

antidumping duties occurred and the subsequent assessment of double antidumping duties.

This administrative review is issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: August 31, 2006.

**David M. Spooner,**

*Assistant Secretary for Import Administration.*

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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 Partial Rescission**

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

**SUMMARY:** In response to a request from 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 from Romania. The period of review ("POR") is August 1, 2004, through July 31, 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 MS Galati had prior knowledge of the destination of the subject merchandise it produced, and MEI does not produce or take title to the subject merchandise, we are assigning a preliminary dumping margin to MS Galati only and rescinding 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:** September 11, 2006

**FOR FURTHER INFORMATION CONTACT:**

Dena Crossland or John Drury, AD/CVD

Operations, Office 7, Import Administration, International Trade Administration, U.S. Department of Commerce, 14<sup>th</sup> Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-3362 or (202) 482-0195, respectively.

#### **SUPPLEMENTARY INFORMATION:**

##### **Background**

On August 1, 2005, the Department published a notice of opportunity to request an administrative review of the antidumping duty order on certain cut-to-length carbon steel plate from Romania for the period August 1, 2004, through July 31, 2005. *See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity To Request Administrative Review*, 70 FR 44085 (August 1, 2005). On August 31, 2005, the Department received two timely requests for an administrative review of this order. The Department received a timely request from Nucor Corporation, a domestic producer, requesting that the Department conduct an administrative review of shipments exported to the United States from MS Galati. In addition, the Department received a timely request from MS Galati, requesting that the Department conduct an administrative review of subject merchandise produced by MS Galati and exported by MS Galati or MEI.<sup>1</sup>

On September 28, 2005, the Department initiated an administrative review of the antidumping duty order on certain cut-to-length carbon steel plate from Romania, for the period covering August 1, 2004, through July 31, 2005, 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 and Request for Revocation in Part*, 70 FR 56631 (September 28, 2005). On October 13, 2005, the Department issued an antidumping duty questionnaire to MS Galati.

On November 10, 2005, we received the Section A questionnaire response from MS Galati. On December 1, 2004, and January 26, 2006, respectively, MS Galati filed its Section B and C questionnaire responses, and MEI stated in a separate filing that it did not have any home market ("HM") sales during the POR and, thus, would not be filing a Section B response. On January 23, 2006, the Department issued a supplemental questionnaire regarding

MS Galati's Sections A through C questionnaire responses. On March 22, 2005, MS Galati submitted its response to the supplemental questionnaire. On April 11, 2006, the Department issued a second supplemental questionnaire with regard to Sections A through D, and received MS Galati's response on April 27, 2006.

On December 23, 2005, IPSCO submitted allegations of sales below the cost of production ("COP") against MS Galati, and, on January 12, 2006, MS Galati submitted its rebuttal comments. Upon a thorough review of IPSCO's allegation and MS Galati's comments, the Department initiated a sales-below-cost investigation on January 23, 2006, and instructed MS Galati to respond to Section D of the antidumping questionnaire. On February 12, 2006, the Department received MS Galati's Section D Response. On March 15, 2006, the Department issued a supplemental questionnaire regarding MS Galati's Section D questionnaire response. On April 6, 2006, we received MS Galati's supplemental questionnaire response.

On April 19, 2006, due to the complexity of the case and pursuant to section 751(a)(3)(A) of the Tariff Act of 1930, as amended ("the Act"), the Department postponed the preliminary results in this administrative review until no later than August 31, 2006. *See Certain Cut-to-Length Carbon Steel Plate from Romania: Notice of Extension of Time Limit for the Preliminary Results of the Antidumping Duty Administrative Review*, 71 FR 20076 (April 19, 2006).

#### **Notice of Intent To Rescind Review in Part**

Pursuant to section 351.213(d)(3) of the Department's regulations, 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). As discussed above, MEI stated in its January 26, 2006, letter that it did not have any HM sales. Regarding sales of subject merchandise to the United States, during verification, we found that a) MEI is not the producer of subject merchandise, b) MEI does not

<sup>1</sup> On September 29, 2005, IPSCO Steel Inc. ("IPSCO") submitted a letter indicating its entry of appearance as a domestic interested party.

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* Memorandum to the File, through Abdelali Elouaradia, Program Manager, Verification of the Home Market and U.S. Sales Responses of Mittal Steel Galati S.A. in the Antidumping Duty Administrative Review of Certain Cut-to-Length Carbon Steel Plate from Romania, dated August 25, 2006. Therefore, the Department concludes that during the POR, MEI did not produce or export subject merchandise other than merchandise produced by MS Galati, and accordingly we are preliminarily rescinding the review with respect to MEI.

