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DEPARTMENT OF COMMERCE

International Trade Administration

[A–485–803]

Certain Cut–to-Length Carbon Steel Plate from Romania: Preliminary Results of the Antidumping Duty Administrative Review and Intent to Rescind in Part

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

SUMMARY: In response to a request from a domestic producer, Nucor Corporation, and a Romanian producer/exporter, Mittal Steel Galati, S.A. (''MS Galati''), the Department of Commerce (''the Department'') is conducting an administrative review of the antidumping duty order on certain cut–to-length carbon steel plate (''CTL plate'') from Romania. The period of review is August 1, 2005, through December 15, 2005. With regard to the two Romanian companies that are subject to this administrative review, producer MS Galati and exporter Metalexportimport S.A. (''MEI''), we preliminarily determine that sales of subject merchandise produced by MS Galati have been made at less than normal value (''NV''). Since MEI was not involved with any of the U.S. sales during the period of review, we are assigning a preliminary dumping margin to MS Galati only and intend to rescind the review with respect to MEI. For a full discussion of the intent to rescind with respect to MEI, *see* the ''Notice of Intent to Rescind in Part'' section of this notice below. We invite interested parties to comment on these preliminary results. Parties that submit comments are requested to submit with each argument (1) a statement of the issue(s), (2) a brief summary of the argument(s), and (3) a table of authorities.

EFFECTIVE DATE: July 5, 2007.

FOR FURTHER INFORMATION CONTACT: Dena Crossland or John Drury, 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) 482–3362 or (202) 482–0195, respectively.

SUPPLEMENTARY INFORMATION:

Background

On August 1, 2006, the Department published a notice of opportunity to request an administrative review of the antidumping duty order on CTL plate from Romania for the period August 1, 2005, through July 31, 2006. *See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity To Request Administrative Review*, 71 FR 43441 (August 1, 2006). On August 30, 2006, the Department received a timely request from Nucor Corporation, a domestic producer, requesting that the Department conduct an administrative review of shipments of CTL plate from Romania produced by MS Galati and exported to the United States by MS Galati or MEI. In addition, on August 31, 2006, the Department received a timely request from MS Galati, requesting that the Department conduct an administrative review of subject merchandise produced/exported by MS Galati.

On September 29, 2006, the Department initiated an administrative review of the antidumping duty order on CTL plate from Romania, for the period covering August 1, 2005, through July 31, 2006, to determine whether merchandise imported into the United States from MS Galati and MEI is being sold at less than NV. *See Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 71 FR 57465 (September 29, 2006). On October 12, 2006, the Department issued an antidumping duty questionnaire to MS Galati.

On November 17, 2006, the Department received the section A questionnaire response from MS Galati. On December 11, 2006, MS Galati filed its section B and C questionnaire responses. On February 14, 2007, the Department issued a supplemental questionnaire regarding MS Galati's sections A through C questionnaire responses. On March 8, 2007, MS Galati submitted its response to the supplemental questionnaire. On April 2, 2007, the Department issued a second supplemental questionnaire with regard to section C, and received MS Galati's response on April 16, 2007. On June 12, 2007, the Department received MS Galati's quantity and value reconciliation, as required under section A of the Department's antidumping questionnaire. Because there was no sales–below-cost allegation and the Department did not initiate a review of MS Galati's costs, MS Galati was not required to file a section D questionnaire response.

