



OTTAWA, June 11, 2020

## STATEMENT OF REASONS

Concerning the initiation of an investigation into the dumping of

HEAVY PLATE

FROM THE SEPARATE CUSTOMS TERRITORY OF TAIWAN, PENGHU, KINMEN  
AND MATSU (CHINESE TAIPEI), GERMANY, MALAYSIA, SOUTH KOREA  
AND TURKEY

## DECISION

Pursuant to subsection 31(1) of the *Special Import Measures Act*, the Canada Border Services Agency initiated an investigation on May 27, 2020, respecting the alleged injurious 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), Germany, Malaysia, South Korea and Turkey.

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

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## TABLE OF CONTENTS

<b>SUMMARY</b> .....	<b>1</b>
<b>BACKGROUND</b> .....	<b>1</b>
<b>INTERESTED PARTIES</b> .....	<b>3</b>
COMPLAINANT .....	3
TRADE UNION .....	4
EXPORTERS .....	4
IMPORTERS .....	4
GOVERNMENTS .....	4
<b>PRODUCT INFORMATION</b> .....	<b>5</b>
DEFINITION .....	5
ADDITIONAL PRODUCT INFORMATION .....	5
PRODUCTION PROCESS .....	6
PRODUCT USE .....	6
CLASSIFICATION OF IMPORTS .....	7
<b>LIKE GOODS AND SINGLE CLASS OF GOODS</b> .....	<b>7</b>
<b>THE CANADIAN INDUSTRY</b> .....	<b>7</b>
STANDING .....	8
<b>CANADIAN MARKET</b> .....	<b>8</b>
<b>EVIDENCE OF DUMPING</b> .....	<b>10</b>
NORMAL VALUES.....	10
EXPORT PRICE.....	14
ESTIMATED MARGINS OF DUMPING .....	14
<b>PARTICULAR MARKET SITUATION</b> .....	<b>15</b>
<b>EVIDENCE OF INJURY</b> .....	<b>16</b>
LOST SALES.....	17
PRICE DEPRESSION AND PRICE UNDERCUTTING.....	17
STAGNATION OF MARKET SHARE.....	18
IMPACTED FINANCIAL RESULTS .....	18
UNDERUTILIZATION OF CAPACITY .....	19
CBSA’S CONCLUSION – INJURY .....	19
<b>THREAT OF INJURY</b> .....	<b>19</b>
WEAK STEEL AND STEEL PLATE DEMAND GLOBALLY .....	19
GLOBAL EXCESS CAPACITY AND PRODUCTION .....	20
WEAKENING STEEL MARKET AND ECONOMY IN EUROPE AND ASIA .....	21
NAMED SOURCE MARKET CONDITIONS .....	21
TRADE MEASURES AGAINST THE NAMED SOURCES.....	22
INVESTMENT .....	22
DOMESTIC MARKET CONDITIONS.....	22
CBSA’S CONCLUSION – THREAT OF INJURY .....	23
<b>CAUSAL LINK – DUMPING AND INJURY</b> .....	<b>23</b>
<b>CONCLUSION</b> .....	<b>24</b>
<b>SCOPE OF THE INVESTIGATION</b> .....	<b>24</b>
<b>FUTURE ACTION</b> .....	<b>24</b>
<b>RETROACTIVE DUTY ON MASSIVE IMPORTATIONS</b> .....	<b>25</b>
<b>UNDERTAKINGS</b> .....	<b>25</b>
<b>PUBLICATION</b> .....	<b>26</b>
<b>INFORMATION</b> .....	<b>26</b>

## **SUMMARY**

[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 the Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu (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 the Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu (Chinese Taipei), Germany, Malaysia, South Korea, and Turkey.

## **BACKGROUND**

[5] This is the first complaint which has been filed with the CBSA in respect of heavy plate, however, eight complaints have previously been filed in respect of steel plate. The measures resulting from four of the eight investigations are still in force. Following is a brief history of the eight previous plate investigations.

[6] Plate 1: On May 6, 1993, in Inquiry No. NQ-92-007, the Canadian International Trade Tribunal (CITT) found that dumped imports from the Kingdom of Belgium, the Federative Republic of Brazil (Brazil), the Czech Republic, the Kingdom of Denmark (Denmark), the Federal Republic of Germany, Romania, the United Kingdom and the Former Yugoslav Republic of Macedonia were injuring the production of plate in Canada. On May 5, 1998, in Expiry Review No. RR-97-006, the CITT concluded that there was no likelihood of resumed dumping from the named countries and, therefore, rescinded its finding.

[7] Plate 2: On May 17, 1994, in Inquiry No. NQ-93-004, the CITT found that dumped imports from the Italian Republic (Italy), the Republic of Korea, the Kingdom of Spain (Spain) and Ukraine were injuring the production of plate in Canada. On May 17, 1999, in Expiry Review No. RR-98-004, the CITT issued an order continuing its finding. On May 17, 2004, in Expiry Review No. RR-2003-001, the CITT 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.

[8] Plate 3: On October 27, 1997, in Inquiry No. NQ-97-001, the CITT found that dumped imports from the United Mexican States (Mexico), the People's Republic of China (China), the Republic of South Africa (South Africa) and Russia were threatening to cause material injury to the domestic industry. On January 10, 2003, in Expiry Review No. RR-2001-006, the CITT continued its finding against China, South Africa and Russia and rescinded its finding against Mexico. On January 9, 2008, in Expiry Review No. RR-2007-001, the CITT continued its order against China and rescinded its order against South Africa and Russia. On January 8, 2013, in Expiry Review No. RR-2012-001, the CITT continued its finding against China. On August 9, 2018, in Expiry Review No. RR-2017-004, the CITT continued its finding against China.

[9] Plate 4: On June 27, 2000, in Inquiry No. NQ-99-004, the CITT found that dumped imports from Brazil, the Republic of Finland, India, the Republic of Indonesia (Indonesia), the Kingdom of Thailand (Thailand) and Ukraine and subsidized imports from India, Indonesia and Thailand had caused material injury to the domestic industry. On June 27, 2005, in Expiry Review No. RR-2004-004, the CITT concluded that the expiry of the finding would likely not result in material injury to the domestic industry in the near to medium term and therefore rescinded its finding against the named countries.

