DEPARTMENT OF COMMERCE

International Trade Administration

A–351–828

Certain Hot–Rolled Flat–Rolled Carbon Quality Steel Products from Brazil; Preliminary Results of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: In response to a request from Companhia Siderúrgica Nacional (CSN), the Department of Commerce (the Department) is conducting an administrative review of the antidumping duty order on certain hot–rolled flat–rolled carbon quality steel products from Brazil (A–351–828). This administrative review covers imports of subject merchandise produced and exported by CSN. The period of review (POR) is March 1, 2003, through February 29, 2004.

We preliminarily find that during the POR, CSN did not make sales of the subject merchandise at less than normal value (NV). However, since the subject merchandise was further manufactured in the United States by CSN LLC, and affiliated party, and sold to an unaffiliated U.S. customer as a galvanized product outside the scope of the antidumping order, we intend to verify the further manufacturing costs and sales information reported by CSN LLC for the final results. The briefing schedule will be extended accordingly. If these preliminary results are adopted in the final results of this administrative review, we will instruct U.S. Customs and Border Protection (CBP) to liquidate appropriate entries without regard to antidumping duties.

Interested parties are invited to comment on these preliminary results, including the Department's analysis regarding the date of sale. Parties who submit argument in this proceeding are requested to submit with the argument: 1) a statement of the issues, 2) a brief summary of the argument, and 3) a table of authorities.

EFFECTIVE DATE: April 6, 2005.

FOR FURTHER INFORMATION CONTACT: Helen Kramer or Kristin Najdi, AD/CVD Operations, Office 7, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230, telephone: (202) 482–0405 or (202) 482–8221, respectively.

SUPPLEMENTARY INFORMATION:

Background

On March 12, 2002, the Department published the antidumping duty order on certain hot–rolled flat–rolled carbon quality steel products from Brazil. *See Antidumping Duty Order: Certain Hot–Rolled Flat–Rolled Carbon Quality Steel Products from Brazil*, 67 FR 11093 (March 12, 2002) (''AD Order''). On March 1, 2004, the Department published the opportunity to request administrative review of, *inter alia*, certain hot–rolled flat–rolled carbon quality steel products from Brazil for the period March 1, 2003, through February 29, 2004. *See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review*, 69 FR 9584 (March 1, 2004).

In accordance with 19 CFR 351.213(b)(2), on March 31, 2004, CSN requested that we conduct an administrative review of its sales of the subject merchandise. On April 28, 2004, the Department published in the **Federal Register** a notice of initiation of this antidumping duty administrative review covering the period March 1, 2003, through February 29, 2004. *See Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 69 FR 23170 (April 28, 2004).

On May 10, 2004, the Department issued its antidumping duty questionnaire to CSN. On May 24, 2004, CSN requested that the Department agree to a limited home market reporting period, because the review in question only involved a single sale. Therefore, instead of providing the Department with home market sales throughout the POR, CSN proposed reporting home market sales made during the same six month ''window'' period as the U.S. sale, namely, November 2003, through April 2004. In the same letter, CSN also informed the Department that it intended to prepare a section D response to reflect costs of production during the 2003 fiscal year, not the POR. CSN explained that the subject merchandise sold to the U.S. market was all further–processed and sold as non–subject merchandise in the United States by its U.S. affiliate, CSN LLC, before delivery to the unaffiliated customer, and requested that it be allowed to limit its reporting of U.S. production costs to the actual month of production, instead of relying on the production experience for the entire twelve-month POR. Finally, CSN requested that the Department allow CSN to report its sales to its home market affiliate, Indútria Nacional de Aços Laminados INAL S.A. (INAL), instead of downstream sales of further manufactured merchandise, due to complexities of calculating further manufacturing costs for all of INAL's sales of further manufactured hot–rolled steel. CSN stated that the Department could then decide whether to use these sales in its analysis based on whether CSN's sales to INAL pass the arm's length test. On June 4, 2004, the Department responded to CSN's requests by 1) agreeing to limit the reporting period for home market sales to the six-month window of the U.S. sale; 2) rejecting CSN's request to report costs for the 2003 fiscal year; 3) rejecting CSN's request to limit its period for reporting further manufacturing costs to one month; and 4) allowing CSN to report its home market sales to INAL instead of downstream sales, if these pass the arm's length test.