On December 14, 2006, the International Trade Commission determined that revocation of the antidumping duty orders on CTL plate from certain countries, including Romania, would not likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time. *See Certain Carbon Steel Products From Australia, Belgium, Brazil, Canada, Finland, France, Germany, Japan, Korea, Mexico, Poland, Romania, Spain, Sweden, Taiwan, and the United Kingdom*, 72 FR 4529 (January 31, 2007) and USITC Publication 3899 entitled *Certain Carbon Steel Products from Australia, Belgium, Brazil, Canada, Finland, France, Germany, Japan, Korea, Mexico, Poland, Romania, Spain, Sweden, Taiwan, and the United Kingdom: Investigation Nos. AA1921–197 (Second Review); 701–TA–319, 320, 325- 327, 348, and 350 (Second Review); and 731–TA–573, 574, 576, 578, 582–587, 612, and 614–618 (Second Review)* (January 2007). Thus, the Department revoked the antidumping duty order on CTL plate from Romania, pursuant to sections 751(c) and 751(d) of the Act. *See Revocation Pursuant to Second Five–Year (Sunset) Reviews: Countervailing Duty Orders on Certain Steel Products from Belgium, Brazil, Mexico, Spain and Sweden; Antidumping Duty Orders on Certain Cut–to-Length Carbon Steel Plate from Belgium, Brazil, Finland, Germany, Mexico, Poland, Romania, Spain, Sweden, and the United Kingdom; Antidumping Finding on Carbon Steel Plate from Taiwan*, 72 FR 6519 (February 12, 2007) (''*Revocation of Plate from Romania*''). The Department stated in the *Revocation of Plate from Romania* that it will complete any pending administrative reviews of the order and will conduct administrative reviews of subject merchandise entered prior to the effective date of revocation in response to appropriately filed requests for review. Pursuant to section 751(d)(2) of the Act and 19 CFR 351.222(i)(2)(i), the effective date of revocation is December 15, 2005. As a result, the Department is completing the instant review of CTL plate from Romania for the period of review covering August 1, 2005, to December 15, 2005.

Period of Review

The period of review (''POR'') is August 1, 2005, through December 15, 2005.

Notice of Intent To Rescind Review in Part

Pursuant to 19 CFR 351.213(d)(3), the Department may rescind an administrative review, in whole or only with respect to a particular exporter or producer, if the Secretary concludes that, during the period covered by the

review, there were no entries, exports, or sales of the subject merchandise. *See, e.g., Stainless Steel Plate in Coils from Taiwan: Notice of Preliminary Results and Rescission in Part of Antidumping Duty Administrative Review*, 67 FR 5789, 5790 (February 7, 2002), and *Stainless Steel Plate in Coils from Taiwan: Final Rescission of Antidumping Duty Administrative Review*, 66 FR 18610 (April 10, 2001). In its supplemental questionnaire response, MS Galati stated that during the POR, MEI was not involved with any of the U.S. sales. *See* MS Galati's supplemental questionnaire response, dated March 8, 2007, at 20. In the previous antidumping duty administrative review of CTL plate from Romania, covering the period August 1, 2004, through July 31, 2005, the Department found that a) MEI is not the producer of subject merchandise, b) MEI does not take title to the merchandise which MS Galati exports through MEI, and c) MS Galati has knowledge of the destination of its subject merchandise exports. *See Notice of Final Results of Antidumping Duty Administrative Review and Final Partial Rescission: Certain Cut–to-Length Carbon Steel Plate from Romania*, 72 FR 6522, February 12, 2007. Additionally, the Department conducted a U.S. Customs and Border Protection (''CBP'') data inquiry and determined that there were no identifiable entries of CTL plate during the POR manufactured or exported by MEI. *See* ''Memorandum to the File, through Angelica Mendoza, Program Manager, from Dena Crossland: Metalimportexport S.A. No Shipments of Certain Cut–to-Length Carbon Steel Plate from Romania Pursuant to U.S. Customs and Border Protection Inquiry,'' dated June 24, 2007. Therefore, the Department concludes that during the POR, MEI did not produce or export subject merchandise, including merchandise produced by MS Galati, and accordingly we are preliminarily rescinding the review with respect to MEI.

