



OTTAWA, December 21, 2021

## STATEMENT OF REASONS

Concerning an expiry review determination  
under paragraph 76.03(7)(a) of the *Special Import Measures Act* respecting

**CERTAIN FLAT HOT-ROLLED CARBON AND ALLOY STEEL SHEET AND  
STRIP ORIGINATING IN OR EXPORTED FROM BRAZIL, CHINA, INDIA  
AND UKRAINE.**

## DECISION

On December 6, 2021, pursuant to paragraph 76.03(7)(a) of the *Special Import Measures Act*, the Canada Border Services Agency determined that the rescission of the Canadian International Trade Tribunal's order made on August 12, 2016, in Expiry Review No. RR-2015-002:

- i. is likely to result in the continuation or resumption of dumping of certain flat hot-rolled carbon and alloy steel sheet and strip, originating in or exported from Brazil, China, and Ukraine; and
- ii. is likely to result in the continuation or resumption of subsidizing of certain flat hot-rolled carbon and alloy steel sheet and strip originating in or exported from India.

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## EXECUTIVE SUMMARY

[1] On July 9, 2021, the Canadian International Trade Tribunal (CITT), pursuant to subsection 76.03(3) of the *Special Import Measures Act* (SIMA), initiated an expiry review of its order made on August 12, 2016, in Expiry Review No. RR-2015-002, concerning:

- The dumping of certain flat hot-rolled carbon and alloy steel sheet and strip, originating in or exported from Brazil, China, and Ukraine; and
- The subsidizing of certain flat hot-rolled carbon and alloy steel sheet and strip, originating in or exported from India.

[2] For the purposes of this report, the term “HRSS” shall hereafter refer to products subject to the order and the countries identified shall collectively be referred to as “the named countries.”<sup>1</sup>

[3] As a result of the CITT’s notice of expiry review, the Canada Border Services Agency (CBSA) initiated an expiry review investigation to determine, pursuant to paragraph 76.03(7)(a) of SIMA, whether the rescission of the order is likely to result in the continuation or resumption of dumping and/or subsidizing of the subject goods.

[4] Responses to the Expiry Review Questionnaire (ERQ) were received from Canadian producers: Arcelor Mittal Dofasco G.P., Algoma Steel Inc., Evraz Inc. NA Canada and Stelco Inc.<sup>2</sup> These parties are collectively referred to as “the Canadian producers” throughout this report.

[5] In addition to responding to the ERQ, the Canadian producers submitted supplementary information prior to the close of the record.<sup>3</sup> Case briefs<sup>4</sup> and reply submissions<sup>5</sup> were also submitted by counsel on behalf of the Canadian producers. The submissions made by the Canadian producers included information supporting their position that continued or resumed dumping and (in the case of India) subsidizing of HRSS from the named countries is likely if the CITT’s order is rescinded.

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<sup>1</sup> Note: When referencing statistics from trade reports and industry publications, the term “HRSS” will still be used in this report with the acknowledgment that these reports often use interchangeable terms such as “hot-rolled steel sheet”, “hot-rolled coil” or may cumulate “coil plate” with HRSS data.

<sup>2</sup> Exhibits 13 (PRO), 14 (NC), 17 (PRO), 18 (NC), 19 (PRO), 20 (NC) 21 (PRO), 22 (NC), – Canadian producer ERQ responses.

<sup>3</sup> Exhibits 31 (PRO) and 32 (NC) – Close of record attachments from the Canadian producers

<sup>4</sup> Exhibits 37 (PRO), 38 (NC) – Canadian producers’ case briefs.

<sup>5</sup> Exhibits 39 (PRO), 40 (NC) – Canadian producers’ reply submissions.

[6] The CBSA also received a complete response to the ERQ from two Brazilian exporters, Arcelor Mittal Brazil,<sup>6</sup> and Usinas Siderúrgicas de Minas Gerais (USIMINAS).<sup>7</sup> USIMINAS provided case briefs<sup>8</sup> and reply submissions,<sup>9</sup> supporting their position that continued or resumed dumping of HRSS from Brazil is unlikely if the CITT's order is rescinded.

[7] The CBSA also received a response to the ERQ from the Government of India (GOI).<sup>10</sup>

[8] Analysis of information on the administrative record indicates a likelihood of continued or resumed dumping into Canada of HRSS originating in or exported from Brazil, China and Ukraine should the CITT's orders be rescinded. This analysis relied upon, but was not limited to the following factors:

- The commodity nature of HRSS;
- The capital intensive nature of steel production;
- The steel market developments and trends;
- The significant excess capacity in the named countries;
- The exports from the named countries to other markets at potentially dumped prices;
- The dependence on exports from some of the named countries;
- The inability of the named countries to sell HRSS to Canada at non-dumped prices; and
- The multiple trade measures against steel products from the named countries in Canada and other jurisdictions.

[9] Analysis of information on the administrative record indicates a likelihood of continued or resumed subsidizing of HRSS originating in or exported from India should the CITT's order be rescinded. This analysis relied upon:

- The continued availability of subsidy programs for HRSS exporters;
- The GOI provision of subsidies to its manufacturers in the steel sector; and
- The multiple countervailing measures against Indian steel products, including HRSS, in both Canada and the United States.

[10] For the forgoing reasons, the CBSA, having considered the relevant information on the record, determined on December 6, 2021, pursuant to paragraph 76.03(7)(a) of SIMA that:

- i. the rescission of the order in respect of the dumping of certain HRSS, originating in or exported from Brazil, China and Ukraine is likely to result in the continuation or resumption of dumping of the goods into Canada; and
- ii. the rescission of the order in respect of the subsidizing of certain HRSS, originating in or exported from India is likely to result in the continuation or resumption of subsidizing of the goods exported to Canada.

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<sup>6</sup> Exhibits 17 (PRO) and 18 (NC) – Arcelor Mittal Brasil S/A ERQ response.

<sup>7</sup> Exhibits 15 (PRO) and 16 (NC) – Arcelor Mittal Brasil S/A ERQ response.

<sup>8</sup> Exhibits 35 (PRO) and 36 (NC) – USIMINAS case briefs.

<sup>9</sup> Exhibits 41 (PRO) and 42 (NC) – USIMINAS reply submissions.

<sup>10</sup> Exhibits 24 (PRO), 23 (NC), 27 (PRO) and 28 (NC) – Government of India ERQ response.

## BACKGROUND

[11] On January 19, 2001, following a complaint filed by Canadian industry, the original dumping and, in the case of India, subsidy investigations were initiated concerning certain flat hot-rolled carbon and alloy steel sheet and strip products originating in or exported from Brazil, Bulgaria, China, the Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu (Chinese Taipei), India, South Korea, the Former Yugoslav Republic of Macedonia, New Zealand, Saudi Arabia, South Africa, Thailand, Ukraine and the Federal Republic of Yugoslavia.

[12] The complaint was made by Algoma Steel Inc. (now Essar Steel Algoma Inc.) of Sault Ste. Marie, Ontario and was supported by the other Canadian manufacturers of the product at that time, namely: Stelco Inc. of Hamilton, Ontario, Dofasco Inc. (now Arcelor Mittal Dofasco G.P.) of Hamilton, Ontario, IPSCO Inc. (now Evraz Inc. NA Canada) of Regina, Saskatchewan, and Ispat Sidbec Inc. (Ispat) of Montréal, Québec (now Arcelor Mittal Canada).<sup>11</sup>

[13] On July 18, 2001, the Canada Customs and Revenue Agency (now CBSA) made final determinations of dumping and, in the case of India, subsidizing in accordance with paragraph 41(1)(a) of SIMA in respect of certain flat hot-rolled carbon and alloy steel sheet and strip, originating in or exported from Brazil, Bulgaria, China, Chinese Taipei, India, South Korea, the Former Yugoslav Republic of Macedonia, New Zealand, Saudi Arabia, South Africa, Ukraine and the Federal Republic of Yugoslavia.

[14] On August 17, 2001, the CITT found pursuant to subsection 43(1) of SIMA that injury had been caused by the dumping and, in the case of India, subsidizing, of the subject goods from the countries identified above, excluding goods originating in or exported from South Korea, New Zealand and Saudi Arabia.

[15] On March 30, 2006, following the initiation of an expiry review of the CITT's finding of injury, the CBSA determined pursuant to paragraph 76.03(7)(a) of SIMA that the expiry of the finding was likely to result in the continuation or resumption of dumping of the goods from Brazil, China, Chinese Taipei, India, South Africa and Ukraine; and also likely to result in the continuation or resumption of subsidizing of the goods from India. Furthermore, the CBSA determined that the expiry of the finding was unlikely to result in the continuation or resumption of dumping of the goods from Bulgaria, the former Yugoslav Republic of Macedonia, and Serbia and Montenegro (formerly the Federal Republic of Yugoslavia).

[16] On August 16, 2006, the CITT issued an order pursuant to paragraph 76.03(12)(b) of SIMA, continuing its finding in respect of flat hot-rolled carbon and alloy steel sheet and strip originating in or exported from Brazil, China, Chinese Taipei, India, South Africa and Ukraine.

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<sup>11</sup> Arcelor Mittal Canada does not produce hot-rolled steel sheet from this facility anymore. Its lone facility for these goods is the Arcelor Mittal Dofasco facility in Hamilton, Ontario.

[17] On March 31, 2011, following the initiation of an expiry review of the CITT's order, the CBSA determined that the rescission of the order was likely to result in the continuation or resumption of dumping of the goods from Brazil, China, Chinese Taipei, India and Ukraine; and also likely to result in the continuation or resumption of subsidizing of the goods from India. Furthermore, the CBSA determined that the rescission of the order was unlikely to result in the continuation or resumption of dumping of the goods from South Africa.

[18] On August 15, 2011, the CITT issued an order pursuant to paragraph 76.03(12)(b) of SIMA, continuing its order in respect of flat hot-rolled carbon and alloy steel sheet and strip originating in or exported from Brazil, China, Chinese Taipei, India and Ukraine.

[19] On December 9, 2015, following the initiation of an expiry review of the CITT's order, the CBSA determined that the rescission of the order was likely to result in the continuation or resumption of dumping of the goods from Brazil, China, and Ukraine; and also likely to result in the continuation or resumption of subsidizing of the goods from India. Furthermore, the CBSA determined that the rescission of the order was unlikely to result in the continuation or resumption of dumping of the goods from Chinese Taipei.

[20] On August 12, 2016, the CITT issued an order pursuant to paragraph 76.03(12)(b) of SIMA, continuing its order in respect of flat hot-rolled carbon and alloy steel sheet and strip originating in or exported from Brazil, China, India and Ukraine.

[21] On July 9, 2021, the CITT, pursuant to subsection 76.03(3) of SIMA, initiated an expiry review of its order made on August 12, 2016, in Expiry Review No. RR-2015-002, concerning the dumping of certain flat hot-rolled carbon and alloy steel sheet and strip originating in or exported from Brazil, China and Ukraine and the subsidizing of certain flat hot-rolled carbon and alloy steel sheet and strip originating in or exported from India.

[22] On July 12, 2021 the CBSA initiated an expiry review investigation to determine, pursuant to paragraph 76.03(7)(a) of SIMA, whether the rescission of the order is likely to result in the continuation or resumption of dumping and/or subsidizing of the subject goods.

## PRODUCT DEFINITION

[23] The goods subject to the order under review are defined as:

“flat hot-rolled carbon and alloy steel sheet and strip, including secondary or non-prime material, in various widths from 0.75 in. (19 mm) and wider, and (a) for product in coil form, in thicknesses from 0.054 in. to 0.625 in. (1.37 mm to 15.875 mm) inclusive, and (b) for product that is cut to length, in thicknesses from 0.054 in. up to but not including 0.187 in. (1.37 mm up to but not including 4.75 mm), originating in or exported from Brazil, China, India and Ukraine.”

Exclusions:

- i. Flat-rolled stainless steel sheet; and
- ii. Strip and flat hot-rolled, cut-to-length alloy steel products containing no less than 11.5% manganese, in thicknesses from 0.12 in to 0.19 in (3 mm to 4.75 mm).

## Additional Product Information

[24] Hot-rolled carbon and alloy steel sheet products include strip and sheet, but do not include floor plate. Strip is usually produced in widths up to 12” (305 mm) inclusive. Sheet and floor plate are usually produced in widths over 12” (305 mm). Floor plate is hot finished in a final pass or passes to form a pattern on the surface of the sheet.

[25] The subject goods are normally produced to a specification of the ASTM standard, some other international standard, or to a proprietary specification. ASTM specifications for flat hot-rolled carbon and alloy steel strip and sheet include, but are not limited to A505, A506, A507, A568, A569, A570, A606, A607, A621, A622, A635, A659, A715, A749, A907, A935, and A936.

[26] Flat hot-rolled carbon steel sheet products are usually classified as either carbon-manganese or high-strength low alloy (HSLA) steels and are available in several qualities and grades, which are usually reflected in ASTM or equivalent specifications or standards.

[27] Alloy steel sheet products that are subject to this investigation are alloy steels, other than stainless steel, that contain by weight one or more of certain specified elements in minimum specified proportions. The notes to Chapter 72 of the Customs Tariff Schedule specify the elements and the minimum proportions.

[28] Flat hot-rolled stainless steel sheet and strip, excluded from the product definition, is commercially and metallurgically distinct from carbon steel, being produced to a lower carbon and higher alloy content than the subject goods. Stainless steel contains, by weight, 1.2 per cent or less of carbon and 10.5 per cent or more of chromium, with or without other elements.