CSN submitted its response to section A of the Department's questionnaire on June 15, 2004, and its responses to sections B and C on July 6, 2004. On July 30, 2004, United States Steel Corporation, a petitioner, submitted comments challenging the validity of this review. The petitioner specifically questioned whether the subject merchandise exported to the United States was actually manufactured by CSN, alleging that another Brazilian company was the manufacturer of the imports in question. The Department issued a supplemental section A, B, and C questionnaire on August 10, 2004, in which it informed CSN that its sales to INAL had failed the arm's length test and that it was required to report INAL's downstream sales. CSN filed its response on August 31, 2004, and submitted a revised sales listing on September 7, 2004, that included INAL's sales to unaffiliated parties. The Department received the sales reconciliation package from CSN on October 12, 2004, and on October 15, 2004, it issued its outline and agenda for the sales verification.

During the most recently completed segment of the proceeding in which CSN participated, the antidumping administrative review of the suspension agreement, the Department found and disregarded sales that failed the cost test. *See Certain Hot–Rolled Flat–Rolled Carbon Quality Steel Products from Brazil: Preliminary Results of Antidumping Duty Administrative Review of Suspension Agreement*, 66 FR 41500 (August 8, 2001) (''*Suspension Agreement*''). Pursuant to section 773(b)(2)(A)(ii) of the Tariff Act of 1930, as amended (the Act), we had reasonable grounds to believe or suspect that sales by this company of the foreign like product under consideration for the determination of NV in this review were

made at prices below the cost of production (COP). Therefore, we instructed CSN to also complete sections D and E of the Department's initial questionnaire, issued May 10, 2004. CSN submitted its responses to these sections on July 14, 2004. Import Administration's Office of Accounting issued a supplemental questionnaire regarding CSN's responses to sections D and E on October 26, 2004 and on November 24, 2004, CSN submitted its supplemental response.

On October 18, 2004, Nucor Corporation (Nucor), a domestic interested party, requested that the Department rescind the instant review. Nucor alleged that the date of the only reported POR sale by CSN fell outside of the POR, thus invalidating this entire segment of the proceeding.

Because it was not practicable to complete the preliminary results of this review within the normal time frame, we fully extended the time limit for this review until March 31, 2005. *See Notice of Extension of Time Limit for Preliminary Results of Antidumping Duty Administrative Review: Certain Hot–Rolled Carbon Steel Flat Products from Brazil*, 69 FR 60142 (October 7, 2004).

Verification

As provided in section 782(i) of the Act, we verified the sales and cost information provided by CSN for use in our preliminary results using standard verification procedures, including on–site inspection of the manufacturer's facilities and the examination of relevant sales and financial records. We verified CSN's sales responses from October 25, 2004, through October 29, 2004, and cost responses from February 21, 2005, through February 25, 2005, at CSN's Presidente Vargas plant in Volta Redonda, Brazil. The results of these verifications are found in the sales verification report dated January 6, 2005, and the cost verification report dated March 31, 2005, on file in the Central Records Unit (CRU) of the Department in room B–099 of the main Department of Commerce Building, 14th Street and Constitution Avenue, NW, Washington, DC. *See* Memorandum to the File, Through Abdelali Elouaradia, Program Manager, From Helen M. Kramer and Kristin A. Najdi, Case Analysts: Verification of Home Market and U.S. Sales Information Submitted by Companhia Siderúrgica Nacional in the Administrative Review of Certain Hot–Rolled Flat–Rolled Carbon Quality Steel Products from Brazil for the Period March 1, 2003, through February 29, 2004, dated January 6, 2005, (Sales Verification Report); and Memorandum to Neal M. Halper, Director, Office of Accounting, Through Theresa Caherty, Program Manager, From Trinette Ruffin, Accountant: Verification Report on the Cost of Production and Constructed Value Data Submitted by Companhia Siderúrgica Nacional, dated March 31, 2005 (Cost Verification Report).

We intend to verify at CSN LLC's plant in Terre Haute, Indiana, all information pertaining to the U.S. sales and further manufacturing costs incurred in the United States.

Period of Review

The POR is March 1, 2003, through February 29, 2004.

Scope of the Order

For purposes of this order, the products covered are certain hot–rolled flat–rolled carbon–quality steel products, meeting the physical parameters described below, regardless of application.

