

result indicating a boron factor of 1.8 or greater.

Initiation of Minor Alterations Antidumping Circumvention Proceeding

Section 781(c)(1) of the Act provides that the Department may find circumvention of an antidumping duty order when products which are of the class or kind of merchandise subject to an antidumping duty order have been "altered in form or appearance in minor respects . . . whether or not included in the same tariff classification." The Department notes that, while the statute is silent as to what factors to consider in determining whether alterations are properly considered "minor," the legislative history of this provision indicates there are certain factors which should be considered before reaching a circumvention determination. In conducting a circumvention inquiry under section 781(c) of the Act, the Department has generally relied upon "such criteria as the overall physical characteristics of the merchandise, the expectations of the ultimate users, the use of the merchandise, the channels of marketing and the cost of any modification relative to the total value of the imported products." S. Rep. No. 71, 100th Cong., 1st Sess. 100 (1987) ("In applying this provision, the Commerce Department should apply practical measurements regarding minor alterations, so that circumvention can be dealt with effectively, even where such alterations to an article technically transform it into a differently designated article.").

As discussed below, certain domestic producers have presented evidence with respect to each of these criteria.

Overall Physical Characteristics

Certain domestic producers acknowledge that the presence of boron may be associated with enhanced hardenability of steel. *See id.* However, certain domestic producers have noted that other parameters are necessary for boron to have the effect in question (*see, e.g.,* September 10, 2008, submission at 5–9, and September 30, 2008, memorandum at 1–2). The limitation of the scope of this circumvention inquiry accounted for such circumstances. *See* "Merchandise Subject to the Minor Alterations Antidumping Circumvention Proceeding" section above. Unless these parameters are met, the boron is assumed to have no effect upon the hardenability of the steel. *See, e.g.,* September 10, 2008, submission at 6.

Expectations of the Ultimate Users

Certain domestic producers indicated they are unaware of any instances where customers expected or requested cut-to-length carbon steel plate with small amounts of boron added, other than to potentially avoid the added expenses to the plate products that result from the antidumping duties in place (*see* August 13, 2008, submission at 12), with the exception of those instances in which other parameters are fulfilled to allow enhanced hardenability of the product. As noted, the scope of the inquiry was limited to account for this exception. *See Overall Physical Characteristics* sub-section above.

Use of the Merchandise

Certain domestic producers state the product at issue is used for the same purposes as subject merchandise. *See* August 13, 2008, submission at 12. This is consistent with their later claim that the presence of the additional amounts of boron, in and of itself, is insignificant in terms of adding beneficial attributes to the steel. *See* September 10, 2008, submission at 4.

Channels of Marketing

Certain domestic producers state the channels of marketing for the boron-added cut-to-length plate and the subject plate are the same, noting that both products are marketed in the same manner, appeal to the same end users, and are used for the same end uses. *See* August 13, 2008, submission at 12. They note an electronic mail offer involving Tianjin and Toyota Tsusho directly targets U.S. customers of subject merchandise. *See id.* at 12–13 and Exhibit 1; *see also* September 10, 2008, submission at 3.

Cost of Modification

Certain domestic producers indicated the addition of boron at levels recognized as alloy amounts by the tariff schedule involve minimal additional cost. They cite the Department's finding in a previous ruling that reaching the 0.0008 percent threshold involved a cost amounting to only about one-third of one percent of the sales price. *See* August 13, 2008, submission at 13; *see also Preliminary Determination of Circumvention of Antidumping Order: Cut-to-Length Carbon Steel Plate From Canada*, 65 FR 64926, 64928 (October 31, 2000) (unchanged at *Final Canada Plate Determination*).

Based on the information provided by certain domestic producers, the Department finds there is sufficient basis to initiate an antidumping circumvention inquiry pursuant to section 781(c) of the Act to determine

whether the merchandise subject to the inquiry (identified in the "Merchandise Subject to the Minor Alterations Antidumping Circumvention Proceeding" section above) involves a minor alteration to subject merchandise that is so insignificant as to render the resulting merchandise (classified as "alloy" steel under the HTSUS) subject to the antidumping duty order on certain cut-to-length carbon steel plate from the PRC.

The Department intends to issue its final determination within 300 days of the date of publication of this notice.