## CLASSIFICATION OF IMPORTS

[29] The subject goods are usually classified under the following Harmonized System classification numbers:

7208.25.00.00	7208.38.00.20	7211.19.00.10	7225.40.00.50
7208.26.00.00	7208.38.00.50	7211.19.00.90	7225.99.00.00
7208.27.00.00	7208.39.00.00	7211.19.00.00	7226.20.00.00
7208.36.00.00	7208.53.00.00	7225.30.00.00	7226.91.00.00
7208.37.00.10	7208.54.00.00	7225.40.00.10	7226.90.00.90
7208.37.00.20	7208.90.00.00	7225.40.00.20	
7208.37.00.50	7211.13.00.00	7225.40.00.30	
7208.38.00.10	7211.14.00.90	7225.40.00.40	

[30] This listing of tariff classification numbers is for convenience of reference only. The tariff classification number provided may include goods that are not subject goods and subject goods may be imported into Canada under tariff classification numbers other than those provided. Refer to the product definition for authoritative details regarding the subject goods.

## PERIOD OF REVIEW

[31] The period of review (POR) for the CBSA's expiry review investigation is from **January 1, 2018 to March 31, 2021**.

## CANADIAN INDUSTRY

[32] The Canadian industry for certain HRSS is comprised of the following four companies:

- Arcelor Mittal Dofasco G.P.;
- Algoma Steel Inc.;
- Evraz Inc. NA Canada; and
- Stelco Inc.

### **Arcelor Mittal Dofasco G.P. (AMD)**

[33] In 1912, C.W. Sherman founded the Dominion Steel Casting Company to manufacture castings for Canadian railways. The company merged with its subsidiary, Hamilton Steel Wheel Company, and was incorporated under the laws of Canada by letters patent dated May 15, 1917 and re-named Dominion Foundries and Steel Limited. The name was officially changed to Dofasco Inc. in 1980.

[34] In 2006, Dofasco Inc. was purchased by Europe-based steelmaker Arcelor. During this transition, Arcelor merged with Mittal Steel to become Arcelor Mittal and Dofasco Inc. The company was re-named Arcelor Mittal Dofasco Inc. on November 30, 2007.

[35] On January 1, 2016, the business of Arcelor Mittal Dofasco Inc. was transferred to AMD, a newly-created Ontario general partnership.

[36] The facilities, now operated by AMD, started production of HRSS in 1940. The original mill was modified many times over the years and taken out of commission in 1993. A new hot mill was brought into use in 1983 and is capable of making HRSS products up to 62 inches wide and 0.5 inches thick.<sup>12</sup>

[37] Typical end-uses for the company's HRSS products are automotive, construction and tubular products.

### **Algoma Steel Inc. (Algoma)**

[38] Algoma is a primary iron and steel producer. It has a present capacity to produce approximately 3.7 million MT of raw steel and approximately 3.4 million MT of finished steel annually. In 1997, Algoma completed construction of its Direct Strip Production Complex, which converts liquid steel into hot-rolled coils.

[39] The Algoma Steel Corporation, Limited was originally established in 1901. On June 1, 1992, Algoma became an incorporated company, carrying on the business activities of its predecessor. On January 29, 2002, the company was re-organized under a Plan of Arrangement and Reorganization pursuant to the Companies' Creditors Arrangement Act (CCAA). The company became part of Essar Steel Holdings Limited in June 2007. On May 8, 2008, the company name was changed to Essar Steel Algoma Inc.

[40] Essar Steel Algoma Inc. commenced court-supervised restructuring proceedings under the CCAA on November 9, 2015. On November 30, 2018, a group of creditors purchased the company's assets, with the company emerging from CCAA protection as "Algoma Steel Inc."

[41] On May 24, 2021, Algoma Steel Inc. announced that it had entered into a merger agreement with Legato Merger Corp., that will result in Algoma becoming a publicly listed company with its common shares traded on the Nasdaq Stock Market. Algoma also intends to apply to list its common shares on the Toronto Stock Exchange.<sup>13</sup>

### **Evrz Inc. NA Canada (Evrz)**

[42] As the western Canadian operations of the former IPSCO Inc., Evraz was originally incorporated as the Prairie Pipe Manufacturing Co., Ltd. in 1956. The company commenced production of its own flat-rolled steel, including HRSS in 1960. Evraz continues to produce HRSS in addition to other flat-rolled steel and downstream products, including hot-rolled carbon and alloy steel plate products, oil country tubular goods (OCTG), standard pipe and piling pipe.

[43] Evraz has steel making and pipe making operations in Regina, Saskatchewan and steel coil processing centres in Regina, Saskatchewan and Surrey, British Columbia. Evraz also has pipe making operations in Calgary and Red Deer, Alberta.

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<sup>12</sup> Exhibit 19 (NC) – Arcelor Mittal Dofasco G.P. ERQ response, Q7.

<sup>13</sup> Exhibit 22 (NC) – Algoma Steel Inc. ERQ response, Q8.

[44] The Evraz North America group of companies also owns Canadian National Steel Corporation (CNSC) in Camrose, Alberta.

[45] On July 17, 2007, SSAB, a subsidiary of SSAB Svenkst Stahl of Sweden, acquired IPSCO and its subsidiaries. A further reorganization led to IPSCO Inc. owning only the Canadian operations, excluding the coil processing facility in Scarborough, Ontario.

[46] On June 12, 2008, Evraz Group S.A. based in Luxembourg, acquired from SSAB all its IPSCO Inc. shares and all of its subsidiaries. SSAB retained a number of facilities in the United States and the coil processing facility in Scarborough, Ontario.

[47] On October 15, 2008, the name IPSCO Inc. was changed to Evraz Inc. NA Canada and the name of its wholly owned subsidiary IPSCO Canada Inc. was changed to Evraz Inc. NA Canada West.

[48] On January 1, 2009, Evraz Inc. NA Canada West was amalgamated into Evraz Inc. NA Canada.<sup>14</sup>

[49] On December 13, 2013, Evraz sold its steel sheet facility in Surrey, British Columbia to Samuel, Son & Company, Ltd. and on June 27, 2014, Evraz sold its cut-to-length facility in Regina, Saskatchewan to Varsteel.<sup>15</sup>

### **Stelco Inc. (Stelco)**

[50] Stelco Inc. was originally incorporated in 1910 as The Steel Company of Canada, Limited. Over the following decades, it grew to become Canada's leading steelmaker. In 1980, it was continued as Stelco Inc.

[51] On October 31, 2007, Stelco was acquired by United States Steel Corporation, which renamed it as U.S. Steel Canada Inc. ("USSC"). On Sept. 16, 2014, USSC filed for protection under the Companies' Creditors Arrangement Act ("CCAA").

[52] On June 30, 2017, Stelco emerged from CCAA protection under the new ownership of Bedrock Industries LP ("Bedrock"). Subsequently, Stelco Holdings Inc. was established as the parent company of Stelco and listed on the TSX (STLC). Currently, Bedrock maintains an indirect 9.9% interest in the issued and outstanding Common Shares of Stelco Holdings Inc., while Alan Kestenbaum, Stelco's Executive Chairman and CEO, and related entities hold a 13.8% interest.

[53] Stelco has one primary HRSS production facility: Lake Erie Works, in Nanticoke, Ontario. Stelco first began the production of HRSS at Hamilton Works in December 1945. HRSS has been produced at the Lake Erie Works since 1983.<sup>16</sup>

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<sup>14</sup> Exhibit 14 (NC) – Evraz ERQ response, Q8.

<sup>15</sup> Ibid, Q18.

<sup>16</sup> Exhibit 20 (NC) – Stelco ERQ response, Q8.

## CANADIAN MARKET

[54] The apparent Canadian market for HRSS over the POR is indicated in **Table 1** (volume) and **Table 2** (value) below:

**Table 1**  
**Apparent Canadian Market<sup>17</sup>**  
**HRSS (Volume in Metric Tonnes)**

Source	2018	2019	2020	Jan. - Mar. 2021
<b>Canadian Producers</b>	3,601,348	2,992,649	2,670,452	810,339
Brazil	-	-	14	-
China	1	28	1	0.5
India	-	-	-	-
Ukraine	-	-	-	-
Other Countries	837,155	555,890	493,768	146,794
<b>Total Imports</b>	837,156	555,918	493,783	146,794
<b>Total Market</b>	4,438,505	3,548,568	3,164,235	957,133

**Table 2**  
**Apparent Canadian Market<sup>18</sup>**  
**HRSS (Value in CAD)**

Source	2018	2019	2020	Jan. - Mar. 2021
<b>Canadian Producers</b>	\$3,414,101,749	\$2,483,940,415	\$1,999,551,406	\$825,918,367
Brazil	-	-	\$32,393	-
China	\$3,029	\$25,182	\$7,169	\$670
India	-	-	-	-
Ukraine	-	-	-	-
Other Countries	\$1,006,463,880	\$718,064,571	\$557,040,190	\$172,569,354
<b>Total Imports</b>	\$1,006,466,909	\$718,089,753	\$557,079,752	\$172,570,024
<b>Total Market</b>	\$4,420,568,658	\$3,202,030,168	\$2,556,631,157	\$998,488,390

<sup>17</sup> Exhibit 34 (NC) – Compliance and Marke statistics – Day 50.

<sup>18</sup> Ibid.

## Canadian Production

[55] Overall, the Canadian producers' share of the apparent Canadian market in terms of both volume and value remained relatively stable over the POR, from 2019 through March 2021.

[56] In 2018, the volume of sales of HRSS produced by the Canadian producers represented about 81.1% of the total apparent Canadian market for HRSS.

[57] The Canadian producers' market share of volume increased to 84.3% in 2019 and kept increasing slightly in 2020 and for the first three months of 2021.<sup>19</sup>

[58] In terms of value, a similar market share trend was evident during the POR. The Canadian producers' share of the market value was 77.2% in 2018 and increased to 77.6% in 2019. In 2020, the Canadian producers' share of the market value increased to 78.2% and to 82.7% in the first three months of 2021.<sup>20</sup>

## Imports

[59] The volume of subject goods imported from the named countries represented close to 0% of the apparent Canadian market for HRSS throughout the POR, while imports from all other countries accounted for 15-19% of the Canadian market.<sup>21</sup>

[60] In 2018, the volume of imports from all other countries represented 18.9% of the apparent Canadian market. This share decreased to 15.7% in 2019, and further contracted to 15.6% in 2020 and to 15.3% in the first three months of 2021.<sup>22</sup>

[61] When imports from all other countries are measured by value, the market share percentages are higher than those reported based on volume. Market share of imports on a value basis in 2018 were about 22.8% before slightly decreasing to 22.4% in 2019, then 21.8% for 2020 and 17.3% for the balance of the POR.<sup>23</sup>

## ENFORCEMENT DATA

[62] In the enforcement of the CITT's order during the POR, as detailed in **Table 3** below, the total amount of anti-dumping duty collected on subject imports from the named countries was \$53,151 CAD. By comparison, the value for duty on all subject imports from the named countries during the POR was just over \$68,000 CAD.<sup>24</sup>

[63] The small amount of duties collected over the course of the POR corresponds to the virtually non-existent imports from the named countries over the same period as presented in **Table 1**.

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<sup>19</sup> Ibid.

<sup>20</sup> Ibid.

<sup>21</sup> Ibid.

<sup>22</sup> Ibid.

<sup>23</sup> Ibid.

<sup>24</sup> Ibid.

**Table 3**  
**SIMA Duties Collected on HRSS**  
**(Value in CAD)**

Country	2018	2019	2020	Jan. - Mar. 2021
Brazil	-	-	\$24,942	-
China	\$1,584	\$19,390	\$6,802	\$536
India	-	-	-	-
Ukraine	-	-	-	-

## **PARTIES TO THE PROCEEDINGS**

[64] On July 12, 2021, a notice concerning the CBSA's initiation of the expiry review investigation and expiry review questionnaires (ERQs) were sent to the known Canadian producers, importers and exporters. The GOI was also sent an ERQ relating to subsidy.

[65] The ERQ requested information relevant to the CBSA's consideration of the expiry review factors, as listed in subsection 37.2(1) of the *Special Import Measures Regulations* (SIMR).

[66] All four Canadian producers of HRSS: AMD, Algoma, Evraz and Stelco, argued in their ERQ responses, case briefs and reply submissions that the dumping and (in the case of India) subsidizing of the subject goods would continue should the CITT's order be rescinded.

[66] Of the 56 ERQs sent to exporters at the initiation of the expiry review investigation, the CBSA received a complete response from only two exporters, namely, Brazilian producers Usinas Siderúrgicas de Minas Gerais (USIMINAS)<sup>25</sup> and Arcelor Mittal Brazil S/A (Arcelor Mittal Brazil).<sup>26</sup>

[67] Of the 85 ERQs sent to importers at the initiation of the expiry review investigation, none provided a complete response to the ERQ. Additionally, none of the importers provided case briefs or reply submissions.

[68] The GOI responded to the ERQ, but did not submit a case brief or reply submission.

<sup>25</sup> Exhibits 15 (PRO) and 16 (NC) – USIMINAS ERQ response.

<sup>26</sup> Exhibits 25 (PRO) and 26 (NC) – Arcelor Mittal Brazil ERQ response.

## **INFORMATION CONSIDERED BY THE CBSA**

### **Administrative Record**

[69] The information considered by the CBSA for purposes of this expiry review investigation is contained in the administrative record. The administrative record includes the information on the CBSA's exhibit listing, which is comprised of the CITT's administrative record on which the CITT based its decision to initiate the expiry review, CBSA exhibits and information submitted by interested persons, including information which they feel is relevant to the decision as to whether dumping and subsidizing are likely to continue or resume absent the CITT order. This information may consist of expert analysts' reports, excerpts from trade magazines and newspapers, orders and findings issued by authorities of Canada or of a country other than Canada, documents from international trade organizations such as the World Trade Organization and responses to the ERQs submitted by Canadian producers, exporters, importers, and governments.