[10] Plate 5: On January 9, 2004, in Inquiry No. NQ-2003-002, the CITT found that dumped imports from the Republic of Bulgaria (Bulgaria), the Czech Republic and Romania had caused material injury to the domestic industry. On January 8, 2009, in Expiry Review No. RR-2008-002, the CITT continued its finding against the named countries. On January 7, 2014, in Expiry Review No. RR-2013-002, the CITT continued its order against the named countries. On October 31, 2019, in Expiry Review RR-2018-007, the CITT continued its order against the named countries.

[11] Plate 6: On February 2, 2010, in Inquiry No. NQ-2009-003, the CITT found that dumped imports from Ukraine did not cause injury to the domestic market but threatened to cause injury to the domestic industry. On January 30, 2015, in Expiry Review No. RR-2014-002, the CITT continued its finding against the named country.

[12] Plate 7: On May 20, 2014, in Inquiry No. NQ-2013-005, the CITT found that dumped imports from Brazil, Denmark, Indonesia, Italy, Japan, and the Republic of Korea did not cause injury to the domestic market but threatened to cause injury to the domestic industry. On March 13, 2020, in Expiry Review No. RR-2019-001, the CITT continued its finding against the named countries.

[13] Plate 8: On January 6, 2016, in Inquiry No. NQ-2015-001, the CITT found that dumped imports from the Republic of India and the Russian Federation and the subsidized imports from the Republic of India did not cause injury, nor threaten to cause injury to the domestic industry.

[14] In summary, at this time there are four plate findings being enforced by the CBSA; Plate 3 against China; Plate 5 against Bulgaria, the Czech Republic and Romania; Plate 6 against Ukraine; and Plate 7 against Brazil, Denmark, Indonesia, Italy, Japan, and the Republic of Korea. The CBSA notes that there is an overlap between Plate 7 and heavy plate concerning goods from South Korea, however, plate from South Korea that is subject to the Plate 7 finding is excluded from heavy plate.

[15] In addition to the anti-dumping cases mentioned above, the government of Canada imposed final safeguard measures on May 13, 2019 on heavy plate imports, which cover a subset of heavy plate meeting the product definition of subject goods. South Korea is excluded from these safeguards.

## **INTERESTED PARTIES**

### **Complainant**

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

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

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

[18] 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). 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**

[19] The complainant identified one trade union that represents persons employed in the production of heavy plate in Canada:

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

### **Exporters**

[20] The CBSA identified 36 potential exporters of the subject goods from CBSA import documentation and from information submitted in the complaint. All of the potential exporters were asked to respond to the CBSA's Dumping Request for Information (RFI).

### **Importers**

[21] The CBSA identified 34 potential importers of the subject goods from CBSA import documentation and from information submitted in the complaint. All of the potential importers were asked to respond to the CBSA's Importer RFI.

### **Governments**

[22] Upon initiation of this investigation, the Government of Turkey (GOT) was sent the CBSA's Government Particular Market Situation RFI.

[23] For the purposes of this investigation, the 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 any law passed by, the government of that country or that provincial, state or municipal or other local or regional government.

## **PRODUCT INFORMATION**

### **Definition**

[24] 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 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**

[25] 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.

[26] 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.

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

### **Production Process**

[28] 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

[29] 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.

[30] 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.

[31] 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.

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

### **Product Use**

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



## **Classification of Imports**

[34] The allegedly dumped 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	

[35] 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 SINGLE CLASS OF GOODS**

[36] 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.

[37] In considering the issue of like goods, the CITT typically looks at a number of factors, including the physical characteristics of the goods (such as composition and appearance) their market characteristics (such as substitutability, pricing, distribution channels and end uses), and whether the domestic goods fulfill the same customer needs as the subject goods.

[38] The complainant stated that domestically produced heavy plate is like goods in relation to the subject goods as the domestically produced heavy plate and the subject goods are commodity products that compete directly in the Canadian market place, through the same channels of distribution, and are fully interchangeable. Further, the complainant submits that the subject goods constitute a single class of goods. The complainant cited CITT decisions in Plate 5 and 7 to support this position.<sup>1</sup> The CBSA notes that although the dimensions for the subject heavy plate are different from the subject goods from previous findings concerning plate, the CBSA finds these past decisions to be relevant to heavy plate.

[39] After considering questions of use, physical characteristics and all other relevant factors, the CBSA is of the opinion that the domestically produced heavy plate, that is of the same description as the subjects goods, is like goods to the subject goods and further, that the subject goods and like goods constitute only one class of goods.

## **THE CANADIAN INDUSTRY**

[40] The complaint includes data on domestic production and on domestic sales of heavy plate for domestic consumption.

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<sup>1</sup> Canadian International Trade Tribunal Expiry Review nos. RR-2019-001 and RR-2018-007

[41] The complaint contains letters of support from Janco and SSAB.<sup>2</sup>

[42] The complainant and the supporting producers account for the vast majority of the domestic production of like goods.

### **Standing**

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

- a. the complaint is supported by domestic producers whose production represents more than 50% of the total production of like goods by those domestic producers who express either support for or opposition to the complaint; and
- b. the production of the domestic producers who support the complaint represents 25% or more of the total production of like goods by the domestic industry.

[44] As the complainant and the supporting producers represent the vast majority of the total production of like goods in Canada, the CBSA is satisfied that the standing requirements pursuant to subsection 31(2) of SIMA have been met.

### **CANADIAN MARKET**

[45] The complaint includes the annual production of like goods for the complainant, Janco and SSAB, as well as estimates for the other domestic producers for 2019.

[46] The complainant, using Statistics Canada data, estimated the total volume of imports of heavy plate originating from all sources for the period of 2016 through 2019. The tariff classification numbers for heavy plate include both subject and non-subject goods. As such, the complainant made a number of adjustments in an effort to remove non-subject heavy plate. The most significant adjustments relate to the removal of plate which is under 0.375 inches thick.<sup>3</sup>

[47] The CBSA conducted an analysis of imports of heavy plate based on actual import documentation and based on commercial intelligence provided by the complainant.