Scope of the Antidumping Duty Review

The products covered by this antidumping duty review include hot–rolled carbon steel universal mill plates (*i.e.*, flat–rolled products rolled on four faces or in a closed box pass, of a width exceeding 150 millimeters but not exceeding 1,250 millimeters and of a thickness of not less than 4 millimeters, not in coil and without patterns in relief), of rectangular shape, neither clad, plated nor coated with metal, whether or not painted, varnished, or coated with plastics or other nonmetallic substances; and certain hot–rolled carbon steel flat–rolled products in straight lengths, of rectangular shape, hot rolled, neither clad, plated, nor coated with metal, whether or not painted, varnished, or coated with plastics or other nonmetallic substances, 4.75 millimeters or more in thickness and of a width which exceeds 150 millimeters and measures at least twice the thickness, as currently classifiable in the Harmonized Tariff Schedule of the United States (''HTSUS'') under item numbers 7208.40.3030, 7208.40.3060, 7208.51.0030, 7208.51.0045, 7208.51.0060, 7208.52.0000, 7208.53.0000, 7208.90.0000, 7210.70.3000, 7210.90.9000, 7211.13.0000, 7211.14.0030, 7211.14.0045, 7211.90.0000, 7212.40.1000, 7212.40.5000, and 7212.50.0000. Included under this review are flat–rolled products of nonrectangular cross–section where such cross–section is achieved subsequent to the rolling process (i.e., products which have been ''worked after rolling'')--for example, products which have been bevelled or rounded at the edges. Excluded from this review is grade X–70 plate. These HTSUS item numbers are provided for convenience and customs purposes. The written description remains dispositive.

Currency Conversion

We made currency conversions pursuant to 19 CFR 351.415 based on the exchange rates in effect on the dates of the U.S. sales, as certified by Dow Jones Reuters Business Interactive LLC (trading as Factiva).

Date of Sale

The Department's regulations state that it will normally use the date of invoice, as recorded in the exporter's or producer's records kept in the ordinary course of business, as the date of sale. *See* 19 CFR 351.401(i). If the Department can establish ''a different date that better reflects the date on which the exporter or producer establishes the material terms of sale,'' the Department may choose a different date. *Id.* As further discussed below, the Department preliminarily determines that for U.S. sales, the invoice date is the appropriate date of sale. For home market sales, the Department preliminarily determines that the invoice date is the date of sale provided the invoice is issued on or before the shipment date; and that the shipment date is the date of sale where the invoice is issued after the shipment date. In its section C questionnaire response, MS Galati reported the date of order acknowledgment as the date of sale for its U.S. sales. MS Galati stated that all sales of subject merchandise were made pursuant to affiliated importer Mittal Steel North America's (''MSNA's'') order acknowledgments to the U.S. customer, and that the exact quantities shipped from Romania were consistent with the quantities sold by MSNA. *See* MS Galati's section C questionnaire response, dated December 11, 2006, at C–ME–20. However, in its supplemental questionnaire responses, MS Galati acknowledged that quantities varied between the order acknowledgments and the invoices. *See* MS Galati's supplemental sections A–C questionnaire response, dated March 7, 2007, at 20 and exhibit 18; *see also* MS Galati's second supplemental sections A–C questionnaire response, dated April 16, 2007, at 2–3 and exhibits 1 and 3.

In reviewing all information on the record, we preliminarily find that the terms of sale for some of MS Galati's U.S. sales changed from the order acknowledgment to the invoice. Specifically, there were various sales with changes outside of the allowable tolerance for quantity that took place after the order acknowledgment date. Additionally, there were numerous price changes that took place after the order acknowledgment date. *See* MS Galati's supplemental sections A–C questionnaire response, dated March 7, 2007, at exhibit 18; *see also* MS Galati's second supplemental sections A–C questionnaire response, dated April 16, 2007, at exhibit 1.

Regarding its home market sales, MS Galati stated that the invoice date is the date of sale. *See* MS Galati's section B questionnaire response, dated December 11, 2006, at 22. According to the home market database and MS Galati's section A questionnaire response, MS Galati issues an invoice to the customer on or a few days after the date the merchandise is shipped. *See* MS Galati's section A questionnaire response, dated November 17, 2006, at 21. MS Galati stated in its response that the terms of sale can change up to the date of invoice. *See id.* For home market sales, the Department preliminarily determines that the invoice date is the date of sale if the invoice is issued on the shipment date, and shipment date is the date of sale if the invoice is issued after the shipment date.

Therefore, for these preliminary results, the Department will use the invoice date as the date of sale for MS Galati's U.S. sales, and either the invoice date or shipment date, depending on which one takes place earlier, as the date of sale for MS Galati's home market sales. *See* the

Analysis Memorandum for the Preliminary Results of the Administrative Review of the Antidumping Duty Order on Certain Cut–to-Length Carbon Steel Plate from Romania, dated June 27, 2007 (''Analysis Memo''), for further discussion of date of sale and other details on the calculation of the antidumping duty weighted–average margin. A public version of this memorandum is on file in the Department's Central Records Unit (''CRU'') located in Room B–099 of the main Department of Commerce Building, 14th Street and Constitution Avenue, NW, Washington, DC 20230.

