



OTTAWA, September 23, 2015

STATEMENT OF REASONS

Concerning the preliminary determinations
with respect to the dumping and the subsidizing of

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

DECISION

Pursuant to subsection 38(1) of the *Special Import Measures Act*, on September 8, 2015, the President of the Canada Border Services Agency made preliminary determinations of dumping and subsidizing respecting certain hot-rolled carbon steel plate and high-strength low-alloy steel plate originating in or exported from the Republic of India and the Russian Federation.

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

TABLE OF CONTENTS

SUMMARY OF EVENTS	1
PERIOD OF INVESTIGATION	2
PROFITABILITY ANALYSIS PERIOD	2
BACKGROUND	2
INTERESTED PARTIES	4
COMPLAINANT	4
OTHER PRODUCERS.....	4
IMPORTERS.....	5
EXPORTERS	5
GOVERNMENTS OF INDIA AND RUSSIA.....	5
PRODUCT INFORMATION	6
PRODUCT DEFINITION	6
ADDITIONAL PRODUCT INFORMATION.....	7
PRODUCTION PROCESS	7
PRODUCT USE	7
CLASSIFICATION OF IMPORTS	7
LIKE GOODS AND CLASSES OF GOODS	8
THE CANADIAN INDUSTRY	8
IMPORTS INTO CANADA	9
REPRESENTATIONS FROM THE GOVERNMENT OF RUSSIA	9
REPRESENTATIONS FROM THE COMPLAINANT	10
INVESTIGATION PROCESS	10
DUMPING INVESTIGATION	10
NORMAL VALUES.....	11
EXPORT PRICE.....	11
MARGINS OF DUMPING.....	11
PRELIMINARY RESULTS OF THE DUMPING INVESTIGATION	11
INDIA	12
RUSSIA.....	13
SUMMARY OF PRELIMINARY RESULTS – DUMPING	14
SUBSIDY INVESTIGATION	15
PRELIMINARY RESULTS OF THE SUBSIDY INVESTIGATION	16
INDIA	17
RUSSIA.....	19
SUMMARY OF PRELIMINARY RESULTS – SUBSIDY	21
DECISIONS	22
PROVISIONAL DUTY	22
FUTURE ACTION	23
THE CBSA	23
THE TRIBUNAL.....	23
RETROACTIVE DUTY ON MASSIVE IMPORTATIONS	24
UNDERTAKINGS	24
PUBLICATION	25
INFORMATION	26
APPENDIX 1 – REPRESENTATIONS FROM PARTIES	27
APPENDIX 2 – SUMMARY OF THE ESTIMATED MARGINS OF DUMPING, ESTIMATED AMOUNTS OF SUBSIDY AND PROVISIONAL DUTIES PAYABLE	29
APPENDIX 3 – SUMMARY OF PRELIMINARY FINDINGS FOR NAMED SUBSIDY PROGRAMS - INDIA	30
POTENTIALLY ACTIONABLE SUBSIDY PROGRAMS IDENTIFIED BY THE CBSA.....	30
DETERMINATIONS OF SUBSIDY AND SPECIFICITY – INDIA	32
APPENDIX 4 – SUMMARY OF PRELIMINARY FINDINGS FOR NAMED SUBSIDY PROGRAMS - RUSSIA	33
POTENTIALLY ACTIONABLE SUBSIDY PROGRAMS IDENTIFIED BY THE CBSA.....	33
DETERMINATIONS OF SUBSIDY AND SPECIFICITY – RUSSIA	34

SUMMARY OF EVENTS

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

[2] On May 11, 2015, pursuant to paragraph 32(1)(a) of the *Special Import Measures Act* (SIMA), the CBSA informed the complainant that the complaint was properly documented. The governments of the named countries were notified that a properly documented complaint had been received, were provided with a copy of the non-confidential version of the subsidy portion of the complaint and were invited for consultations prior to the initiation of the investigations, pursuant to Article 13.1 of the *Agreement on Subsidies and Countervailing Measures* (ASCM).

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

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

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

[6] On August 10, 2015, pursuant to subsection 37.1(1) of SIMA, the Tribunal made a preliminary determination that there is evidence that discloses a reasonable indication that the dumping and subsidizing of certain hot-rolled carbon steel plate and high-strength low-alloy steel plate originating in or exported from India and Russia have caused or are threatening to cause injury to the Canadian industry.

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

[8] On September 8, 2015, pursuant to subsection 8(1) of SIMA, provisional duty was imposed on imports of dumped and subsidized goods that are of the same description as any goods to which the preliminary determinations apply, and that are released during the period commencing on the day the preliminary determinations were made and ending on the earlier of the day on which the President causes the investigations to be terminated pursuant to subsection 41(1) of SIMA or the day the Tribunal makes an order or finding pursuant to subsection 43(1) of SIMA.

PERIOD OF INVESTIGATION

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

PROFITABILITY ANALYSIS PERIOD

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

BACKGROUND

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

Plate I

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

Plate II

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

Plate III

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

Plate IV

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

Plate V

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

Plate VI

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

Plate VII

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

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

INTERESTED PARTIES

COMPLAINANT

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

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

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

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

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

OTHER PRODUCERS

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

[25] In addition to the three domestic mills, Essar Algoma, Evraz, and SSAB, there are also domestic steel service centres which have the capability to cut plate from coil.

IMPORTERS

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

[27] The CBSA sent an importer Request for Information (RFI) to all potential importers of the goods. The CBSA received five responses to the importer RFI.

EXPORTERS

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

[29] The CBSA received three responses to the exporter dumping RFI and three responses to the exporter subsidy RFI.