The Department will not order the suspension of liquidation of entries of any additional merchandise at this time. However, in accordance with 19 CFR 351.225(l)(2), if the Department issues a preliminary affirmative determination, we will then instruct U.S. Customs and Border Protection to suspend liquidation and require a cash deposit of estimated duties on the merchandise.

We intend to notify the International Trade Commission in the event of an affirmative preliminary determination of circumvention, in accordance with 781(e)(1) of the Act and 19 CFR 351.225(f)(7)(i)(C). The Department will, following consultation with interested parties, establish a schedule for questionnaires and comments on the issues. As noted above, the Department intends to issue its final determinations within 300 days of the date of publication of this initiation.

This notice is published in accordance with sections 781(c) and (d) of the Act and 19 CFR 351.225(i).

Dated: October 10, 2008.

David Spooner,

Assistant Secretary for Import Administration.

[FR Doc. E8–24910 Filed 10–17–08; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[A–427–827]

Sodium Metal from France: Notice of Final Determination of Sales at Less Than Fair Value and Negative Critical Circumstances

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

SUMMARY: The Department of Commerce (the Department) has determined that sodium metal from France is being, or is likely to be, sold in the United States at less than fair value (LTFV), as provided in section 735 of the Tariff Act

of 1930, as amended (the Act). The estimated margins of sales at LTFV are listed below in the section entitled "Continuation of Suspension of Liquidation."

EFFECTIVE DATE: October 20, 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: On May 28, 2008, the Department published in the *Federal Register* its preliminary determination in the antidumping duty investigation of sodium metal from France. See *Sodium Metal from France: Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination*, 73 FR 30605 (May 28, 2008) (*Preliminary Determination*).

In the *Preliminary Determination*, based on our examination of E.I. DuPont de Nemours & Co. Inc.'s (the petitioner) targeted dumping allegation filed on April 21, 2008, we determined that there is no pattern of constructed export prices for comparable merchandise that differs significantly among purchasers. Therefore, we applied the average-to-average methodology to all U.S. sales by MSSA S.A.S., MSSA Co., and Columbia Sales International (collectively, MSSA). In the *Preliminary Determination*, the Department invited comments regarding the overall application of the targeted dumping test applied in this proceeding. Accordingly, we received comments within the case briefs submitted by the petitioner and MSSA on July 25, 2008. The petitioner and MSSA submitted rebuttal comments on July 30, 2008.

We conducted sales and cost verifications of the responses submitted by MSSA. See Memorandum to the File from Dennis McClure and Joy Zhang, Case Analysts, through James Terpstra, Program Manager, Office 3, entitled "Verification of the Sales Response of MSSA S.A.S., MSSA Co., and Columbia Sales International in the Antidumping Duty Investigation of Sodium Metal from France," dated July 18, 2008 (Sales Verification Report); see also Memorandum to the File through Neal M. Halper, from LaVonne Clark, entitled "Verification of the Cost Response of MSSA S.A.S. in the Antidumping Investigation of Sodium Metal from France," dated July 1, 2008 (Cost Verification Report). All verification reports are on file and available in the

Central Records Unit (CRU), Room 1117 of the main Department of Commerce building.

Based on the Department's findings at verification, as well as the minor corrections presented by MSSA at the start of its respective verifications, we requested during verification that respondents submit revised sales databases. As requested, MSSA submitted its revised sales databases at verification on July 16, 2008.

On September 15, 2008, the petitioner submitted an allegation of critical circumstances. MSSA submitted comments responding to the petitioner's allegation of critical circumstances on September 25, 2008.

Period of Investigation

The period of investigation (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 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.

Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties to this antidumping investigation are addressed in the "Issues and Decision Memorandum for the Antidumping Duty Investigation of Sodium Metal from France" from Stephen J. Claeys, Deputy Assistant Secretary for Import Administration, to David M. Spooner, Assistant Secretary for Import Administration (Decision Memorandum), dated October 10, 2008, which is hereby adopted by this notice. A list of the issues which parties have raised and to which we have responded, all of which are in the Decision Memorandum, is attached to this notice as an appendix. Parties can find a complete discussion of all issues raised in this investigation and the

corresponding recommendations in the Decision Memorandum, which is on file in the CRU. In addition, a complete version of the Decision Memorandum can be accessed directly on the Web at <http://ia.ita.doc.gov/frn/>. The paper copy and electronic version of the Decision Memorandum are identical in content.