The hot–rolled flat–rolled carbon–quality steel products subject to this review are of a rectangular shape, of a width of 0.5 inch of greater, neither clad, plated, nor coated with metal and whether or not painted, varnished, or coated with plastics of other non–metallic substances, in coils (whether or not in successively superimposed layers) regardless of thickness, and in straight lengths, of a thickness less than 4.75 mm and of a width measuring at least 10 times the thickness. Specifically included in this scope are vacuum degassed, fully stabilized (IF) steels, high strength low alloy (HSLA) steels, and the substrate for motor lamination steels. Steel products to be included in the scope of this agreement, regardless of HTSUS definitions, are products in which: (1) iron predominates, by weight, over each of the other contained elements; (2) the carbon content is 2 percent of less, by weight; and (3) none of the elements listed below exceeds certain specified quantities.

The merchandise subject to the order is currently classifiable under subheadings 7208.10.15.00, 7208.10.30.00, 7208.10.60.00, 7208.25.30.00, 7208.25.60.00, 7208.26.00.30, 7208.26.00.60, 7208.27.00.30, 7208.27.00.60, 7208.36.00.30, 7208.36.00.60, 7208.37.00.30, 7208.37.00.60, 7208.38.00.15, 7208.38.00.30, 7208.38.00.90, 7208.39.00.15, 7208.39.00.30, 7208.39.00.90, 7208.40.60.30, 7208.40.60.60, 7208.53.00.00, 7208.54.00.00, 7208.90.00.00, 7210.70.30.00, 7210.90.90.00, 7211.14.00.30, 7211.14.00.90, 7211.19.15.00, 7211.19.20.00, 7211.19.30.00, 7211.19.45.00, 7211.19.60.00, 7211.19.75.30, 7211.19.75.60, 7211.19.75.90, 7212.40.10.00, 7212.40.50.00, and 7212.50.00.00 of the Harmonized Tariff Schedule of the United States (HTSUS). Certain hot–rolled flat–rolled carbon–quality steel covered by this agreement, including vacuum degassed and fully stabilized, high strength low alloy, and the substrate for motor lamination steel may also enter under tariff numbers 7225.11.00.00, 7225.19.00.00, 7225.30.30.50, 7225.30.70.00, 7225.40.70.00, 7225.99.00.90, 7226.11.10.00, 7226.11.90.30, 7226.11.90.60, 7226.19.10.00, 7226.19.90.00, 7226.91.50.00, 7226.91.70.00, 7226.91.80.00, and 7226.99.00.00. Although the HTSUS subheadings are provided for convenience and CBP purposes, the written description of the scope of the order is dispositive.

Fair Value Comparisons

To determine whether CSN made sales of hot–rolled flat–rolled carbon quality steel to the United States at less than fair value, we compared the constructed export price (CEP) to the NV, as described in the ''Constructed Export Price'' and ''Normal Value'' sections of this notice, below. In accordance with section 777A(d)(2) of the Act, we compared the CEP of the single U.S. transaction falling within the period of review to monthly weighted–average NVs.

Product Comparisons

In accordance with section 771(16) of the Act, we considered all products produced by CSN covered by the descriptions in the ''Scope of the Order'' section of this notice to be foreign like products for the purpose of determining appropriate product comparisons to CSN's U.S. sale of the subject merchandise.

We have relied on the following eleven criteria to match U.S. sales of the subject merchandise to sales in Brazil of the foreign like product: whether or not painted, quality, carbon content, yield strength, nominal thickness, width, cut–to-length or coil, whether or not temper rolled, whether or not pickled, edge trim, and whether or not containing patterns in relief.

In order to make a valid comparison between the two markets, we converted the quantity sold in the United States from pounds (lb) to metric tons (MT), and changed prices from a ''per lb'' basis to a ''per MT'' basis.

Since there were sales of identical merchandise in the home market in the same month as the date of the U.S. sale,

we did not have to compare the U.S. sale to the next most similar foreign like product on the basis of the characteristics and reporting instructions listed in the Department's May 10, 2004 questionnaire.

Date of Sale

CSN requested this review on the basis of the date of its entry of subject merchandise and the date of the unaffiliated U.S. customer's purchase order within the POR. On October 18, 2004, Nucor alleged that the purchase order did not establish the material terms of sale because the amount of a surcharge imposed by CSN LLC on the further manufactured merchandise was not known until the month of shipment. Nucor argued that, since shipment occurred after the POR, the final price to the U.S. customer was not determined until after the end of the POR, and thus there was no sale for the Department to review. As such, they assert that we should rescind the review.