GOVERNMENTS OF INDIA AND RUSSIA

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

[31] The CBSA sent a government subsidy RFI to the governments of India and Russia. The CBSA received responses to the government subsidy RFI from the respective government of each of these countries. The government subsidy RFI responses from both the governments of India and Russia were considered to be incomplete by the CBSA. The nature of the two government responses are summarized in the respective Preliminary Results of the Investigations section of this document.

PRODUCT INFORMATION

PRODUCT DEFINITION

[32] For the purpose of these investigations, the subject goods are defined as:

Hot-rolled carbon steel plate and high-strength low-alloy steel plate not further manufactured than hot-rolled, heat-treated or not, in cut lengths, in widths from 24 inches (+/- 610 mm) to 152 inches (+/- 3,860 mm) inclusive, and thicknesses from 0.187 inches (+/- 4.75 mm) up to and including 3.0 inches (76.2 mm) (with all dimensions being plus or minus allowable tolerances contained in the applicable standards), but excluding plate for use in the manufacture of pipe and tube (also known as skelp), plate in coil form, plate having a rolled, raised figure at regular intervals on the surface (also known as floor plate), originating in or exported from the Republic of India and the Russian Federation. For greater certainty, the Subject Goods includes steel plate which contains alloys greater than required by recognized industry standards provided that the steel does not meet recognized industry standards for an alloy-grade steel plate. Hot-rolled carbon steel plate and high-strength low-alloy steel plate are manufactured to meet certain Canadian Standards Association (CSA) and/or ASTM specifications, or equivalent specifications.

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

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

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

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

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

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

ADDITIONAL PRODUCT INFORMATION

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

PRODUCTION PROCESS

[34] Carbon steel is, in effect, refined pig iron. Integrated producers make pig iron by combining iron ore, coke, limestone and oxygen and superheating the mixture in a blast furnace. The ensuing hot liquefied pig iron is combined with scrap metal and additional oxygen in a basic oxygen furnace. Mini-mills, on the other hand, produce molten carbon steel in electric arc furnaces (EAF's). The basic raw material used by mini-mills is scrap metal rather than iron ore.

[35] In both integrated and mini-mill production, the molten carbon steel is poured from a ladle into the tundish of a continuous strand caster. From the tundish it flows into the caster's moulds to cool and to form a slab. The slab continues to move through the caster, cooling as it progresses, until it exits the caster, where it is cut-to-length with a torch. The slab is then either placed in inventory or immediately transferred to a reheat furnace where it is heated to a uniform rolling temperature. The plate is rolled to its final gauge in a series of rolling mills, leveled, identified and inspected for conformance to thickness tolerances and surface requirements. The plate is then either formed directly into rectangular shapes or coiled and later unwound and cut into lengths. The former is known as "discrete plate" and the latter as "plate from coil" or "cut-to-length plate".

PRODUCT USE

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

CLASSIFICATION OF IMPORTS

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

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

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

LIKE GOODS AND CLASSES OF GOODS

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

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

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

[42] In considering the issues of like goods and classes of goods, the Tribunal typically looks at a number of factors, including the physical characteristics of the goods, their market characteristics and whether the goods fulfill the same customer needs. In the most recent inquiry involving Plate VII (NQ-2013-005), the Tribunal found that the subject goods and domestically produced hot-rolled carbon steel plate products of the same description were like goods and that they constituted a single class of goods.¹

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

THE CANADIAN INDUSTRY

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

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

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

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

IMPORTS INTO CANADA

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

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

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

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

REPRESENTATIONS FROM THE GOVERNMENT OF RUSSIA

[48] On July 14, 2015, the GOR provided written representations with respect to the adequacy of the information contained in the complaint that caused the initiation of the dumping and subsidy investigations of certain hot-rolled carbon steel plate and high-strength low-alloy steel plate.⁴

[49] The GOR representations and the CBSA's response are summarized in **Appendix 1**.

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

⁴ Exhibit 42 (NC) – Representations from the Government of Russia.

REPRESENTATIONS FROM THE COMPLAINANT

[50] Counsel for the complainant made numerous representations with respect to the information submitted by various parties in response to the CBSA's dumping and subsidy RFIs.⁵ The complainant's representations and the CBSA's response are addressed in **Appendix 1**.

INVESTIGATION PROCESS

[51] Regarding the dumping investigation, information was requested from all known and potential exporters, producers, vendors and importers, concerning shipments of certain hot-rolled carbon steel plate and high-strength low-alloy steel plate released into Canada during the dumping POI of January 1, 2014 to March 31, 2015.

[52] Regarding the subsidy investigation, information related to potential actionable subsidies was requested from all known and potential exporters in India and Russia. Information was also requested from the Government of India (GOI) and the GOR, concerning financial contributions made to exporters or producers of certain hot-rolled carbon steel plate and high-strength low-alloy steel plate released into Canada during the subsidy POI of January 1, 2014 to March 31, 2015.

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

DUMPING INVESTIGATION

[54] The CBSA received responses to the exporter dumping RFI from the following companies:

India:

- Jindal Steel and Power Limited
- Steel Authority of India Limited

Russia:

- PAO Severstal

⁵ Exhibit 123 (NC) – Comments from counsel on behalf of Essar Algoma regarding the dumping and subsidy submissions.

[55] The responses from Jindal Steel and Power Limited (JSPL) and Steel Authority of India Limited (SAIL) were considered to be incomplete and the CBSA was unable to use the information to estimate the normal values of the subject goods for the purposes of the preliminary determination.

[56] The dumping RFI response from PAO Severstal (Severstal) was substantially complete and the CBSA's analysis of this exporter's information follows.

