



4214-25  
AD-1384

OTTAWA, January 15, 2010

## STATEMENT OF REASONS

Concerning the making of a final determination with respect to the dumping of

CERTAIN CARBON STEEL PLATE AND HIGH STRENGTH LOW ALLOY STEEL  
PLATE ORIGINATING IN OR EXPORTED FROM UKRAINE

## DECISION

On January 4, 2010, pursuant to paragraph 41(1)(a) of the *Special Import Measures Act*, the President of the Canada Border Services Agency made a final determination of dumping respecting certain carbon steel plate and high strength low alloy steel plate originating in or exported from Ukraine.

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Cet *Énoncé des motifs* est également disponible en français. Veuillez consulter la section « Information ». This *Statement of Reasons* is also available in French. Please refer to the “Information” section.

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## SUMMARY OF EVENTS

[1] On May 26, 2009, the Canada Border Services Agency (CBSA) received a complaint from Essar Steel Algoma Inc. (Essar Algoma) (the “complainant”), a domestic producer of certain carbon steel plate and high strength low alloy steel plate (certain steel plate). The complaint contained evidence to support the allegations that imports into Canada of certain steel plate originating in or exported from Ukraine (subject goods) have been dumped and that this dumping has caused and threatens to cause material injury to the Canadian industry.

[2] On June 10, 2009, 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 government of Ukraine that it had received a properly documented complaint.

[3] On July 6, 2009, pursuant to subsection 31(1) of SIMA, the President of the CBSA (President) initiated an investigation respecting the dumping of the subject goods.

[4] On July 7, 2009, the Canadian International Trade Tribunal (Tribunal) commenced a preliminary injury inquiry into whether the evidence disclosed a reasonable indication that the dumping of the subject goods has caused injury or retardation or is threatening to cause injury.

[5] On September 4, 2009, pursuant to subsection 37.1(1) of SIMA, the Tribunal made a preliminary determination that there is evidence that discloses a reasonable indication that the dumping of the subject goods has caused injury.

[6] On October 5, 2009, pursuant to subsection 38(1) of SIMA, the President made a preliminary determination of dumping with respect to the subject goods, after estimating the margin of dumping and specifying the goods to which the preliminary determination applies using the information available at the time.

[7] On October 5, 2009, pursuant to subsection 8(1) of SIMA, provisional duty was imposed, on imports of dumped goods that are of the same description as any goods to which the preliminary determination applies, and that are released during the period commencing on the day the preliminary determination is made and ending on the earlier of the day on which the President terminates the investigation and the day the Tribunal makes an order or finding.

[8] On October 6, 2009, pursuant to section 42 of SIMA, the Tribunal commenced an inquiry to determine whether the dumping of the above-mentioned goods has caused injury or retardation or is threatening to cause injury.

[9] The CBSA continued its investigation and, based on the results, the President is satisfied that certain steel plate originating in or exported from Ukraine has been dumped and that the margin of dumping of the subject goods of this country is not insignificant. Consequently, on January 4, 2010, pursuant to paragraph 41(1)(a) of SIMA, the President made a final determination of dumping with respect to certain steel plate originating in or exported from Ukraine.

[10] The Tribunal's inquiry into the question of injury to the Canadian industry is continuing. Provisional duties will continue to be imposed on the subject goods until the Tribunal renders its decision. The Tribunal will issue its finding no later than February 2, 2010.

## **PERIOD OF INVESTIGATION**

[11] The investigation covered all subject goods imported into Canada from April 1, 2008 to March 31, 2009, the period of investigation (POI).

## **INTERESTED PARTIES**

### **Complainant**

[12] The complainant, Essar Algoma, is a major producer of certain steel plate in Canada, accounting for a major proportion of the domestic industry for like goods. The name and address of the complainant is:

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

### **Other Canadian Producers Supporting the Complaint**

[13] Letters supporting the complaint were provided to the CBSA by two other Canadian producers of the goods, SSAB Central Inc. of Scarborough, Ontario (SSAB)<sup>1</sup> and Evraz Inc. NA<sup>2</sup> of Regina, Saskatchewan (Evraz). The address of these supporting companies are:

SSAB Central Inc.  
1051 Tapscott Road  
Scarborough, Ontario  
M1X 1A1

Evraz Inc. NA  
P.O. Box 1670  
Regina, Saskatchewan  
S4P 3C7

### **Exporters**

[14] When the investigation was initiated, the CBSA identified 23 potential exporters of subject goods from import documents and from the complaint. The CBSA sent a Request for Information (RFI) to all identified exporters.