### Scope of the Order

The products covered by this order 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 7208.31.0000, 7208.32.0000, 7208.33.1000, 7208.33.5000, 7208.41.0000, 7208.42.0000, 7208.43.0000, 7208.90.0000, 7210.70.3000, 7210.90.9000, 7211.11.0000, 7211.12.0000, 7211.21.0000, 7211.22.0045, 7211.90.0000, 7212.40.1000, 7212.40.5000, and 7212.50.0000. Included under this order 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.

### Verification

As provided in section 782(I) of the Act, and section 351.307 of the Department's regulations, we conducted sales and cost verifications of the questionnaire responses of MS Galati and Mittal Steel North America ("MSNA"). We used standard verification procedures, including on-site inspection of MS Galati's production facility. Our verification results are outlined in the following memoranda: (1) Memorandum to the File, through Peter Scholl, Program Manager, Verification of the Cost Response of Mittal Steel Galati S.A. in the Antidumping Duty Administrative Review of Certain Cut-to-Length Carbon Steel Plate from Romania, dated August 21, 2006 ("MS Galati Cost Verification Report"); (2) Memorandum to the File, through Abdelali Elouaradia, Program Manager, Verification of the Home Market and U.S. Sales Responses of Mittal Steel Galati S.A. in the Antidumping Duty Administrative Review of Certain Cut-to-Length Carbon Steel Plate from Romania, dated August 31, 2006 ("MS Galati Sales Verification Report"); and (3) Memorandum to the File, through Abdelali Elouaradia, Program Manager, Verification of U.S. Sales Information Submitted by Mittal Steel Galati, S.A. ("MS Galati") in the Antidumping Duty Administrative Review of Certain Cut-to-Length Carbon Steel Plate from Romania, dated August 30, 2006 ("CEP Verification Report"). Public versions of these reports are on file in the Central Records Unit ("CRU") located in room B-099 of the Main Commerce Building.

### Currency Conversion

We made currency conversions pursuant to section 351.415 of the Department's regulations based on the rates certified by the Federal Reserve Bank.

### 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* section 351.401(I) of the Department's regulations. 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.*

For the present review, MS Galati reported the date of order acknowledgment as the date of sale for its U.S. sales and invoice date as the

date of sale for its home market sales. Regarding its U.S. sales, MS Galati stated that after it agrees on the sales terms with its customer, it issues an order acknowledgment that specifically states that all parties agree that the terms are fixed. According to MS Galati, because of the long lead times between order acknowledgment date and invoice date, it decided to fix the U.S. sales terms with the order acknowledgment to guarantee price stability for its U.S. sales. Regarding its home market sales, MS Galati stated that it issues a contract addendum to the customer, which functions like an order acknowledgment, and then issues an invoice to the customer on or a few days after the date the merchandise is shipped. According to MS Galati, the terms of sale can change up to the date of shipment.

In reviewing all information on the record, including transaction-specific information examined at verification, we preliminarily find that the terms of sale for MS Galati's U.S. sales did not change from the order acknowledgment to the invoice. For home market sales, the Department examined at verification whether the date that MS Galati issued its addendum or the date it issued its invoice best reflects the date of sale, and determined that the invoice date should be the date of sale if the invoice is issued on or before the shipment date, and shipment date should be the date of sale if the invoice is issued after the shipment date. Therefore, for these preliminary results, the Department will use the order acknowledgment 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 August 31, 2006 ("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 CRU.

### 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 constructed export price ("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 constructed export prices 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 Order" section above, which were produced and sold by MS Galati in the HM during the POR, to be 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 13, 2005.

### 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). 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 below for further analysis.

For this sales 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) 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 have based the determination of NV upon the HM sales of the foreign like product. 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 level of trade ("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. Cost of Production Analysis

Based on a cost allegation submitted by the petitioner pursuant to section 351.301(d)(2)(ii) of the Department's regulations, we found reasonable

grounds to believe or suspect that MS Galati made sales of the foreign like product at prices below the COP, as provided by section 773(b)(2)(A)(ii) of the Act. Therefore, pursuant to section 773(b)(1) of the Act, we initiated a COP investigation of sales by MS Galati. See Memorandum to Richard O. Weible, Director, through Abdelali Elouaradia, Program Manager, from John Drury and Dena Aliadinov, Case Analysts, and Ernest Gziryan, Case Accountant, regarding IPSCO Steel Inc.'s Allegation of Sales Below the Cost of Production for Mittal Steel Galati S.A., dated January 23, 2006, on file in the CRU. The Department has conducted an investigation to determine whether MS Galati made HM sales at prices below their COP during the POR within the meaning of section 773(b) of the Act. We conducted the COP analysis in the "Calculation of Cost of Production" section as described below.