Level of Trade

In accordance with section 773(a)(1)(B)(I) 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 constructed export price (''CEP'') transaction.[1] *See also* 19 CFR 351.412. The NV LOT is the level of the starting–price sales in the comparison market or, when NV is based on CV, the level of the sales from which we derive selling, general and administrative (''SG&A'') expenses and profits. For CEP sales, the U.S. LOT is the level of the constructed sale from the exporter to the affiliated importer. *See* 19 CFR 351.412(c)(1)(ii). As noted in the ''Constructed Export Price'' section below, we preliminarily find that all of MS Galati's sales through its U.S. affiliates are appropriately classified as CEP sales.

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. If the comparison market sales are at a different LOT than CEP sales, and the difference affects price comparability, as manifested in a pattern of consistent price differences between sales on which NV is based and comparison market sales at the LOT of the export transaction, where possible, we make a LOT adjustment under section 773(a)(7)(A) of the Act. For CEP sales for which we are unable to quantify a LOT adjustment, if the NV level is more remote from the factory than the CEP level and there is no basis for determining whether the difference in levels between NV and CEP affects price comparability, we adjust NV under section 773(a)(7)(B) of the Act (''the CEP offset provision''). *See Final Determination of Sales at Less Than Fair Value: Greenhouse Tomatoes from Canada*, 67 FR 8781 (February 26, 2002); *see also Final Determination of Sales at Less Than Fair Value: Certain Cut–to-Length Carbon Steel Plate from South Africa*, 62 FR 61731, 61732 (November 19, 1997).

In analyzing the 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) and accompanying Issues and Decision Memorandum at Comment 6.

To determine whether the comparison market sales were at different stages in the marketing process than the U.S. sales, we reviewed the channels of distribution in each market,[2] including selling functions, class of customer (''customer category''), and the level of selling expenses for each type of sale. In this review, we obtained information from MS Galati regarding the marketing stages involved in sales to the reported home and U.S. markets. MS Galati reported one LOT with two channels of distribution in the home market (''HM''): (1) sales to unaffiliated distributors and (2) sales to end users (affiliated and unaffiliated). *See* MS Galati's section A questionnaire response (''AQR''), dated November 17, 2006, at pages 14 and 15.

We examined the selling activities reported for each channel of distribution in the HM and we organized the reported selling activities into the following four selling functions: sales process and marketing support, freight and delivery, inventory maintenance and warehousing, and warranty and technical services. We found that MS Galati's level of selling functions to its HM customers for each of the four selling functions did not vary significantly by channel of distribution. *See* MS Galati's AQR at exhibit 5. For example, MS Galati provides similar levels of marketing and technical services to distributors and end users. Because channels of distribution do not qualify as separate LOTs when the selling functions performed for each customer class or channel are sufficiently similar, we determined that one LOT exists for MS Galati's HM sales.

In the U.S. market, MS Galati made sales of subject merchandise to MSNA, *i.e.*, through one channel of distribution and it claimed only one LOT for its sales in the United States. *See* MS Galati's AQR at 14 and exhibit 5. All U.S. sales were CEP transactions between MS Galati and its U.S. affiliate, MSNA, and MS Galati performed the same selling functions in its sales to the unaffiliated customers in each instance. *Id.* Therefore, we preliminary determine that MS Galati's U.S. sales constitute a single LOT.

We then compared the selling functions performed by MS Galati on its CEP sales (after deductions made pursuant to section 772(d) of the Act) to the selling functions provided in the HM. We found that MS Galati provides significant selling functions in the HM related to the sales process and marketing support, as well as warranty and technical service, which it does not for MSNA in the U.S. market. In addition, the differences in selling functions performed for HM and CEP transactions indicate that MS Galati's HM sales involved a more advanced stage of distribution than CEP sales. In the HM, MS Galati provides marketing further down the chain of distribution by promoting certain downstream selling functions that are normally performed by the affiliated reseller in the U.S. market. On this basis, we determined that the HM LOT is at a more advanced stage of distribution when compared to CEP sales because MS Galati provides more selling functions in the HM at higher levels of service as compared to selling functions performed for its CEP sales. Thus, we find that MS Galati's HM sales are at a more advanced LOT than its CEP sales.