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<sup>1</sup> Letter of support received May 26, 2009, from SSAB can be found in Dumping Exhibit 4.

<sup>2</sup> Letter of support received June 30, 2009, from Evraz can be found in Dumping Exhibit 13.

[15] The CBSA received a complete response to the RFI from one exporter (Azovstal and the Metinvest Group of Companies).

[16] No additional exporters were identified in the final phase of the investigation.

### **Importers**

[17] At the initiation of the investigation, the CBSA identified 22 potential importers of the subject goods from import documents and from the complaint. The CBSA sent a RFI to all identified importers.

[18] Complete responses were received from three importers.

[19] No additional importers were identified in the final phase of the investigation.

### **Other Interested Parties**

[20] Following the initiation of the investigation, representation was submitted by the Embassy of Ukraine on behalf of the Ministry of Economy of Ukraine opposing the initiation of this investigation.<sup>3</sup> These representations were addressed in the Tribunal's Preliminary Injury Inquiry No. PI-2009-002 - *Determination and Reason*<sup>4</sup> as well as the CBSA's *Statement of Reasons* issued for the preliminary determination.<sup>5</sup>

## **PRODUCT INFORMATION**

### **Product Definition**

[21] For the purpose of this investigation, 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 in thickness from 0.187 inches (4.75 mm) up to and including 3.0 inches (76.0 mm) inclusive (with all dimensions being plus or minus allowable tolerances contained in the applicable standards e.g. ASTM standards A6/A6M and A20/A20M), originating in or exported from Ukraine; excluding universal mill plate, plate for use in the manufacture of pipe and plate having a rolled, raised figure at regular intervals on the surface (also known as floor plate).”

### **Technical Information**

[22] In general, steel is considered to be carbon steel when the manganese content does not exceed 1.65%, the silicon and copper contents do not exceed 0.60%, and no minimum content is

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<sup>3</sup> This representation can be found under CBSA Dumping Exhibit #34 - Representation by the Embassy of Ukraine.

<sup>4</sup> This *Determination and Reasons* is available on the Tribunal's Web site at [www.citt.gc.ca/dumping/preinq/determin/piin2i\\_e.asp](http://www.citt.gc.ca/dumping/preinq/determin/piin2i_e.asp).

<sup>5</sup> This *Statement of Reasons* is available on the CBSA's Web site at [www.cbsa-asfc.gc.ca/sima-lmsi](http://www.cbsa-asfc.gc.ca/sima-lmsi).

specified for alloying elements such as aluminium, chromium, columbium, molybdenum, nickel and vanadium. If a minimum is specified for copper content, it must be less than 0.40%.

[23] High strength low alloy (HSLA) steel is carbon steel with alloying elements added. The selection of the particular combination of alloying elements depends on the desired properties of the steel, e.g. greater resistance to atmospheric corrosion, improved weldability or higher strength. HSLA steel generally costs more than carbon steel by weight, but can offer savings because of its superior qualities. References in this report to “certain steel plate” include both carbon steel plate and HSLA steel plate.

[24] Plate is categorized by different "qualities" which refer to the suitability and integrity of the steel for its intended purpose. The two most common qualities are structural quality and pressure vessel quality (PVQ). Structural quality plate is intended for general applications such as bridges, buildings, transportation equipment and machined parts. It is usually produced to meet specific composition limits and certain mechanical properties. PVQ plate on the other hand is intended for use in pressure vessels required to hold their contents under pressure and is of higher quality than structural plate.

[25] Heat-treated or normalized plate is heated in a furnace to homogenize and refine the grain structure in order to improve the steel's ability to resist fracture at low service temperatures. PVQ plate, particularly that which is thicker than 1.5 inches, is usually heat-treated, while structural quality plate tends not to be heat-treated.