[70] For purposes of an expiry review investigation, the CBSA sets a date after which no new information submitted by interested parties will be placed on the administrative record or considered as part of the CBSA's investigation. This is referred to as the "closing of the record date" and is set to allow participants time to prepare their case briefs and reply submissions based on the information that is on the administrative record as of the closing of the record date. For this investigation, the administrative record closed on August 31, 2021.

### **Procedural Issues**

[71] On October 6, 2021, the Canadian producers filed a letter, expressing their objection to certain parts of the reply submission filed by USIMINAS on September 28, 2021. In their letter, Canadian producers argued the reply submission filed by USIMINAS introduced new documents on the administrative record by appending them as annexes and references to websites. The Canadian producers requested the CBSA to disregard all new information introduced and relied upon by USIMINAS in its reply submission.

[72] On the same date, USIMINAS objected to the Canadian industry's letter, contending that it was not possible to anticipate the arguments of the Canadian industry, and that the CBSA should not ignore or undermine the rights of any party to a fair reply on the basis of natural justice and procedural fairness.

[73] The CBSA will normally not consider any new information submitted by participants subsequent to the closing of the record date. However, in certain exceptional circumstances, it may be necessary to permit new information to be submitted. The CBSA will consider the following factors in deciding whether to accept new information submitted after the closing of the record date:

- (a) the availability of the information prior to the closing of the record date;
- (b) the emergence of new or unforeseen issues;
- (c) the relevance and materiality of the information;
- (d) the opportunity for other participants to respond to the new information; and
- (e) whether the new information can reasonably be taken into consideration by the CBSA in making the determination.

[74] Participants wishing to file new information after the closing of the record date, either separately or in case briefs or reply submissions, must identify this information so that the CBSA can decide whether it will be included in the record for purposes of the determination.

[75] In their reply submissions filed on September 28, 2021, USIMINAS made reference to information which was not on the administrative record at the time of the close of record, such as annexes and references to websites.<sup>27</sup> Following the analysis of the information, the CBSA determined it was immaterial to the decision and available prior to the close of record. Further, other parties were likely to be prejudiced if the information was used as there would be no opportunity to respond to the new information. For these reasons, the CBSA did not consider the new information.

## **POSITION OF THE PARTIES - DUMPING**

### **Parties contending that continued or resumed dumping is likely**

[76] The Canadian producers made representations through their ERQ responses as well as in their case brief and reply submission in support of their position that dumping from the named countries is likely to continue or resume in the event that the present order is rescinded. Consequently, the Canadian producers argued that the measures should remain in place.

[77] For further clarity, AMD, Algoma, Evraz and Stelco presented their case brief and reply submission together.

[78] The main global factors identified by the parties can be summarized as follows:

- International Market Conditions;
- Canadian Market Conditions; and
- Factors Specific to named countries

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<sup>27</sup> Note annexes disregarded

## International Market Conditions

### Global Economic Conditions

[79] The Canadian producers stated that while the global economy is forecast to continue its recovery and rebound from the Covid-19 pandemic, the recovery forecast is projected to be uneven and global economic activity will remain lower at the end of 2022 than what was expected prior to the pandemic.

[80] Furthermore, Canadian producers argued emerging and developing markets will not rebound as fast as developed economies. It was alleged that producers of subject goods may need to divert exports traditionally destined for emerging market to other markets, and that Canada will be an attractive market for such exports. The Canadian producers alleged that this forecast will incentivise a resumption of dumped and subsidized subject goods to Canada if the order is rescinded.<sup>28</sup>

### Global Excess Capacity

[81] The Canadian producers submitted that global excess steel production capacity continues to be a serious problem in the steel industry, including the HRSS sector. Specifically, the Canadian industry argued that while global excess capacity decreased between 2015-2018, it began to rise again in 2019 and 2020.<sup>29</sup> The Canadian producers also stated that there are concerns with respect to excess capacity growing further in the years to come due to investments supported by governments and not driven by market considerations.<sup>30</sup> The Canadian producers submitted that the trends demonstrate an existing structural imbalance in the steel market which will remain a major destabilizing factor in the coming years.<sup>31</sup>

[82] Additionally, the Canadian producers stated that it is difficult to determine the excess capacity of China. Specifically, the Canadian producers argued that the information relating to China's production capacity of HRSS and steel in general, is significantly underreported and unreliable. The Canadian producers indicated that China's production figures surpassed its capacity by over 10% in 2019.<sup>32</sup> The Canadian producers stated that the CBSA should draw negative inference from China's misreporting of its production capacity figures.<sup>33</sup>

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<sup>28</sup> Exhibit 38 (NC) – Case arguments from the Canadian producers; paragraphs 113-117.

<sup>29</sup> Ibid, paragraph 120.

<sup>30</sup> Ibid, paragraph 121.

<sup>31</sup> Ibid, paragraph 126.

<sup>32</sup> Ibid, paragraph 122.

<sup>33</sup> Ibid, paragraph 125.

### Slowing global demand for HRSS

[83] The Canadian producers submitted that HRSS demand is set to rebound from the lows in 2020, but this will take time. The Canadian producers stated that the global consumption of HRSS in 2019 contracted from 2018, meaning the global HRSS market was already in a downturn before the Covid-19 pandemic, and that global gross demand for 2022 will barely surpass 2018 levels.<sup>34</sup> Additionally, the Canadian producers stated that HRSS consumption will not return to 2018 levels until after 2023 in the European Union and United Kingdom, and until 2022 for North America and Asia (excluding China).<sup>35</sup>

[84] The Canadian producers also argued that the disconnect between demand and supply, which made steel prices soar globally since the second half of 2020, will soon be resolved. As global demand diminishes in the near future, the Canadian producers contended that export dependant HRSS producers in the named countries will need to find new markets to sustain their production as their domestic market will be unable to absorb their production.

[85] The Canadian producers submitted that as the rest of the world will not have enough demand to absorb excess HRSS production, HRSS export prices will need to significantly undercut the domestic prices in export markets. As a result, it is argued that producers from the named countries will likely be pressured to export subject goods at dumped prices.<sup>36</sup>

### **Canadian Market Conditions**

#### Economy of Canada

[86] The Canadian producers submitted that the Canadian economy is forecasted to remain strong through 2022 and 2023. In 2020, the Bank of Canada reported the economy contracted by 5.3%, but it is projected to grow by 6% in 2021, 4.6% in 2022 and 3.3% in 2023. The major Canadian banks' expectations are also optimistic, and the major consuming industries of HRSS are also expected to do well in 2022 and 2023.<sup>37</sup>

[87] Consequently, the Canadian producers argued that Canada will remain an attractive market for subject goods if the order is rescinded. As HRSS markets are forecast to maintain stable and growing demand, combined with relatively high prices in the coming years, producers of subject goods in the named countries will need to undercut prices in order to export significant volume to Canada.<sup>38</sup>

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<sup>34</sup> Ibid, paragraphs 127-129.

<sup>35</sup> Ibid, paragraphs 130-131.

<sup>36</sup> Ibid, paragraphs 132-133.

<sup>37</sup> Ibid, paragraphs 41-43.

<sup>38</sup> Ibid, paragraph 39.

### Canadian HRSS Market Conditions

[88] The Canadian producers indicated that apparent consumption in Canada has been declining significantly during the 2018-2020 period. In 2019, demand for HRSS fell 20%, before decreasing by another 11% in 2020.<sup>39</sup> As the Canadian market shrunk in recent years, the Canadian producers stated that their market shares remained relatively stable.<sup>40</sup>

[89] The Canadian producers submitted that the consumption of HRSS will recover in 2021-2022, and remain stable in 2023.<sup>41</sup> It is also submitted that Canadian HRSS prices will remain among the highest in the world, which will be attractive to exporters engaged in dumping.

[90] The Canadian producers argued that the greater the degree to which the exporter can undercut domestic prices, the more attractive the exports are to the importers. Therefore, an exporter seeking to maintain or increase its production through the export of dumped or subsidized goods would see Canada as a prime target, should the order be rescinded.<sup>42</sup>

[91] The Canadian producers noted that named countries have remained largely absent from the Canadian market during the POR, stating that this is an indication producers from these countries will not compete at non-dumped prices.<sup>43</sup>

[92] The Canadian producers argued that producers from the named countries are also likely to resume HRSS exports to Canada at dumped prices because they will have to compete with other low-priced imports that are targeting Canada.<sup>44</sup>

### **Factors Specific to Named Countries**

[93] The Canadian producers identified the following factors as significant in arguing that the expiry of the CITT's order will lead to continued or resumed dumping of HRSS from Brazil, China and Ukraine.

[94] The Canadian producers placed particular emphasis on the repeated behavior of the named countries in dumping steel products, including flat-rolled product in Canada.<sup>45</sup>

[95] The Canadian producers also cited the numerous anti-dumping measures and trade remedies against the named countries in other jurisdictions for steel products, including HRSS, as evidence that the exporters in these countries have a propensity to dump the subject goods.<sup>46</sup>

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<sup>39</sup> Ibid, paragraph 45.

<sup>40</sup> Ibid, paragraph 49.

<sup>41</sup> Ibid, paragraph 47.

<sup>42</sup> Ibid, paragraph 48.

<sup>43</sup> Ibid, paragraph 46.

<sup>44</sup> Ibid, paragraphs 229-230.

<sup>45</sup> Ibid, paragraphs 71, 76-77 and Table 8.

<sup>46</sup> Ibid, Table 8.

[96] Prices cited by the Canadian producers showed that the average price spread between US Midwest prices and the export prices for China, Ukraine, India and Brazil increased significantly in 2021 compared to the 2017-2019 period. Similar price differences were projected to exist throughout 2022-2023.<sup>47</sup>

[97] The Canadian producers alleged that named countries have continued to engage in dumping in recent years by estimating margins of dumping based on domestic and export pricing available to them.<sup>48</sup>

[98] The Canadian producers alleged that the named countries can “product shift” their export emphasis within the flat-rolled steel range of goods as opportunities present themselves.<sup>49</sup>

[99] The effect China is having on the dynamics of trade for HRSS is discussed in greater detail in the following sections with respect to each of the named countries.

## **Brazil**

[100] The Canadian producers identified the following factors as significant in arguing that the expiry of the CITT’s order will lead to continued or resumed dumping of HRSS from Brazil.

[101] The Canadian producers submitted that Brazil’s economy only grew by 1.4% in 2019 before contracting by 4.1% in 2020. For 2021, forecasts indicate that the economy will grow by 4.5%, meaning that by the end of the year, Brazil’s economy will only be at 2019 levels.<sup>50</sup>

[102] The Canadian producers argued that risk remains with respect to the economic recovery and the HRSS industry with respect to unstable vaccine distribution, persisting sanitation issues, increasing inflation and high unemployment rate.<sup>51</sup>

[103] The Canadian producers stated steel imports in Brazil increased in the first half of 2021, by over 103% year-on-year. Further, the imports are alleged to be priced at US \$200 to US \$300 lower than the domestic market, threatening the Brazilian steel industry. The Canadian producers referenced CRU, arguing that imports are causing a slump in Brazil’s flat-rolled steel sales and that Brazilian producers have been turning to exports since demand is supplied by low-priced imports. Additionally, the Canadian producers alleged that increased competition from Asian exports to Latin America and trade remedies in the United States will push Brazilian producers to shift their exports to other markets, including Canada.<sup>52</sup>

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<sup>47</sup> Ibid, paragraph 107.

<sup>48</sup> Ibid, pages 86-92.

<sup>49</sup> Ibid, paragraph 231.

<sup>50</sup> Ibid, paragraph 160.

<sup>51</sup> Ibid, paragraphs 161-163.

<sup>52</sup> Ibid, paragraphs 164-167.

[104] The Canadian producers also submitted that downstream industries are showing worrying signs. The Canadian producers argued that a decline in oil production, a slowdown of domestic vehicle sales and a decline in production in the automotive sector are indications of slowing demand for domestic steel products in Brazil.<sup>53</sup>

[105] With respect to HRSS, the Canadian producers referenced CRU data, indicating excess capacity in the HRSS industry in Brazil will remain considerable relative to the size of Canada's HRSS market. While there is a decrease on a year-to-year basis in excess capacity, the Canadian producers argued that the excess capacity volume is considerable relative to the size of Canada's HRSS market and that this production imperative will provide incentive to Brazilian exporters to increase exports, if given the opportunity.<sup>54</sup> The Canadian producers also contended that Brazil would find the Canadian market particularly attractive as a result of the trade remedy in the United States and increased competition in the domestic and Latin American markets.

[106] The Canadian producers referenced the plans of Gerdau, a Brazilian producer of HRSS, to expand capacity for hot-rolled coil by 250,000 MT at its Ouro Branco installations in 2024, as an indication that HRSS capacity will expand in the coming years.<sup>55</sup> Furthermore, the Canadian producers also referenced Arcelor Mittal's annual report, submitting that developing markets, like Brazil, continue to show structural overcapacity when domestic demand decreases due to weakening economic conditions.<sup>56</sup>

[107] The Canadian producers provided an analysis of Brazilian domestic and export prices using confidential information on the record to demonstrate that Brazilian export prices are consistently below domestic prices for HRSS.<sup>57</sup>

## **China**

[108] The Canadian producers identified the following factors as significant in arguing that the rescission of the CITT's order will lead to continued or resumed dumping of HRSS from China.