Based upon our analysis, we preliminarily determine that the CEP and the starting price of HM sales represent different stages in the marketing process, and are thus at different LOTs. Therefore, when we compared CEP sales to the comparison market sales, we examined whether an LOT adjustment may be appropriate. In this case, because MS Galati sold at one

[1] The Department finds that CEP analysis is warranted because MS Galati sold subject merchandise to the United States through its U.S. affliliate, MSNA. Therefore, the Department finds that export price analysis is not otherwise warranted based on the facts on the record, and has based the price of the sales on CEP, in accordance with section 773(b) of the Act.

[2] The marketing process in the United States and third country market begins with the producer and extends to the sale to the final user or customer. The chain of distribution between the two may have many or few links, and the respondent's sales occur somewhere along this chain. In performing this evaluation, we considered respondent's narrative response to properly determine where in the chain of distribution the sale occurs.

LOT in the HM, there is no basis upon which to determine whether there is a pattern of consistent price differences between LOTs. Further, we do not have the information which would allow us to examine the price patterns of MS Galati's sales of other similar products, and there is no other record evidence upon which a LOT adjustment could be based. Therefore, no LOT adjustment was made.

Because the data available do not provide an appropriate basis for making a LOT adjustment and the LOT of MS Galati's HM sales is at a more advanced stage than the LOT of MS Galati's CEP sales, a CEP offset is appropriate in accordance with section 773(a)(7)(B) of the Act, as claimed by MS Galati. We based the amount of the CEP offset on HM indirect selling expenses, and limited the deduction for HM indirect selling expense to the amount of the indirect selling expenses deducted from CEP in accordance with section 772(d)(1)(D) of the Act. We applied the CEP offset to the NV–CEP comparisons.

Fair Value Comparisons

To determine whether MS Galati's sales of the subject merchandise from Romania to the United States were made at prices below NV, we compared the CEP to the NV, as described in the ''Constructed Export Price'' and ''Normal Value'' sections of this notice. Therefore, pursuant to section 777A(d)(2) of the Act, we compared the CEPs of individual U.S. transactions to the monthly weighted–average normal value of the foreign like product where there were sales made in the ordinary course of trade.

Product Comparisons

In accordance with section 771(16) of the Act, we considered all products covered by the ''Scope of the Antidumping Duty Review'' section above, which were produced and sold by MS Galati in the HM during the POR, to be the foreign like product for the purpose of determining appropriate product comparisons to U.S. sales of subject merchandise. We relied on eight characteristics to match U.S. sales of subject merchandise to comparison sales of the foreign like product (listed in order of importance): 1) painting; 2) quality; 3) specification and/or grade; 4) heat treatment; 5) standard thickness; 6) standard width; 7) whether or not checkered (floor plate); and 8) descaling. Where there were no sales of identical merchandise in the HM to compare to U.S. sales, we compared U.S. sales to the most similar foreign like product on the basis of the characteristics and reporting instructions listed in the Department's questionnaire. *See* Appendix V of the Department's antidumping duty questionnaire to MS Galati, dated October 12, 2006.

Constructed Export Price

In accordance with section 772(b) of the Act, CEP is 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) of the Act. For purposes of this administrative review, MS Galati has classified its sales as CEP. MS Galati identified one channel of distribution for U.S. sales: MS Galati through MEI to MSNA and then to unaffiliated U.S. customers, who are distributors. *See* ''Level of Trade'' section above for further analysis.

After reviewing the evidence on the record of this review, we have preliminarily determined that MS Galati's transactions are classified properly as CEP sales because these sales occurred in the United States and were made through its U.S. affiliate to an unaffiliated 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. et al. 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.'' *AK Steel*, 226 F.3d at 1369. The court stated, '' 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. *Id.*, 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.