We agree in part with Nucor. As CSN explains, the imposition of surcharges was a practice that developed on an industry–wide basis in the United States during 2004, mainly in response to the rapidly rising cost of steel scrap, which increased production costs for non–integrated manufacturers of steel. *See* CSN's January 31, 2005, submission, ''Certain Hot–Rolled Carbon Steel Flat Products from Brazil: CSN Response to the January 18, 2005 Supplemental Questionnaire,'' on file in the CRU. Although the CSN LLC policy of adding a surcharge to sales made during this period was made known to CSN LLC's customers in periodic bulletins announcing the effective date of new surcharges, the monthly surcharges were not explicitly linked to a predictable or market formula, and on the date of its purchase order, the customer could not anticipate the final amount due. Because CSN LLC did not conclusively set the actual price on the sales until the date of the invoice, the material terms of sale were established on the invoice date, and not the date of the original purchase order. This determination is consistent with 19 CFR 351.401(i) and the decision of the U. S. Court of International Trade in *Allied Tube and Conduit Corp. v. United States*, 132 F. Supp. 2d 1087 (CIT 2001) (''*Allied Tube*''). In *Allied Tube*, the plaintiff asked the court to reject the invoice date as the date of sale. The CIT declared, ''the party seeking to establish a date of sale other than the invoice date bears the burden of producing sufficient evidence to 'satisfy' the Department that 'a different date better reflects the date on which the exporter or producer establishes the material terms of sale.''' *See Allied Tube*, 132 F. Supp. 2d at 1090. Furthermore, ''as elaborated by Department practice, a date other than invoice date 'better reflects' the date when 'material terms of sale' are established if the party shows that the 'material terms of sale' undergo no meaningful change (and are not subject to meaningful change) between the proposed date and the invoice date.'' *Id.* The CIT ruled that the plaintiff in this case ''failed to cite sufficient evidence to compel a rejection of the regulatory presumption in favor of invoice date as the date of sale.'' *Id. See also Hornos Electricos de Venezuela, S.A. v. United States*, 285 F. Supp. 2d 1353, 1367–1368 (CIT 2003). Thus, the Department's rejection of the date of the purchase order as the date of sale is warranted, since CSN failed to establish that the material terms of sale were set on the purchase order date. Therefore, for purposes of these preliminary results of review, the appropriate date of sale is the date of the invoice, which sets the final price to the customer.

We disagree with Nucor that the absence of a sale during the POR is a basis for terminating this review. While section 751(a)(2)(A) of the Act states that a dumping calculation should be performed for each entry during the POR, section 351.213(e) of the Department's regulations gives the Department flexibility in this regard by stating that the review can be based on entries, exports, or sales. Indeed, the Department's normal practice for CEP sales made after importation is to examine each transaction that has a date of sale within the POR and to liquidate POR entries based on the dumping margin calculated on those POR sales. *See* section 351.212 of the Department's regulations and the preamble to that section of *Antidumping Duties; Countervailing Duties; Final Rule*, 62 FR 27296, 27314–15 (May 19, 1997).

We have also recognized that unique circumstances could lead us to base the margin for CEP sales on the sales entered rather than sold during the POR. Here, the respondent requesting an administrative review of its POR entries had only one entry during the POR, but no POR sales upon which to calculate a dumping margin for that entry. Because the entry during the POR can be tied to a sale occurring after the end of the POR and there are no other U.S. sales during the POR that could be considered for examination as a proxy for the post–POR sale, it is appropriate to determine the duties to be assessed on this entry based on the corresponding sale. Therefore, because the purpose of an administrative review is to establish the antidumping duty for entries, as well as to establish a new cash deposit rate (see section 751(a)), and we are able to tie the sale occurring shortly after the end of the POR to the entry during the POR, we are using this U.S. sale and the corresponding home market sales in the month of the U.S. sale in our margin calculation. Thus, we are conducting this review on the basis of the date of entry within the POR, and linking the entered subject merchandise to the appropriate sale to the unaffiliated U.S. customer.

We will instruct the CBP to liquidate the specific entry at the calculated rate. If CSN is a respondent in an administrative review covering the period March 1, 2004, through February 28, 2005, we will exclude this U.S. sale from our margin calculation.

Constructed Export Price

Section 772(b) of the Act defines constructed export price (CEP) as the price at which the subject merchandise is first sold (or agreed to be sold) in the United States before or after the date of importation by, or for the account of, the producer or exporter of such merchandise, or by a seller affiliated with the producer or exporter, to a purchaser not affiliated with the producer or exporter, as adjusted under sections 772(c) and (d).