[26] The Canadian Standards Association (CSA) specifications covered by the product definition represent different grades within the broad specification G40.21 that covers steel for general construction purposes.

[27] In the American Society for Testing & Materials (ASTM), specifications A283M/A283 and A36M/A36 include structural plate; specifications A572M/A572, A588M/A588 and A242M/A242 include HSLA plate and specifications A515M/A515 and A516M/A516 include PVQ plate.

[28] The ASTM specification A36M/A36 is considered to be equivalent to the CSA specification G40.21, grade 300W/44W and together these are the most common specifications of structural quality plate sold in Canada. The most common specification of PVQ plate sold in Canada is the ASTM specification A516M/A516, grade 70.

## **Production Process**

[29] 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. The basic raw material used by mini-mills is scrap metal rather than virgin iron ore.

[30] 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”.

[31] Heat-treated plate is manufactured in the manner as described above. However, after rolling, it is placed in a heat furnace (charged), reheated to a uniform temperature, removed from the furnace and allowed to cool.

### **Classification of Imports**

[32] The certain steel plate subject to this investigation is normally imported into Canada under the following 18 Harmonized System (HS) classification numbers:

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

[33] This listing of HS codes is for convenience of reference only. Refer to the product definition for authoritative details regarding the subject goods.

### **CANADIAN INDUSTRY**

[34] The Canadian industry producing certain steel plate is currently comprised of the following three companies:

- Essar Steel Algoma Inc. of Sault Ste. Marie, Ontario
- SSAB Central Inc. of Scarborough, Ontario<sup>6</sup>
- Evraz Inc. NA of Regina, Saskatchewan

[35] Together, these three producers account for the vast majority of the total domestic production of certain steel plate and the CBSA considers them to constitute the domestic industry for the purpose of this investigation. However, it should be noted that in addition to these three producers, some Canadian steel service centers also cut certain steel plate to length from coils. These service centers account for the remaining volume of the domestic production of like goods.

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<sup>6</sup> In July 2007, IPSCO Inc. was purchased by SSAB of Sweden. Subsequently, on June 12, 2008, Evraz Group S.A. purchased a number of operations from SSAB of Sweden, including the plate mill and cut-to-length plate facility in Regina, Saskatchewan and the cut-to-length facility in Surrey, British Columbia. SSAB of Sweden retained ownership of the cut-to-length plate facility in Scarborough, Ontario, following the sale to Evraz Group S.A.

## IMPORTS INTO CANADA

[36] During the preliminary phase of the investigation, the CBSA refined the estimated volume of imports based on information from import documents, as well as information received from exporters, importers and other parties. No further adjustments were made in the final phase of the investigation.

[37] The following table presents the CBSA's data regarding imports of certain steel plate for purposes of the final determination.

**Imports of Certain Steel Plate (April 1, 2008 to March 31, 2009)**

<b>Country</b>	<b>Percentage of Total Imports Based on Volume</b>
Ukraine	6.3 %
U.S.A.	78.4 %
Other Countries	15.3 %
<b>Total Imports</b>	<b>100 %</b>

## INVESTIGATION PROCESS

[38] At the initiation of the investigation, the CBSA sent RFIs to 23 potential exporters and 22 potential importers.

[39] The CBSA received a complete response to the RFI from one exporter of subject goods and an incomplete response from one other. In addition, six exporters responded and indicated that they did not export subject goods or did not wish to participate in the investigation.

[40] The CBSA received complete responses to the RFI from three importers of subject goods and incomplete responses from two others. In addition, six importers responded and indicated that they did not import subject goods or did not wish to participate in the investigation.

[41] On-site verification took place in the Ukraine in October 2009 at the premises of the co-operative exporter who submitted a complete and timely response to the RFI. The exporter's response was verified and it was determined that the information submitted was accurate and reliable.

[42] During the final stage of the investigation, no case briefs or reply submissions were received from any of the interested parties.