[48] A review of CBSA import data demonstrated trends similar to those provided in the complaint with respect to the relative proportion of subject goods imported from each of the named sources. The CBSA notes there are discrepancies in the volumes estimated by the complainant and the CBSA. As noted above, the complainant's estimates of imports rely on information reported by Statistics Canada, which does not report import volumes specific to the product description of the subject goods.

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

<sup>3</sup> Exhibit 2 (NC) – Heavy Plate Complaint – Paragraphs 44-46.

[49] Detailed information regarding the volume and value of imports of heavy plate and domestic production cannot be divulged for confidentiality reasons. The CBSA, however, has prepared the following tables to show the import share of heavy plate in Canada, as estimated by the CBSA.

**Table 1**

**CBSA'S ESTIMATE OF IMPORT SHARE  
(BASED ON VOLUME)**

<b>Origin or Export</b>	<b>2017</b>	<b>2018</b>	<b>2019</b>
The Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu (Chinese Taipei)	3.0%	5.5%	4.9%
Germany	3.4%	8.4%	17.4%
Malaysia	4.9%	2.5%	4.5%
South Korea	3.8%	8.8%	2.9%
Turkey	10.6%	15.0%	7.8%
<b>Total Imports from Named Sources</b>	<b>25.7%</b>	<b>40.2%</b>	<b>37.5%</b>
Other Countries	74.3%	59.8%	62.5%
<b>Total Imports</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>

\* totals may not add to exactly 100% due to rounding

[50] The CBSA will continue to gather and analyze information on the volume of imports during the period of investigation (POI) of March 1, 2019 to February 29, 2020 as part of the preliminary phase of the dumping investigations and will refine these estimates.

[51] Under subsection 35(1) of SIMA, the President is required to terminate an investigation prior to the preliminary determination if the actual and potential volume of goods is negligible.

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

[53] The CBSA notes that for South Korea, the data in the Table above suggests that the volume of dumped goods is negligible, as it is below 3% of total imports. Accordingly, the CBSA will continue to gather and analyze information on the volume of imports from all sources in the preliminary phase of the investigation and, if the evidence continues to suggest that the volume of dumped goods from South Korea is negligible, the CBSA will terminate the investigation with respect to South Korea.

[54] Due to the COVID-19 pandemic, the CBSA has been limiting interactions with stakeholders for import compliance purposes. As a result, the CBSA did not request entries from importers, limiting the import analysis.

[55] The CBSA notes that the United States accounts for the majority of the imports from all other countries for each year. In addition, based on the CBSA's import data, the imports from the United States appear to be sold at prices similar to those of the complainant.

## **EVIDENCE OF DUMPING**

[56] The complainant alleged that heavy plate from the Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu (Chinese Taipei), Germany, Malaysia, South Korea, and Turkey has been injuriously dumped into Canada. Dumping occurs when the normal value of the goods exceeds the export price to importers in Canada.

[57] Normal values are generally based on the domestic selling price of like goods in the country of export where competitive market conditions exist or as 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.

[58] The complainant made the allegation that particular market situations (PMS) may exist in Turkey which does not permit a proper comparison between the sale of like goods with the sale of the goods to the importer in Canada, as described in paragraph 16(2)(c) of SIMA. As such, Algoma submitted that normal values for Turkey should not be estimated using the methodology of section 15 of SIMA.<sup>4</sup>

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

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

### **Normal Values**

#### **Complainant's Estimates**

[61] The complaint did not include estimates of normal values pursuant to section 15 of SIMA. The complainant explained that the best available source to estimate normal values pursuant to section 15 is source specific MEPS pricing data. This pricing data was available for all named sources with the exception of Malaysia. However, according to the complainant, MEPS data is not appropriate to use as a basis for estimating normal values as it reflects only base products, may include non-subject goods, and provides only a highest and lowest price.<sup>5</sup>

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<sup>4</sup> Exhibit 2 (NC) – Heavy Plate Complaint – Paragraph 65.

<sup>5</sup> Exhibit 2 (NC) – Heavy Plate Complaint – Paragraphs 56-59.

[62] Consequently, the complainant provided estimated normal values using a constructed cost approach to reflect the methodology defined under paragraph 19(b) of SIMA. The complainant based these estimates on their own costs of production as well as public cost and pricing information available with respect to each of the named sources.

[63] The complainant has alleged that a particular market situation exists in the heavy plate market in Turkey. Specifically, based on information provided in the complaint, the complainant submits that pursuant to section 11.2(2) of the *Special Import Measures Regulations*, a particular market situation exists in Turkey as Turkish producers' and exporters' cost of production data do not reasonably reflect the cost of production. However, for the purposes of the complaint, the complainant estimated normal values for Turkey in a manner similar to the other named sources, based on their own cost information adjusted to reflect conditions in the named sources.

[64] One normal value was estimated per quarter for heavy plate from each of the named sources based on the aggregate of the costs of producing the goods (materials, labour, and overhead), a reasonable amount for selling, general and administrative (SG&A) costs and other costs, and a reasonable amount for profits.

[65] Material costs were estimated based on the complaints' material costs. For iron ore, the material cost was adjusted to reflect the difference between Algoma's iron ore cost for a given quarter and Platts' Iodex 62% ore price. According to the complainant, Platts' Iodex 62% ore price best represents the global ore price for steel. No adjustments were made to the complainants' costs for coal or other materials.<sup>6</sup>

[66] Labour costs were estimated based on the complainant's own costs associated with the production of like goods and adjusted to reflect labour costs in the named sources. This adjustment was applied to the costs based on publically available information reported by Trading Economics.<sup>7</sup>

[67] With respect to Turkey, the complainant submits that the labour information available for that country is inadequate for the purposes of estimating normal values. Specifically, the complainant noted that the information available for Turkey is indexed to a prior year, without publishing the wages of that year. Further, the complainant notes that only minimum wages are published and that minimum wages do not adequately reflect manufacturing labour rates.

[68] The complainant submits that Turkish labour information should not be used and has provided the Czech Republic as the appropriate surrogate for labour cost data. The complainant submits that the Czech Republic is a reasonable proxy for Turkey as both countries are located in the Euro area, have a per capita GDP that is far less than that of Germany, France and other European economic leaders, and relatively similar GDP per capita. Finally, the complainant argues that based on the adjustment rate, this is likely a conservative estimate.