NORMAL VALUES

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

EXPORT PRICE

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

MARGINS OF DUMPING

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

PRELIMINARY RESULTS OF THE DUMPING INVESTIGATION

[60] With respect to Severstal, the exporter that provided a substantially complete response to the RFI, company-specific information was used for the preliminary determination in estimating normal values and export prices for goods shipped to Canada.

[61] For the exporters that did not submit complete responses to the RFI, margins of dumping were estimated based on advancing the estimated export prices by the highest amount by which an estimated normal value exceeded an estimated export price on an individual transaction of an exporter that provided a complete response to the RFI.

[62] In calculating the estimated margin of dumping of each named country, the estimated margin of dumping in respect of each exporter was weighted according to each exporter's volume of subject hot-rolled carbon steel plate and high-strength low-alloy steel plate imported into Canada during the POI.

[63] Estimated margins of dumping by exporter are presented in a summary table in **Appendix 2** of this document, while the estimated margin of dumping by country is presented in the table at the end of this section.

INDIA

[64] Based on the information available to the CBSA through import entry documentation, the information received from both JSPL and SAIL, and the information in importer RFI responses, JSPL and SAIL were both the producers and exporters of all subject goods exported to Canada from India that were imported during the POI. All subject goods originating in India were shipped directly from India to Canada.

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

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

[67] As previously noted, both responding exporters from India provided responses that were considered incomplete. The CBSA notified both JSPL and SAIL of the missing information. If either JSPL or SAIL provide the requested information, and the CBSA has sufficient time to analyze and verify the information, the CBSA will endeavour to use the company-specific information for the purposes of the final decision.

All Exporters – India

[68] As the exporters in India did not provide a complete response to the dumping RFI, the normal values and export prices for JSPL and SAIL were estimated based on the methodologies explained in the section below entitled "All Other Exporters".

[69] Based on these methodologies, the margin of dumping for both JSPL and SAIL is equal to 220.5%, expressed as a percentage of export price.

RUSSIA

[70] The CBSA received one substantially complete exporter response to the dumping RFI from Severstal.

Severstal

[71] Severstal is a manufacturer of subject goods located in Cherepovets, Russia. Severstal Export GmbH, Severstal's related vendor located in Stansstad, Switzerland, exported the vast majority of the subject goods originating in Russia that were imported into Canada during the POI.

[72] A Supplemental RFI (SRFI) was sent to Severstal seeking additional information and clarification to which they provided a response. The CBSA will continue to collect and analyze Severstal's information during the final phase of the investigation.

[73] Based on the information provided, there were insufficient domestic sales of like goods to enable the estimation of normal values using the methodology of section 15 of SIMA. Instead, normal values were estimated 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. The amount for profits was estimated in accordance with the methodology of subparagraph 11(1)(b)(ii) of the *Special Import Measures Regulations* based on the weighted average profit made on Severstal's domestic sales of goods that are of the same general category as the subject goods exported to Canada.

[74] For subject goods exported to Canada by Severstal during the POI, export prices were estimated using the methodology of section 24 of SIMA, based on the exporter's selling prices less all costs, charges and expenses resulting from the exportation of the goods.

[75] The total estimated normal value was compared with the total estimated export price for the subject goods imported into Canada during the POI. For the preliminary determination, the estimated margin of dumping for Severstal is 32.0%, expressed as a percentage of the export price.

All Other Exporters

[76] At the initiation of the investigation, all known and potential exporters were sent an exporter dumping RFI in order to solicit information required for purposes of determining normal values and export prices of subject goods in accordance with the provisions of SIMA. As such, all exporters were given the opportunity to participate in the investigation. In the RFI, the exporters were notified that failure to submit all required information and documentation, including non-confidential versions, or failure to permit verification of any information, may result in the normal values of the subject goods exported by their company being based on the facts available. It was further stated that such a decision would be less favourable to their company than if complete and verifiable information were made available.

[77] The CBSA considered that the normal values and export prices estimated for Severstal, rather than the information provided in the complaint, was the best information on which to base the methodology for estimating normal values. The CBSA examined the difference between the estimated normal value and estimated export price of each individual transaction for Severstal in order to obtain an appropriate amount for the normal value methodology. The transactions were also examined to ensure that anomalies were not considered.

[78] The CBSA considers that the highest amount by which the estimated normal value exceeded the estimated export price found on an individual transaction (expressed as a percentage of the export price) is an appropriate basis for estimating normal values for all other exporters. This method of estimating normal values is based on information on the record and limits the advantage that an exporter may gain from not providing necessary information requested in a dumping investigation as compared to an exporter that did provide the necessary information.

[79] Therefore, for all other exporters, the normal values and related margins of dumping were based on the highest amount by which an estimated normal value exceeded an estimated export price, on an individual transaction, as determined from Severstal's estimated margin of dumping. The normal values were estimated based on the estimated export price, plus an amount equal to 220.5% of that estimated export price.

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

[81] Based on the above methodologies, the estimated margin of dumping for the subject goods exported to Canada by all other exporters is 220.5%, expressed as a percentage of the export price.

SUMMARY OF PRELIMINARY RESULTS – DUMPING

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

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

Country	Estimated Volume of Dumped Goods as Percentage of Country Imports	Estimated Margin of Dumping*	Estimated Volume of Country Imports as Percentage of Total Imports	Estimated Volume of Dumped Goods as Percentage of Total Imports
India	100%	220.5%	17.2%	17.2%
Russia	100%	35.9%	4.0%	4.0%

* Expressed as a percentage of the estimated export price.

[83] Under section 35 of SIMA, the President is required to terminate an investigation prior to the preliminary determination if he is satisfied that the margin of dumping of the goods of a country is insignificant or that the volume of dumped goods of a country is negligible.

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

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

[86] The volumes of imports from India and Russia are above 3% of the total volume of goods released into Canada from all countries. Based on the definition above, the volume of imports from India and Russia are not negligible.