For this distribution channel, MS Galati has reported these sales as CEP sales because the first sale to an unaffiliated party occurred in the United States. Therefore, we based CEP on the packed duty paid prices to unaffiliated purchasers in the United States, in accordance with subsections 772(b), (c), and (d) of the Act. Where applicable, we made a deduction to gross unit price for billing adjustments. We made deductions for movement expenses in accordance with section 772(c)(2)(A) of the Act. These deductions included, where appropriate, foreign inland freight from the plant to the port of export, foreign brokerage and handling, international freight, marine insurance, U.S. brokerage and handling, other U.S. transportation expenses (*i.e.*, U.S. stevedoring, wharfage, and surveying), and U.S. customs duty. 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 direct selling expenses (*i.e.*, imputed credit expenses and commissions) and indirect selling expenses. For these CEP sales, we also made an adjustment for profit in accordance with section 772(d)(3) of the Act. We deducted the profit allocated to expenses deducted under sections 772(d)(1) and 772(d)(2) of the Act in accordance with sections 772(d)(3) and 772(f) of the Act. In accordance with section 772(f) of the Act, we computed profit based on total revenue realized on sales in both the U.S. and home markets, less all expenses associated with those sales. We then allocated profit to expenses incurred with respect to U.S. economic activity, based on the ratio of total U.S. expenses to total expenses for both the U.S. and home markets.

Normal Value

A. Home Market Viability

We compared the aggregate volume of HM sales of the foreign like product and U.S. sales of the subject merchandise to determine whether the volume of the foreign like product sold in Romania was sufficient, pursuant to section 773(a)(1)(C) of the Act, to form a basis for NV. Because the volume of HM sales of the foreign like product was greater than five percent of the U.S. sales of subject merchandise, in accordance with section 773(a)(1)(B)(i) of the Act, we determine that sales in the HM provide a viable basis for calculating NV. Thus, we used as NV the prices at which the foreign like product was first sold for consumption in Romania, in the usual commercial quantities, in the ordinary course of trade, and, to the extent possible, at the same LOT as the CEP sales, as appropriate. After testing

HM viability, we calculated NV as noted in the ''Price–to-Price Comparisons'' section of this notice.

B. Arm's–Length Test

MS Galati reported that it made sales in the HM to affiliated and unaffiliated customers. The Department did not require MS Galati to report its affiliated party's downstream sales because these sales represented less than five percent of total HM sales. *See* MS Galati's section B questionnaire response, dated December 11, 2006, at exhibit 2.

Sales to these affiliated customers in the HM not made at arm's length were excluded from our analysis. *See* 19 CFR 351.403(c). 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 billing adjustments and freight revenue, movement charges, direct selling expenses, discounts and rebates, and packing. Where the price to that affiliated party was, on average, within a range of 98 to 102 percent of the price of the same or comparable merchandise sold to the unaffiliated parties at the same level of trade, we determined that the sales made to the affiliated party were at arm's length. *See Antidumping Proceedings - Affiliated Party Sales in the Ordinary Course of Trade*, 67 FR 69186, 69187 (November 15, 2002).

C. Price–to-Price Comparisons

We based NV on the HM sales to unaffiliated purchasers and sales to affiliated customers that passed the arm's–length test. We made adjustments, where appropriate, for physical differences in the merchandise in accordance with section 773(a)(6)(C)(ii) of the Act. We made adjustments, where applicable, for movement expenses (*i.e.*, inland freight from plant to distribution warehouse, inland freight from plant to customer, and warehousing expenses) in accordance with section 773(a)(6)(B) of the Act. We made circumstance–of-sale adjustments for imputed credit, where appropriate, in accordance with section 773(a)(6)(C)(iii) of the Act. In accordance with section 773(a)(6) of the Act, we deducted HM packing costs and added U.S. packing costs. Finally, in accordance with section 773(a)(4) of the Act, where the Department was unable to determine NV on the basis of contemporaneous matches in accordance with section 773(a)(1)(B)(i) of the Act, we based NV on CV.