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<sup>6</sup> Exhibit 2 (NC) – Heavy Plate Complaint – Paragraph 69.

<sup>7</sup> Exhibit 2 (NC) – Heavy Plate Complaint – Attachment 16.

[69] The labour adjustment was calculated for each quarter. The adjustments are presented as a percentage of the Canada labour rate and ranged as follows:

- The Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu (Chinese Taipei) – downward adjustment of 49.8% to 68.6%
- Germany – upward adjustment of 143.3% to 146.9%
- South Korea – upward adjustment of 106.7% to 113.0%
- Malaysia – downward adjustment of 28.4% to 29.8%
- Turkey – downward adjustment of 45.9% to 49.0%

[70] Overhead costs were based on the complainant's factory overhead costs, with an adjustment applied to the portion of overhead relating to indirect labour for each named source.<sup>8</sup>

[71] The complainant estimated the amounts for SG&A and financial expenses, as well as the amounts for profit, based on the publicly available financial statements of plate producers in the named sources.

[72] For the Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu (Chinese Taipei), the complainant used amounts reported by China Steel Corp. in its annual financial statements.

[73] For Germany, the complainant used SG&A and financial expense amounts reported by German steel producer Salzgitter Group and adjusted to account for differences in financial reporting methodologies. During the POI Salzgitter Group reported a negative net income. The complainant submits that a negative amount is not a reasonable figure to use for the purposes of estimating normal values. As such, the complaint has applied 5% as an amount for profit for estimating normal values for Germany. The complainant made reference to rates of return on various investments to support the use of this 5% figure.

[74] For South Korea, the complainant used amounts reported in the financial statements of Hyundai Steel, a plate producer located in South Korea.

[75] The complainant submits that they could not obtain publicly available financial information for plate producers in Malaysia. As such, the complainant used SG&A and financial expense data from Malaysia Steel Works, a Malaysian producer of steel billet and steel bar. As this producer reported a negative profit for the POI, the complainant applied the profit amount found for the Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu (Chinese Taipei).

[76] For Turkey, the complainant used data from Ereğli Demir ve Çelik Fabrikaları T.A.Ş., a plate producer located in Turkey. The amounts for SG&A and financial expenses, as well as the amounts for profits, are reported as a percent of the cost of goods manufactured.

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<sup>8</sup> Exhibit 2 (NC) – Heavy Plate Complaint – Paragraph 69.

## **CBSA's Estimates**

[77] The CBSA has reviewed the complainant's arguments concerning the use of MEPS domestic price information. Based on the information provided, the CBSA finds the complainant's arguments to be reasonable.

[78] In the absence of pricing information specific to heavy plate in the named sources, the CBSA was unable to estimate normal values following the methodology described in section 15 of SIMA.

[79] With respect to the complainant's allegations of a particular market situation in Turkey, the CBSA will endeavor to gather additional information from exporters, and other relevant sources in order to enable the CBSA to form an opinion as to whether a "particular market situation" exists in the domestic market for heavy plate in Turkey and whether the domestic sales in Turkey permit a proper comparison with the sale to the importer in Canada. For the purposes of initiation, the CBSA has estimated normal values pursuant to section 19(b) of SIMA.

[80] The CBSA notes that the complainant's estimated normal values lack specificity. Although the estimated normal values do not account for all product characteristics which the CBSA recognizes may have an effect on the cost and/or price of heavy plate, the CBSA also recognizes that this approach was reasonable based on the information available to the complainant. The CBSA finds that it is reasonable to assume that the subject goods shipped to Canada during the period of January 1, 2019 to December 31, 2019 would reflect a product mix similar to the complainant's production for that period. As such, the CBSA finds that the normal value calculated for each quarter may reasonably represent the subject goods shipped to Canada during that period. The CBSA notes that sufficient information was not provided prior to the initiation of the investigation to form an opinion as to whether a particular market situation exists in Turkey.

[81] In analyzing the paragraph 19(b) normal values estimated by the complainant, the CBSA noted that there was an error in the formulas relating to certain cost of goods manufactured (COGM) information provided by the complainant. The CBSA corrected the estimated normal values. Based on the information available to the complainant, the CBSA found that the corrected paragraph 19(b) normal value estimates are reasonable and representative.

[82] With respect to the amount for profits used to calculate normal values for Germany, the CBSA finds that the complainant's estimate is not well supported but may reflect the best information available. The CBSA recognizes that obtaining publicly available financial data may be difficult and that applying a negative amount for profits is not reasonable. Further, the CBSA finds that the application of information found for other countries is made difficult by the differences in both geography and economic conditions in these countries. Given the information available to the complainant, the CBSA finds that the amount for profits used in calculating normal values for Germany is reasonable.

[83] Based on the information available at this time, the CBSA finds the complainant's proposed constructed cost methodology to be the best information available. As such, only the adjustment mentioned above was made to the complainant's estimates of section 19 normal values.

### **Export Price**

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

[85] The complainant estimated export prices based on importation data available from Statistics Canada for the period of January 1, 2019 to December 31, 2019. For each named source, the complainant estimated one export price per quarter using the total declared value for duty and total declared quantity information for the relevant tariff classification codes for this period.

[86] The CBSA estimated quarterly export prices for heavy plate for each named source based on the value for duty as declared on the customs entry documentation and reports generated through the Facility for Information Retrieval Management (FIRM) of imports of the goods classified under the relevant tariff classification codes during the period of January 1, 2019 to December 31, 2019. In the CBSA's review of commercial entry information for heavy plate entering Canada, adjustments were made to the FIRM data to correct any errors respecting the quantity and value for duty as necessary.

### **Estimated Margins of Dumping**

[87] The CBSA estimated the margins of dumping for the named sources by comparing the estimated normal values with the weighted average estimated export prices. Based on this analysis, it is estimated that heavy plate imported into Canada from each of the named sources was dumped. The estimated margins of dumping are listed in the table below.