[109] The Canadian producers referenced a recent International Monetary Fund (IMF) report that China's economy grew 2.3% in 2020. For 2021, forecasts indicate the Chinese economy will grow by 8.1%, a rate similar to the United States and the United Kingdom, but lower than other developing countries such as India (8.5%) and the ASEAN countries (6.3%).<sup>58</sup> Furthermore, the Canadian producers referenced an economist from the New Zealand Banking Group stating that China's economy is already slowing down, which will weaken demand for global commodities, including steel.<sup>59</sup>

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<sup>53</sup> Ibid, paragraphs 168-171.

<sup>54</sup> Ibid, paragraphs 173-174.

<sup>55</sup> Ibid, paragraph 133.

<sup>56</sup> Ibid, paragraph 176.

<sup>57</sup> Ibid, pages 86-89.

<sup>58</sup> Ibid, paragraph 160.

<sup>59</sup> Ibid, paragraphs 133-134.

[110] The Canadian producers referenced the China Steel and Logistic Professional Committee, indicating total steel production declined as a result of persisting weak demand, and that overall downward pressure on the steel market has increased.<sup>60</sup>

[111] The Canadian producers stated that the demand for flat steel products, including HRSS are forecasted to experience a slowdown beginning in the second half of 2021. The Canadian producers referenced multiple sources indicating demand for downstream industries was slowing down in the first half of 2021. Furthermore, other sources were presented, forecasting demand for downstream industry would slowdown or decline starting June 2021.<sup>61</sup>

[112] The Canadian producers referenced CRU data and forecasts, indicating that domestic consumption of HRSS in China will see its first year-on-year decline in 2021, 2022 and 2023, as China's government stimulus ends. The Canadian producers submitted that even if China became a net importer of HRSS in 2020 as a result of this stimulus, production also increased. Consequently, it is argued that Chinese HRSS producers will need to turn to export markets, as the production levels achieved prior to 2021 are expected to decrease at a lower rate than domestic demand.<sup>62</sup>

[113] The Canadian producers argued China's return to a significant volume of excess HRSS is underway, as exports of HRSS rose significantly in the first half of 2021, reaching 7.6 million MT. Exports of HRSS for the full year of 2019 were reportedly 12.9 million MT.<sup>63</sup>

[114] The Canadian producers noted that China cancelled its VAT rebate on HRSS exports. Despite its cancellation, they argued that net exports are set to demonstrate a significant increase in 2021.<sup>64</sup>

[115] The Canadian producers indicated China is obfuscating its steel and HRSS production capacity, noting the Global Forum on Excess Steel Capacity singled out China's capacity reporting and identified significant discrepancies between various reported figures and actual production, which led various Government of China departments and agencies to launch investigations to determine the true capacity of its steel industry in 2019. The reported capacity utilization rate of many Chinese steelmakers surpassed 100% suggesting wide-scale inaccuracies.<sup>65</sup>

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<sup>60</sup> Ibid, paragraphs 135-136.

<sup>61</sup> Ibid, paragraphs 137-138.

<sup>62</sup> Ibid, paragraphs 139-145.

<sup>63</sup> Ibid, paragraph 146 and Table 13.

<sup>64</sup> Ibid, paragraph 147.

<sup>65</sup> Ibid, paragraph 149.

[116] The Canadian producers indicated China was to commission new mills in 2020-2021, adding an additional 50.8 million MT of steelmaking production capacity following the addition of another 26.5 million MT which was added in 2019. While there are claims that these new mills will only replace existing capacity, the Canadian producers referenced trade publication Platts, which stated that only some capacity will be replaced.<sup>66</sup> The Canadian producers also referred to the Organisation for Economic Co-operation and Development (OECD), stating that even if China's figures were accurate, China increased its steelmaking capacity during the POR. The reported capacity increase was 2.1% in 2019 and the Canadian producers contend it increased further by 1.6% in 2020 as global capacity increased.<sup>67</sup>

[117] The Canadian producers submitted that while there are rumors of China contemplating capping its steel production at 2020 volume, even if production was so capped, domestic consumption is expected to decrease on a year-to-year basis. Consequently, the Canadian producers contended China will have excess production and production imperative will incentivize producers to export to Canada.<sup>68</sup>

[118] The Canadian producers provided an analysis of Chinese domestic and export prices using confidential information on the record to demonstrate that Chinese export prices are consistently below domestic prices for HRSS.<sup>69</sup>

## **Ukraine**

[119] The Canadian producers identified the following factors as significant in arguing that the expiry of the CITT's order will lead to continued or resumed dumping of HRSS from Ukraine.

[120] The Canadian producers cited Bloomberg, which recently stated that Ukraine entered its second recession since the start of the Covid-19 pandemic. Ukraine's economy contracted by 1.2% in the first quarter of 2021, and by 0.8% in the second quarter. Furthermore, high inflation, slow structural reforms and the slow vaccination campaign were identified as risks for future recovery.<sup>70</sup>

[121] The Canadian producers alleged Ukraine's strong propensity to export is enhanced by the devaluation of the domestic currency (Hryvnia) relative to the US dollar due to the country's high rate of inflation.<sup>71</sup>

[122] The Canadian producers stated that demand for HRSS in Ukraine contracted in 2019, before increasing due to the government's infrastructure stimulus spending in response to the Covid-19 pandemic. Domestic consumption is also expected to decrease in 2021 and 2022.<sup>72</sup>

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<sup>66</sup> Ibid, paragraph 153.

<sup>67</sup> Ibid, paragraph 150.

<sup>68</sup> Ibid, paragraph 154.

<sup>69</sup> Ibid, page 90.

<sup>70</sup> Ibid, paragraph 183.

<sup>71</sup> Ibid, paragraph 183.

<sup>72</sup> Ibid, paragraph 182.

[123] The Canadian producers noted the particular export dependence of Ukrainian producers, referencing the World Bank report that Ukraine's economy is reliant on the export of commodities. The export of steel products is listed as the second largest export of the country, with three steel companies making the top ten list of Ukraine's largest exporters.<sup>73</sup>

[124] The Canadian producers stated that Ukraine's major steelmakers quickly adapt to declining exports in traditional markets and declining demand by exporting to non-traditional markets. The Canadian producers further noted that Ukrainian producers maintained significant HRSS production during the POR, despite the decreasing domestic consumption in 2019 and 2021. As Ukraine only consumed 52% to 54% of the HRSS it produced during the 2017-2020 period, the Canadian producers contend the remainder was exported.<sup>74</sup>

[125] The Canadian producers submitted that Ukraine did not export HRSS to North America likely because of existing trade remedies in Canada, the United States and Mexico. However, the North American market is attractive given the relatively higher prices than in the Commonwealth of Independent State (CIS) countries.<sup>75</sup>

[126] The Canadian producers referenced confidential data demonstrating that the HRSS industry operated with a very low utilization rate during the POR. The Canadian producers argued that given the opportunity, Ukraine producers would increase their production to export significant volume to Canada, without altering export volumes to other markets.<sup>76</sup>

[127] The Canadian producers referenced different sources indicating that new HRSS production capacity may be coming online in the near future.<sup>77</sup>

[128] The Canadian producers provided analysis of Ukrainian domestic and export prices using confidential information on the record to demonstrate that Ukrainian export prices are consistently below domestic prices for HRSS.<sup>78</sup>

[129] The Canadian producers cited the numerous anti-dumping measures against Ukrainian HRSS and other flat-rolled steel products in other jurisdictions as evidence that Ukraine has a propensity to dump steel products, including HRSS.<sup>79</sup>

[130] The Canadian producers argued that the continuous marketing of HRSS exports through low-priced dumping has resulted in numerous trade remedies against Ukraine in the United States, the European Union, Mexico, and others countries, effectively limiting its export markets. It is argued that the limited export markets would result in Ukraine targeting Canada should the order be rescinded.<sup>80</sup>

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<sup>73</sup> Ibid, paragraphs 183-185.

<sup>74</sup> Ibid, paragraphs 186-188.

<sup>75</sup> Ibid, paragraph 189.

<sup>76</sup> Ibid, paragraph 192.

<sup>77</sup> Ibid, paragraph 192.

<sup>78</sup> Ibid, page 92.

<sup>79</sup> Ibid, Table 8 and paragraph 93.

<sup>80</sup> Ibid, paragraphs 198-199.

[131] The Canadian producers asserted that the lack of exports of HRSS during the POR from Ukraine into North America, including Canada, demonstrates an inability to compete at non-dumped prices in Canada.<sup>81</sup>

### **Parties contending that continued or resumed dumping is unlikely**

[132] Arcelor Mittal Brazil and USIMINAS provided a complete response to the exporter ERQ. USIMINAS also provided a case brief and reply submission in support of the position that dumping from Brazil is unlikely to continue or resume in the event the present order is rescinded. Consequently, the Brazilian producers argued that the measures should not remain in place.

### **Brazil**

[133] USIMINAS submitted that the vast majority of the evidence provided by the Canadian producers to support their assertion that there is a likelihood of resumed dumping does not meet the standard of evidence, as they have presented allegations, conjectures and speculations.<sup>82</sup> Furthermore, it was indicated that there is no evidence on the record that imports of subject goods from Brazil into Canada have been dumped since Brazil has not exported subject goods to Canada during the POR (with the exception of 14 MT in 2020). Moreover, the Brazilian exporter contended that the absence of SIMA duty collection from Brazil in this case supports the rescission of the order.<sup>83</sup>

[134] USIMINAS indicated that evidence on the record shows both USIMINAS and Arcelor Mittal Brazil have little capacity for exports, let alone for exports to Canada. In its ERQ response, USIMINAS contended that Brazil is in a net import position for HRSS. Furthermore, it was stated that focus will be kept on selling HRSS to the domestic market and that the recent historically low export levels shall be maintained.<sup>84</sup>

[135] USIMINAS submitted that it does not operate on the basis of alleged production imperative but rather on a profit imperative and that it did not engage in a sharp and significant increase in exports during the POR.<sup>85</sup>

[136] USIMINAS argued that steel trade publications MEPS and Fastmarkets data confirm the absence of dumping since the fourth quarter of 2019, as the domestic and export price differential in Brazil shows negative margins of dumping.<sup>86</sup>

### **CONSIDERATION AND ANALYSIS - DUMPING**

[137] In making a determination under paragraph 76.03(7)(a) of SIMA whether the rescission of the order is likely to result in the continuation or resumption of dumping of the goods, the CBSA may consider factors identified in subsection 37.2(1) of the SIMR, as well as any other factors relevant in the circumstances.

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<sup>81</sup> Ibid, paragraph 189.

<sup>82</sup> Exhibit 36 (NC) – USIMINAS case brief, paragraph 8.

<sup>83</sup> Ibid, paragraphs 26 and 32.

<sup>84</sup> Ibid, paragraph 37.

<sup>85</sup> Exhibit 42 (NC) – USIMINAS reply submission, paragraphs 19-20.

<sup>86</sup> Ibid, paragraphs 24 and 26

[138] Before presenting the analysis of the named countries specifically concerning the likelihood of continued or resumed dumping in absence of the CITT's order, there are certain issues that relate to the goods on a broader scale which are addressed as follows:

- Commodity Nature of HRSS;
- Capital Intensive Nature of Steel Production; and
- Steel Market Development and Trends.

### **Commodity Nature of HRSS**

[139] Generally speaking, HRSS produced to a given specification by a producer in a given country is physically interchangeable with HRSS produced to the same specification in any other country. As such, the goods compete amongst themselves regardless of origin and share the same channels of distribution and the same potential customers. This characteristic means that HRSS must compete in a market that is extremely price sensitive, where price is the primary factor affecting purchasing decisions from customers. This ultimately results in a convergence of downward trending prices to the lowest possible option.

### **Capital Intensive Nature of Steel Production**

[140] A second characteristic of the product involves the capital-intensive nature of steel production. As noted previously by the CITT, "Steel mills are capital intensive with high fixed costs. In order to recover fixed expenses, steel mills must run at high levels of production capacity. When home market demand drops, producers will search out foreign markets to maintain capacity utilization to ensure that these fixed costs are recovered."<sup>87</sup>

[141] This is often referred to as the "economics of steel production." This characteristic is particularly important when there are conditions of overcapacity, as a producer may find it more feasible to sell excess production in foreign markets at depressed prices rather than reduce production, as long as the producer's variable costs are covered.

### **Steel Market Developments and Trends**

[142] The global steel markets were already entering a period of slowdown before the Covid-19 pandemic. Global steel demand, which expanded by 7.3% in 2017 and 4.2% in 2018, slowed to 3.5% in 2019 as the economic environment deteriorated and production growth in key steel-using industries began to stagnate. The Worldsteel Association was also expecting global steel demand growth in 2020 to slow down to 1.7%. Moreover, growth in the medium to longer term was projected at the time to continue falling to an average annual rate of less than 1%.<sup>88</sup>

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<sup>87</sup> CITT Expiry Review *Statement of Reasons* on Certain Hot-Rolled Carbon Steel Plate, RR-98-004, pages 13-14.

<sup>88</sup> Ibid, page 11-14.

[143] The Covid-19 pandemic accelerated the downturn sharply in 2020, depressing the steel demand around the world as most countries experienced severe lockdown measures and production disruptions in downstream steel-using industries, such as the construction, mechanical machinery and automotive sectors. As a result, the OECD reported a slight decrease in global steel demand of 0.2%, to 1.77 billion MT, in 2020.<sup>89</sup> Other sources reported a more pronounced global decrease of 2.4%<sup>90</sup> and 4.3%.<sup>91</sup>

[144] This moderate decrease despite the Covid-19 pandemic was mainly attributed to China's large government infrastructure stimulus, which resulted in an increase of demand for steel of 9.1%. As a result, China became the world's driver of demand. In 2020, demand for steel products in China accounted for around 57% of the global steel demand and the country momentarily became a net importer of steel products.<sup>92</sup> In 2021, it is forecasted that world steel demand will increase by 4.1%, as demand will slow down in China and recover in the rest of the world.<sup>93</sup>

[145] In the second half of 2020 and the first quarter of 2021, the world market for steel experienced a strong recovery from the Covid-19 pandemic. Margins for profit sharply increased close to record levels while apparent demand for steel products, including HRSS, recovered. The driver of demand transferred from China to the rest of the world as economies recovered and infrastructure stimulus from the government in China decreased. In this context of recovery, constrained supply pushed domestic lead times to record levels, momentarily pushing prices to decade high levels for steel products, including HRSS.