SUBSIDY INVESTIGATION

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

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

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

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

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

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

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

[92] For purposes of a subsidy investigation, the CBSA refers to a subsidy that has been found to be specific as an “actionable subsidy,” meaning that it is subject to countervailing measures if the persons engaged in the production, manufacture, growth, processing, purchase, distribution, transportation, sale, export or import of goods under investigation have benefited from the subsidy.

[93] Financial contributions provided by State-Owned Enterprises (SOEs) may also be considered to be provided by the government for purposes of this investigation. A SOE may be considered to constitute “government” for the purposes of subsection 2(1.6) of SIMA if it possesses, exercises, or is vested with governmental authority. Without limiting the generality of the foregoing, the CBSA may consider the following factors as indicative of whether the SOE meets this standard: 1) the SOE is granted or vested with authority by statute; 2) the SOE is performing a government function; 3) the SOE is meaningfully controlled by the government; or some combination thereof.

PRELIMINARY RESULTS OF THE SUBSIDY INVESTIGATION

[94] The following presents the preliminary results of the investigation into the subsidizing of certain hot-rolled carbon steel plate and high-strength low-alloy steel plate originating in or exported from India and Russia.

INDIA

[95] At the initiation of the investigation, the CBSA sent subsidy RFIs to the GOI, as well as to all potential exporters/producers of certain hot-rolled carbon steel plate and high-strength low-alloy steel plate in India. Information was requested in order to establish whether there had been financial contributions made by any level of government, including SOEs possessing, exercising or vested with government authority, and, if so, to establish if a benefit has been conferred on persons engaged in the production, manufacture, growth, processing, purchase, distribution, transportation, sale, export or import of certain hot-rolled carbon steel plate and high-strength low-alloy steel plate; and whether any resulting subsidy was specific in nature. As such, the GOI and all exporters were given the opportunity to participate in the investigation.

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

[97] The exporters/producers were requested to forward a portion of the RFI to their input suppliers, who were asked to respond to questions pertaining to their legal characterization as SOEs. They were also notified that failure to submit all required information and documentation, including non-confidential versions, or failure to permit verification of any information, may result in the amount of subsidy on subject goods being based on the facts available to the CBSA. Further, they were notified that a determination on the basis of facts available would be less favorable to their company than if complete and verifiable information were made available.

[98] In conducting its investigation, the CBSA requested information respecting 55 identified programs, as listed in **Appendix 3**.

[99] The GOI provided a response to the government subsidy RFI by the deadline. However, the GOI's response was incomplete as it only provided information concerning some of the alleged subsidy programs, while noting that information on other programs would be provided in the future. The response also did not include copies of required legislation, regulations, and government notices concerning the alleged subsidy programs. This has limited the CBSA's ability to estimate the amount of subsidy in the prescribed manner, as the required information relating to the financial contribution, benefit and specificity, was not provided. It also limited the CBSA's ability to determine whether producers, or other suppliers of goods and services, including the providers of financial services, are public bodies.

[100] The GOI was sent an SRFI noting the missing information and requesting further information regarding some programs. For the purposes of the preliminary determination, the government's response remained incomplete. If the GOI provides all required information and the CBSA has sufficient time to analyze and verify the information, the CBSA will endeavour to use the GOI's information for the purposes of the final decision.

[101] JSPL submitted an incomplete response to the subsidy RFI. JSPL's response provided incomplete data, referenced missing exhibits and failed to respond to all questions. The extent of the deficiencies in the subsidy RFI response is such that the CBSA was unable to use the company's information to estimate an amount of subsidy for the purposes of the preliminary determination.

[102] The CBSA notified JSPL of the missing information. If JSPL provides the requested information, and the CBSA has sufficient time to analyze and verify the information, the CBSA will endeavour to use the company-specific information for the purposes of the final decision.

[103] SAIL also submitted an incomplete response to the subsidy RFI. The subsidy RFI response did not provide information concerning subsidy programs that SAIL's financial statements indicate they are using. SAIL was sent an SRFI concerning the missing subsidy information and provided a limited response while noting that the remaining required information would be provided at a later date. The extent of the deficiencies in the subsidy RFI response is such that the CBSA is unable to use the company's information to estimate an amount of subsidy for the purposes of the preliminary determination.

[104] The CBSA notified SAIL of the missing information. If SAIL provides the requested information, and the CBSA has sufficient time to analyze and verify the information, the CBSA will endeavour to use the company-specific information for the purposes of the final decision.

All Exporters – India

[105] As noted, the GOI and all exporters in India provided incomplete responses to the subsidy RFI. Given the lack of complete information, the CBSA considered that the methodology used to estimate the amounts of subsidy applicable to subject goods from India at the initiation of the investigation was the best information on which to base the methodology for estimating the amounts of subsidy for the preliminary determination. Therefore, the amounts of subsidy were estimated on the basis of the amount by which the estimated average costs of production of the goods exceeded their weighted average estimated export prices during the POI.

[106] Using the above methodology, the estimated amount of subsidy for all exporters in India is 20.3%, expressed as a percentage of the total estimated export price.

[107] It is estimated that 100% of the subject goods imported from India are subsidized. The estimated overall weighted average amount of subsidy for India is equal to 20.3% of the total estimated export price of the subject goods.

RUSSIA

[108] At the initiation of the investigation, the CBSA sent subsidy RFIs to the GOR, as well as to all potential exporters/producers of certain hot-rolled carbon steel plate and high-strength low-alloy steel plate in Russia. Information was requested in order to establish whether there had been financial contributions made by any level of government, including SOEs possessing, exercising or vested with government authority, and, if so, to establish if a benefit has been conferred on persons engaged in the production, manufacture, growth, processing, purchase, distribution, transportation, sale, export or import of certain hot-rolled carbon steel plate and high-strength low-alloy steel plate; and whether any resulting subsidy was specific in nature. As such, the GOR and all exporters were given the opportunity to participate in the investigation.