**TABLE 2**

**ESTIMATED MARGINS OF DUMPING**

<b>Origin or Export</b>	<b>Estimated Margin of Dumping as % Export Price</b>
The Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu (Chinese Taipei)	24.9%
Germany	23.3%
Malaysia	17.2%
South Korea	16.9%
Turkey	44.5%

**PARTICULAR MARKET SITUATION**

[88] Paragraph 16(2)(c) is a provision of SIMA that may be applied when the CBSA 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 particular market situation prevails.

[89] Pursuant to subsection 16(2.1), the CBSA may form the opinion that a PMS exists in respect of any goods of a particular exporter or of a particular country.

[90] In such cases, the CBSA would not estimate 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 using the constructed normal value methodology of paragraph 19(b).

[91] Where the CBSA is of the opinion that a PMS also distorts significant production input costs, the CBSA 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.

[92] Where the CBSA finds there is sufficient reason to believe that a PMS may exist, the CBSA may solicit information from exporters and, where applicable, the government of the country of export, and independently gather other relevant information in order to form an opinion as to whether paragraph 16(2)(c) is applicable.

[93] The complainant made the allegation that a particular market situation may exist in Turkey, which does not permit a proper comparison between the domestic sales of heavy plate in Turkey, or the Turkish export costs with the sale of the goods to the importer in Canada.<sup>9</sup>

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<sup>9</sup> Exhibit 2 (NC) – Heavy Plate Complaint – Paragraphs 65-67.

[94] The complainant submitted that a PMS exists whenever one, or the combination of several, factors or circumstances renders domestic sales inappropriate for the calculation of dumping margins, regardless of whether or not these sales are in the ordinary course of trade. The complainant also argued that subsection 11.2(2) of the SIMR makes clear that a PMS may exist where the acquisition cost of an input used in the production of a subject good is distorted. The complainant also argued that although the concept of PMS is not limited to government influence, the SIMA Handbook states that a PMS may also exist where a named country's government's actions and policies affect selling prices such that a proper comparison of home market prices do not allow for a proper comparison. Such actions and policies include, according to the complainant, government regulations, taxation policies, and programs that affect domestic pricing and market activities of state-owned enterprises (SOEs).<sup>10</sup>

[95] The complainant submitted that a PMS exists with respect to Turkey for the following reasons<sup>11</sup>:

- A. Government of Turkey's involvement in the Turkish plate market
  - Government economic policy plans affecting domestic selling prices
  - Government support programs
  - Turkey's excess inflation
  - Government intervention in Turkey's monetary policy and the lack of central bank independence
  - Conversion of foreign exchange denominated contracts to lira-denominated contracts
  - State controlled entities Erdemir and Isdemir influence plate prices
- B. Contraction in the Turkish domestic market
- C. Low-priced substrate imports

[96] The CBSA will further examine whether a PMS exists throughout the investigation.

## **EVIDENCE OF INJURY**

[97] The complainant alleges that the subject goods have been dumped and that such dumping has caused and is threatening to cause injury to the domestic industry producing like goods in Canada.

[98] SIMA refers to material injury caused to the domestic producers of like goods in Canada. The CBSA has concluded that heavy plate produced by the domestic industry is like goods to the subject goods from the named sources.

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<sup>10</sup> Exhibit 2 (NC) – Heavy Plate Complaint – Appendix 1 – Particular Market Situation in Turkey; Paragraphs 311-315.

<sup>11</sup> Exhibit 2 (NC) – Heavy Plate Complaint – Appendix 1 – Particular Market Situation in Turkey; Paragraphs 323-404.

[99] In support of their injury allegations, the complainant provided evidence of lost sales, price depression and price undercutting, stagnation of market share, impacted financial results and underutilization of capacity.

### **Lost Sales<sup>12</sup>**

[100] The complainant provided evidence of lost sales on an offer specific basis. Specifically, the complaint includes examples of numerous sales that were lost either entirely or in part by the complainant to imports of the allegedly dumped goods. The evidence includes a detailed statement of evidence from a Regional Sales Director for Algoma as well as Import Activity Reports to support the specific lost sales allegations.

[101] Based on the CBSA's analysis of information detailing individual lost sales contained in the complaint as well as the CBSA's estimate of imports and market share, the CBSA finds the complainant's claim of lost sales to be reasonable and well supported. As such, the CBSA is of the opinion that this injury factor is sufficiently supported and linked to the allegedly dumped goods.

### **Price Depression and Price Undercutting<sup>13</sup>**

[102] The complainant argues that the allegedly dumped goods have captured market share by undercutting the prices of the Canadian producers. Based on the import data estimates provided by the complainant, it is evident that the prices of the subject goods have been significantly lower than Canadian producer pricing.

[103] The complainant also provided specific examples of sales offers for which prices of the subject goods were less than the complainant's. The average import prices calculated by the CBSA reveal a trend similar to that described by the complainant.

[104] As a result of these significant price discrepancies, the complainant states that it has been forced to reduce its pricing. In support of this, the complainant provided evidence of several instances where they were forced to discount pricing in order to compete with imports of subject goods.

[105] The complainant also alleged that the named sources have been import price leaders and have been undercutting prices from the United States, the primary source of other imports, in addition to the domestic producers. To support this claim, the complainant included a comparison of prices of subject goods to that of the United States to demonstrate that subject goods have been priced well below the price of the United States' imports.

[106] Based on the CBSA's analysis of import pricing as well as the information contained in the complaint, the CBSA finds the claim of price depression and price undercutting to be supported and sufficiently linked to the allegedly dumped goods.

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<sup>12</sup> Exhibit 2 (NC) – Heavy Plate Complaint – Paragraphs 100-113, Attachments 10 and 38.

<sup>13</sup> Exhibit 2 (NC) – Heavy Plate Complaint – Paragraphs 114-124.

## **Stagnation of Market Share<sup>14</sup>**

[107] The complainant claims that the named sources have increased their market share from 2016 to 2019, which has caused injury through reduced revenues, profitability and capacity utilization. The complainant used Statistics Canada import data and domestic production to estimate market shares for the period of 2016 to 2019.

[108] The complainant notes that the United States' antidumping and countervailing measures on plate in 2017 and the 232 measures in 2018 provided protection for US producers, which allowed the United States to increase their domestic sales. This caused the United States' exports to Canada to decrease, reducing their market share in Canada. The complainant stated that they expected to replace the US imports with domestic production, however, the exporters of subject goods leveraged these conditions to increase their share of sales.

