

determinations for these investigations no later than 140 days after the date of issuance of the initiation, in accordance with section 733(b)(1)(A) of the Tariff Act of 1930, as amended (the Act).

On May 20, 2008, the petitioner, Leggett & Platt Inc., made a request pursuant to 19 CFR 351.205(b)(2) and (e) for a 50-day postponement of the preliminary determinations.¹ The petitioner requested postponement of the preliminary determinations in order to allow the Department additional time to do a thorough investigation of the respondents in these investigations.

For the reason identified by the petitioner and because there are no compelling reasons to deny the request, the Department is postponing the deadline for the preliminary determinations under section 733(c)(1)(A) of the Act by 50 days to July 30, 2008. The deadline for the final determinations will continue to be 75 days after the date of the preliminary determinations, unless extended.

This notice is issued and published pursuant to section 733(c)(2) of the Act and 19 CFR 351.205(f)(1).

Dated: May 21, 2008.

Stephen J. Claeys,

Acting Assistant Secretary for Import Administration.

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DEPARTMENT OF COMMERCE

International Trade Administration (A-427-827)

Sodium Metal from France: Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination

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

SUMMARY: The U.S. Department of Commerce (the Department) preliminarily determines that sodium metal from France (sodium metal) is being, or is likely to be, sold in the United States at less than fair value (LTFV), as provided in section 733(b) of

the Tariff Act of 1930, as amended (the Act). The estimated margin of sales at LTFV is listed in the "Suspension of Liquidation" section of this notice. Interested parties are invited to comment on this preliminary determination. Pursuant to requests from interested parties, we are postponing for 60 days the final determination and extending the provisional measures from a four-month period to not more than six months. Accordingly, we will make our final determination not later than 135 days after publication of the preliminary determination.

EFFECTIVE DATE: May 28, 2008.

FOR FURTHER INFORMATION CONTACT:

Dennis McClure or Joy Zhang, AD/CVD Operations, Office 3, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone (202) 482-5973 or (202) 482-1168, respectively.

SUPPLEMENTARY INFORMATION:

Background

On October 23, 2007, E.I. DuPont de Nemours & Co. Inc. (the petitioner) filed a petition on sodium metal from France. In a supplement to the petition, the petitioner provided information demonstrating reasonable grounds to believe or suspect that sales of sodium metal in the home market were made at prices below the fully absorbed cost of production (COP), within the meaning of section 773(b) of the Act, and requested that the Department conduct a sales-below-cost investigation. See November 8, 2007, supplement to the petition at page 10. We found that the petitioner provided a reasonable basis to believe or suspect that the French producer was selling sodium metal in France at prices below the COP. See section 773(b)(2)(A)(i) of the Act.

On November 13, 2007, the Department initiated the antidumping duty investigation of sodium metal from France. See *Sodium Metal from France: Notice of Initiation of Antidumping Duty Investigation*, 72 FR 65295 (November 20, 2007) (*Initiation Notice*). The Department also initiated a country-wide sales-below-cost investigation and requested that respondent, MSSA S.A.S., respond to section D of the Department's antidumping questionnaire. See *Initiation Notice*; see also the Department's questionnaire issued to MSSA S.A.S. on January 4, 2008.

The Department requested comments on model-matching criteria in its letter to interested parties, dated November

16, 2007. On December 6, 2007, the petitioner submitted comments on the model-matching criteria. On December 13, 2007, MSSA S.A.S., MSSA Company, and Columbia Sales International (collectively, MSSA) submitted comments on the proposed model-matching criteria. On December 14 and 17, 2007, the petitioner submitted additional comments on the proposed model-matching criteria. On December 19, 2007, MSSA responded to the petitioner's comments concerning model-matching criteria. For an explanation of the model-matching criteria used, see *Model Match* section, below.

On December 6, 2007, the United States International Trade Commission (ITC) preliminarily determined that there is a reasonable indication that the industry in the United States is materially injured by reason of imports of sodium metal from France that are alleged to be sold in the United States at LTFV. See *Sodium Metal From France*, Investigation No. 731-TA-1135 (*Preliminary*), 73 FR 15777 (March 25, 2008). The ITC notified the Department of these findings.