Because the Department initiated a sales-below-cost investigation, we instructed MS Galati to submit its response to Section D of the Department's Antidumping Questionnaire. MS Galati submitted its response to the Section D questionnaire on February 21, 2006, and its response to the Department's Section D supplemental questionnaire of March 15, 2006, on April 6, 2006.

#### 1. Calculation of Cost of Production

In accordance with section 773(b)(3) of the Act, we calculated a weighted-average COP based on the sum of the cost of materials and fabrication for the foreign like product, plus amounts for the HM general and administrative ("G&A") expenses, interest expenses, and packing expenses. We relied on the COP data submitted by MS Galati in its cost questionnaire responses with the following exceptions:

- We corrected certain computer fields in MS Galati's cost database which were incorrectly reported due to clerical errors.
- We increased the reported costs for byproduct revenue which was erroneously taken as an offset due to a clerical error.
- We adjusted the transfer prices for certain inputs purchased from affiliated suppliers pursuant to section 773(f)(2) of the Act.
- We revised the reported G&A expenses to include certain provisions and taxes. We adjusted the denominator used to calculate the G&A expense rate to account for changes in finished goods inventory.

– In the reported cost database MS

Galati used the financial expense rate which was based on 2004 financial statements of the parent Mittal Steel Company. We revised the reported financial expense rate to use the financial statements of Mittal Steel Company for the year 2005 because it most closely corresponds to the POR. In addition, we adjusted the reported financial expense rate to disallow offset for the short-term interest income because MS Galati did not provide supporting details for the claimed offset.

- We applied the G&A and financial expense rates to the cost of manufacturing including packing expenses, because MS Galati did not remove packing costs from the denominators used to calculate these ratios.

## 2. Test of Home Market Sales Prices

We compared the weighted-average COP for MS Galati to its HM sales prices of the foreign like product, as required under section 773(b) of the Act, to determine whether these sales were made at prices below the COP within an extended period of time (*i.e.*, a period of one year) in substantial quantities and whether such prices were sufficient to permit the recovery of all costs within a reasonable period of time.

On a model-specific basis, we compared the revised COP to the HM prices, less any applicable movement charges and direct and indirect selling expenses.

## 3. Results of the COP Test

We disregarded below-cost sales where (1) 20 percent or more of MS Galati's sales of a given product during the POR were made at prices below the COP, and thus such sales were made within an extended period of time in substantial quantities in accordance with sections 773(b)(2)(B) and (C) of the Act, and (2) based on comparisons of price to weighted-average COPs for the POR, we determined that the below-cost sales of the product were at prices which would not permit recovery of all costs within a reasonable time period, in accordance with section 773(b)(2)(D) of the Act. We found that MS Galati made sales below cost and we disregarded such sales where appropriate.

## C. 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. Sales to affiliated

customers in the HM not made at arm's length were excluded from our analysis. See section 351.403(c) of the Department's regulations. 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 (November 15, 2002).

## D. 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.

During the sales verification in Romania, the Department was unable to verify inland freight expenses from the plant to the port of exportation (field DINLFTP1U in the U.S. market sales database). See MS Galati Sales Verification Report. Therefore, we have used the highest reported freight value contained in Verification Exhibit 33 for all of the U.S. market sales. See Analysis Memo, dated August 31, 2006, for further discussion of this and other adjustments we made as a result of our findings during the verifications.

## 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 LOT as the EP or CEP transaction. See also section 351.412 of the Department's regulations. 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 section 351.412(c)(1)(ii) of the Department's regulations. As noted in the "Constructed Export Price" section above, 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,<sup>2</sup> 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 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 10, 2005, at pages 15 and 16, and MS Galati's February 23, 2006, Supplemental Questionnaire Response ("SQR") at pages 6 through 8.

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 page 17 and Exhibit 5, MS Galati Sales Verification Report, and Verification Exhibit 1. 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 through MEI as the exporter of record, *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 page 17 and Exhibit 5, the MS Galati Sales Verification Report, and Verification Exhibit 1. 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 preliminarily 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 772 (d) of the Act) to the selling functions provided in the HM. We found that MS Galati provides significant selling functions related to the sales process and marketing support, and warranty and technical service in the HM, 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 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 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.

#### Preliminary Results of Review

We preliminarily determine that the following margin is the weighted-average antidumping duty margin of the POR:

| Manufacturer/Exporter          | POR                 | Margin                             |
|--------------------------------|---------------------|------------------------------------|
| Mittal Steel Galati, S.A. .... | 08/01/04 - 07/30/05 | 0.07 percent ( <i>de minimis</i> ) |

#### Assessment

The Department shall determine, and U.S. Customs and Border Protection (CBP) shall assess, antidumping duties on all appropriate entries. The Department will issue appropriate instructions directly to the CBP within 15 days of the publication of the final results of this review.