In contrast, section 772(a) of the Act defines export price (EP) as the price at which the subject merchandise is first sold (or agreed to be sold) before the date of importation by the producer or exporter of the subject merchandise outside of the United States to an unaffiliated purchaser in the United States or to an unaffiliated purchaser for exportation to the United States, as adjusted under section 772(c).

In the instant review, CSN sold subject merchandise through an affiliated company, CSN LLC of Terre Haute, Indiana. CSN reported its single U.S. sale of subject merchandise as a CEP transaction and explained that its U.S. affiliate, CSN LLC, further manufactured the subject merchandise. The resulting product sold to the unaffiliated U.S. customer falls outside the scope of this antidumping duty order.

After reviewing the evidence on the record of this review, we have preliminarily found that this particular CSN transaction is classified properly as a CEP sale because the sale occurred in the United States and was made through its U.S. affiliate to an unaffiliated U.S. buyer. Such a determination is consistent with section 772(b) of the Act and the U.S. Court of Appeals for the

Federal Circuit's decision in *AK Steel Corp. v. United States*, 226 F. 3d 1361, 1374 (Fed. Cir. 2000) (''*AK Steel*''). In *AK Steel*, the Court of Appeals examined the definitions of EP and CEP, noting ''the plain meaning of the language enacted by Congress in 1994, focuses on where the sale takes place and whether the foreign producer or exporter and the U.S. importer are affiliated, making these two factors dispositive of the choice between the two classifications.'' *See AK Steel*, 226 F. 3d at 1369. The Court of Appeals declared, ''the critical differences between EP and CEP sales are whether the sale or transaction takes place inside or outside the United States and whether it is made by an affiliate,'' and noted the phrase ''outside the United States'' had been added to the 1994 statutory definition of EP. *See AK Steel*, 226 F. 3d at 1368–70. Thus, the classification of a sale as either EP or CEP depends upon where the contract for sale was concluded (*i.e.*, in or outside the United States) and whether the foreign producer or exporter is affiliated with the U.S. importer. In the case of this review, we find that CSN LLC, which is affiliated with CSN, the Brazilian manufacturer and exporter, concluded the contract of sale inside the United States, thereby supporting the classification of this sale as CEP.

For this particular CEP sales transaction, we calculated price in conformity with section 772(b) of the Act. We based CEP on the packed, delivered prices to an unaffiliated purchaser in the United States. Pursuant to section 772(c)(2)(A) of the Act, we made deductions for movement expenses; these included foreign inland freight, foreign inland insurance, foreign brokerage and handling, international freight, marine insurance, U.S. brokerage and handling, U.S. customs duties, and inland freight to the unaffiliated U.S. customer. In accordance with section 772(d)(1) of the Act, we deducted those selling expenses associated with economic activities occurring in the United States, including imputed credit expenses and indirect selling expenses. We also made adjustments for the cost of further manufacturing and profit from economic activities in the United States, in accordance with sections 772(d)(2) and (3) of the Act.

Normal Value

A. Home Market Viability

To determine whether there is a sufficient volume of sales in the home market to serve as a viable basis for calculating NV, we compared CSN's volume of home market sales of the foreign like product to the volume of U.S. sales of the subject merchandise, in accordance with section 773(a)(1)(B) of the Act. Because CSN's aggregate volume of home market sales of the foreign like product was greater than five percent of its aggregate volume of U.S. sales for the subject merchandise, we determined that the home market was viable. *See* CSN's section A Questionnaire Response at Attachment A–1, dated June 15, 2004.

B. Price-to-Price Comparisons

CSN reported sales in the home market to an affiliated company, INAL. The Department calculates NV based on sales to affiliated parties only if it is satisfied that the prices to the affiliates are comparable to the prices at which sales are made to unaffiliated parties, *i.e.*, sales at arm's length.

To test whether these sales were made at arm's length, we compared the starting prices of sales to affiliated and unaffiliated customers net of all movement and direct selling expenses, discounts and packing. In current practice, if the prices charged to an affiliated party were, on average, between 98 and 102 percent of the prices charged to unaffiliated parties for merchandise identical or most similar to that sold to the affiliated party, we consider the sales to be at arm's length prices. *See* 19 CFR 351.403(c). Conversely, where sales to the affiliated party do not pass the arm's length test, we exclude all sales to that affiliated party from the NV calculation, as was the case in this review. We found that the sales to INAL failed the arm's length test, and therefore we disregarded them and used INAL's downstream sales to unaffiliated customers in our calculation of NV.