On December 14, 2007, MSSA wrote to inform the Department that its home market may not be viable because most of its sales in most markets are governed by long-term contracts. In addition, MSSA also explained that the Department may need to expand the period of investigation (POI) to capture sales from one of its larger contracts in the United States. On December 19, 2007, the petitioner submitted a letter arguing against extending the POI. On December 20, 2007, MSSA submitted a response to the petitioner's comments on extending the POI. See *Date of Sale/Market Viability* section, below.

On February 8, 2008, the Department received the Section A questionnaire response from MSSA. On February 20, 2008, the Department received a letter from MSSA explaining that it had made a small percentage of sales to affiliated parties in the United States for further manufacturing and downstream sales and asked that it be excused from reporting these sales. On February 25, 2008, the Department received the Sections B and C response from MSSA.¹ On March 6, 2008, MSSA responded to the Department's Section A supplemental questionnaire.

On March 7, 2008, the petitioner filed a sales-below-cost allegation based on sales to Germany. On March 18, 2008, the Department postponed the

¹ Although the petitioner did not file its request 25 days or more before the scheduled date of the preliminary determination, the Department has determined to accept the request pursuant to its authority under 19 CFR 351.302(b). We find that good cause exists to extend the deadline in order to allow the Department additional time to analyze the questionnaire responses in the investigation of uncovered innerspring units from the PRC. Further, for purposes of administrative efficiency, the Department concludes that the Vietnam, South Africa and PRC cases should remain on a consistent timeline.

¹ For Section B, MSSA originally reported third-country sales to Germany using invoice date as the date of sale.

preliminary determination of the instant antidumping duty investigation. *See Sodium Metal from France: Postponement of Preliminary Determination of Antidumping Duty Investigation*, 73 FR 14440 (March 18, 2008).

After reviewing the Sections B and C response from MSSA, the Department issued a supplemental questionnaire to MSSA on March 10, 2008. On March 21, 2008, the Department notified MSSA that we found that the home market was viable and were requiring it to respond to Section B and Section D of the questionnaire with regard to the French market. *See Date of Sale/Market Viability* section, below.

On April 4, 2008, we received MSSA's Section B response with regard to the French market. On April 11, 2008, we received MSSA's supplemental Sections B and C response. On April 16, 2008, we issued an additional supplemental Sections B and C questionnaire to MSSA. On April 14 and 21, 2008, we received MSSA's Section D response. On April 21, 2008, the petitioner submitted a targeted dumping allegation and comments on MSSA's Section A and C responses. On April 22, 2008, the Department issued a supplemental questionnaire with regard to Sections A and C. On April 28, 2008, MSSA responded to the Department's April 16, 2008, supplemental Sections B and C questionnaire. On April 30, 2008, MSSA responded to the Department's April 22, 2008, supplemental questionnaire with regard to Sections A and C. On April 25, 2008, the Department issued a Section D supplemental questionnaire. MSSA responded to the Section D supplemental questionnaire on May 2 and 7, 2008. On April 30, 2008, the Department requested that the petitioner respond to additional questions with regard to its targeted dumping allegation. The petitioner responded on May 6, 2008.

On May 7, 2008, MSSA requested that the Department postpone the final determination and extend the provisional measures. *See Postponement of Final Determination and Extension of Provisional Measures* section, below.

Targeted Dumping Allegation

The petitioner submitted an allegation of targeted dumping on April 21, 2008. *See* section 777A(d)(1)(B) of the Act. In its allegation, the petitioner asserts that there are patterns of constructed export prices (CEPs) for comparable merchandise that differ significantly among purchasers. We note that all of MSSA's U.S. sales are CEP sales. The

Department requested additional information and clarification from the petitioner with respect to its targeted dumping allegation. *See* Letter from James Terpstra to the petitioner, dated May 1, 2008. On May 6, 2008, the petitioner provided its response. On May 16, 2008, MSSA argued that the petitioner miscalculated the gross unit price of the alleged largest targeted customer.

New Targeted Dumping Test

The statute allows the Department to employ the average-to-transaction methodology if: 1) there is a pattern of export prices that differ significantly among purchasers, regions, or periods of time, and 2) the Department explains why such differences cannot be taken into account using the average-to-average or transaction-to-transaction methodology.²

In the recent post-preliminary determination memorandum in the antidumping investigation of new pneumatic off-the-road tires for the People's Republic of China, the Department applied a new targeted dumping standard and methodology for analyzing targeted dumping allegations.³

We conducted a customer-targeted dumping analysis for MSSA using the methodology described in the OTR Tires Targeted Dumping Memorandum. This is also the test put forward in the Department's *Proposed Methodology for Identifying and Analyzing Targeted Dumping in Antidumping Investigations; Request for Comment*, 73 FR 26371 (May 9, 2008).