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

[110] The exporters/producers were requested to forward a portion of the RFI to their input suppliers, who were asked to respond to questions pertaining to their legal characterization as SOEs. They were also notified that failure to submit all required information and documentation, including non-confidential versions, or failure to permit verification of any information, may result in the amount of subsidy on subject goods being based on the facts available to the CBSA. Further, they were notified that a determination on the basis of facts available would be less favorable to their company than if complete and verifiable information were made available.

[111] In conducting its investigation, the CBSA requested information respecting 15 identified programs, as listed in **Appendix 4**.

[112] The GOR provided a response to the government subsidy RFI by the deadline. However, the GOR's response was incomplete as it provided information concerning only some of the alleged subsidy programs, while noting that certain information was not available at the time and will be provided at a later date. There were also documents submitted that were not fully translated. This has limited the CBSA's ability to estimate the amount of subsidy in the prescribed manner, as the required information relating to the financial contribution, benefit and specificity, was not provided. It also limited the CBSA's ability to determine whether producers, or other suppliers of goods and services, including the providers of financial services, are public bodies.

[113] The GOR was sent an SRFI noting the missing information and requesting further information regarding some programs. For the purposes of the preliminary determination, the government's response remained incomplete. If the GOR provides all required information and the CBSA has sufficient time to analyze and verify the information, the CBSA will endeavour to use the GOR's information for the purposes of the final decision.

[114] Severstal submitted an incomplete response to the subsidy RFI. The subsidy RFI response did not provide information concerning several potential subsidies. Severstal was sent an SRFI concerning the missing subsidy information and provided a limited response while noting that the remaining required information would be provided at a later date. The extent of the deficiencies in the subsidy RFI response is such that the CBSA is unable to use the company's information to estimate an amount of subsidy for the purposes of the preliminary determination.

[115] The CBSA notified Severstal of the missing information. If Severstal provides the requested information, and the CBSA has sufficient time to analyze and verify the information, the CBSA will endeavour to use the company-specific information for the purposes of the final decision.

All Exporters – Russia

[116] As noted, the GOR and all exporters of subject goods originating in or exported from Russia either did not provide a response or provided an incomplete response to the subsidy RFI. Given the lack of complete information, the CBSA considered that the methodology used to estimate the amounts of subsidy applicable to subject goods from Russia at the initiation of the investigation was the best information on which to base the methodology for estimating the amounts of subsidy for the preliminary determination. Therefore, the amounts of subsidy were estimated on the basis of the amount by which the estimated average costs of production of the goods exceeded their weighted average estimated export prices during the POI.

[117] Using the above methodology, the estimated amount of subsidy for all other exporters is 18.9%, expressed as a percentage of the total estimated export price.

[118] It is estimated that 100% of the subject goods originating in or exported from Russia are subsidized. The estimated overall weighted average amount of subsidy for Russia is equal to 18.9% of the total estimated export price of the subject goods.

SUMMARY OF PRELIMINARY RESULTS – SUBSIDY

[119] A summary of the preliminary results of the subsidy investigation respecting all subject goods released into Canada during the subsidy POI follows:

**Summary of Results – Subsidy
Period of Investigation (January 1, 2014 to March 31, 2015)**

Country	Estimated Subsidized Goods as Percentage of Country Imports	Estimated Amount of Subsidy*	Estimated Volume of Country Imports as Percentage of Total Imports	Estimated Volume of Subsidized Goods as Percentage of Total Imports
India	100%	20.3%	17.2%	17.2%
Russia	100%	18.9%	4.0%	4.0%

* Expressed as a percentage of the export price.

[120] Under section 35 of SIMA, if, at any time before the President makes a preliminary determination, the President is satisfied that the amount of subsidy on the goods of a country is insignificant or the actual and potential volume of subsidized goods of a country is negligible, the President must terminate the investigation with respect to that country.

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

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

[123] Neither the ASCM nor SIMA defines or provides any guidance regarding the determination of a “developing country” for purposes of Article 27.10 of the WTO *Agreement on Subsidies and Countervailing Measures*. As an administrative alternative, the CBSA refers to the *Development Assistance Committee List of Official Development Assistance Recipients* (DAC List of ODA Recipients) for guidance.⁶ The CBSA’s policy as of August 4, 2015, is to refer to the DAC List of ODA Recipients and regard a country as developing if it is listed as a least developed country, other low income country or lower middle income country or territory. As India is included in these lists, the CBSA extends developing country status to India for purposes of this investigation.

[124] The estimated amount of subsidy of certain hot-rolled carbon steel plate and high-strength low-alloy steel plate originating in or exported from Russia is above 1% and is, therefore, not insignificant. As well, the volume of subsidized goods from Russia is above 3%, and is, therefore, not negligible.

[125] The estimated amount of subsidy of certain hot-rolled carbon steel plate and high-strength low-alloy steel plate originating in or exported from India is above 2% and is, therefore, not insignificant. As well, the volume of subsidized goods from India is above 4%, and is, therefore, not negligible.

DECISIONS

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

PROVISIONAL DUTY

[127] Pursuant to subsection 8(1) of SIMA, provisional duty payable by the importer in Canada will be applied to dumped and subsidized imports of certain hot-rolled carbon steel plate and high-strength low-alloy steel plate originating in or exported from India and Russia that are released during the period commencing on the day the preliminary determinations are made and ending on the earlier of the day on which the President causes the investigations to be terminated, in accordance with subsection 41(1), or the day on which the Tribunal makes an order or finding. The President considers that the imposition of provisional duty is needed to prevent injury. As noted in the Tribunal’s preliminary determination, there is evidence that discloses a reasonable indication that the dumping and subsidizing of certain hot-rolled carbon steel plate and high-strength low-alloy steel plate originating in or exported from India and Russia have caused injury or are threatening to cause injury to the domestic industry.