Targeted Dumping

In the *Preliminary Determination*, with respect to targeted dumping, we followed the methodology outlined in the post-preliminary targeted dumping analysis in the investigations of Certain Steel Nails from the PRC and the UAE. SEE Memorandum to David M. Spooner, Assistant Secretary for Import Administration, from Stephen J. Claeys, Deputy Assistant Secretary for Import Administration, RE: Antidumping Duty Investigation of Certain Steel Nails from the Peoples Republic of China (PRC) and the United Arab Emirates (UAE), Subject: Post-Preliminary Determinations on Targeted Dumping, dated April 21, 2008 (April 21, 2008 Nails decision memorandum).¹ Based on the targeted dumping test that we applied in the *Preliminary Determination*, we did not find a pattern of constructed export prices for comparable merchandise that differ significantly among customers.² As a result, we applied the average-to-average methodology to the constructed export prices of all of MSSA's sales to the United States during the POI and calculated a preliminary margin of 62.62 percent for MSSA.³

In the *Preliminary Determination*, the Department applied the Nails targeted dumping test based on the methodology outlined in the April 21, 2008 Nails decision memorandum and found no targeted dumping. We have analyzed the case and rebuttal briefs⁴ with respect to targeted dumping issues submitted for the record in this investigation and considered the changes made to the targeted dumping test applied in the final determinations of UAE and PRC Nails and PRC Tires.⁵

¹ See *Preliminary Determination* at 30606.

² *Id.* at 30607.

³ *Id.* at 30609.

⁴ See the petitioner's case brief, dated July 25, 2008; see also: MSSA's rebuttal brief, dated July 30, 2008, respectively.

⁵ See *Certain Steel Nails from the United Arab Emirates: Notice of Final Determination of Sales at Not Less Than Fair Value*, 73 FR 33985 (June 16, 2008) and accompanying Issues and Decision Memorandum (*Steel Nails from the UAE*) dated June 6, 2008, at Comment 5; see also: *Certain Steel Nails from the People's Republic of China: Final Determination of Sales at Less Than Fair Value and Partial Affirmative Determination of Critical*

As a result of our analysis, we utilized the Nails targeted dumping test from the *Preliminary Determination* and applied certain modifications from *Nails and PRC Tires* for purposes of the final determination.⁶

As in the *Preliminary Determination*, we did not find a pattern of export prices for comparable merchandise that differ significantly among customers. For further discussion, see Comments 2 and 3 of the Decision Memorandum and the Memorandum to James Terpstra, Program Manager for the Office of AD/CVD Operations, from Dennis McClure and Joy Zhang, Analysts for the Office of AD/CVD Operations, RE: Antidumping Duty Investigation of Sodium Metal from France, Subject: Final Analysis Memorandum for Sales MSSA, dated October 10, 2008 (Final Analysis Memorandum).

Critical Circumstances

On September 15, 2008, the petitioner filed a critical circumstances allegation with respect to imports of sodium metal from France. On September 25, 2008, MSSA submitted comments and monthly shipment data in response to the petitioner's allegation. Although the Department found that in accordance with section 735(a)(3)(A)(ii) of the Act, the person by whom, or for whose account, the merchandise was imported knew or should have known that the exporter was selling the subject merchandise at less than its fair value and there was likely to be material injury of such sales, the Department has made a final negative determination concerning critical circumstances for MSSA and all other French manufacturers and exporters because, in accordance with section 735(a)(3)(B) of the Act, and based on MSSA's shipment data, MSSA and all other companies did not have massive imports during a relatively short period. See Memorandum to Stephen J. Claeys, Deputy Assistant Secretary for Import Administration, from Melissa Skinner, Director, AD/CVD Operations, Subject: Antidumping Duty Investigation of Sodium Metal from France, Regarding: Final Negative Determination of Critical

Circumstances, dated October 10, 2008, which is hereby adopted by this notice.

Verification

As provided in section 782(i) of the Act, we verified the sales and cost information submitted by MSSA for use in our final determination. We used standard verification procedures including an examination of relevant accounting and production records, and original source documents provided by MSSA. See Sales Verification Report and Cost Verification Report.