The methodology we employed involves a two-stage test: the first stage addresses the pattern requirement, and the second stage addresses the significant difference requirement. All price comparisons have been done on the basis of identical merchandise (*i.e.*, by control number or CONNUM). The test procedures are the same for customer, regional, and time period targeted dumping allegations,⁴ even though the example given in the general description below applies to customer targeting.

In the first stage of the test, referred to as the "standard deviation test," the Department determined, on an

exporter-specific basis, the share of the alleged targeted customer's purchases of subject merchandise (by sales value) that are at prices more than one standard deviation below the weighted-average price to all customers of that exporter, targeted and non-targeted. We calculated the standard deviation on a product-specific basis (*i.e.*, CONNUM by CONNUM) using the POI-wide average prices (weighted by sales value) for each alleged targeted customer and each distinct non-targeted customer. If that share did not exceed 33 percent of the total value of the exporter's sales of subject merchandise to the alleged targeted customer, then the pattern requirement is not met and the Department did not conduct the second stage of the test.

However, if that share exceeded 33 percent of the total value of the exporter's sales of subject merchandise to the alleged targeted customer, then the pattern requirement is met and the Department proceeded to the second stage of the test. Specifically, the Department examined in the second stage all of the sales of identical merchandise (*i.e.*, by CONNUM) by that exporter to the alleged targeted customer. From those sales, we determined the total value of sales for which the difference between (i) the sales-weighted-average price to the alleged targeted customer and (ii) the next higher sales-weighted-average price to a non-targeted customer exceeded the average price gap (weighted by sales value) for the non-targeted group.⁵ Each of the price gaps in the non-targeted group was weighted by the combined sales value associated with the pair of prices to non-targeted customers that make up the price gap. In doing this analysis, the alleged targeted customers were not included in the non-targeted group; each alleged targeted customer's average price was compared to only the average prices to non-targeted customers. If the share of the sales that met this test exceeded five percent of the total sales value of subject merchandise to the alleged targeted customer,⁶ the significant difference

⁵ The next higher price is the sales-weighted-average price to the non-targeted group that is above the sales-weighted-average price to the alleged targeted group. For example, if the sales-weighted-average price to the alleged targeted group is \$7.95 and the sales-weighted-average prices to the non-targeted group are \$8.30, \$8.25, and \$7.50, we would calculate the difference between \$7.95 and \$8.25 because this is the next higher price in the non-targeted group above \$7.95 (the average price to the targeted group).

⁶ For example: If non-targeted A's weighted-average price is \$1.00 with a total sales value of \$100 and non-targeted B's weighted-average price is \$0.95 with a total sales value of \$120, then the

² Section 777A(d)(1)(B) of the Act.

³ *See* Memorandum to David M. Spooner, "Post-Preliminary Determination of Targeted Dumping" (May 19, 2008), (OTR Tires Targeted Dumping Memorandum). This new test was first applied in the investigations of certain steel nails from the United Arab Emirates and the People's Republic of China.

⁴ The petitioner made no targeted dumping allegations based on region or time period in this investigation.

requirement was met and the Department determined that customer targeting occurred.

Once the Department determined that the customer pattern-of-price differences were significant, we applied the transaction-to-average methodology to any targeted sales and applied the average-to-average methodology to the remaining non-targeted sales.⁷ When calculating the weighted-average margin, we combined the margin calculated for the targeted sales with the margin calculated for the non-targeted sales, without offsetting any margins found among the targeted sales.

We based all of our targeted dumping calculations on the U.S. net price ("NETPRIU") determined in our margin program in our Preliminary Calculation Memorandum. See "Calculation Memorandum for the Preliminary Determination – MSSA," dated May 21, 2008, (Preliminary Calculation Memorandum) on file in the Central Records Unit, Room 1117 of the main Department building.

Results of the Application of the New Targeted Dumping Test

For purposes of this preliminary determination on targeted dumping, we have applied the above-described test to the U.S. sales data reported by MSSA. Our observations and results are discussed in more detail in a separate memorandum placed on the record of this investigation. See Preliminary Calculation Memorandum.