We calculated NV based on prices to unaffiliated customers. We adjusted gross unit price for billing adjustments, interest revenue and indirect taxes. We made deductions, where appropriate, for foreign inland freight, warehousing expense and insurance, pursuant to section 773(a)(6)(B) of the Act. In addition, we made adjustments for differences in circumstances of sale for imputed credit expenses and commissions, in accordance with section 773(a)(6)(C)(iii) of the Act and 19 CFR 351.410. Finally, we deducted home market packing costs and added U.S. packing costs in accordance with sections 773(a)(6)(A) and (B) of the Act.

C. Cost of Production Analysis

At the time the questionnaire was issued in this administrative review, the antidumping duty administrative review of the suspension agreement was the most recently completed segment of this proceeding. In accordance with section 773(b)(2)(A)(ii) of the Act, and consistent with the Department's practice, because we disregarded certain below–cost sales by CSN in the review of the suspension agreement, we found reasonable grounds to believe or suspect that this respondent made sales in the home market at prices below the cost of producing the merchandise. We, therefore, initiated a cost investigation with regard to CSN in order to determine whether this respondent made home market sales during the POR at prices below COP within the meaning of section 773(b)(2)(A)(ii) of the Act.

In accordance with section 773(b)(3) of the Act, we calculated the weighted–average COP for each model based on the sum of CSN's material and fabrication costs for the foreign like product, plus amounts for selling expenses, general and administrative expenses (G&A), interest expenses and packing costs. The Department relied on the COP data reported by CSN, except for the G&A expense ratios. We revised their reported home market and U.S. G&A expense ratios to correct for fees that were incurred by the U.S. affiliate, CSN LLC, but which CSN reported as expenses in Brazil. For changes made to the COP information, *see* Memorandum to Neal Harper from Trinette Ruffin, Cost of Production and Constructed Value Calculation Adjustments for the Preliminary Results Companhia Siderurgica Nacional (CSN), dated March 31, 2005 (COP Memo).

We compared the weighted–average COP figures to the home market sales prices of the foreign like product as required under section 773(b) of the Act, to determine whether these sales had been made at prices below COP. On a product–specific basis, we compared the COP to home market prices net of any applicable billing adjustments, state ICMS and federal IPI indirect taxes (which were not included in CSN's reported manufacturing costs), and any applicable movement charges.

Pursuant to section 773(b)(2)(C)(i) of the Act, where less than twenty percent of a respondent's sales of a given product were at prices less than the COP, we do not disregard any below–cost sales of that product because the below–cost sales were not made in ''substantial quantities.'' Where twenty percent or more of a respondent's sales of a given product during the POR were at prices less than the COP, we determine such sales to have been made in substantial quantities.

Our cost test revealed that more than twenty percent of CSN's home market

sales of certain products were made at below–cost prices during the reporting period. Therefore, we disregarded those below–cost sales, while retaining the above–cost sales for our analysis.

Level of Trade

In accordance with section 773(a)(1)(B) of the Act, to the extent practicable, we determine NV based on sales in the comparison market at the same level of trade (LOT) as the export transaction. The NV LOT is that of the starting–price sales in the comparison market. For CEP, it is the level of the constructed sale from the exporter to the importer. We consider only the selling activities reflected in the U.S. price after the deduction of expenses incurred in the United States and CEP profit under section 772(d) of the Act. *See Micron Technology Inc. v. United States*, 243 F.3d 1301, 1314–1315 (Fed. Cir. 2001).

To determine whether NV sales are at a different LOT than CEP sales, we examine stages in the marketing process and selling functions along the chain of distribution between the producer and the unaffiliated customer. We analyze whether different selling activities are performed, and whether any price differences (other than those for which other allowances are made under the Act) are shown to be wholly or partly due to a difference in LOT between the CEP and NV. Pursuant to section 773(a)(7)(A) of the Act, we make an upward or downward adjustment to NV for LOT if the difference in LOT involves the performance of different selling activities and is demonstrated to affect price comparability, based on a pattern of consistent price differences between sales at different LOTs in the country in which NV is determined. Finally, if the NV LOT is at a more advanced stage of distribution than the LOT of the CEP, but the data available do not provide an appropriate basis to determine a LOT adjustment, we reduce NV by the amount of indirect selling expenses incurred in the foreign comparison market on sales of the foreign like product, but by no more than the amount of the indirect selling expenses incurred for CEP sales. *See* section 773(a)(7)(B) of the Act (the CEP offset provision).