[146] Demand for steel products outside China was expected to further increase through the first half of 2021, before slowing down at the end of the year and throughout 2022-2023.<sup>94</sup> This situation is also not expected to last in the HRSS sector, as forecasts indicate the growth in demand will start to slow down substantially by the end of 2021, which will contribute to decreasing global steel prices.<sup>95</sup>

[147] Confidential information on the record demonstrated that global HRSS consumption was in decline during the POR, prior to the Covid-19 pandemic, and that a rebound in consumption began mid-2020. However, a significant slowdown is expected for 2022 and 2023. This expected slowdown is an indication that the HRSS sector will be facing a deteriorating environment as the post-pandemic recovery ends.<sup>96</sup>

[148] Confidential information on the record indicates that HRSS producers experienced a supply imbalance throughout the POR, as each of the named countries consumed less HRSS than they produced.

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<sup>89</sup> Exhibit 32 (NC) – Close of record attachments from the Canadian producers; Attachment 14, page 22.

<sup>90</sup> Ibid, page 6.

<sup>91</sup> Exhibit 30 (NC) – Article reports and CBSA research; “overview-of-the-steel-and-iron-ore-market-2020” - Deloitte

<sup>92</sup> Exhibit 32 (NC) – Close of record attachments from the Canadian producers; Attachment 14, page 6 and 15.

<sup>93</sup> Ibid.

<sup>94</sup> Exhibit 32 (NC) – Close of record attachments from the Canadian producers; Attachment 100, page 2.

<sup>95</sup> Exhibit 30 (NC) – Article reports and CBSA research; “2021 world steel figures WSA” – Worldsteel Association

<sup>96</sup> Ibid.

[149] The Worldsteel Association indicates the utilization rate respecting crude steel production capacity declined from 76.5% to 74.5% between 2019 and 2020.<sup>97</sup> However, the gap between production capacity and actual production is currently narrowing, as demand increased significantly during the post-pandemic industry recovery. CRU data indicates that production is currently increasing at a faster rate than capacity. However, many investment projects continue to increase production capacities in a number of economies, combined with an expected significant slowdown in the growth of apparent steel consumption following 2021. This will continue to cause legitimate concerns with regard to the global imbalance between capacity and demand for the foreseeable future.

[150] In its 2019 report, the OECD expressed concerns regarding the sustainability of the steel sector. The report cited an increase of excess steelmaking capacity and projected increases in this capacity until 2023, combined with a persisting weak global demand for steel products.<sup>98</sup> This has not dampened efforts to increase capacity further. While 2018 showed a marginal decline in global steel making capacity, many investment projects were reportedly continuing to take place. In fact, the Worldsteel Association reported new capacity additions and closures which increased capacity by 1.6% in 2020, in comparison to 2019.<sup>99</sup> The OECD also expected steelmaking capacity to increase by approximately 4-5% between 2019 and 2021. By the end of 2021, global steelmaking capacity is expected to approach 2.4 billion MT.<sup>100</sup>

[151] The OECD also reported an increase in excess capacity of 1.5% in 2019 and noted other ongoing investment projects that will widen the excess capacity even more, with an additional 2-3% excess capacity expected between 2020 and 2022.<sup>101</sup>

[152] Confidential information on the record indicated that the global production capacity of HRSS increased slightly during the POR and that significant excess capacity also exists.

[153] Although the economic rebound from the pandemic caused significant surges in steel demand, including in the HRSS sector, the 2020 Ministerial Report of the Global Forum on Steel Excess Capacity (GFSEC) noted that the observed downward trend in steel demand before the pandemic served as a clear indicator that developments in demand would not be sufficient to address the problem of excess capacity in the steel sector. Such progress would require structural reform on the supply side, which have not taken place.<sup>102</sup> As such, in a context where there is consistently more supply available than the demand, there is a legitimate reason for concern that global imbalance between capacity and demand will continue to pose risks to the industry for the foreseeable future.

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<sup>97</sup> Exhibit 32 (NC) – Close of record attachments from the Canadian producers; Attachment 14, page 30.

<sup>98</sup> Exhibit 30 (NC) – Article reports and CBSA research; “recent-developments-steelmaking-capacity-2019” – OECD.

<sup>99</sup> Exhibit 32 (NC) – Close of record attachments from the Canadian producers; Attachment 14, page 30.

<sup>100</sup> Ibid.

<sup>101</sup> Exhibit 32 (NC) – Close of record attachments from the Canadian producers; Attachment 22, page 6.

<sup>102</sup> Exhibit 32 (NC) – Close of record attachments from the Canadian producers; Attachment 142, page 12.

[154] Steel prices have all risen sharply during the second half of 2020. As indicated in the OECD's Steel Market Developments Q2-2021, in January 2021, flat steel prices and rebar prices stood 47% and 39% higher than one year earlier, respectively. However, the price upswing is very recent, and steel prices were, on average, quite weak in 2020.<sup>103</sup> Monthly prices of flat steel products and long steel products were, on average, 3% lower relative to 2019. Vast steelmaking capacity idled during the heights of the Covid-19 pandemic could not be brought online quickly enough to meet recovering steel demand, which led a rapid rise in global steel prices. Most of the plants that idled capacity during 2020 have already resumed production. This implies that the recent global rally in steel prices could be short-lived, and that prices may start to decline later in 2021.<sup>104</sup>

[155] Confidential information on the record demonstrated similar trends respecting pricing for HRSS in North America and Europe.

[156] The above demonstrates clear signs of a price bubble in the global steel market, including the HRSS sector. Beginning in the second half of 2020, prices started to increase sharply, while global demand is expected to increase by only 4.92% in 2021 compared to 2020.<sup>105</sup> The current high-price situation is the result of a temporary demand-supply disruption resulting from the post-pandemic economic recovery that extended through the end of the POR.

[157] While the global recovery led to a soaring steel market in terms of demand, which catapulted prices and utilization rates starting in the second half of 2020, evidence on the record shows this recovery will be short-lived. It is difficult to predict the exact moment of the end of this current bubble, as many uncertainties regarding this recovery and the Covid-19 pandemic remain. The first half of the POR was characterized by slowing demand, price depression and increases in current and projected excess capacity. The projections of growth for the global steel industry were below 1%, including the HRSS sector. Structural issues, which cannot be resolved through temporary demand surges, are still causing concern for the sustainability of the entire steel industry, including the HRSS sector. As the growth in demand for steel products, including HRSS, slows to below 2% in the next few years, prices will decrease significantly, approximately to the level of 2018-2019. In such a context, there are legitimate reasons for concern that HRSS could be diverted to Canada, and that price pressure created by existing non-subject sources may result in dumping.

### **Likelihood of Continued or Resumed Dumping**

[158] The following country specific analysis of the likelihood of continued or resumed dumping begins with Brazil, followed by China and Ukraine.

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<sup>103</sup> Exhibit 30 (NC) – Article reports and CBSA research; “Steel market development Q2 2021 - OECD”, OECD, page 6.

<sup>104</sup> Ibid, page 23.

<sup>105</sup> Exhibit 32 (NC) – Close of record attachments from the Canadian producers; Attachment 14, page 32.

## **Brazil**

[159] As earlier indicated, the CBSA received an ERQ response, a case brief and a reply submission to this expiry review investigation from USIMINAS and an ERQ response from Arcelor Mittal Brazil, both producers and exporters of HRSS in Brazil. The CBSA relied on the information submitted by USIMINAS, Arcelor Mittal Brazil and other participating parties, as well as other information on the administrative record for the purposes of the expiry review investigation with respect to Brazil.

### **Domestic Steel Market in Brazil**

[160] The steel sector in Brazil suffered the impact of deteriorating market conditions related to the Covid-19 pandemic. The 2020 Ministerial Report of the GFSEC revealed that a strong impact was felt by Brazilian producers who supply steel to the car-making, machinery and equipment industries, causing one plant with an estimated production capacity of 500,000 MT per year to permanently shut down.<sup>106</sup>

[161] While 500,000 MT worth of steelmaking capacity has been shut down permanently, information on the record indicates that additional investment in steel production capacity has been made by Brazilian producers, Arcelor Mittal Brazil and Gerdau. The Canadian producers submitted evidence that Arcelor Mittal Brazil will start the production of steel rods in João Monlevade, Brazil, by January 2022, with a capacity of 1 million MT, and that Gerdau plans to increase hot-rolled coil and structural beam production capacity by another 750,000 MT, effectively negating the 500,000 MT shutdown and increasing the total steelmaking capacity in Brazil by 250,000 MT.<sup>107</sup>

[162] According to the 2020 Ministerial Report of the GFSEC, Brazil's steelmaking capacity was 51.5 million MT in both 2018 and 2019.<sup>108</sup> In terms of production, according to a May 2019 U.S. Department of Commerce (USDOC) report, the major Brazilian steel producers are Gerdau SA, which produced the most steel with 26 million MT; Arcelor Mittal Brazil, which produced 11.3 million MT; USIMINAS, which produced 9.6 million MT; and Companhia Siderúrgica Nacional (CSN) with a production of 5.6 million MT.<sup>109</sup>

### **Significant Decrease in Exports of HRSS from Brazil**

[163] Brazil's steel industry experienced a sharp rebound from the Covid-19 pandemic starting in the second half of 2020, due to increasing domestic demand. The Brazil Steel Institute foresees domestic steel consumption to grow by 5.8% in 2021.<sup>110</sup>

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<sup>106</sup> Exhibit 32 (NC) – Close of record attachments from the Canadian producers; Attachment 142, page 44.

<sup>107</sup> Exhibit 32 (NC) – Close of record attachments from the Canadian producers; Attachments 11 and 128.

<sup>108</sup> Exhibit 32 (NC) – Close of record attachments from the Canadian producers; Attachment 142, page 22.

<sup>109</sup> Exhibit 30 (NC) – Article reports and CBSA research; “Brazil Exports Report” – USDOC – May 2019 – Production numbers of 2017.

<sup>110</sup> Exhibit 30 (NC) – Article reports and CBSA research; “Steel market development Q2 2021 - OECD”, page 33.

[164] Arcelor Mittal Brazil reported that “for 2022 [...] demand should stay at [sic] same level of 2021 or even decrease”.<sup>111</sup> The differing expectation with the Brazil Steel Institute concerning the evolution in domestic demand for steel in Brazil is an indication that uncertainty remains regarding the post Covid-19 pandemic recovery in Brazil’s steel industry.

[165] Brazil’s steel industry is traditionally export-oriented. In 2018, Brazil exported 40% of its steel production.<sup>112</sup> Flat products represented 18% (2.5 million MT) of all exported steel products from Brazil.<sup>113</sup> However, Brazil’s export performance has weakened over the last few years.<sup>114</sup>

[166] With respect to HRSS, the Global Export Statistics provided by the Canadian industry showed that the export performance of Brazilian producers followed the same trend as its steel industry:

**Table 4** <sup>115</sup>  
**Brazilian exports of HRSS**

	2018	2019	2020	Jan. to Mar. 2021
Quantity (in millions MT)	1.517	1.251 (-18%)	0.793 (-37%)	0.159
Value in EUR (in million)	779.150	625.577 (-20%)	425.420 (-32%)	142.333
Value in CAD* (in million)	1,192.255	929.357 (-22%)	650.808 (-30%)	214.005
Value per MT (CAD)	785.93	742.89 (-5.5%)	820.69 (+10.5%)	1,345.94 (+64%)

\* Annual CAD/EUR exchange rate from the Bank of Canada, for 2021, average monthly rate for the period.

[167] Brazil’s HRSS export volume decreased significantly from year-to-year over the POR. Information on the record also indicates the value per MT was decreasing until the second half of 2020, but at a slower rate than the volume. During the second half of 2020, the value per MT of Brazilian exports increased significantly, leading to a 10.5% increase for the full year 2020. During the last three months of the POR, the value per MT further increased by 64%.<sup>116</sup>

<sup>111</sup> Exhibit 26 (NC) – Arcelor Mittal Brazil ERQ response - HRSS 2021 ER INI\_ERQ Exp AM  
Brasil\_AD\_HRC\_CAN\_CONFIDENTIAL Q 34.

<sup>112</sup> Exhibit 30 (NC) – Article reports and CBSA research; “Steel market development Q2 2021 - OECD”, page 33.

<sup>113</sup> *Ibid.*

<sup>114</sup> Exhibit 30 (NC) – Article reports and CBSA research; “Steel market development Q2 2021 - OECD”, page 22.

<sup>115</sup> Exhibit 32 (NC) – Close of record attachments from the Canadian producers; Arcelor Mittal Dofasco G.P., Global Export Statistics for Subject, Attachment 2.