We preliminarily determine that there is no pattern of constructed export prices for comparable merchandise that differs significantly among customers for MSSA. Therefore, we applied the average-to-average methodology to all U.S. sales by MSSA.

Comments by Interested Parties

Parties may comment on the Department's overall preliminary

difference of \$0.05 (\$1.00 – \$0.95) would be weighted by \$220 (\$100 + \$120).

⁷ Consistent with 19 CFR 351.414(f)(2), we have limited our application of the average-to-transaction methodology to the targeted sales under 19 CFR 351.414(f)(1)(i). As specified in the preamble to the regulations, the Department will apply the average-to-transaction methodology solely to address the practice of targeting. See *Antidumping Duties: Countervailing Duties*, 62 FR 27296, 27375 (May 19, 1997). In the preamble, the Department indicated that where the targeting is so widespread that it is administratively impractical to segregate targeted sales prices from the normal pricing behavior of the company, it may be necessary to apply the average-to-transaction methodology to all sales of a particular respondent. In this case, however, we are able to segregate the targeted sales prices, by customer, where appropriate, from the normal pricing behavior of the company and, therefore, have limited our application of the average-to-transaction methodology to the sales to the targeted group.

determination application of the new targeted dumping test in this proceeding. Consistent with 19 CFR 351.309(c)(2), all comments should be filed in the context of the case and rebuttal briefs. See the "Public Comment" section below for details regarding the briefing schedule for this investigation.

Period of Investigation

The POI is October 1, 2006 to September 30, 2007. This period corresponds to the four most recent fiscal quarters prior to the month of the filing of the petition.

Scope of the Investigation

The merchandise covered by this investigation includes sodium metal (Na), in any form and at any purity level. Examples of names commonly used to reference sodium metal are sodium metal, sodium, metallic sodium, and natrium. The merchandise subject to this investigation is classified in the Harmonized Tariff Schedule of the United States (HTSUS) subheading 2805.11.0000. The American Chemical Society Chemical Abstract Service (CAS) has assigned the name "Sodium" to sodium metal. The CAS registry number is 7440–23–5. For purposes of the investigation, the narrative description is dispositive, not the tariff heading, CAS registry number or CAS name, which are provided for convenience and customs purposes.

Model Match

We have taken into account the comments filed by MSSA and the petitioner concerning model-matching criteria. We have used the following criteria for model matching, since both parties were in substantial agreement with the product characteristics. In accordance with section 771(16) of the Act, all products produced by the respondent covered by the description in the *Scope of Investigation* section, above, and sold in France during the POI are considered to be foreign like products for purposes of determining appropriate product comparisons to U.S. sales. We have relied on five criteria to match U.S. sales of subject merchandise to comparison market sales of the foreign like product: 1) calcium impurity, 2) potassium impurity, 3) chloride/bromide impurity, 4) oxygen impurity, and 5) form. Where there were no sales of identical merchandise in the home market made in the ordinary course of trade to compare to U.S. sales, we compared U.S. sales to the next most similar foreign like product on the basis of the characteristics listed above. On January 4, 2008, the Department issued

the questionnaire containing the criteria identified above. See the Department's antidumping questionnaire issued to MSSA on January 4, 2008, at pages B–8 through B–10 and C–7 through C–9.

Date of Sale/Market Viability

Section 351.401(i) of the Department's regulations states that the Department normally will use the date of invoice, as recorded in the producer's or exporter's records kept in the ordinary course of business, as the date of sale. Therefore, where there were no long-term contracts which were signed and effective, during the POI, we determined that the invoice date established the material terms of sale. The regulations further provide that the Department may use a date other than the date of the invoice if the Secretary is satisfied that a different date better reflects the date on which the material terms of sale are established. The Department has a long-standing practice of finding that, where shipment date precedes invoice date, shipment date better reflects the date on which the material terms of sale are established. See 19 CFR 351.401(i); see also *Notice of Final Determination of Sales at Less Than Fair Value and Negative Final Determination of Critical Circumstances: Certain Frozen and Canned Warmwater Shrimp from Thailand*, 69 FR 76918 (December 23, 2004), and accompanying Issues and Decision Memorandum at Comment 10; and *Notice of Final Determination of Sales at Less Than Fair Value: Structural Steel Beams from Germany*, 67 FR 35497 (May 20, 2002), and accompanying Issues and Decision Memorandum at Comment 2. Therefore, we used the earlier of shipment date or invoice date as the date of sale in accordance with our practice.