Preliminary Results of Review

We preliminarily determine that the following weighted–average margin exists for the following manufacturer/exporter during the POR:

Manufacturer/Exporter	POR	Margin
Mittal Steel Galati, S.A.	08/01/05 - 12/15/05	1.02 percent

Assessment

Upon completion of this administrative review, the Department shall determine, and CBP shall assess, antidumping duties on all appropriate entries, in accordance with 19 CFR 351.212. The Department intends to issue assessment instructions to CBP 15 days after the date of publication of the final results of this review.

The Department clarified its ''automatic assessment'' regulation on May 6, 2003. *See Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties*, 68 FR 23954 (May 6, 2003) (''*Assessment Policy Notice*''). This clarification will apply to entries of subject merchandise during the POR produced by companies included in these final results of review for which the reviewed companies did not know that the merchandise they sold to the intermediary (*e.g.*, a reseller, trading company, or exporter) was destined for the United States. In such instances, we will instruct CBP to liquidate unreviewed entries at the ''All Others'' rate if there is no rate for the intermediary involved in the transaction. *See Assessment Policy Notice* for a full discussion of this clarification.

Cash–Deposit Requirements

The Department notified CBP to discontinue suspension of liquidation and collection of cash deposits on entries of the subject merchandise entered or withdrawn from warehouse on or after December 15, 2005, the effective date of revocation of the antidumping duty order.

Schedule for Final Results of Review

The Department will disclose calculations performed for these preliminary results of review within five days of the date of publication of this notice in accordance with 19 CFR 351.224(b). Interested parties may submit case briefs and/or written comments no later than 30 days after the date of publication of these preliminary results of review. *See* 19 CFR 351.309(c)(ii). Rebuttal briefs are limited to issues raised in such briefs or comments and may be filed no later than five days after the time limit for filing the case briefs or comments. *See* 19 CFR 351.309(d). 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 19 CFR 351.303(f).

Any interested party may request a hearing within 30 days of publication of this notice in accordance with 19 CFR 351.310(c). 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. Individuals who wish to request a hearing must submit a written request within 30 days of the publication of this notice in the **Federal Register** to the Assistant Secretary for Import Administration, U.S. Department of Commerce, Room 1870, 14th Street and Constitution Avenue, NW, Washington, DC 20230. Requests for a public hearing should contain: 1) the party's name, address, and telephone number; 2) the number of participants; and 3) to the extent practicable, an identification of the arguments to be raised at the hearing. If a hearing is held, an interested party may make an affirmative presentation only on arguments included in that party's case brief and may make a rebuttal presentation only on arguments included in that party's rebuttal brief. Parties should confirm by telephone the time, date, and place of the hearing within 48 hours before the scheduled time. The Department will issue the final results of this review, which will include the results of its analysis of issues raised in the briefs, not later than 120 days after the date of publication of this notice.

Notification to Importers

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 these review periods. 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.

We are issuing and publishing this notice in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: June 27, 2007.

Joseph A. Spetrini,

Deputy Assistant Secretary for Import Administration.

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DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–910]

Initiation of Antidumping Duty Investigation: Circular Welded Carbon Quality Steel Pipe from the People's Republic of China

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

EFFECTIVE DATE: July 5, 2007.

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INITIATION OF INVESTIGATION

The Petition

On June 7, 2007, the Department of Commerce (Department) received a petition on imports of circular welded carbon quality steel pipe (CWP) from the People's Republic of China (PRC) filed in proper form by Allied Tube & Conduit, Sharon Tube Company, IPSCO Tubulars, Inc., Western Tube & Conduit Corporation, Northwest Pipe Company, Wheatland Tube Co., *i.e.*, the Ad Hoc Coalition For Fair Pipe Imports From China, and the United Steelworkers (collectively Petitioners). The period of investigation (POI) is October 1, 2006 - March 31, 2007.

In accordance with section 732(b) of the Tariff Act of 1930, as amended (the Act), Petitioners alleged that imports of CWP from the PRC are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Act, and that such imports are materially injuring and threaten to injure an industry in the United States. The Department issued supplemental questions to Petitioners on June 11, 2007, and June 19, 2007, and Petitioners filed their responses on June 15, 2007, June 22, 2007, and June 25, 2007, respectively. In addition, Petitioners filed an amendment to the petition on June 15, 2007.