Changes Since the Preliminary Determination

Based on our analysis of the comments received and our findings at verification, we have made certain changes to the margin calculation for MSSA. For a discussion of these changes, see the Decision Memorandum at Comments 6, 8, 10, and 11, Final Analysis Memorandum, and Memorandum to Neal M. Halper, Director, Office of Accounting, from LaVonne Clark, Senior Accountant, Reference: Antidumping Duty Investigation of Sodium Metal from France, Subject: Cost of Production and Constructed Value Calculation Adjustments for the Final Determination MSSA S.A.S., MSSA Co., and Columbia Sales International, Inc. (collectively "MSSA"), dated October 10, 2008.

Final Determination Margins

We determine that the following weighted-average dumping margin exists for the period October 1, 2006, to September 30, 2007:

Manufacturer/Exporter	Weighted-Average Margin (percent)
MSSA S.A.S.	66.64
All Others	66.64

Disclosure

We will disclose the calculations performed within five days of the date of publication of this notice to parties in this proceeding in accordance with 19 CFR 351.224(b).

Continuation of Suspension of Liquidation

Pursuant to section 735(c)(1)(B) of the Act, we will instruct Customs and Border Protection (CBP) to continue to suspend liquidation of all entries of subject merchandise from France, entered, or withdrawn from warehouse, for consumption on or after May 28, 2008, the date of publication of the *Preliminary Determination*. We will instruct CBP to require a cash deposit or the posting of a bond equal to the

weighted-average dumping margin, as indicated in the chart above, as follows: (1) the rate for MSSA S.A.S. will be 66.64 percent; (2) if the exporter is not a firm identified in this investigation, but the producer is, the rate will be the rate established for the producer of the subject merchandise; (3) the rate for all other producers or exporters will be 66.64 percent. The suspension of liquidation instructions will remain in effect until further notice.

International Trade Commission Notification

In accordance with section 735(d) of the Act, we have notified the International Trade Commission (ITC) of our final determination. As our final determination is affirmative and in accordance with section 735(b)(2) of the Act, the ITC will determine, within 45 days, whether the domestic industry in the United States is materially injured, or threatened with material injury, by reason of imports or sales (or the likelihood of sales) for importation of the subject merchandise. If the ITC determines that material injury or threat of material injury does not exist, the proceeding will be terminated and all securities posted will be refunded or canceled. See section 735(c)(2) of the Act. If the ITC determines that such injury does exist, the Department will issue an antidumping duty order directing CBP to assess antidumping duties on all imports of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the effective date of the suspension of liquidation.

Notification Regarding APO

This notice also serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305. Timely notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

This determination is issued and published pursuant to sections 735(d) and 777(i)(1) of the Act.

Circumstances, 73 FR 33977 (June 16, 2008) and accompanying Issues and Decision Memorandum (*Steel Nails from the PRC*) dated June 6, 2008, at Comments 3, 5, and 9 (collectively, *Nails*); see also: *Certain New Pneumatic Off-The-Road Tires from the People's Republic of China: Final Affirmative Determination of Sales at Less Than Fair Value and Partial Affirmative Determination of Critical Circumstances*, 73 FR 40480 (July 15, 2008) and accompanying Issues and Decision Memorandum (*PRC Tires*) dated July 7, 2008, at Comments 23. B and 23. G.

⁶ *Id.*

Dated: October 10, 2008.

David M. Spooner,

Assistant Secretary for Import Administration.

Appendix -- Issues in Decision Memorandum

ISSUES

Comment 1: Whether the Department Should Include "Form" As Part of Model Match Criteria

Comment 2: Whether the Department Should Calculate the Antidumping Duty Margin using the Transaction-to-Transaction Methodology

Comment 3: Whether the Department's Targeted Dumping Test is Flawed and Should be Replaced with the "preponderance at two percent test" (P/2 test)

Comment 4: Whether the Department Should Alter Its Level of Trade Analysis
Comment 5: Whether the Department Should Calculate Certain Home Market Packing Expenses Based on Facts Available

Comment 6: Whether the Department Should Re-allocate Indirect Selling Expenses Based on Sales Value

Comment 7: Whether the Department Should Deduct Freight from Transfer Price Before Calculating Domestic Indirect Selling Expenses

Comment 8: Whether the Department Should Correct MSSA Co.'s Inventory Carrying Costs in the United States

Comment 9: Whether the Department Incorrectly Characterized MSSA Co.'s Quantity and Value Reconciliation

Comment 10: Whether the Department Correctly Calculated Indirect Selling Expenses Incurred in the Home Market for Purposes of the CEP Deduction

Comment 11: Whether the Department Should Consider Certain Expenses Reported as Indirect Selling Expenses as Direct Deductions from the U.S. Price

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DEPARTMENT OF COMMERCE

International Trade Administration

Notice of Request for Public Comment

AGENCY: International Trade Administration, Department of Commerce.