In MSSA's original response to Section B of the questionnaire, MSSA reported its response based upon the invoice date as the date of sale, which indicated that France was not a viable home market. Therefore, MSSA reported sales to Germany as its viable market for comparison to its U.S. sales. In our review of MSSA's sales contracts, we determined that some contracts did establish the material terms of sale because no changes to the material terms were made. Therefore, where those contracts were signed and the effective date was within the POI, we used the effective date as the date of sale for those sales made pursuant to those contracts. See Preliminary Calculation Memorandum.

Fair Value Comparisons

To determine whether sales of sodium metal from France were made in the

United States at less than normal value (NV), we compared the CEP to the NV, as described in the *Constructed Export Price* and *Normal Value* sections below. In accordance with section 777A(d)(1) of the Act, we calculated the weighted-average prices for NV and compared these to the weighted-average of CEP.

Constructed Export Price

A. Affiliation Through Agency

In accordance with section 771(33)(G) of the Act, we are treating Columbia Sales International as an affiliate of MSSA. During the POI, MSSA made sales to unaffiliated customers in the United States through three channels of distribution. The first two channels of distribution are sales by MSSA Co. with the assistance of Columbia Sales International, its exclusive U.S. sales agent. The third channel includes sales purchased by Columbia Sales International and resold to the unaffiliated U.S. customer. In MSSA's March 6, 2008, supplemental response, MSSA responded to additional questions concerning its relationship with Columbia Sales International. In Exhibit A-Supp-1, MSSA provided its "Exclusive Agency Agreement" with Columbia Sales International. The "Exclusive Agency Agreement" and other information on the record indicate that Columbia Sales International and MSSA are affiliated through a principal/agent relationship. *See, e.g., Stainless Steel Sheet and Strip in Coils from Taiwan: Final Results and Partial Rescission of Antidumping Duty Administrative Review*, 67 FR 6682 (February 13, 2002), and accompanying Issues and Decision Memorandum at Comment 23, upheld in *Chia Far Industrial Factory Co. v. United States*, 343 F. Supp. 2d 1344, 1356 (CIT 2004) ("when there exists a principal who has the potential to control pricing and/or the terms of sale through the end-customer, Commerce will find agency and thus affiliation"). Furthermore, as explained in the *Notice of Final Determination of Sales at Less than Fair Value: Engineered Processed Gas Turbo-Compressor Systems, Whether Assembled or Unassembled, and Whether Complete or Incomplete, from Japan*, 62 FR 24392, 24402-24403 (May 5, 1997), the Department may examine a range of criteria to determine if an agency relationship exists. For example, the Department may look at (1) the foreign producer's role in negotiating price and other terms of sale; (2) the extent of the foreign producer's interaction with the U.S. customer; (3) whether the agent/reseller maintains inventory; (4) whether the agent/reseller

takes title to the merchandise and bears the risk of loss; (5) whether the agent/reseller further processes or otherwise adds value to the merchandise; (6) the means of marketing a product by the producer to the U.S. customer in the pre-sale period; and (7) whether the identity of the producer on sales documentation inferred such an agency relationship during the sales transactions. Due to the proprietary nature of MSSA's response, we have applied these factors to the facts of this case and included further analysis in our Preliminary Calculation Memorandum.

B. Calculation of U.S. Price

For the price to the United States, we used CEP in accordance with section 772(b) of the Act. We calculated CEP for those sales where a person in the United States, affiliated with the foreign exporter or acting for the account of the exporter, made the sale to the first unaffiliated purchaser in the United States of the subject merchandise. We based CEP on the packed prices charged to the first unaffiliated customer in the United States and the applicable terms of sale.

In accordance with section 772(c)(2) of the Act, we made deductions, where appropriate, for movement expenses including U.S. warehouse expense, inland freight, insurance, brokerage & handling, demurrage, international freight, and U.S. customs duties.

For CEP, in accordance with section 772(d)(1) of the Act, when appropriate, we deducted from the starting price those selling expenses that were incurred in selling the subject merchandise in the United States, including direct selling expenses (cost of credit and warranty). These expenses include certain indirect selling expenses incurred by affiliated U.S. distributors. *See Preliminary Calculation Memorandum*. We also deducted from CEP an amount for profit in accordance with sections 772(d)(3) and (f) of the Act.