Scope of Investigation

The scope of this investigation covers certain welded carbon quality steel pipes and tubes, of circular cross-section, and with an outside diameter of 0.372 inches (9.45 mm) or more, but not more than 16 inches (406.4 mm), whether or not stenciled, regardless of wall thickness, surface finish (*e.g.*, black, galvanized, or painted), end finish (*e.g.*, plain end, beveled end, grooved, threaded, or threaded and coupled), or industry specification (*e.g.*, ASTM, proprietary, or other), generally known as standard pipe and structural pipe (they may also be referred to as circular, structural, or mechanical tubing).

Specifically, the term ''carbon quality'' includes products in which: (a) iron predominates, by weight, over each of the other contained elements; (b) the carbon content is 2 percent or less, by weight; and (c) none of the elements listed below exceeds the quantity, by weight, as indicated:

(i) 1.80 percent of manganese;
(ii) 2.25 percent of silicon;
(iii) 1.00 percent of copper;
(iv) 0.50 percent of aluminum;
(v) 1.25 percent of chromium;
(vi) 0.30 percent of cobalt;
(vii) 0.40 percent of lead;
(viii) 1.25 percent of nickel;
(ix) 0.30 percent of tungsten;
(x) 0.15 percent of molybdenum;
(xi) 0.10 percent of niobium;
(xii) 0.41 percent of titanium
(xiii) 0.15 percent of vanadium; or
(xiv) 0.15 percent of zirconium.

All pipe meeting the physical description set forth above that is used in, or intended for use in, standard and structural pipe applications is covered by the scope of this investigation. Standard pipe applications include the low–pressure conveyance of water, steam, natural gas, air, and other liquids and gases in plumbing and heating systems, air conditioning units, automatic sprinkler systems, and other related uses. Standard pipe may also be used for light load–bearing and mechanical applications, such as for fence tubing, and as an intermediate product for protection of electrical wiring, such as conduit shells. Structural pipe is used in construction applications.

Standard pipe is made primarily to American Society for Testing and Materials (ASTM) specifications, but can be made to other specifications. Standard pipe is made primarily to ASTM specifications A–53, A–135, and A–795. Structural pipe is made primarily to ASTM specifications A–252 and A–500. Standard and structural pipe may also be produced to proprietary specifications rather than to industry specifications. This is often the case, for example, with fence tubing. Pipe multiple–stenciled to an ASTM specification and to any other specification, such as the American Petroleum Institute (API) API–5L or 5L X–42 specifications, is covered by the scope of this investigation when used in, or intended for use in, one of the standard applications listed above, regardless of the Harmonized Tariff Schedule of the United States (HTSUS) category under which it is entered. Pipe used for the production of scaffolding (but not finished scaffolding) and conduit shells (but not finished electrical conduit) are included within the scope of this investigation.

The scope does not include: (a) pipe suitable for use in boilers, superheaters, heat exchangers, condensers, refining furnaces and feedwater heaters, whether or not cold drawn; (b) mechanical tubing, whether or not cold–drawn; (c) finished electrical conduit; (d) tube and pipe hollows for redrawing; (e) oil country tubular goods produced to API specifications; and (f) line pipe produced to API specifications for oil and gas applications.

The pipe products that are the subject of this investigation are currently classifiable in HTSUS statistical reporting numbers 7306.30.10.00, 7306.30.50.25, 7306.30.50.32, 7306.30.50.40, 7306.30.50.55, 7306.30.50.85, and 7306.30.50.90. However, the product description, and not the HTSUS classification, is dispositive of whether merchandise imported into the United States falls within the scope of the investigation.

Comments on Scope of Investigation

During our review of the petition, we discussed the scope with Petitioners to ensure that it accurately reflects the product for which the domestic industry is seeking relief. During this review, we noted that, while the Department typically prefers to rely upon physical characteristics to determine the scope of product coverage, the scope description proposed by Petitioners relied upon, in part, end–use applications as a method for determining scope coverage. On June 20, 2007, we met with Petitioners to discuss the scope and its reliance upon end–use applications as a method for determining scope coverage. *See* Memorandum to The File, through Abdelali Elouaradia, Office Director,