On May 11, 2006, the Department sent a letter to Assistant Commissioner

Jayson Ahern, CBP, to alert CBP to what appeared to be a number of premature liquidations of entries of merchandise. This issue arose after the completion of the 2003/2004 administrative review for cut-to-length carbon steel plate from Romania on February 10, 2006. On March 7, 2006, the Court of International Trade issued an injunction enjoining liquidation of entries covered under the 2003/2004 review. In

response to instructions regarding the injunction, CBP informed the Department that the majority of entries covered by the review had already been liquidated. As a result, the Department made a customs inquiry regarding the entries of cut-to-length carbon steel plate from Romania for the instant review, and found that the majority of these entries were already liquidated as of April 21, 2006.

<sup>2</sup> 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.

Due to the premature liquidation of entries, the Department is considering whether to allocate the total antidumping duties over the remaining unliquidated entries, if the Department calculates an above *de minimis* weighted-average dumping duty margin in the final results of review. We invite interested parties to comment on this proposal.

#### Cash-Deposit Requirements

Further, the following deposit requirements will be effective upon publication of the notice of final results of administrative review for all shipments of cut-to-length carbon steel plate entered, or withdrawn from warehouse, for consumption on or after the date of publication, as provided by section 751(a)(1) of the Act: (1) The cash-deposit rate for MS Galati will be the rate established in the final results of review, except if the rate is less than 0.50 percent and, therefore, *de minimis* within the meaning of section 351.106(c)(1) of the Department's regulations, in which case the cash deposit rate will be zero; (2) for previously reviewed or investigated companies not mentioned above, the cash-deposit rate will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review, a prior review, or the less-than-fair-value ("LTFV") investigation but the manufacturer is, then the cash-deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and (4) if neither the exporter nor the manufacturer is a firm covered in this review, a prior review, or the LTFV investigation, the cash deposit rate will be 75.04 percent, the "country-wide" rate established in the less-than-fair-value investigation. These deposit requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

#### 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 section 351.224(b) of the Department's regulations. 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 section 351.309(c)(ii) of the Department's regulations. Rebuttal briefs and rebuttals to written comments 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 section 351.309(d) of the Department's regulations. Parties submitting arguments in this proceeding are requested to submit with the argument: (1) A statement of the issue, (2) a brief summary of the argument, and (3) a table of authorities. Case and rebuttal briefs and comments must be served on interested parties in accordance with section 351.303(f) of the Department's regulations.

Any interested party may request a hearing within 30 days of publication of this notice in accordance with section 351.310(c) of the Department's regulations. Unless otherwise specified, the hearing, if requested, will be held two days after the date for submission of rebuttal briefs, or the first business day thereafter. 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, 14<sup>th</sup> 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 section 351.402(f) of the Department's regulations 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.

This administrative review and this notice are published in accordance with

sections 751(a)(1) and 777(I)(1) of the Act.

Dated: August 31, 2006.

**David M. Spooner,**

*Assistant Secretary for Import Administration.*

[FR Doc. E6-14911 Filed 9-8-06; 8:45 am]

**BILLING CODE 3510-DS-S**

## DEPARTMENT OF COMMERCE

### International Trade Administration

(A-428-816)

#### Certain Cut-to-Length Carbon Steel Plate from Germany: Notice of Preliminary Results of Antidumping Duty Administrative Review

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

**SUMMARY:** In response to a request from Nucor Corporation (the petitioner), 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 Germany for the period of review (POR) August 1, 2004, through July 31, 2005. This review covers AG der Dillinger Huttenwerke, manufacturer of the subject merchandise, and its U.S. affiliate, Arcelor International America, LLC (AIA) (collectively, Dillinger).

We preliminarily determine that during the POR, Dillinger did not make sales of subject merchandise at less than normal value (NV) (*i.e.*, sales were made at *de minimis* dumping margins). If these preliminary results are adopted in the final results of this administrative review, we will instruct U.S. Customs and Border Protection (CBP) to liquidate appropriate entries without regard to antidumping duties.

Interested parties are invited to comment on these preliminary results. Parties who submit comments in this segment of the proceeding should also submit with them: (1) A statement of the issues and (2) a brief summary of the comments. Further, parties submitting written comments are requested to provide the Department with an electronic version of the public version of any such comments on diskette.

**EFFECTIVE DATE:** September 11, 2006.

**FOR FURTHER INFORMATION CONTACT:** Stephanie Moore or Dennis McClure, AD/CVD Operations, Office 3, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230;