Normal Value

A. Home Market Viability and Comparison Market Selection

To determine whether there was a sufficient volume of sales in the home market to serve as a viable basis for calculating NV, we compared the respondents' volume of home market sales of the foreign like product to the volume of its U.S. sales of the subject merchandise. Pursuant to section 773(a)(1)(B)(i) of the Act, because MSSA had an aggregate volume of home market sales of the foreign like product

that was greater than five percent of its aggregate volume of U.S. sales of the subject merchandise, we determined that the home market was viable. *See Date of Sale/Market Viability* section, above. *See also* March 21, 2008, Memorandum to The File, Subject: Determination of French Market as a Viable Market.

B. Arm's-Length Test

MSSA reported that its sales of the foreign like product were made to unaffiliated customers. Therefore, the arm's-length test is not applicable to MSSA's sales of the foreign like product.

C. Cost of Production Analysis

Based on our analysis of the petitioner's allegation stated in the petition, we found that there were reasonable grounds to believe or suspect that MSSA's sales of sodium metal in the home market were made at prices below its COP. Accordingly, pursuant to section 773(b) of the Act, we initiated a sales-below-cost investigation to determine whether MSSA had sales that were made at prices below its COP. *See* November 8, 2007, supplement to the petition at page 10. *See also; Initiation Notice* at page 65297.

1. Calculation of Cost of Production

In accordance with section 773(b)(3) of the Act, we calculated MSSA's COP based on the sum of its costs of materials and conversion for the foreign like product, plus amounts for general and administrative expenses and interest expenses (*see Test of Comparison Market Sales Prices* section, below, for the treatment of home market selling expenses).

The Department relied on the COP data submitted by MSSA in response to the Department's supplemental section D questionnaire.

2. Test of Comparison Market Sales Prices

On a product-specific basis, we compared the adjusted weighted-average COP to the home market sales of the foreign like product, as required under section 773(b) of the Act, in order to determine whether the sale prices were below the COP. For purposes of this comparison, we used the COP exclusive of selling and packing expenses. The prices were exclusive of any applicable movement charges, direct and indirect selling expenses, and packing expenses.

3. Results of the COP Test

Pursuant to section 773(b)(2)(C)(i) of the Act, where less than 20 percent of

a respondent's sales of a given product were at prices less than the COP, we did not disregard any below-cost sales of that product because we determined that the below-cost sales were not made in "substantial quantities." Where 20 percent or more of a respondent's sales of a given product during the POI were at prices less than the COP, we determined that such sales were made in "substantial quantities." See section 773(b)(2)(C) of the Act. Further, the sales were made within an extended period of time, in accordance with section 773(b)(2)(B) of the Act, because we examined below-cost sales occurring during the entire POI. In such cases, because we compared prices to POI-average costs, we also determined that such sales were not made at prices which would permit recovery of all costs within a reasonable period of time, in accordance with section 773(b)(2)(D) of the Act.

Our preliminary findings show that we did not find that more than 20 percent of MSSA's sales were at prices less than the COP and did not exclude any sales as a result of the COP test. Therefore, we used all of MSSA's home market sales as the basis for determining NV.

D. Calculation of Normal Value Based on Comparison Market Prices

We based home market prices on packed prices to unaffiliated purchasers in France. We adjusted the starting price for insurance, inland freight, and freight revenue, where appropriate, pursuant to section 773(a)(6)(B)(ii) of the Act.

When comparing U.S. sales with comparison market sales of similar, but not identical, merchandise, we also made adjustments for physical differences in the merchandise in accordance with section 773(a)(6)(C)(ii) of the Act and 19 CFR 351.411. We based this adjustment on the difference in the variable cost of manufacturing for the foreign like product and subject merchandise. See 19 CFR 351.411(b).

E. Level of Trade/Constructed Export Price Offset

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 CEP transaction. In identifying LOTs for comparison market sales (*i.e.*, NV based on home market), we consider the starting prices before any adjustments. For CEP sales, we consider only the selling activities reflected in the price after the deduction of expenses and profit under section 772(d) of the Act. See *Micron Technology, Inc. v. United*

States, 243 F.3d 1301, 1314 (Fed. Cir. 2001).