[43] Under Article 15 of the World Trade Organization (WTO) Anti-dumping Agreement, developed country Members are to give regard to the special situation of developing country Members when considering the application of anti-dumping measures under the Agreement. Possible constructive remedies provided for under the Agreement are to be explored before applying anti-dumping duty where they would affect the essential interests of developing country members. As Ukraine is listed on the Development Assistance Committee (DAC) List of



Official Development Assistance (ODA) Aid Recipients maintained by the Organization for Economic Co-operation and Development (OECD), the President recognizes Ukraine as a developing country for purposes of actions taken pursuant to SIMA.

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

## **DUMPING INVESTIGATION**

### **Normal Value**

[45] The normal value of goods sold to importers in Canada is generally based on the domestic selling prices of like goods in the country of export, pursuant to section 15 of SIMA, or on the aggregate of the cost production of the goods, a reasonable amount for administrative, selling and all other costs, and a reasonable amount for profits, pursuant to paragraph 19(b) of SIMA.

### **Export Price**

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

### **Results of the Investigation**

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

[48] Information provided by the cooperative exporter was used to determine the normal value and export price and the resulting margin of dumping pursuant to subsection 30.2(1) of SIMA.

[49] The normal value of goods of exporters that did not submit a complete response to the RFI, was determined by advancing the export price by the highest amount by which the normal value exceeded the export price on an individual transaction of the cooperative exporter, expressed as a percentage of the export price, based on ministerial specification pursuant to section 29 of SIMA.

[50] Pursuant to section 30.1 of SIMA, the margin of dumping of goods of Ukraine was based on the weighted average margin of dumping found in respect of each exporter weighted according to each exporter's volume of subject goods exported to Canada during the POI.

## **Azovstal and the Metinvest Group of Companies**

[51] Azovstal Iron and Steel Works (Azovstal), Metinvest International S.A., Metinvest Holding LLC, Metinvest SMC and Metinvest Ukraine are all related through corporate ownership and each perform specific functions with regard to the manufacture, export sales and domestic sales of the subject goods in accordance with paragraphs 2(3)(f), (g), (h), and (i) of SIMA. Azovstal and the Metinvest Group of Companies together provided a complete response to the RFI. For these reasons, the CBSA is considering Azovstal and the Metinvest Group of Companies to be the exporter for SIMA purposes.

[52] The normal value could not be determined under section 15 of SIMA using information provided by the exporter relating to domestic sales of like goods in the country of export, as there were insufficient domestic sales of like goods made at a profit to more than one customer during the 60 day period corresponding to the export sale to Canada. As such, normal value was calculated pursuant to paragraph 19(b) of SIMA using information provided by the exporter relating to 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. These costs were based on verified data provided by the exporter.

[53] For purposes of the final determination, reported pricing data provided by the cooperating exporter, including export price adjustments, was used as the basis for determining export price under section 24 of SIMA. The selling price of the exporter was identical to the importer's purchase price.

[54] The total normal value was compared to the total export price of all subject steel plate imported into Canada during the POI. It was found that the goods exported from Azovstal and the Metinvest Group of Companies were dumped by a margin of 15.0%, expressed as a percentage of export price.

## **Margins of Dumping – Other Exporters**

[55] The normal value of goods of non-cooperative exporters was determined based on a ministerial specification pursuant to section 29 of SIMA. The normal value was based on the export price as determined under section 24 or 29 of SIMA plus an amount equal to 21.3% of that export price, which represents the highest amount by which the normal value exceeded the export price, expressed as a percentage of export price, on an individual transaction of the cooperative exporter during the investigation.

[56] For non-cooperative exporters, declared pricing information from import documents was used for purposes of determining export price.

[57] The resultant margin of dumping was 21.3%, expressed as a percentage of export price.

## Summary of Results

[58] The table below provides a summary of the results for the final phase of the investigation.

### Summary of Results - Period of Investigation (April 1, 2008 to March 31, 2009)

Country	Dumped Goods as Percentage of Country Imports	Margin of Dumping *	Country Imports as Percentage of Total Imports	Dumped Goods as Percentage of Total Imports
Ukraine	100%	19.1%	6.3%	6.3%

\* As percentage of the export price

[59] Pursuant to subsection 41(1) of SIMA, the President shall cause the investigation to be terminated if, where on the available evidence, he is satisfied that the margin of dumping of the goods of a country is insignificant. Pursuant to subsection 2(1) of SIMA, a margin of dumping of less than 2% is defined as insignificant. As shown in the table above, the margin of dumping of subject goods from Ukraine is above 2% and is, therefore, not insignificant.

