 236 (PRO) and 237 (NC) – Reply Submissions filed on behalf of Algoma Steel Inc. – Page 3.

<sup>61</sup> Exhibits 232 (PRO) and 233 (NC) – Reply Submissions filed by Erdemir – Pages 5-8.

<sup>62</sup> Exhibits 226 (PRO) and 227 (NC) – Case Brief filed on behalf of Algoma Steel Inc. – Pages 54- 56.

<sup>63</sup> Exhibits 222 (PRO) and 223 (NC) – Case Brief filed by Erdemir – Pages 5- 11.

<sup>64</sup> Exhibits 234 (PRO) and 235 (NC) – Reply Submissions filed on behalf of Algoma Steel Inc. – Page 3

### **CBSA's Position**

The CBSA has reviewed the information submitted by Erdemir, and has taken into consideration the characteristic of heat treatment when matching like goods and extracting product specific costs. The product groupings used by Erdemir are considered to be reasonable, and therefore were used in determining normal values.