To determine whether NV sales are at a different LOT than EP or CEP transactions, 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 and the difference affects price comparability, as manifested in a pattern of consistent price differences between the sales on which NV is based and comparison market sales at the LOT of the export transaction, we make an LOT adjustment under section 773(a)(7)(A) of the Act. For CEP sales, if the NV LOT is more remote from the factory than the CEP LOT and there is no basis for determining whether the difference in the LOTs between NV and CEP affects price comparability, we adjust NV under section 773(a)(7)(B) of the Act (the CEP-offset provision).

MSSA reported sales made through one LOT corresponding to one channel of distribution in the home market. In the U.S. market, MSSA reported one LOT corresponding to three channels of distribution. MSSA made sales through its U.S. affiliates (*i.e.*, CEP sales). In our analysis, we determined that there is one LOT in the home market and one LOT in the U.S. market. We have found that home market sales are at a more advanced LOT than the CEP sales made through its U.S. affiliates. Accordingly, we have made CEP offsets to NV.

For a detailed description of our LOT methodology and a summary of the LOT findings for these preliminary results, see our analysis contained in the Preliminary Calculation Memorandum.

Currency Conversion

We made currency conversions into U.S. dollars in accordance with section 773A(a) of the Act based on exchange rates in effect on the dates of the U.S. sales, as certified by the Federal Reserve Bank.

All-Others Rate

Pursuant to section 735(c)(5)(A) of the Act, the all-others rate is equal to the weighted average of the estimated weighted-average dumping margins of all respondents investigated, excluding zero or *de minimis* margins. MSSA is the only respondent in this investigation and its rate is neither zero nor *de minimis*. Therefore, for purposes of determining the all-others rate and pursuant to section 735(c)(5)(A) of the Act, we are using the weighted-average dumping margin calculated for MSSA for the all-others rate, as referenced in

the *Suspension of Liquidation* section, below.

Verification

As provided in section 782(i) of the Act, we intend to verify all information upon which we will rely in making our final determination.

Suspension of Liquidation

In accordance with section 733(d)(2) of the Act, we are directing U.S. Customs and Border Protection (CBP) to suspend liquidation of all entries of sodium metal from France that are entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**. We are also instructing CBP to require a cash deposit or the posting of a bond equal to the weighted-average dumping margin, as indicated in the chart below. These suspension-of-liquidation instructions will remain in effect until further notice.

The weighted-average dumping margin is as follows:

Manufacturer/Exporter	Weighted-Average Margin (percent)
MSSA S.A.S.	62.62
All Others	62.62

Disclosure

We will disclose the calculations used in our analysis to parties in this proceeding in accordance with 19 CFR 351.224(b).

ITC Notification

In accordance with section 733(f) of the Act, we have notified the ITC of the Department's preliminary affirmative determination. If the Department's final determination is affirmative, the ITC will determine before the later of 120 days after the date of this preliminary determination or 45 days after our final determination whether imports of sodium metal from France are materially injuring, or threaten material injury to, the U.S. industry. Because we have postponed the deadline for our final determination to 135 days from the date of the publication of this preliminary determination, the ITC will make its final determination within 45 days of our final determination.

Public Comment

Interested parties are invited to comment on the preliminary determination. Interested parties may submit case briefs to the Department no later than seven days after the date of the issuance of the verification report in this proceeding. See 19 CFR 351.309(c)(1)(i). Rebuttal briefs, the

content of which is limited to the issues raised in the case briefs, must be filed within five days from the deadline date for the submission of case briefs. See 19 CFR 351.309(d)(1) and (2). A list of authorities used, a table of contents, and an executive summary of issues should accompany any briefs submitted to the Department. Executive summaries should be limited to five pages total, including footnotes. Further, we request that parties submitting briefs and rebuttal briefs provide the Department with a copy of the public version of such briefs on diskette. In accordance with section 774 of the Act, the Department will hold a public hearing, if requested, to afford interested parties an opportunity to comment on arguments raised in case or rebuttal briefs, provided that such a hearing is requested by an interested party. If a request for a hearing is made in this investigation, the hearing will tentatively be held two days after the rebuttal brief deadline date at the U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230, at a time and in a room to be determined. Parties should confirm by telephone, the date, time, and location of the hearing 48 hours before the scheduled date.