<sup>116</sup> *Ibid.*

[168] Brazil's steel imports also decreased from 2.2 million MT in 2018 to 1.7 million MT in 2020, before increasing sharply at the end of 2020 and early 2021.<sup>117</sup> During the first half of 2021, Brazil's steel imports increased by 104% and the price of these imports were estimated to be around US\$200-300/MT lower than their domestic steel prices. As a result, steel imports will increase their share of apparent consumption in Brazil in 2021.<sup>118</sup>

[169] In its ERQ response, Arcelor Mittal Brazil indicated that due to the Chinese overcapacity, the high volume of imports from China to Brazil will continue to be a problem for hot-rolled coil markets for years to come. Arcelor Mittal Brazil also indicated that the accumulated volume of imported hot-rolled steel products during the first half of 2021 is nearly triple the full year 2020 and double that of 2019.<sup>119</sup>

[170] As Brazil faces increasing challenges in its domestic market due to the exponential increase of low priced imports of HRSS from China, Brazilian producers, while having seen a decrease in exports during the POR, will be pressured to lower their domestic prices and may need to aggressively pursue new markets to maintain capacity utilization.

### **Increasing Excess HRSS Capacity in Brazil**

[171] USIMINAS reported that "it expects to increase capacity utilization in the coming year" driven by the increase in domestic demand.<sup>120</sup>

[172] Confidential information on the record demonstrated that capacity utilization rates were in a downward trend between 2018 and 2020, prior to the Covid-19 pandemic recovery. The CBSA is of the opinion that the current surge in capacity utilization rates of Brazilian exporters is the result of the temporary supply disruption stemming from the post-pandemic economic recovery that extended through the end of the POR. The CBSA expects utilization rates to return to pre-pandemic levels in the near future.

### **Exports from Brazil to Other Markets at Potentially Dumped Prices**

[173] CBSA's analysis of confidential information on the record indicates that Brazilian export prices of HRSS have been significantly lower than prices in their domestic markets and at prices lower than their cost of production during the POR.

[174] Furthermore, the CBSA's analysis of confidential information on the record indicates that Brazilian export prices of HRSS have also been significantly lower than average import prices in Canada during the POR.

[175] The CBSA's analysis of publicly available Brazilian export data shows that throughout the POR, export prices were lower than average import prices in Canada. **Table 5** below shows a summary of this price difference.

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<sup>117</sup> Ibid.

<sup>118</sup> Exhibit 30 (NC) – Article reports and CBSA research; "INDA Brazil imports 118.1% more steel this June (07-23-2021)."

<sup>119</sup> Exhibit 26 (NC) – Arcelor Mittal Brazil ERQ response – HRSS 2021 ER INI\_ERQ Exp AM Brasil\_AD\_HRC\_CAN\_CONFIDENTIAL Q 34.

<sup>120</sup> Exhibit 16 (NC) – USIMINAS ERQ response – USIMINAS\_HRSS 2021 ER\_ERQ and FP\_RESP (text)\_CONF, Q 34.

**Table 5 <sup>121</sup>**  
**Canadian Import Prices Compared to Brazilian Producers Export Price**  
**(in CAD)\***

Subject goods	2018	2019	2020	Jan. to Mar. 2021
Average Brazilian export price	785.93	742.89	820.69	1,345.94
Average Canadian import price	1,202.25	1,291.72	1,128.19	1,175.59
Average Brazilian export price minus Average Canadian import price	-416.32	-548.83	-307.50	170.35

\* Annual USD/CAD exchange rate from the Bank of Canada; for 2021, average monthly rate for the period.

[176] Based on the pricing analysis, it is evident that Brazilian producers' export prices are well below the Canadian import prices and that Brazilian exporters are selling at low and potentially dumped prices in other markets. As such, in the event that the order is rescinded, it is likely that the subject goods exported from Brazil to Canada would be at prices lower than domestic prices in Brazil and well below Canadian import prices.

#### **Inability of Brazilian Exporters to Compete in Canada at Non-dumped Prices**

[177] During the POR, Brazilian exporters have exported only limited amount of subject goods to Canada (14 MT, valued at CAD \$32,393), which resulted in the assessment of CAD \$24,942 in anti-dumping duties.<sup>122</sup> This further demonstrates that Brazilian producers have been unable to compete in the HRSS market at non-dumped prices during the POR.

#### **Trade Measures Against Brazilian Steel Products in Canada and Other Jurisdictions**

[178] The propensity of Brazilian exporters to dump steel products, including HRSS in Canada and other markets is further demonstrated by numerous anti-dumping measures imposed against Brazil by Canada and other countries. The CBSA currently has one other anti-dumping measure against Brazil for a flat-rolled steel product; hot-rolled carbon steel plate (2014).

[179] Globally, there are currently six trade remedies in effect involving HRSS from Brazil (one in each of Canada, India, the EU and Thailand and two in the United States). Furthermore, 27 trade remedies involving steel mill imports from Brazil are in effect as of 2019.<sup>123</sup> Of these trade remedies, 24 involve anti-dumping duties in eight countries (two in Canada; one in each of India, the EU, Taiwan and Thailand; nine in Mexico; six in the U.S.; and three in Vietnam).

<sup>121</sup> Exhibit 32 (NC) – Close of record attachments from the Canadian producers; Arcelor Mittal Dofasco G.P., Global Export Statistics for Subject Goods, Attachment 2 and Exhibit 34 (NC) – Compliance and Marke statistics – Day 50.

<sup>122</sup> Exhibit 34 (NC) – Compliance and Marke statistics – Day 50.

<sup>123</sup> Exhibit 30 (NC) – Article reports and CBSA research; “Steel Exports Report Brazil – May 2019, p. 1, 7.

## **Determination Regarding Likelihood of Continued or Resumed Dumping - Brazil**

[180] Based on the evidence on the record in respect of: the commodity nature of HRSS; the capital intensive nature of steel production; steel market developments and trends; the current volatility and uncertainties regarding the domestic steel market in Brazil; Brazil's increasing excess HRSS capacity; exports from Brazil to other markets at potentially dumped prices; the inability of Brazilian exporters to compete in Canada at non-dumped prices; and the trade measures against Brazilian steel products in Canada and other jurisdictions, the CBSA determined that the rescission of the order is likely to result in the continuation or resumption of dumping into Canada of certain HRSS originating in or exported from Brazil.

## **China**

[181] Under SIMA, China is a "prescribed" country and normal values may be determined under section 20 of SIMA in situations where, in the opinion of the CBSA, domestic prices are substantially determined by the government of that country and there is sufficient reason to believe that they are not substantially the same as they would be if they were determined in a competitive market.

[182] Since June 2005, the CBSA has conducted five dumping re-investigations on steel products within the Chinese flat-rolled steel industry. This involved three re-investigations on the current goods under review, HRSS (2007, 2010, 2015) and two re-investigations concerning hot-rolled steel plate (2006, 2010).

[183] In respect of each of these products, the CBSA has consistently formed the opinion under section 20 that domestic prices are substantially determined by the Government of China (GOC) and that there is sufficient reason to believe that they are not substantially the same as they would be if they were determined in a competitive market.

[184] As previously noted, no exporter in China provided a response to the ERQ in this expiry review investigation nor did any provide case briefs or reply submissions. Similarly, no exporter in China participated in the 2011 or the 2016 expiry review investigations. The CBSA relied on the information submitted by other participating parties, as well as other information on the administrative record for the purposes of the expiry review investigation with respect to China.

## **Domestic Steel Market Slowdown in China**

[185] China's economy has been slowing in recent years. In 2020, its GDP increased by approximately 2.3% as a result of the Covid-19 pandemic. For 2021, the International Monetary Fund (IMF) forecasts China's growth to be 8.1%, barely above the United States and that it will slow further, below India and the ASEAN countries, to 5.7% in 2022.<sup>124</sup> As China's economy slows, the demand in most commodities, including steel and HRSS is expected to weaken as well.

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<sup>124</sup> Exhibit 38 (NC) – Case arguments from the Canadian producers; paragraphs 133-134.

[186] The apparent consumption of HRSS in China was also showing signs of a slowdown before the pandemic, reporting weak increases on a year-to-year basis. Domestic steel consumption barely grew in 2018 and 2019. In 2020, despite the Covid-19 pandemic, apparent consumption in China increased significantly due to the GOC's infrastructure stimulus. By the end of 2020, demand had already started to decrease and is expected to keep contracting in 2021, 2022 and 2023.<sup>125</sup>

[187] In July 2021, the China Steel and Logistic Professional Committee also indicated that the demand for steel products in China remained weak and that steel production had slowed in recent months, indicating that the overall downward pressure on prices in the Chinese market had increased.<sup>126</sup> As demand weakens in China, there are legitimate concerns that producers may be pressured to find new export markets to maintain capacity utilization and cover their high fixed costs.

### **Significant Excess Capacity in China**

[188] According to the 2020 Ministerial Report of the GFSEC, China's steelmaking capacity was estimated to be 1,147.5 million MT in 2019, up from 1,123 million MT in 2018.<sup>127</sup> Although China has been reporting capacity reductions in recent years, this data indicates otherwise. Furthermore, it is difficult to assess the real steelmaking capacity in China as many discrepancies in the information provided by various GOC departments exist.<sup>128</sup>

[189] Comparing China's actual production to its reported capacity reveals a major understatement of China's true production capacity. The 2020 Ministerial Report of the GFSEC noted China's actual production figures consistently exceeded the reported capacity by over 10% during the POR.<sup>129</sup> After this was revealed, multiple GOC departments and agencies launched an investigation in November 2019 to determine the true capacity of China's steel industry, suggesting wide-scale inaccuracies in the reported data.<sup>130</sup>

[190] Confidential information on the record pertaining to China's HRSS production and capacity displays similar discrepancies.

[191] As stated in the 2019 OECD "Steel production capacity and trade dynamics" report:

"An important channel through which the inefficiency caused by excess capacity propagates to foreign economies is through changes in the value of goods exported. [...] excess capacity depresses prices and undermines profitability of the steel sector [...]. As changes in steelmaking capacity are associated with concomitant changes in exports, the price at which the resulting production surplus/deficit is placed onto global markets might be a direct reflection of the capacity adjustment."<sup>131</sup>

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<sup>125</sup> Ibid, paragraphs 143-144.

<sup>126</sup> Exhibit 32 (NC) – Close of record attachments from the Canadian producers; Attachment 67, page 1.

<sup>127</sup> Exhibit 32 (NC) – Close of record attachments from the Canadian producers; Attachment 142, page 22.

<sup>128</sup> Ibid.

<sup>129</sup> Ibid.

<sup>130</sup> Exhibit 38 (NC) – Case arguments from the Canadian producers; paragraph 149.

<sup>131</sup> Exhibit 30 (NC) – Article reports and CBSA research; "Steel production capacity and trade dynamics;" OECD; page 21.

## **Chinese Steel Producers' Dependence on Exports and Scale of Production**

[192] The information on the record indicates that China's steel exports have steadily decreased since 2018. In 2019, its exports decreased by 8.6%, reaching 56.3 million MT, while the value of exports decreased even further, by 12.1%. In 2020, during the Covid-19 pandemic, China's steel exports decreased again to 47.3 million MT.<sup>132</sup> Flat products represent 57.7% of all exported steel products from China.<sup>133</sup>

[193] The HRSS sector followed the same trend over the POR. In 2019, its exports decreased by 11%, reaching 12.94 million MT. In 2020, China's HRSS exports decreased by another 28%, to 9.35 million MT as the government's stimulus response to the Covid-19 pandemic drastically increased the domestic demand and temporarily put China in a position of net importer.<sup>134</sup> However, this situation was short-lived. In the first half of 2021, 7.6 million MT of HRSS were exported from China.<sup>135</sup>

[194] The scale of production and exports from China can have devastating effects on markets that are not protected by trade measures as they may be otherwise overwhelmed by massive volumes of imports at prices that are below prevailing price levels. In their ERQ response, Arcelor Mittal Brazil specifically referenced China in stating:

“The high volume of imports from China to Brazil and to Latin American [countries] will continue to be a problem to HRC markets, due to the Chinese overcapacity. The accumulated volume of imported hot-rolled during Jan-Jun'21 is almost the triple of FY20 and the double of FY19 [...]. China is the main issue/player on those markets with high available volume. The Chinese HRC exports to Brazil and other markets have kept at high pace and pushing down the prices and profits of the sector. The steel overcapacity in China is a problem to all steel market.”<sup>136</sup>

## **Exports from China to Other Markets at Potentially Dumped Prices**

[195] The CBSA's analysis of confidential information on the record indicates that Chinese export prices of HRSS have been significantly lower than prices in the domestic markets of other jurisdictions during the POR. The CBSA's analysis relied on other domestic market prices available on the record as a comparative in lieu of Chinese domestic prices as they are not considered reliable under section 20 of SIMA.

[196] Furthermore, the CBSA's analysis of confidential information on the record indicates that Chinese export prices of subject goods have been significantly lower than average import prices in Canada during the POR.

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<sup>132</sup> Exhibit 30 (NC) – Article reports and CBSA research; “Steel market development Q2 2021 – OECD”, page 22.

<sup>133</sup> Exhibit 30 (NC) – Article reports and CBSA research; “exports-china – USDOC” – May 2020.

<sup>134</sup> Exhibit 32 (NC) – Close of record attachments from the Canadian producers; Arcelor Mittal Dofasco G.P., Global Export Statistics for Subject, Attachment 2.

<sup>135</sup> Exhibit 38 (NC) – Case arguments from the Canadian producers; Table 13.

<sup>136</sup> Exhibits 26 (NC) – Arcelor Mittal Brazil ERQ response; Q34 and Q35.

[197] Based on the pricing analysis, it is evident that Chinese producers' export prices are well below the domestic prices and import prices of other jurisdictions, including Canada. As such, in the event that the order is rescinded, it is likely that the subject goods exported from China to Canada would be at prices lower than Canadian import prices and, potentially, at dumped prices.