## DECISION

[60] Based on the results of the investigation, the President of the CBSA is satisfied that certain steel plate originating in or exported from Ukraine has been dumped and that the margin of dumping is not insignificant. Consequently, on January 4, 2010, the President of the CBSA made a final determination of dumping pursuant to paragraph 41(1)(a) of SIMA respecting the subject goods.

[61] A summary of the margins of dumping relating to the final determination of dumping is provided in the Appendix.

## FUTURE ACTION

[62] The provisional period began on October 5, 2009, and will end on the date the Tribunal issues its finding. The Tribunal is expected to issue its decision by February 2, 2010. Subject goods imported during the provisional period will continue to be assessed provisional duties as determined at the time of the preliminary determination. For further details on the application of provisional duties, refer to the *Statement of Reasons* issued for the preliminary determination, which is available on the CBSA's Web site at [www.cbsa-asfc.gc.ca/sima-lmsi](http://www.cbsa-asfc.gc.ca/sima-lmsi).

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

[64] If the Tribunal finds that the dumped goods have caused injury, the anti-dumping duties payable on subject goods released by the CBSA during the provisional period will be finalized pursuant to section 55 of SIMA. Imports released by the CBSA after the date of the Tribunal's finding will be subject to anti-dumping duty in an amount equal to the margin of dumping.

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

[66] Specific normal values have been provided to the cooperative exporter for future shipments to Canada in the event of an injury finding by the Tribunal. These normal values will come into effect the day after the date of the injury finding. Information regarding the normal values of subject goods should be obtained from the exporter.

[67] In the event of an injury finding by the Tribunal, normal values for non-cooperative exporters will be determined by advancing the export price by 21.3% based on a ministerial specification pursuant to section 29 of SIMA. Pursuant to subsection 3(1) of SIMA, anti-dumping duty is equal to the amount by which the normal value exceeds the export price of the imported goods.

## **RETROACTIVE DUTY ON MASSIVE IMPORTATIONS**

[68] Under certain circumstances, anti-dumping 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 goods that were imported close to or after the initiation of the investigation constitute massive importations over a relatively short period of time and have caused injury to the Canadian industry. Should the Tribunal issue a finding that there were recent massive importations of dumped goods that caused injury, imports of subject goods released by the CBSA in the 90 days preceding the day of the preliminary determination could be subject to anti-dumping duty.

## **PUBLICATION**

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

## INFORMATION

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

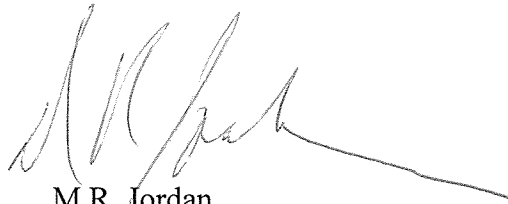
**Mail:** SIMA Registry and Disclosure Unit  
Anti-dumping and Countervailing Program  
Canada Border Services Agency  
100 Metcalfe Street, 11<sup>th</sup> Floor  
Ottawa, ON  
K1A 0L8  
Canada

**Telephone:** Matthew Lerette 613-954-7398  
Benjamin Walker 613-952-8665

**Fax:** 613-948-4844

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

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



M.R. Jordan  
Director General  
Trade Programs Directorate

Attachment

**APPENDIX - SUMMARY OF MARGINS OF DUMPING BY EXPORTER**

**CERTAIN CARBON STEEL PLATE AND HIGH STRENGTH LOW ALLOY STEEL PLATE  
ORIGINATING IN OR EXPORTED FROM UKRAINE**

<b>Exporter of Ukraine Origin Subject Goods</b>	<b>Margin of Dumping*</b>
Azovstal and the Metinvest Group of Companies	15.0%
All Other Exporters	21.3%

\* As percentage of the export price