[109] The complainant has provided significant evidence of lost sales due to the allegedly dumped goods. The loss of these sales has negatively impacted the complainant's market share. This supports the stagnation of market share, as the presence of the allegedly dumped goods appears to have slowed the growth of the complainant's market share.

[110] Based on the CBSA's analysis of the information contained in the complaint, the CBSA finds stagnation of market share to be an injury factor.

## **Impacted Financial Results<sup>15</sup>**

[111] The complainant alleges that the injurious impact of the allegedly dumped goods is demonstrated by diminished gains in net income. To support this allegation the complainant has provided financial performance information for the period of 2016 to 2019.<sup>16</sup>

[112] Detailed information regarding the revenue and profitability cannot be divulged for confidentiality reasons. However, the CBSA has reviewed this information and found that there has been a trend to the impact on the financial results which supports the complainant's allegations. The CBSA finds it reasonable to assume that the presence of the other injury factors would have some impact on the financial results of the domestic industry, and that the information in the complaint has sufficiently linked the allegedly dumped goods to the complainant's impacted financial results.

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<sup>14</sup> Exhibit 2 (NC) – Heavy Plate Complaint – Paragraphs 125-128.

<sup>15</sup> Exhibit 2 (NC) – Heavy Plate Complaint – Paragraphs 129-132.

<sup>16</sup> Exhibit 1 (PRO) – Heavy Plate Complaint – Attachment 14.

## **Underutilization of Capacity<sup>17</sup>**

[113] The complainant states that capacity utilization rates with respect to the production of heavy plate have suffered due to the presence of the dumped goods. The complainant alleges that due to the decline of prices they have been unable to increase production or utilization. To support this claim, the complainant has provided production information for 2016 to 2019.<sup>18</sup>

[114] Based on the CBSA's analysis of information contained in the complaint, including the complainant's confidential production information, the CBSA finds that there is a reasonable link between the presence of the allegedly dumped goods and the complainant's inability to increase capacity utilization with respect to heavy plate.

## **CBSA's Conclusion – Injury**

[115] Overall, based on the evidence provided in the complaint, and supplementary data available to the CBSA through its own research and customs documentation, the CBSA finds that the evidence discloses a reasonable indication that the dumping of the subject goods from the named sources has caused injury to the heavy plate industry in Canada. The nature of the injury is well documented with respect to lost sales, price depression and price undercutting, stagnation of market share, impacted financial results and underutilization of capacity.

## **THREAT OF INJURY**

[116] The complainant states that the import of the allegedly dumped goods threatens to cause further material injury to the Canadian domestic industry. For purposes of evaluating the threat of injury, the complainant suggested an assessment period of 12-24 months.<sup>19</sup>

[117] The complainant provided the following information to support the allegation that imports of subject goods threaten to cause further injury to the Canadian industry.

## **Weak Steel and Steel Plate Demand Globally<sup>20</sup>**

[118] In the complainant's discussion of international market conditions, the complainant alleges that the global steel outlook is weak and that the heavy plate market is affected by the uncertainty present in the steel industry. The complainant cites various reports published by the business intelligence company called the CRU Group and the World Steel Association which support the complainant's allegation that uncertainty and concern continue to exist in the steel industry as a whole.

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<sup>17</sup> Exhibit 2 (NC) – Heavy Plate Complaint – Paragraphs 133-134.

<sup>18</sup> Exhibit 1 (PRO) – Heavy Plate Complaint – Attachment 14.

<sup>19</sup> Exhibit 2 (NC) – Heavy Plate Complaint – Paragraphs 139-144.

<sup>20</sup> Exhibit 2 (NC) – Heavy Plate Complaint – Paragraphs 145-153, Attachments 39-43 and 45.

[119] Despite declining steel demand growth, the complainant indicates that steel production in China especially, has continued to grow, leading to imbalances in the Chinese steel market. The complainant alleges this creates a climate whereby oversupply encourages the export of low-priced steel products, affecting global markets and Canada.

[120] The CBSA's analysis of the global demand information contained in the complaint revealed weak demand for steel and steel plate, which the CBSA recognizes may lead heavy plate producers in the named sources to target certain export markets, including Canada.

### **Global Excess Capacity and Production<sup>21</sup>**

[121] The complainant has referenced information published by a variety of sources, including the Organisation for Economic Co-operation and Development Steel Committee, the European Steel Association (EUROFER) and the International Monetary Fund (IMF), to support the allegation of excess global capacity in the steel industry.<sup>22</sup> The complainant also included data from the CRU Group Outlook for global capacity, consumption and production for reversing mill plate, coil plate, and hot-rolled sheet for the years 2017-2019, as well as forecasts for 2020-2022.<sup>23</sup> The data and forecasts show significant excess plate for all years.

[122] The complainant points to China's surplus production as a driving force behind the overcapacity problem in the global heavy plate market, stating that the low priced Chinese imports put pressure on the named sources' markets, especially South Korea and Germany, which are the second and fourth largest export markets for Chinese reversing mill plate, respectively. The complaint states that this poses a significant threat to the complainant as these countries are forced to seek new markets for their surplus heavy plate. The complainant also noted a decision made by the CITT for the Plate 7 expiry review in March of 2020, where the CITT notes that global steel excess capacity remains a threat of injury.<sup>24</sup>

[123] The CBSA recognizes the significant excess capacity of heavy plate in the global market, including the named sources, which, if directed to Canada, could result in a significant increase of subject imports, and pose a threat to the domestic industry.

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<sup>21</sup> Exhibit 1 (PRO) – Heavy Plate Complaint – Paragraphs 154-179, Attachments 40, 43 and 46-54.

<sup>22</sup> Exhibit 1 (PRO) – Heavy Plate Complaint – Attachments 46-54.

<sup>23</sup> Exhibit 1 (PRO) – Heavy Plate Complaint – Table 11, Attachments 40, 43 and 54.

<sup>24</sup> Canadian International Trade Tribunal Expiry Review No. RR-2019-001.