⁶ The Organization for Economic Co-operation and Development, DAC List of ODA Recipients as at January 1, 2015, the document is available at: <http://www.oecd.org/dac/stats/daclistofodarecipients.htm>

[128] Provisional duty is based on the estimated margin of dumping and the estimated amount of subsidy, expressed as a percentage of the export price of the goods. **Appendix 1** contains the estimated margins of dumping, estimated amounts of subsidy and the rates of provisional duty payable on subject goods released from the CBSA on and after September 8, 2015.

[129] Importers are required to pay provisional duty in cash or by certified cheque. Alternatively, they may post security equal to the amount payable. Importers should contact their CBSA regional office if they require further information on the payment of provisional duty or the posting of security. If the importers of such goods do not indicate the required SIMA code or do not correctly describe the goods in the import documents, an administrative monetary penalty could be imposed. The imported goods are also subject to the *Customs Act*. As a result, failure to pay duties within the specified time will result in the application of the provisions of the *Customs Act* regarding interest.

FUTURE ACTION

THE CBSA

[130] The CBSA will continue its investigations of the dumping and subsidizing and the President will make final decisions by December 7, 2015.

[131] If the President is satisfied that the goods were dumped and/or subsidized, and that the margin of dumping or amount of subsidy is not insignificant, final determinations will be made. Otherwise, the President will terminate the investigations and any provisional duty paid or security posted, will be returned to importers.

THE TRIBUNAL

[132] The Tribunal has begun its inquiry into the question of injury to the Canadian industry. The Tribunal is expected to issue its finding by January 6, 2016.

[133] If the Tribunal finds that the dumping has not caused injury, retardation or is not threatening to cause injury, the proceedings will be terminated and all provisional duty collected or security posted will be returned.

[134] If the Tribunal makes a finding that the dumping has caused injury, retardation or is threatening to cause injury, anti-dumping duty in an amount equal to the margin of dumping will be levied, collected and paid on imports of certain hot-rolled carbon steel plate and high-strength low-alloy steel plate originating in or exported from India and Russia.

[135] If the Tribunal finds that the subsidizing has not caused injury, retardation or is not threatening to cause injury, the proceedings will be terminated and all provisional duty collected or security posted will be returned.

[136] If the Tribunal makes a finding that the subsidizing has caused injury, retardation or is threatening to cause injury, countervailing duties in the amount equal to the amount of subsidy on the imported goods will be levied, collected and paid on imports of certain hot-rolled carbon steel plate and high-strength low-alloy steel plate originating in or exported from India and Russia.

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

RETROACTIVE DUTY ON MASSIVE IMPORTATIONS

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

[139] In respect of importations of subsidized goods that have caused injury, this provision is only applicable where the CBSA has determined that the whole or any part of the subsidy on the goods is a prohibited subsidy. In such a case, the amount of countervailing duty applied on a retroactive basis will equal the amount of subsidy on the goods that is a prohibited subsidy. An export subsidy is a prohibited subsidy according to subsection 2(1) of SIMA.

UNDERTAKINGS

[140] After a preliminary determination of dumping, exporters may give a written undertaking to revise selling prices to Canada so that the margin of dumping or the injury caused by the dumping is eliminated. Similarly, after a preliminary determination of subsidizing, the government of a country may give a written undertaking to eliminate the subsidy on the goods or to eliminate the injurious effect of the subsidy by limiting the amount of the subsidy or the quantity of goods exported to Canada. Exporters, with the consent of their government, may also undertake to revise their selling prices so that the injurious effect of the subsidy is eliminated.

[141] Acceptable undertakings must account for all or substantially all of the exports to Canada of the dumped and subsidized goods. In the event that an undertaking is accepted, the required payment of provisional duty on the goods would be suspended.

[142] In view of the time needed for consideration of undertakings, written undertaking proposals should be made as early as possible and no later than 60 days after the preliminary determinations of dumping and subsidizing. Further details regarding undertakings can be found in the CBSA's Memorandum D14-1-9, available online at: www.cbsa-asfc.gc.ca/publications/dm-md/d14/d14-1-9-eng.html.

[143] SIMA allows all interested parties to make representations concerning any undertaking proposals. The CBSA will maintain a list of interested parties and will notify them should an undertaking proposal be received. Persons wishing to be notified must provide their name, address, telephone, fax, or email address, to one of the officers listed below. Interested parties may also consult the CBSA website noted below for information on undertakings offered in these investigations. A notice will be posted on the CBSA website when an undertaking proposal is received. Interested parties have nine days from the date the undertaking offer is received to make representations.

PUBLICATION

[144] A notice of these preliminary determinations of dumping and subsidizing will be published in the *Canada Gazette* pursuant to paragraph 38(3)(a) of SIMA.

INFORMATION

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

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

Telephone: Matthew Lurette 613-954-7398
Paul Pomnikow 613-948-7809

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

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



Brent McRoberts
Director General

Trade and Anti-dumping Programs Directorate

Attachments

APPENDIX 1 – REPRESENTATIONS FROM PARTIES

Representations from the Government of the Russian Federation

The Government of Russia (GOR) submitted arguments concerning the deficiencies of the complaint in terms of minimum requirements as set out in the *WTO Agreement on Subsidies and Countervailing Measures (ASCM)* and the *WTO Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994*.