Interested parties who wish to request a hearing, or to participate in a hearing if one is requested, must submit a written request to the Assistant Secretary for Import Administration, U.S. Department of Commerce, Room 1870, within 30 days of the publication of this notice. Requests should contain: (1) The party's name, address, and telephone number; (2) the number of participants; and (3) a list of the issues to be discussed. See 19 CFR 351.310(c). At the hearing, oral presentations will be limited to issues raised in the briefs.

Postponement of Final Determination and Extension of Provisional Measures

Pursuant to section 735(a)(2) of the Act, on May 7, 2008, MSSA, which accounts for a significant proportion of exports of sodium metal from France, requested that in the event of an affirmative preliminary determination in this investigation, the Department fully extend the final determination (*i.e.*, postpone its final determination by 60 days). In its May 7, 2008, letter, MSSA also requested, pursuant to 733(d) of the Act, that in the event of an affirmative preliminary determination in this investigation, the Department extend the maximum duration of provisional measures from four months to six months from the date of implementation. See 735(a)(2) of the Act and 19 CFR 351.210(e)(2). In accordance

with section 733(d) of the Act and 19 CFR 351.210(b)(2)(ii), because (1) our preliminary determination is affirmative, (2) the requesting exporter accounts for a significant proportion of exports of the subject merchandise, and (3) no compelling reason for denial exists, we are granting MSSA's request and are postponing the final determination until no later than 135 days after the publication of this notice in the **Federal Register**. Suspension of liquidation will be extended accordingly.

This determination is issued and published pursuant to sections 733(f) and 777(i)(1) of the Act.

Dated: May 21, 2008.

Stephen J. Claeys,

Acting Assistant Secretary for Import Administration.

[FR Doc. E8-11876 Filed 5-27-08; 8:45 am]

BILLING CODE 3510-DS-S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648-XI10

Endangered Species; File No. 10037

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Issuance of permit.

SUMMARY: Notice is hereby given that Dr. Douglas Peterson, Warnell School of Forest Resources (Fisheries Division), University of Georgia, Athens, Georgia 30602, has been issued a permit to take shortnose sturgeon (*Acipenser brevirostrum*) for purposes of scientific research.

ADDRESSES: The permit and related documents are available for review upon written request or by appointment in the following office(s):

Permits, Conservation and Education Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910; phone (301)713-2289; fax (301)427-2521; and Southeast Region, NMFS, 263 13th Ave South, St. Petersburg, FL 33701; phone (727)824-5312; fax (727)824-5309.

FOR FURTHER INFORMATION CONTACT:

Malcolm Mohead or Kate Swails, (301)713-2289.

SUPPLEMENTARY INFORMATION: On September 11, 2007, notice was published in the **Federal Register** (72 FR 51803) that a request for a scientific research permit to take shortnose

sturgeon had been submitted by the above-named individual. The requested permit has been issued under the authority of the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*) and the regulations governing the taking, importing, and exporting of endangered and threatened species (50 CFR parts 222-226).

Dr. Peterson is authorized to conduct research on shortnose sturgeon for five years to assess the abundance, age structure, distribution, movement, and critical habitat on the Ogeechee River, Georgia, and will also investigate the adverse effects of estrogenic compounds. Researchers may capture up to 150 shortnose sturgeon annually using gill and trammel nets and also anesthetize, measure, weigh, tissue and fin-ray sample, and PIT tag these fish. A subset of up to 10 sturgeon annually (no more than 40 during the permit life) will be laparoscoped and implanted with internal radio tags; a subset of up to 5 sturgeon annually (no more than 20 during the permit life) will be laparoscoped and fitted with external radio tags; and a subset of up to 12 sturgeon will be health evaluated using laparoscopy and venipuncture annually. The unintentional mortality of up to 2 shortnose sturgeon annually is permitted. Additionally researchers may also lethally collect up to 40 shortnose sturgeon eggs/larvae annually using buffer pads in order to document spawning.

Issuance of this permit, as required by the ESA, was based on a finding that such permit (1) was applied for in good faith, (2) will not operate to the disadvantage of such endangered or threatened species, and (3) is consistent with the purposes and policies set forth in section 2 of the ESA.

Dated: May 21, 2008.

P. Michael Payne,

Chief, Permits, Conservation and Education Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. E8-11884 Filed 5-27-08; 8:45 am]

BILLING CODE 3510-22-S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648-XH97

Endangered Species; File No. 1595-02

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.