In analyzing differences in selling functions, we determine whether the LOTs identified by the respondent are meaningful. *See Antidumping Duties; Countervailing Duties, Final Rule*, 62 FR 27296, 27371 (May 19, 1997). If the claimed LOTs are the same, we expect that the functions and activities of the seller should be similar. Conversely, if a party claims that LOTs are different for different groups of sales, the functions and activities of the seller should be dissimilar. *See Porcelain–on-Steel Cookware from Mexico: Final Results of Administrative Review*, 65 FR 30068 (May 10, 2000). In the present review, CSN claimed that there was no LOT in the home market comparable to the LOT of the CEP sale, and that consequently it was not in a position to calculate an LOT adjustment. Pursuant to the Department's practice, CSN requested a CEP offset adjustment to NV. *See* CSN's section B Questionnaire Response at page 21, dated July 6, 2004.

CSN claimed three LOTs in the home market based on distinct channels of distribution to two categories of customers: distributors and end–users. CSN's channels of distribution were direct sales from the mill to customers, sales through branches located at service centers where further processing services were provided, such as cutting and slitting, and downstream sales made through CSN's affiliate, INAL. We examined the reported selling functions and found that CSN's home market selling functions for all customers include pre–sale technical assistance, continuous technical service, price negotiation/customer communications, processing of customer orders, freight and delivery arrangements, sales calls and visits, credit evaluation, and warranty and return services. In addition, CSN also performs inventory maintenance for all customers except end–users buying directly from CSN. Finally, CSN makes small quantity sales only through INAL. *See* CSN's section A Questionnaire Response at Exhibit 11, June 15, 2004. We preliminarily find that there are three LOTs in the home market: (1) direct sales, (2) sales through branches, and (3) sales through INAL.

CSN's U.S. sale was made through one channel of distribution to its U.S. affiliate. Pursuant to the Department's practice, we determined the LOT of the U.S. sale based on the selling functions performed for the sale to CSN LLC, which include price negotiation/ customer communications, processing customer orders, and freight and delivery arrangements. *See* CSN's section A Questionnaire Response at Exhibit 11, June 15, 2004. We preliminarily find that there is only one LOT in the U.S. market.

We compared CSN's channels of distribution and selling functions in the home market with the selling functions for U.S. sales to its affiliate, CSN LLC. CSN's selling functions for sales to the United States are less numerous and less complex than CSN's selling functions for its home market sales in any of the channels of distribution. Further, in the home market, the chain of distribution is further from the factory, *e.g.*, many sales are made to distributors and may go through branches where they are further processed. We therefore preliminarily agree with CSN's claim that there is no LOT in the home market comparable to the LOT of the CEP sale, and that there is no basis to calculate an LOT adjustment. We then examined whether a CEP offset may be appropriate. Pursuant to section 351.412(f) of the Department's regulations, we grant a CEP offset only where NV is determined at a more advanced LOT than the LOT of the CEP price, and despite the fact that a person has cooperated to the best of its ability, the data available do not provide an appropriate basis to determine whether the difference in LOT affects price comparability. Accordingly, because the data available do not provide an appropriate basis for making an LOT adjustment, but the LOTs in the home market are at more advanced stages of distribution than the LOT of the CEP sale, we preliminarily find that a CEP offset adjustment is appropriate, in accordance with section 773(a)(7)(B) of the Act.

Currency Conversion

We made currency conversions into U.S. dollars, in accordance with section 773A(a) of the Act, based on the exchange rates in effect on the dates of the U.S. sales, as certified by the Dow Jones Reuters Business Interactive LLC (trading as Factiva).

Preliminary Results of Review

As a result of our review, we preliminarily find the weighted–average dumping margin for the period March 1, 2003, through February 29, 2004, to be as follows:

Manufacturer / Exporter	Margin (percent)
Companhia Siderúrgica Nacional	0.00

The Department will disclose calculations performed in connection with these preliminary results of review within five days of the date of publication of this notice in accordance with 19 CFR 351.224(b). Case briefs for this review must be submitted to the Department no later than fourteen days after the date of the final U.S. verification report issued in this proceeding. Rebuttal briefs must be filed seven days from the deadline date for case briefs. Parties submitting arguments in this proceeding are requested to submit with the argument: 1) a statement of the issue, 2) a brief summary of the argument, and (3) a

table of authorities. Case and rebuttal briefs and comments must be served on interested parties in accordance with section 351.303(f) of the Department's regulations.