In its submission, the GOR argued that based on the evidence provided in the non-confidential version of the complaint, the Canada Border Services Agency (CBSA) should terminate the dumping and subsidy investigations in accordance with the ASCM and the ADA.

The GOR also argued that imports into Canada of subject goods from the Russian Federation (Russia) have not increased and that there lacks evidence of injury and a causal link between the dumping and subsidizing and the injury.

CBSA Response

Information before the CBSA met the threshold for initiating dumping and subsidy investigations, as required by subsection 31(1) of the *Special Import Measures Act (SIMA)*. The President of the Canada Border Services Agency initiated investigations into the alleged dumping and subsidizing of the subject goods after receiving a properly documented complaint. The information presented in the complaint, together with supplementary information available to the CBSA, substantiated the complainant's allegations that certain hot-rolled carbon steel plate and high-strength low-alloy steel plate originating in or exported from Russia were dumped and subsidized. The evidence also disclosed a reasonable indication the dumping and subsidizing have caused injury and were threatening to cause injury to the Canadian industry producing like goods.

The evidence on the record indicates that the goods originating in or exported from Russia were dumped and subsidized during the period of investigation. The CBSA will continue to analyze the information submitted by PAO Severstal (Severstal) and the GOR in the final stage of the investigations.

The Canadian International Trade Tribunal (Tribunal) is simultaneously conducting an injury inquiry to determine whether the dumping and subsidizing of the goods have caused or are threatening to cause injury to the domestic industry. The Tribunal will issue its decision by January 6, 2016.

Representations from the Complainant

India

Counsel for the complainant submitted various arguments concerning the quality of the information provided in the dumping and subsidy Request for Information (RFI) responses of Jindal Steel and Power Limited (JSPL) and Steel Authority of India Limited (SAIL).

CBSA Response

As noted in this *Statement of Reasons*, the CBSA considered the dumping and subsidy RFI responses of both JSPL and SAIL to be incomplete. The CBSA did not use either company's information for the purposes of the preliminary determinations.

Russia

Counsel for the complainant submitted various arguments concerning the quality of the information provided in the dumping and subsidy RFI responses of Severstal.

CBSA Response

As noted in this *Statement of Reasons*, the CBSA considered Severstal's response to the dumping RFI to be substantially complete, and company information was used in estimating the margin of dumping. The CBSA considered Severstal's subsidy RFI response to be incomplete. The CBSA did not use the company's subsidy information for the purposes of the preliminary determination of subsidizing.

**APPENDIX 2 – SUMMARY OF THE ESTIMATED MARGINS OF DUMPING,
ESTIMATED AMOUNTS OF SUBSIDY AND PROVISIONAL DUTIES PAYABLE**

The following table lists the estimated margins of dumping, the estimated amounts of subsidy, and the provisional duty by exporter as a result of the decisions mentioned above. Imports of subject goods released from the CBSA, on or after September 8, 2015, will be subject to provisional duties at the rates specified below.

Exporter	Estimated Margin of Dumping*	Estimated Amount of Subsidy*	Provisional Duty Payable*
India			
Jindal Steel and Power Limited	220.5%	20.3%	240.8%
Steel Authority of India Limited	220.5%	20.3%	240.8%
All Other Exporters	220.5%	20.3%	240.8%
Russia			
PAO Severstal	32.0%	18.9%	50.9%
All Other Exporters	220.5%	18.9%	239.4%

* As a percentage of export price

APPENDIX 3 – SUMMARY OF PRELIMINARY FINDINGS FOR NAMED SUBSIDY PROGRAMS - INDIA

As noted in the body of this document, the Government of India (GOI) did not submit a complete response to the subsidy RFI, which limited the CBSA's ability to conduct an analysis of the programs for the preliminary determination. Further, no exporter in the Republic of India (India) submitted a complete response to the subsidy RFI.

This appendix consists of a listing of 55 potentially actionable subsidy programs which were reviewed by the CBSA in the current subsidy investigation.

POTENTIALLY ACTIONABLE SUBSIDY PROGRAMS IDENTIFIED BY THE CBSA

Questions concerning these programs were included in the RFIs sent to the GOI and to all potential exporters of the subject goods in India. Without a complete response to the government subsidy RFI from the GOI, or from exporters in India, the CBSA has, to date, not determined if any of these programs should be removed from the investigation. The CBSA will continue to investigate these programs in the final phase of the investigation

Descriptions of the following alleged Indian subsidy programs, and references to source information, can be found in the non-confidential version of the complaint.⁷

- Program 1. Duty-Free Importation of Capital Goods and Raw Materials, Components, Consumables, Intermediates, Spare Parts and Packing Material in Special Economic Zones (SEZs)
- Program 2. Export Income Tax Exemptions in SEZs
- Program 3. Exemption in SEZs from Minimum Alternate Tax
- Program 4. Exemption in SEZs from Payment of Central Sales Tax on Purchases of Capital Goods and Raw Materials, Components, Consumables, Intermediates, Spare Parts and Packing Material
- Program 5. Exemption in SEZs from Service Tax
- Program 6. Discounted Land Fees and Leases in SEZs
- Program 7. Discounted Electricity Rates in SEZs
- Program 8. Exemption in SEZs from State Sales Tax and Other Levies as Extended by State Governments
- Program 9. Duty-Free Importations for Companies Designated as Export Oriented Units (EOUs)
- Program 10. Reimbursement to EOUs of Central Sales Tax
- Program 11. Duty Drawback for EOUs on Fuel Procured from Domestic Oil Companies
- Program 12. Credit for Service Tax paid by EOUs
- Program 13. Exemptions from Income Tax for EOUs

⁷ Exhibit 2 (NC) – Certain Hot-rolled Steel Plate Complaint, pages 94-150.