ACTION: Notice of request for public comment.

SUMMARY: The Department of Commerce's International Trade Administration (ITA) is seeking U.S. companies and industry associations in the field of Information and Communication Technologies (ICT) who

are interested in the Vietnam's business climate for U.S. products or services and how policy issues may have an impact on trade and investment in this sector. In 2007, the ITA launched the U.S.-Vietnam ICT Commercial Dialogue with the Ministry of Information and Communications (MIC) in Vietnam to discuss various ICT issues that have an impact on trade between our two countries. The U.S. and Vietnamese companies that participated in the meeting made several recommendations for future areas of cooperation. To continue facilitating input from the private sector, ITA and MIC agreed to create a Business Advisory Group under the Dialogue and encourage wide participation from both countries. The main objectives of the Business Advisory Group are to identify areas of mutual concern to be potentially addressed by the Working Group of the U.S.-Vietnam ICT Commercial Dialogue, and to coordinate activities that could be considered deliverables for the Dialogue. Examples of issues that have been covered so far include advancement of telecom infrastructure, protection of intellectual property rights for software, and supporting electronic commerce by developing legal frameworks for data privacy.

DATES: November 12-13, 2008.

ADDRESSES: Inquiries about participation in the Business Advisory Group should be addressed to the contact below, and received by close of business on Monday, November 10, 2008.

FOR FURTHER INFORMATION CONTACT: Cora Dickson, U.S. Department of Commerce, Office of Technology and Electronic Commerce, 1401 Constitution Avenue, NW., Room 4327, Washington, DC 20230; *Telephone:* 202-482-6083; *Fax:* 202-482-5834; *e-mail:* cora.dickson@mail.doc.gov.

SUPPLEMENTARY INFORMATION: The Business Advisory Group is expected to have participants from U.S. and Vietnamese companies or associations and generally be responsible for developing their own internal communication and consultation mechanisms, including informal meetings. Participation in the Business Advisory Group should be open to any ICT companies and industry associations who wish to contribute to the Dialogue. However, due to space constraints, only two representatives per company and/or organization can attend the upcoming Business Advisory Group meeting, which will be hosted at the Department of Commerce in Washington on November 12 in

preparation for the U.S.-Vietnam ICT Commercial Dialogue Working Group meeting on November 13.

Dated: October 14, 2008.

Robin Layton,

Director, Office of Technology and Electronic Commerce.

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DEPARTMENT OF COMMERCE

International Trade Administration

Notice of Request for Public Comment

AGENCY: International Trade Administration, Department of Commerce.

ACTION: Notice of request for public comment.

SUMMARY: The Department of Commerce's International Trade Administration (ITA) is seeking U.S. academic institutions, training centers, and other interested parties who would like to organize joint activities with their counterparts in Vietnam in the field of Information and Communication Technologies (ICT). In 2007, the ITA launched the U.S.-Vietnam ICT Commercial Dialogue with the Ministry of Information and Communications (MIC) in Vietnam to discuss various ICT issues that have an impact on trade between our two countries. The U.S. and Vietnamese companies that participated in the meeting recommended the establishment of a "public/private partnership for the development of human resources through technical training programs." Therefore MIC has proposed that an Academic Advisory Group be created in addition to a Business Advisory Group under the Dialogue.

The objective of the Academic Advisory Group would be to facilitate an exchange of ideas on the best curriculum to meet the needs of ICT growth, and to increase opportunities for Vietnamese citizens to study in the ICT field in Vietnam through distance learning mechanisms, or at United States institutions.

The initial meeting of the Academic Advisory Group, to be held via videoconference, is tentatively scheduled for November 12, 2008. A representative of the group would make a brief report at the ICT Dialogue Working Group meeting on November 13 in Washington, DC. A follow-up meeting is anticipated in January 2009 in Hanoi.

DATES: November 12-13, 2008.