### **Inability of Chinese Exporters to Compete in Canada at Non-dumped Prices**

[198] During the POR, Chinese exporters exported only a limited amount of subject goods to Canada (30.5 MT, valued at CAD \$36,050), which resulted in the assessment of CAD \$28,312 anti-dumping duties.<sup>137</sup> This further demonstrates that Chinese producers have been unable to compete in the HRSS market at non-dumped prices, during the POR.

### **Trade Measures Against China Steel Products in Canada and Other Jurisdictions**

[199] The propensity of Chinese exporters to dump steel products, including HRSS into Canada and other markets is demonstrated by the numerous anti-dumping measures imposed against them by Canada and other countries. The CBSA currently has three other anti-dumping measures against China for flat-rolled steel products: hot-rolled carbon steel plate (1997), corrosion-resistant steel sheet (2018) and cold-rolled steel sheet (2018). Globally, there are currently 11 trade remedies in effect involving HRSS against China (two in Brazil, one in Canada, India, Indonesia, Mexico and the United States, respectively; two in the European Union; and two in Thailand).<sup>138</sup>

### **Determination Regarding Likelihood of Continued or Resumed Dumping - China**

[200] Based on the evidence on the record in respect of: the commodity nature of HRSS; the capital intensive nature of steel production; steel market developments and trends; China's domestic steel market slowdown; China's significant excess capacity; Chinese steel producers' dependence on exports and scale of production; exports from China to other markets at potentially dumped prices; the inability of Chinese exporters to compete in Canada at non-dumped prices; and the multiple trade measures against Chinese steel products in Canada and other jurisdictions, the CBSA determined that the rescission of the order is likely to result in the continuation or resumption of dumping into Canada of certain HRSS originating in or exported from China.

### **Ukraine**

[201] As previously noted, no exporter in Ukraine provided a response to the ERQ in this expiry review investigation nor did any provide case briefs or reply submissions. Similarly, no exporter in Ukraine participated in the 2011 or the 2016 expiry review investigations. The CBSA relied on the information submitted by other participating parties, as well as other information on the administrative record for the purposes of the expiry review investigation with respect to Ukraine.

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<sup>137</sup> Exhibit 34 (NC) – Compliance and Market Statistics – Day 50.

<sup>138</sup> Exhibit 38 (NC) – Case arguments from the Canadian producers; Table 8.

## **Domestic Steel Market Slowdown in Ukraine**

[202] Ukraine's economy keeps struggling as it entered its second recession since the start of the Covid-19 pandemic in the second quarter of 2021. Ukraine's economy contracted by 1.2% in the first quarter of 2021, before decreasing again by 0.8% in the second quarter. The slow vaccination campaign, with only 6% of the country vaccinated as of August 2021 is also a cause of concern with respect to the country's economic recovery from the pandemic.<sup>139</sup>

## **Significant Excess Capacity in Ukraine**

[203] Confidential information on the record indicates that Ukraine had significant excess steelmaking capacity during the POR. While the information on the record indicates that capacity utilization increased as a result of an increase in exportations and the government's infrastructure stimulus in 2020, it also demonstrates that it was expected to decrease for the full years 2021 and 2022, respectively.

[204] Confidential information on the record indicates that Ukraine's capacity utilization rate with regards to HRSS also increased significantly in 2020, compared to 2018 and 2019. In a similar manner as noted above, the utilization rate was expected to decline for the full years 2021 and 2022, respectively.<sup>140</sup>

[205] HRSS apparent consumption in Ukraine contracted in 2019 compared to 2018. In 2020, as a result of the government's infrastructure stimulus, apparent consumption increased significantly. However, as government stimulus decreased, demand also plummeted at the end of the POR and is expected to contract considerably for the full year of 2021. Further contraction is expected in 2022.<sup>141</sup> As demand weakens in Ukraine, there are legitimate concerns that producers may be pressured to find new export markets and redirect their production to maintain capacity utilization and cover their high fixed costs.

## **Ukrainian Steel Producers' Dependence on Exports**

[206] In addition, Ukraine's steelmaking industry is extremely dependant on the exportation of steel products, including HRSS. The information on the record indicates that Ukraine exports over 70% of its steel production.<sup>142</sup> With respect to HRSS, nearly half of its production was destined for export markets during the POR.<sup>143</sup>

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<sup>139</sup> Exhibit 38 (NC) – Case arguments from the Canadian producers; paragraphs 183-184.

<sup>140</sup> Ibid, paragraph 192.

<sup>141</sup> Ibid, Table 17 and paragraph 182.

<sup>142</sup> Exhibit 30 (NC) – Article reports and CBSA research; "exports – Ukraine" – USDOC, page 6.

<sup>143</sup> Exhibit 38 (NC) – Case arguments from the Canadian producers; paragraphs 187-188.

[207] Information on the record also showed that when faced with declining exports in their traditional markets, Ukraine's producers quickly adapt and shift exports to non-traditional markets in order to maintain their capacity utilization and cover production imperatives. As an example, Ukraine shipped 250,000 MT of HRSS to China in 2020, despite not having exported to this market since 2018. In the first quarter of 2021, Ukraine's exports to China fell to 0 while the total HRSS exports of the country increased.<sup>144</sup> **Table 6** below summarize the export performance of Ukrainian producers:

**Table 6** <sup>145</sup>  
**Ukrainian exports of HRSS**

	2018	2019	2020	Jan. to Mar. 2021
Quantity (in millions MT)	2.148	2.110 (-1.8%)	2.413 (+14%)	0.840
Value in EUR (in million)	953.133	968.964 (+1.7%)	1,079.734 (+11%)	532.897
Value in CAD* (in million)	1,458.484	1,439.493	1,651.777	801.237
Value per MT (CAD)	679.00	682.22 (+0.5%)	684.53 (+0.3%)	953.85 (+39%)

\* Annual CAD/EUR exchange rate from the Bank of Canada, for 2021, average monthly rate for the period.

[208] Furthermore, the information on the record indicates that steel producers in Ukraine are looking for further export opportunities to lower their significant excess capacity, in part due to tepid business conditions, decreasing domestic prices and slowing demand from Ukraine's downstream industries.<sup>146</sup>

### Exports from Ukraine to Other Markets at Potentially Dumped Prices

[209] The CBSA's analysis of confidential information on the record indicates that Ukrainian export prices of HRSS have been significantly lower than prices in the domestic markets of other jurisdictions during the POR. The CBSA's analysis relied on other domestic market prices available on the record as a comparative in lieu of Ukrainian domestic prices (the information was not available to the CBSA).

[210] Additionally, the CBSA's analysis of confidential information on the record indicates that Ukrainian export prices of HRSS have been significantly lower than average import prices in Canada during the POR. **Table 7** below summarizes the export price comparison of Ukrainian producers.

<sup>144</sup> Exhibit 32 (NC) – Close of record attachments from the Canadian producers; Arcelor Mittal Dofasco G.P., Global Export Statistics for Subject, Attachment 2.

<sup>145</sup> Ibid.

<sup>146</sup> Exhibit 38 (NC) – Case arguments from the Canadian producers; paragraphs 187-188.

**Table 7 <sup>147</sup>**  
**Canadian Import Prices Compared to Ukrainian Producers Export Price**  
**(in CAD)**

HRSS	2018	2019	2020	Jan. to Mar. 2021
Average Ukrainian export price	679.00	682.22	684.53	953.85
Average Canadian import price	1202.25	1291.72	1128.19	1175.59
Average Ukrainian export price minus Average Canadian import price	-523.25	-609.50	-443.66	-221.74

\* Annual CAD/EUR exchange rate from the Bank of Canada, for 2021, average monthly rate for the period.

[211] Based on the pricing analysis above, it is evident that Ukrainian producers' export prices are well below the domestic prices and import prices of other jurisdictions, including Canada. As such, in the event that the order is rescinded, it is likely that the subject goods exported from Ukraine to Canada would significantly undercut Canadian import prices.

### **Inability of Ukrainian Exporters to Compete at Non-dumped Prices**

[212] Moreover, Ukraine did not export HRSS to Canada during the POR. Similarly, the information on the record indicates Ukraine did not export to two other countries which have trade remedies against HRSS from Ukraine during the POR, namely, the United States and Mexico. This further demonstrates that Ukrainian producers have been unable to compete in the Canadian HRSS market and other North American HRSS markets, at non-dumped prices, during the POR.

### **Propensity of Ukrainian Exporters to Dump Hot-Rolled Steel Products**

[213] The propensity of Ukrainian exporters to dump steel products, including HRSS in Canada and other markets is well documented. On June 27, 2005 the CITT rescinded its anti-dumping finding on hot-rolled steel plate from six countries including Ukraine.<sup>148</sup> On February 2, 2010, the CITT issued a new anti-dumping finding against Ukraine for steel plate.<sup>149</sup> This finding was renewed in the CITT's order issued on January 30, 2015 and the order was subsequently renewed on November 10, 2020.<sup>150</sup>

<sup>147</sup> Exhibit 32 (NC) – Close of record attachments from the Canadian producers; Arcelor Mittal Dofasco G.P., Global Export Statistics for Subject Goods, Attachment 2, and Exhibit 34 (NC) – Compliance and Market Statistics – Day 50.

<sup>148</sup> CITT Hot-rolled carbon steel plate Order and Reasons: Expiry Review RR-2004-004; [http://www.citt-tcce.gc.ca/dumping/reviews/orders/archive\\_rr2e004\\_e](http://www.citt-tcce.gc.ca/dumping/reviews/orders/archive_rr2e004_e) (Plate IV).

<sup>149</sup> CITT Hot-rolled carbon steel plate and high-strength low-alloy plate: Inquiry NQ-2009-003; [http://www.citt.gc.ca/en/dumping/inquiry/findings/archive\\_nq2i003\\_e](http://www.citt.gc.ca/en/dumping/inquiry/findings/archive_nq2i003_e) (Plate VI).

<sup>150</sup> CITT Hot-rolled carbon steel plate and high-strength low-alloy plate: Expiry Review RR-2014-002; <http://www.citt-tcce.gc.ca/en/node/7166> (Plate VI).

[214] Consequently, exporters in Ukraine have a history of dumping other flat-rolled steel products (hot-rolled steel plate) into Canada and then returning to the market and resuming dumping once anti-dumping measures are removed. As such, there are legitimate concerns that Ukrainian producers could resume dumping HRSS into Canada, should the order be rescinded.

### **Trade Measures Against Ukrainian Steel Products in Canada and Other Jurisdictions**

[215] The propensity of Ukrainian exporters to dump steel products, including HRSS in Canada and other markets is further demonstrated by numerous anti-dumping measures imposed against them by Canada and other countries. As noted above, the CBSA currently has one other anti-dumping measure against Ukraine for a flat-rolled steel product, hot-rolled carbon steel plate (2010). Globally, there are currently four other trade remedies in effect involving HRSS (one in each of the United States, Mexico, European Union and Thailand).<sup>151</sup>

### **Determination Regarding Likelihood of Continued or Resumed Dumping - Ukraine**

[216] Based on the evidence on the record in respect of: the commodity nature of HRSS; the capital intensive nature of steel production; steel market developments and trends; Ukraine's domestic market slowdown; Ukraine's significant excess capacity; Ukraine's dependence on exports due to insufficient domestic demand; exports from Ukraine to other markets at potentially dumped prices; Ukraine's inability to sell HRSS to Canada and other jurisdictions at non-dumped prices; Ukraine's propensity to dump hot-rolled steel products; and the multiple trade measures against Ukrainian steel products in Canada and other jurisdictions, the CBSA determined that the rescission of the order is likely to result in the continuation or resumption of dumping into Canada of certain HRSS originating in or exported from Ukraine.

## **POSITION OF THE PARTIES - SUBSIDIZING**

### **Parties contending that continued or resumed subsidizing is likely**

#### **India**

[217] The Canadian producers provided detailed but limited information in regards to the likelihood of continued or resumed subsidizing of HRSS originating in or exported from India. The Canadian producers identified multiple examples indicating the GOI's export incentives in its steel industry: the GOI's *National Steel Policy (2017)*, a key instrument by which the strategy and development of India's steel industry is promoted by the GOI;<sup>152</sup> the GOI's development of the *Draft Framework Policy* of the Ministry of Steel, which will include a number of government incentives and benefits to further steelmaking capacity and production in India;<sup>153</sup> and the *Production Linked Incentive (PLI) Scheme for speciality steel* as a government incentive to reduce India's reliance on imports and increase exports of steel products.<sup>154</sup>

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<sup>151</sup> Exhibit 38 (NC) – Case arguments from the Canadian producers; Table 8.

<sup>152</sup> Ibid, paragraphs 233-234.

<sup>153</sup> Ibid, paragraphs 235-237.

<sup>154</sup> Ibid, paragraphs 239-241.