- Program 14. Exemption from Central Excise Duty on Goods Procured from Domestic Tariff Areas and On Goods Manufactured in India
- Program 15. Assistance to States for Developing Export Infrastructure and Allied Activities
- Program 16. Market Access Initiative
- Program 17. Market Development Assistance
- Program 18. Meeting Expenses for Statutory Compliances in Buyer Country for Trade Related Matters
- Program 19. Brand Promotion and Quality
- Program 20. Test Houses
- Program 21. Focus Product Scheme
- Program 22. Rupee/Foreign Currency Export Credit & Customer Service to Exporters
- Program 23. Export Promotion Capital Goods Scheme
- Program 24. Duty Exemption/Remission Schemes – Duty-Free Import Authorization Scheme
- Program 25. Duty Exemption/Remission Schemes – Advance Authorization Scheme
- Program 26. Duty Exemption/Remission Schemes – Duty Entitlement Passbook Scheme
- Program 27. Duty Exemption/Remission Schemes – Duty Drawback Scheme
- Program 28. Provision of Captive Mining Rights for Minerals Including Iron Ore and Coal
- Program 29. Purchase of Iron Ore From State-owned Enterprises for Less Than Fair Market Value
- Program 30. 80-IB Income Deduction Program
- Program 31. 80-IA Income Tax Deduction Program
- Program 32. Steel Development Fund Loans
- Program 33. Steel Development Fund R&D Grants
- Program 34. State Government of Maharashtra (SGOM) – Industrial Promotion Subsidy
- Program 35. SGOM – Exemption from Electricity Duty
- Program 36. SGOM – Waiver of Stamp Duty
- Program 37. SGOM – Power Tariff Subsidy
- Program 38. SGOM – Incentives to Strengthen Micro, Small and Medium Enterprises (MSME)
- Program 39. SGOM – Special Incentives of the SGOM for Mega Projects
- Program 40. State Government of Gujarat (SGOG) – Assistance to MSMEs – Interest Subsidy
- Program 41. SGOG – Assistance to MSMEs – Quality Certification
- Program 42. SGOG – Sales Tax Exemptions and Deferrals On Purchase of Goods
- Program 43. SGOG – VAT Remission Scheme
- Program 44. SGOG – Scheme for Assistance to Industrial Parks/Industrial Estates Set Up By Private Institutions
- Program 45. SGOG – Critical Infrastructure Projects
- Program 46. State Government of Chhattisgarh (SGOC) – Industrial Policy 2009-2014: Fixed Capital Investment Subsidy
- Program 47. SGOC – Industrial Policy 2009-2014: Interest Subsidy
- Program 48. SGOC – Industrial Policy 2009-2014: Quality Certification
- Program 49. SGOC – Industrial Policy 2009-2014: Electricity Duty Exemption
- Program 50. SGOC – Industrial Policy 2009-2014: Stamp Duty Exemption

- Program 51. SGOJ – Industrial Policy 2009-2014: Provision of Land for Less than Adequate Remuneration
- Program 52. State Government of Jharkhand (SGOJ) – Comprehensive Project Investment Subsidy
- Program 53. SGOJ – Stamp Duty and Registration
- Program 54. SGOJ – Incentive for Quality Certification
- Program 55. SGOJ – VAT and Tax Incentives

DETERMINATIONS OF SUBSIDY AND SPECIFICITY – INDIA

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

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

APPENDIX 4 – SUMMARY OF PRELIMINARY FINDINGS FOR NAMED SUBSIDY PROGRAMS - RUSSIA

As noted in the body of this document, the GOR did not submit a complete response to the subsidy RFI, which limited the CBSA's ability to conduct an analysis of the programs for the preliminary determination. Further, no exporter in Russia submitted a complete response to the subsidy RFI.

This appendix consists of a listing of 15 potentially actionable subsidy programs which were reviewed by the CBSA in the current subsidy investigation.

POTENTIALLY ACTIONABLE SUBSIDY PROGRAMS IDENTIFIED BY THE CBSA

Questions concerning these programs were included in the RFIs sent to the GOR and to all potential exporters of the subject goods in Russia. Without a complete response to the government subsidy RFI from the GOR, or from exporters in Russia, the CBSA has, to date, not determined if any of these programs should be removed from the investigation. The CBSA will continue to investigate these programs in the final phase of the investigation

Descriptions of the following alleged Russian subsidy programs, and references to source information, can be found in the non-confidential version of the complaint.⁸

- Program 1. Subsidies by the Government of Russia to Machinery Manufacturers on Technical Re-equipment
- Program 2. Support of Technical Re-equipment of Certain Enterprises (Nizhni Novgorod Oblast)
- Program 3. State Support of Industrial and Scientific Organizations of the Nizhni
- Program 4. Novgorod Oblast, Carrying out Technical Re-equipment of Fixed Assets
- Program 5. Provision of Natural Gas for Less Than Adequate Remuneration
- Program 6. Provision of Freight Transportation for Less Than Adequate Remuneration
- Program 7. Preferential Loans from State-Controlled Banks
- Program 8. Export Financing Provided by VEB and EXIAR
- Program 9. Lower Income Tax Rates for SEZs
- Program 10. Property Tax Exemptions for SEZs
- Program 11. Land Tax Exemptions for SEZs
- Program 12. VAT Exemptions for SEZs
- Program 13. Duty Exemptions for SEZs
- Program 14. Transport Tax Exemptions for SEZs
- Program 15. Other Tax Incentives for SEZs

⁸ Exhibit 2 (NC) – Certain Hot-rolled Steel Plate Complaint, pages 152-170.

DETERMINATIONS OF SUBSIDY AND SPECIFICITY – RUSSIA

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

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