## **Weakening Steel Market and Economy in Europe and Asia<sup>25</sup>**

[124] The complainant alleges that the weakening steel market in Europe is causing producers that traditionally sell in Europe to find other markets for the production. The complainant cites sources such as EUROFER, IMF and CRU Group reports to support this claim. Based on publications by the EUROFER, the complainant states that steel imports have flooded the European Union (EU) market, overwhelming the market and satisfying its limited demand growth. The complainant alleges that this poses a threat to the Canadian plate market as subject goods producers, specifically those in Germany and Turkey, will be incentivized to increase export sales.

[125] The complainant also alleges that there is weak demand in both Europe and Asia, and has included production and demand forecasts published by the CRU Group for both Europe and Asia to support this claim.<sup>26</sup> The complainant suggests the weak demand threatens the domestic Canadian market as it will likely cause exporters from the Europe and Asia to increasingly rely on export markets such as Canada.

[126] The CBSA's analysis of the information provided by the complainant revealed market and economic conditions in Europe and Asia which the CBSA recognizes may lead heavy plate producers in the named sources to target certain export markets, including Canada.

## **Named Source Market Conditions<sup>27</sup>**

[127] The complainant states that heavy plate producers in each of the named sources have significant capacity, continued overproduction of steel and a propensity to export. The complainant has used publically available information to estimate production capacity of heavy plate for each named source. In linking the capacity of the producers of subject goods to their likeliness to export to Canada, the complainant discusses domestic demand in the named sources, volumes of exports to other countries, including Canada, and other trade measures in force against the named sources with respect to similar goods.

[128] The CBSA's analysis of the information contained in the complaint revealed market conditions in the named sources which the CBSA recognizes may encourage heavy plate producers to target certain export markets, including Canada.

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<sup>25</sup> Exhibit 2 (NC) – Heavy Plate Complaint – Paragraph 180-194.

<sup>26</sup> Exhibit 1 (PRO) – Heavy Plate Complaint – Table 13 and 14, Attachment 40.

<sup>27</sup> Exhibit 2 (NC) – Heavy Plate Complaint – Paragraphs 195-268.

## **Trade Measures Against the Named Sources<sup>28</sup>**

[129] The complainant states that several countries have imposed trade remedies against goods of the same or similar description from certain named sources. Specifically, the complainant submits that the Section 232 steel tariffs and quotas imposed in the United States has resulted in a decline of steel plate imported in the United States. The complainant also named several anti-dumping, countervailing and safeguard measures imposed by other World Trade Organization (WTO) members against steel plate products from the named sources. The complainant alleges that these trade measures are likely to lead to diversion of subject goods into the Canadian market.

[130] The CBSA acknowledges the presence of trade remedy actions in the United States and other countries, which may further increase the volume of subject goods imported into Canada. Furthermore, the CBSA recognizes that these restrictions may have a significant impact on the Canadian market for heavy plate.

## **Investment<sup>29</sup>**

[131] The complainant states that it has undertaken a plate modernization plan to improve and modernize its plate production facilities. The complainant intends to sell any additional tonnes primarily in the Canadian market. The complainant states that the absence of a positive Finding would threaten the success of this project, and reduce its ability to earn a sustainable return on the investment.

[132] The CBSA recognizes that the allegedly dumped goods could continue to cause injury to the complainant's financial results, which could negatively impact the success of investment activities.

## **Domestic Market Conditions<sup>30</sup>**

[133] Referencing forecasts made by RBC and CBC News, the complainant states that the Canadian economy will be facing difficulties, including a projected recession. Reports provided by the complainant indicate that various factors, including COVID-19, low oil prices and railway disruptions, have created uncertainty which is expected to limit economic growth.

[134] The complainant described the Canadian plate market using its Canadian plate market table, as well as the CRU Group's forecasts for the Canadian demand of plate and reversing mill plate.

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<sup>28</sup> Exhibit 2 (NC) – Heavy Plate Complaint – Paragraphs 269-281.

<sup>29</sup> Exhibit 2 (NC) – Heavy Plate Complaint – Paragraphs 288-291.

<sup>30</sup> Exhibit 2 (NC) – Heavy Plate Complaint – Paragraphs 292-296.



[135] The complainant also notes that the relatively higher domestic prices in Canada makes it attractive to exporters of the subject goods. To support this claim, the complainant referenced a recent expiry review for Plate 5, where the CITT stated that the rescinding of the order would make the Canadian market attractive to the subject goods due to the high prices in the market.<sup>31</sup> The complainant further notes that during this expiry review the CITT deemed the CRU Group US Midwest prices to be a reasonable proxy for Canadian pricing trends. In order to support the allegation of high prices, the complainant provided data from the CRU Group Steel Plate Products Market Outlook which shows that the US Midwest prices have been above, and are forecasted to remain above, prices in other markets such as the German, Italian, and Chinese domestic markets, as well as the Far East import market. The complainant states that this data suggests that the Canadian market will be attractive to exporters from the named sources, if a finding is not put into place.

[136] The CBSA recognizes that due to domestic market conditions, Canada remains an attractive open heavy plate market to exporters of subject goods, which poses a threat to domestic producers.

### **CBSA's Conclusion – Threat of Injury**

[137] The complaint contains evidence that discloses a reasonable indication that there is a threat of injury to the heavy plate industry in Canada. The information provided by the complainant indicates that persisting imbalances in the global steel industry, global excess capacity, weakening steel market and economic conditions in Europe and Asia, named source market conditions, trade measures against named sources and Canadian market conditions, as described above, are collectively posing a threat to the Canadian industry.

### **CAUSAL LINK – DUMPING AND INJURY**

[138] The CBSA finds that the complainant has provided sufficient evidence that discloses a reasonable indication that they have suffered injury due to the alleged dumping of subject goods imported into Canada. There is a reasonable indication that the injury the complainant has suffered in terms of lost sales, price depression and price undercutting, stagnation of market share, impacted financial results and capacity under-utilization, is related directly to the price advantage the apparent dumping has produced between the subject imports and the Canadian produced goods.

[139] The complainant submitted that the continued dumping of goods from the named sources will cause further injury to the Canadian domestic industry in the future. As discussed above, the CBSA is of the opinion that this allegation of threat of injury is reasonably supported.