Also, an interested party may request a hearing within 30 days of the date of publication of this notice. *See* section 351.310(c) of the Department's regulations. Unless otherwise specified, the hearing, if requested, will be held two days after the date for submission of rebuttal briefs, or the first business day thereafter. The Department will issue the final results of this administrative review, including the results of its analysis of the issues raised in any briefs or comments at a hearing, within 120 days of publication of these preliminary results.

Assessment Rates

Upon completion of this administrative review, the Department will determine, and CBP shall assess, antidumping duties on all appropriate entries. In accordance with 19 CFR 351.212(b)(1), we have calculated an importer–specific *ad valorem* rate for merchandise subject to this review. The Department will issue appropriate assessment instructions directly to CBP within 15 days of publication of the final results of review. If these preliminary results are adopted in the final results of review, we will direct CBP to assess the resulting assessment rates (*ad valorem*) against the entered customs values for the subject merchandise on each of the importer's entries during the review period.

Cash Deposit Requirements

The following cash deposit requirements will be effective upon completion of the final results of this administrative review for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of this administrative review, as provided by section 751(a)(1) of the Act: (1) the cash deposit rate for CSN will be the rate established in the final results of the administrative review (except that no deposit will be required if the rate is zero or *de minimis, i.e.*, less than 0.50 percent); (2) for previously reviewed or investigated companies not covered in this review, the cash deposit rate will continue to be the company–specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review, a prior review or the original less–than-fair–value (LTFV) investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and (4) if neither the exporter nor the manufacturer is a firm covered in this review, any prior review, or the original LTFV investigation, the cash deposit rate for all other manufacturers or exporters will continue to be 42.12 percent, the ''all others'' rate established in the LTFV investigation. *See AD Order*, 67 FR at 11094.

Notification to Interested Parties

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

These preliminary results are issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: March 31, 2005.

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

[FR Doc. E5–1574 Filed 4–5–05; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

A–427–820

Stainless Steel Bar from France: Preliminary Results of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: In response to a timely request by the petitioners,[1] the Department of Commerce (the Department) is conducting an administrative review of the antidumping duty order on stainless steel bar (SSB) from France with respect to UGITECH S.A. (UGITECH). The period of review is March 1, 2003, through February 29, 2004.

We preliminarily determine that sales have been made below normal value. Interested parties are invited to comment on the preliminary results. If the preliminary results are adopted in our final results of administrative review, we will instruct U.S. Customs and Border Protection (CBP) to assess antidumping duties on all appropriate entries.

In addition, the Department has received information sufficient to warrant a successor–in-interest analysis in this administrative review. Based on this information, we preliminarily determine that UGITECH S.A. is the successor–in-interest to Ugine–Savoie Imphy S.A. (Ugine–Savoie) for purposes of determining antidumping duty liability. Interested parties are invited to comment on the preliminary results.

EFFECTIVE DATE: April 6, 2005.

FOR FURTHER INFORMATION CONTACT: Terre Keaton or David J. Goldberger, AD/CVD Operations, Office 2, Import Administration–Room B099, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–1280 or (202) 482–4136, respectively.

SUPPLEMENTARY INFORMATION:

Background

On March 7, 2002, the Department published in the **Federal Register** an antidumping duty order on SSB from France. *See* 67 FR 10385. On March 31, 2004, the petitioners submitted a letter timely requesting that the Department conduct an administrative review of the sales of SSB made by Ugine–Savoie. Also in this letter, the petitioners claimed that Ugine–Savoie had recently gone through a change in corporate structure and that the corporate entity is now known as UGITECH. The Department published a notice of initiation of an administrative review with respect to UGITECH, formerly known as Ugine–Savoie. *See* 69 FR 23170, (April 28, 2004).

On May 6, 2004, we issued a antidumping duty questionnaire to UGITECH which included successor–in-interest questions. Responses to the original questionnaire were received in July 2004. We issued a supplemental questionnaire in October 2004, and received responses in October and November 2004 and January 2005.

On November 5, 2004, we extended the time limit for the preliminary results in this review until March 30, 2005. *See Stainless Steel Bar from France: Notice of Extension of Time Limit for Preliminary Results in Antidumping Duty Administrative Review*, 69 FR 64563.

[1] The petitioners include the following companies: Carpenter Technology Corporation; Crucible Specialty Metals Division, Crucible Materials Corporation; and Electroalloy Corporation, a Division of G.O. Carlson, Inc.