[218] The Canadian producers cited the CBSA's 2015 subsidy re-investigation, for which the CBSA found eight countervailable Indian programs on HRSS.<sup>155</sup>

[219] The Canadian producers also cited the CBSA's countervailing measures against three other Indian steel products, as evidence of continued subsidizing of India's steel industry by the GOI, which includes HRSS. The Canadian producers referenced the 2021 *Grinding Media* final determination, where the CBSA concluded that there were 16 actionable subsidy programs which led to margins of subsidy ranging between 6.3% and 34.5% of the export price.<sup>156</sup>

[220] The Canadian producers noted that out of the 55 subsidy programs identified by the CBSA in the ERQ for this expiry review, the GOI confirmed the continuance of 42 programs, the subsuming of 6 programs relating to various taxes under the Integrated Goods and Services Act (2017) and the termination of 5 programs. The Canadian producers noted that the GOI did not provide any legislation confirming the reported terminations of subsidy program as requested by the CBSA.<sup>157</sup>

[221] The Canadian producers also cited countervailing determinations in other jurisdictions as evidence that the GOI continues to subsidize HRSS in India. As an example, in June 2019, a USDOC sunset review concerning certain hot-rolled steel sheet determined that Indian exporters were continuing to receive countervailable subsidies.<sup>158</sup>

[222] The Canadian producers also referenced the USDOC sunset reviews on Indian corrosion-resistant steel and cold-rolled steel, noting that due to the lack of participation from exporters and the GOI, an expedited sunset review would be conducted.<sup>159</sup>

[223] The Canadian producers submitted that the GOI has not provided an updated WTO notification with respect to its subsidy programs since 2019. In the most recent notification, nine subsidy programs were declared at the central government level and 20 at the sub-central government level.<sup>160</sup>

[224] The Canadian producers referenced the October 31, 2019, WTO Panel report in *India - Export Related Measures* concerning a complaint by the United States which alleged certain Indian subsidy programs were contingent on export performance and therefore prohibited. The WTO Panel concluded that several exemptions under the alleged programs were contingent on export performance and therefore inconsistent with India's obligations.<sup>161</sup>

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<sup>155</sup> Ibid, paragraph 242.

<sup>156</sup> Ibid, paragraphs 243-247.

<sup>157</sup> Ibid, paragraph 248.

<sup>158</sup> Ibid, paragraph 250.

<sup>159</sup> Ibid, paragraph 251.

<sup>160</sup> Ibid, paragraph 253.

<sup>161</sup> Ibid, paragraph 254.

[225] The Canadian producers referenced the annual reports of several Indian producers of HRSS to demonstrate that they have availed themselves of subsidy programs which are countervailable. Examples referenced in the annual reports include: “export incentives” – including those under the Export Promotion Capital Goods scheme; sales tax exemptions; loans under the Steel Development Fund; and grants and tax incentives for facilities located in “economically backward regions.”<sup>162</sup>

### **Parties contending that continued or resumed subsidizing is unlikely**

[226] The GOI provided a response to the ERQ, but did not provide case briefs or reply submissions in regards to the likelihood of continued or resumed subsidizing of HRSS from India.

## **CONSIDERATION AND ANALYSIS - SUBSIDIZING**

[227] In making a determination under paragraph 76.03(7)(a) of SIMA whether the rescission of the order in respect of goods from India is likely to result in the continuation or resumption of subsidizing of these goods, the CBSA may consider factors identified in subsection 37.2(1) of the SIMR, as well as any other factors relevant in the circumstances.

### **Likelihood of Continued or Resumed Subsidizing**

#### **India**

[228] Guided by the factors in the aforementioned subsection 37.2(1) of the SIMR and having considered the information on the administrative record, the following list represents a summary of the CBSA’s analysis conducted in this expiry review investigation with respect to subsidizing:

- the continued availability of subsidy programs for HRSS exporters;
- the GOI’s provision of subsidies to its manufacturers in the steel sector; and
- the countervailing measures against Indian flat-rolled steel sheet products, including HRSS, in the United States.

[229] As earlier indicated, no exporter in India provided a response to the ERQ in this expiry review investigation nor did any provide case briefs or reply submissions. The CBSA received an ERQ response from the GOI. The CBSA relied on the information submitted by the GOI and other participating parties, as well as other information on the administrative record for the purposes of the expiry review investigation with respect to India.

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<sup>162</sup> Ibid, paragraphs 257-262.

## The Continued Availability of Subsidy Programs for HRSS Exporters in India

[230] At the time of the original investigation in 2001, the CCRA, now the CBSA, determined that the GOI had conferred a benefit to exporters of HRSS under the following programs totaling 3,150 rupees per MT (R/MT) exported, currently about CAD \$52.<sup>163</sup>

1. *Duty Entitlement Pass Book Scheme*
2. *Advance Licences* (now: *Advance Authorization Scheme*)
3. *Special Import Licences*
4. *Export Promotion Capital Goods Scheme*
5. *Pre-shipment Export Financial Assistance*
6. *Post-shipment Export Financial Assistance*
7. *Forgiveness of Loans from the Steel Development Fund* and
8. *Forgiveness of Loans from the GOI*

[231] Of the programs listed, programs 1 – 6 were determined to be specific since, being contingent upon export performance, they were prohibited subsidies under SIMA. Programs 7 and 8 constituted specific subsidies for the reason that they were limited to a particular enterprise.

[232] Detailed descriptions of the programs and explanations as to why they were regarded as subsidies subject to countervailing duties are contained in the *Statement of Reasons* issued at the final determination.<sup>164</sup>

[233] On October 28, 2015, the CBSA concluded a re-investigation to update the amounts of subsidy for HRSS from India. The CBSA did not receive a complete response to any RFI sent to exporters or the GOI.<sup>165</sup> Due to the lack of participation on the part of the Indian exporters and the GOI, at the conclusion of the re-investigation, the ministerial specification of 3,150 R/MT, which represents the sum of the highest amounts of subsidy found under each of the programs utilized at the final determination dated July 2001, was applied to all subject goods shipped to Canada from India.

[234] Indian producers did not export HRSS to Canada during the POR. However, the information on the record does indicate that HRSS producers in India have access to and have availed themselves of subsidy programs that would render future shipments of these goods to Canada countervailable.

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<sup>163</sup> Canada Customs and Revenue Agency (now Canada Border Services Agency) Final Determination *Statement of Reasons*, July 18, 2001, page 24.

<sup>164</sup> Canada Customs and Revenue Agency (now Canada Border Services Agency) *Statement of Reasons* – Final Determination of Dumping and Subsidizing, July 18, 2001.

<sup>165</sup> CBSA Notice of Conclusion of Re-Investigation – Certain Hot-Rolled Steel Sheet and Strip  
<http://www.cbsa-asfc.gc.ca/sima-lmsi/ri-re/ad1262/ad1262-ri15-nc-eng.html>

[235] In its ERQ sent to the GOI, the CBSA identified 55 subsidy programs. Of these 55 programs, the GOI confirmed the continuance of 42. Additionally, the GOI indicated six programs were subsumed into one program administered under the *Integrated Goods and Services Act* when the *Goods and Service Tax* (GST) was introduced in 2017.<sup>166</sup> As a result, only five programs were reported to be terminated by the GOI since the conclusion of the last expiry review on April 6, 2016; however, no legislation was provided to confirm this.

### **The GOI's Provision of Subsidies to its Manufacturers in the Steel Sector**

[236] Indian steelmakers predicted a reduction in subsidies following a WTO ruling on Indian exports in October, 2020.<sup>167</sup> However, recent actions taken by the GOI demonstrate further efforts to confer financial benefits to Indian steel producers. On July 29, 2021, the GOI approved a production-linked incentive (PLI) scheme for speciality steel, totaling INR 6,322 crore.<sup>168</sup> The purpose of the PLI scheme is to create “global manufacturing champions in India” and bring the country “on a par with global steel making majors such as South Korea and Japan”.<sup>169</sup>

[237] Information on the record indicates that Indian producers of HRSS have availed themselves of subsidies under a variety of export-based incentive schemes as well, including the *Export Promotion Capital Goods* scheme (EPCG). The EPCG scheme allows exporters to import capital equipment and components at reduced or nil rates of import duty. Duty exemption for such goods is considered an actionable subsidy under SIMA. As noted above, the EPCG has previously been determined to be countervailable by the CBSA.

[238] Information on the record indicates that Indian producers of HRSS have availed themselves of loans under the Steel Development Fund (SDF), a GOI initiative under India's Ministry of Steel. Under the scheme, financial assistance from SDF is provided to R&D projects pursued by reputed research laboratories, academic institutions and industries. Financial contributions under this fund have previously been investigated as loans which have been forgiven by the government.

[239] During the original investigation into the subsidizing of HRSS in 2001, the Steel Authority of India Ltd. (SAIL) reported the forgiveness of certain long-term loans it had received from the SDF through the GOI. As noted above, the SDF has previously been determined to be countervailable by the CBSA.<sup>170</sup>

[240] In its annual report, Jindal Steel & Power Limited (JSPL), an HRSS producer, indicates it received several subsidies from both the GOI and State government. In its 2019-2020 annual report, “export incentives” amounted to IND 73.21 crores.<sup>171</sup>

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<sup>166</sup> Exhibit 23 (NC) - Response to expiry review questionnaire (ERQ) from the Government of India; Appendix 1; (Programs 2, 4, 5, 8, 10, 12, and 14).

<sup>167</sup> Exhibit 30 (NC) – Article reports and CBSA research; “Indian steelmakers predict reduction in subsidies after WTO ruling on export;” Metal Bulletin.

<sup>168</sup> One crore equals 10 million.

<sup>169</sup> Exhibit 30 (NC) – Article reports and CBSA research; “Government of India approves subsidy for specialty steel” – July 23, 2021.

<sup>170</sup> Canada Customs and Revenue Agency (now Canada Border Services Agency) *Statement of Reasons* – Final Determination of Dumping and Subsidizing, July 18, 2001, page 40.

<sup>171</sup> Exhibit 38 (NC) – Case arguments from the Canadian producers; paragraph 257.

[241] JSW Steel, an HRSS producer also reported receiving export subsidies in its 2021 annual report. JSW Steel reported it has imported capital goods under the EPCG scheme to utilize the benefit of a zero or concessional customs duty rate. These benefits are subject to future exports. Such export obligations at year end aggregate to IND 20,728 crores, an increase from the previous year, where it reached IND 17,407 crores. Further, JSW Steel reported an export turnover which was 47% higher than in 2019, resulting in “higher exports benefits and higher [...] EPCG grant income”.<sup>172</sup>

[242] Similarly, Tata Steel another HRSS producer reported in its 2021 annual report that: “other operating revenues include export incentives [...]”, though it is not possible to specifically identify the amounts received.”<sup>173</sup> Tata Steel also benefits from a long-term loan of IND 2,677.40 crores from the SDF, for which the CBSA previously determined forgiveness to be a countervailable subsidy.

[243] Steel Authority of India Limited (SAIL), another HRSS producer, reported revenues of IND 123 crores for “Export incentives” in its 2020 annual report. SAIL also benefits from a long-term loan of IND 204.16 crores from the SDF, for which the CBSA previously determined forgiveness to be a countervailable subsidy.

[244] It is thus clear from the information on the record that subsidies in the form of export-based incentives continue to exist and are available to producers of HRSS in India.

[245] Given the absence of participation of Indian exporters in this expiry review investigation, it is uncertain how many exporters have benefited from loan forgiveness under the SDF scheme; however, it is clear that producers of HRSS have benefitted from loans under the SDF.

### **Countervailing Measures Against Indian Flat-Rolled Steel Sheet Products, Including HRSS**

[246] The developments in the United States with respect to countervailing investigations on Indian flat-rolled steel products is significant as they represent timely confirmations of countervailable programs attributable to the Indian flat-rolled steel sector, which includes HRSS.

[247] The information on the record indicates that Indian producers of hot-rolled carbon steel flat products, including HRSS, are likely to continue to receive countervailable subsidies from the GOI and State government. In its June 5, 2019 sunset review, the USDOC found that a revocation of the order on hot-rolled carbon steel flat products from India would likely lead to continuation or recurrence of countervailable subsidies at rates between 336.62% -360.23%.<sup>174</sup>

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<sup>172</sup> Ibid, paragraph 258.

<sup>173</sup> Exhibit 32 (NC) – Close of record attachments from the Canadian producers; Attachment 16; pages 406-407.

<sup>174</sup> Exhibit 32 (NC) – Close of record attachments from the Canadian producers; Attachment 25, page 17-18.

## **Determination Regarding Likelihood of Continued or Resumed Subsidizing**

[248] Based on the information on the record in respect of: the continued availability of subsidy programs for HRSS exporters; the GOI provision of subsidies to its manufacturers in the steel sector; and the multiple countervailing measures against Indian steel products, including HRSS, in both Canada and the United States, the CBSA determined that the rescission of the order is likely to result in the continuation or resumption of subsidizing of HRSS originating in or exported from India.

## **CONCLUSION**

[249] For the purpose of making a determination in this expiry review investigation, the CBSA conducted its analysis within the scope of the factors found under subsection 37.2(1) of the SIMR and considering any other factors relevant in the circumstances. Based on the foregoing analysis of pertinent factors and consideration of information on the record, on December 6, 2021 the CBSA made a determination pursuant to paragraph 76.03(7)(a) of SIMA that the rescission of the order made by the CITT on August 12, 2016, in Inquiry No. RR-2015-002:

- i. in respect of the dumping of certain HRSS originating in or exported from Brazil, China and Ukraine is likely to result in the continuation or resumption of dumping of the goods into Canada; and
- ii. in respect of the subsidizing of certain HRSS originating in or exported from India is likely to result in the continuation or resumption of subsidizing of the goods exported to Canada.

## **FUTURE ACTION**

[250] The CITT has now initiated its expiry review to determine whether the continued or resumed dumping and subsidizing are likely to result in injury. The CITT's Expiry Review schedule indicates that it will make its decision by May 16, 2022.

[251] If the CITT determines that the expiry of the order with respect to the goods is likely to result in injury, the order will be continued in respect of those goods, with or without amendment. If this is the case, the CBSA will continue to levy anti-dumping and/or countervailing duties on dumped and/or subsidized importations of the subject goods.

[252] If the CITT determines that the expiry of the order with respect to the goods is not likely to result in injury, the order will be rescinded in respect of those goods. Anti-dumping and/or countervailing duties would then no longer be levied on importations of the subject goods, and any anti-dumping and/or countervailing duties paid in respect of goods that were released after the date that the finding was scheduled to expire will be returned to the importer.

## INFORMATION

[253] For further information, please contact the officer listed below:

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