[140] In summary, the CBSA is of the opinion that the information provided in the complaint has disclosed a reasonable indication that the alleged dumping has caused injury and is threatening to cause injury to the Canadian domestic industry.

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<sup>31</sup> Canadian International Trade Tribunal Expiry Review No. RR-2018-007.

## **CONCLUSION**

[141] Based on information provided in the complaint, other available information, and the CBSA's import documentation, the CBSA is of the opinion that there is evidence that heavy plate originating in or exported from the Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu (Chinese Taipei), Germany, Malaysia, South Korea and Turkey has been dumped. Further, there is a reasonable indication that such dumping has caused and is threatening to cause injury to the Canadian industry. As a result, pursuant to subsection 31(1) of SIMA, a dumping investigation was initiated on May 27, 2020.

## **SCOPE OF THE INVESTIGATION**

[142] The CBSA is conducting an investigation to determine whether the subject goods have been dumped.

[143] The CBSA has requested information from all potential exporters and importers to determine whether or not subject goods exported to Canada during the CBSA's period of investigation of March 1, 2019 to February 29, 2020 were dumped. The information requested will be used to determine the normal values, export prices and margins of dumping, if any. The CBSA also requested information from the GOT as well as exporters with respect to the possibility of a particular market situation.

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

## **FUTURE ACTION**

[145] The CITT will conduct a preliminary inquiry to determine whether the evidence discloses a reasonable indication that the alleged dumping of the goods has caused or is threatening to cause injury to the Canadian industry. The CITT must make its decision on or before the 60<sup>th</sup> day after the date of the initiation of the investigation. If the CITT concludes that the evidence does not disclose a reasonable indication of injury to the Canadian industry, the investigation will be terminated.

[146] If the CITT finds that the evidence discloses a reasonable indication of injury to the Canadian industry and the CBSA's preliminary investigation reveals that the goods have been dumped, the CBSA will make a preliminary determination of dumping within 90 days after the date of the initiation of the investigation, by August 25, 2020. Where circumstances warrant, this period may be extended to 135 days from the date of the initiation of the investigation.

[147] Under section 35 of SIMA, if, at any time before making a preliminary determination, the CBSA is satisfied that the volume of goods of a country is negligible, the investigation will be terminated with respect to goods of that country.

[148] Imports of subject goods released by the CBSA on and after the date of a preliminary determination of dumping, other than goods of the same description as goods in respect of which a determination was made that the margin of dumping of the goods is insignificant, may be subject to provisional duty in an amount not greater than the estimated margin of dumping on the imported goods.

[149] Should the CBSA make a preliminary determination of dumping, the investigation will be continued for the purpose of making a final decision within 90 days after the date of the preliminary determination.

[150] After the preliminary determination, if, in respect of goods of a particular exporter, the CBSA's investigation reveals that imports of the subject goods from that exporter have not been dumped, or that the margin of dumping is insignificant, the investigation will be terminated in respect of those goods.

[151] If a final determination of dumping is made, the CITT will continue its inquiry and hold public hearings into the question of material injury to the Canadian industry. The CITT is required to make a finding with respect to the goods to which the final determination of dumping applies, not later than 120 days after the CBSA's preliminary determination.

[152] In the event of an injury finding by the CITT, imports of subject goods released by the CBSA after that date will be subject to anti-dumping duty equal to the applicable margin of dumping on the imported goods.

### **RETROACTIVE DUTY ON MASSIVE IMPORTATIONS**

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

[154] Should the CITT issue such a finding, anti-dumping duties may be imposed retroactively on subject goods imported into Canada and released by the CBSA during the period of 90 days preceding the day of the CBSA making a preliminary determination of dumping.

### **UNDERTAKINGS**

[155] After a preliminary determination of dumping by the CBSA, other than a preliminary determination in which a determination was made that the margin of dumping of the goods is insignificant, an exporter may submit a written undertaking to revise selling prices to Canada so that the margin of dumping or the injury caused by the dumping is eliminated.

[156] An acceptable undertaking must account for all or substantially all of the exports to Canada of the dumped goods. Interested parties may provide comments regarding the acceptability of undertakings within nine days of the receipt of an undertaking by the CBSA. The CBSA will maintain a list of parties who wish to be notified should an undertaking proposal be received. Those who are interested in being notified should provide their name, telephone and fax numbers, mailing address and e-mail address to one of the officers identified in the “Information” section of this document.

[157] If undertakings were to be accepted, the investigation and the collection of provisional duties would be suspended. Notwithstanding the acceptance of an undertaking, an exporter may request that the CBSA’s investigation be completed and that the CITT complete its injury inquiry.

### **PUBLICATION**

[158] Notice of the initiation of this investigation is being published in the Canada Gazette pursuant to subparagraph 34(1)(a)(ii) of SIMA.

### **INFORMATION**

[159] Interested parties are invited to file written submissions presenting facts, arguments, and evidence that they feel are relevant to the alleged dumping. Written submissions should be forwarded to the attention of the SIMA Registry and Disclosure Unit.

[160] To be given consideration in this phase of the investigation, all information should be received by the CBSA by July 3, 2020.

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

[162] Confidential information submitted to the CBSA will be disclosed on written request to independent counsel for parties to these proceedings, subject to conditions to protect the confidentiality of the information. Confidential information may also be released to the CITT, any court in Canada, or a WTO or Northern American Free Trade Organization (NAFTA) dispute settlement panel. Additional information respecting the CBSA’s policy on the disclosure of information under SIMA may be obtained by contacting one of the officers identified below or by visiting the CBSA’s website.

[163] The schedule of the investigation and a complete listing of all exhibits and information are available at: [www.cbsa-asfc.gc.ca/sima-lmsi/i-e/menu-eng.html](http://www.cbsa-asfc.gc.ca/sima-lmsi/i-e/menu-eng.html). The exhibit listing will be updated as new exhibits and information are made available.

[164] This *Statement of Reasons* has been provided to persons directly interested in these proceedings. It is also available through 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 613-948-8581  
Shawn Ryan 902-943-1849

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Doug Band  
Director General  
Trade and Anti-dumping Programs Directorate