

Notices

Federal Register

Vol. 65, No. 211

Tuesday, October 31, 2000

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

AGENCY FOR INTERNATIONAL DEVELOPMENT

Notice of Public Information Collections Being Reviewed by the Agency for International Development; Comments Requested

SUMMARY: U.S. Agency for International Development (USAID) is making efforts to reduce the paperwork burden. USAID invites the general public and other Federal agencies to take this opportunity to comment on the following proposed and/or continuing information collections, as required by the Paperwork Reduction Act for 1995. Comments are requested concerning: (a) Whether the proposed or continuing collections of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the burden estimates; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Submit comments on or before January 2, 2001.

FOR FURTHER INFORMATION CONTACT: Beverly Johnson, Bureau for Management, Office of Administrative Services, Information and Records Division, U.S. Agency for International Development, Room 2.07-106, RRB, Washington, DC 20523, (202) 712-1365 or via e-mail bjohnson@usaid.gov.

SUPPLEMENTARY INFORMATION:

OMB No.: OMB 0412-0510.

Form No.: N/A.

Title: Administration or Assistance Awards to U.S. Non-Government Organizations—22 CFR part 226 and USAID's Automated Directive Systems Chapter 303.

Type of Review: Renewal of Information Collection.

Purpose: Section 635(b) of the Foreign Assistance Act (FAA) authorizes USAID to make grants and cooperative agreements with any organization and within limits of the FAA. Most of the information that USAID requests of its recipients is necessary to fulfill the requirement that USAID, as a Federal agency, ensure prudent management of public funds under all of its assistance instruments. The pre-award information is necessary to assure that funds are provided for programs that further the purposes of the FAA and that the recipients have the capability to manage the program administratively and financially. The administration (post-award) requirements are based on the need to assure that the program is functioning adequately, that the funds are managed properly and that statutory and regulatory requirements are complied with.

Annual Reporting Burden:

Respondents: 400.

Total annual responses: 1,100.

Total annual hours requested: 37,400 hours.

Dated: October 24, 2000.

Joanne Paskar,

Chief, Information and Records Division,
Office of Administrative Services, Bureau for Management.

[FR Doc. 00-27918 Filed 10-30-00; 8:45 am]

BILLING CODE 6116-01-M

DEPARTMENT OF COMMERCE

Manufacturing Extension Partnership National Advisory Board; Notice of Renewal

In accordance with the provisions of the Federal Advisory Committee Act, 5 U.S.C. App. 2, and the General Services Administration (GSA) rule on Federal Advisory Committee Management, 41 CFR Part 101-6, and after consultation with GSA, the Secretary of Commerce has determined that the renewal of the Manufacturing Extension Partnership National Advisory Board is in the public interest in connection with the performance of the duties imposed on the Department by law.

The Committee was first established in October 1996 to advise MEP regarding their programs, plans, and policies. In reviewing the Board, the Secretary has established it for an additional two years. During the next

two years, the Board plans to address center service mix standardization, eBusiness, moving toward high performance centers, training and education of field staff, MEP University, national awareness of the MEP program, international services, and others.

The Board will consist of nine members to be appointed by the Director of the National Institute of Standards and Technology to assure a balanced membership that will represent the views and needs of customers, providers, and others involved in industrial extension throughout the United States.

The Board will function solely as an advisory body and in compliance with the provisions of the Federal Advisory Committee Act. Copies of the Board's revised charter will be filed with the appropriate committees of the Congress and with the Library of Congress.

Inquiries or comments may be directed to Linda Acierto, Senior Policy Advisor, Manufacturing Extension Partnership, National Institute of Standards and Technology, 100 Bureau Drive, Shop 4800, Gaithersburg, Maryland 20899-4800; telephone: 301-975-5020.

Karen H. Brown,

Deputy Director, NIST.

[FR Doc. 00-27900 Filed 10-30-00; 8:45 am]

BILLING CODE 3510-13-M

DEPARTMENT OF COMMERCE

International Trade Administration

[A-122-823]

Preliminary Determination of Circumvention of Antidumping Order: Cut-to-Length Carbon Steel Plate From Canada

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

ACTION: Notice of Preliminary Determination of Circumvention of Antidumping Order: Cut-to-Length Carbon Steel Plate from Canada.

SUMMARY: We preliminarily determine that imports of certain cut-to-length carbon plate products, known as grader blade and draft key steel, falling within the physical dimensions outlined in the scope of the order, and containing a minimum of both 0.0008 percent boron

by weight and 0.55 percent carbon by weight, and produced by Co-Steel Lasco, Inc. and Gerdau MRM Steel are circumventing the antidumping duty order on cut-to-length carbon steel plate from Canada (58 FR 44162, August 19, 1993).

EFFECTIVE DATE: October 31, 2000.

FOR FURTHER INFORMATION CONTACT:

Michael Panfeld or Rick Johnson, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC, 20230; telephone: (202) 482-0172 (Panfeld); (202) 482-3818 (Johnson).

Applicable Statute

Unless otherwise stated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (the Act) by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise stated, all citations to the Department's regulations are references to the regulations as codified at 62 FR 27296 (May 19, 1997).

SUPPLEMENTARY INFORMATION:

Background

On March 14, 1997, at the request of petitioner, Kentucky Electric Steel ("KES"), the Department of Commerce ("the Department") initiated a scope inquiry to determine whether certain cut-to-length carbon steel plate used to make grader blades and draft keys ("grader blade" and "draft key" steel) that contain small amounts of boron fall within the scope of the order on certain cut-to-length carbon steel plate from Canada.

On January 16, 1998, the Department issued a ruling, based on 19 CFR section 353.29(i), that boron-added grader blade and draft key steel falls outside the literal scope of the order. The scope of the original antidumping investigation relied on the HTSUS definition of carbon steel, which distinguishes other-alloy steel (*i.e.* including steel containing more than 0.0008 percent boron). Because the petition equated the term "carbon steel" with the HTSUS term "non-alloy steel", variants of grader blade and draft key steel which contain at least 0.0008 percent boron by weight fell outside the literal scope of the order.

On January 30, 1998, KES requested that the Department conduct an anticircumvention inquiry pursuant to section 781(c) of the Act to determine whether imports of certain cut-to-length steel plate used to make grader blades and draft keys that contain small

amounts of boron and fall within the physical dimensions outlined in the scope of the order, are circumventing the antidumping duty order on certain cut-to-length carbon steel plate from Canada. KES alleged that, since publication of the antidumping duty order, exporters of certain cut-to-length carbon steel plate from Canada have been circumventing the order by exporting carbon steel plate with small amounts of boron added so as to avoid coverage under the order. According to KES, the "inclusion of 0.0016 percent boron by weight to high carbon grader blade and draft key steel constitutes a minor alteration" and is, therefore, within the meaning of the provisions detailed in section 781(c) of the Act. *See* Anticircumvention Application, January 30, 1998 at 4.

On May 20, 1998, the Department initiated an anticircumvention inquiry on the antidumping order on Cut-to-Length Carbon Steel Plate from Canada. *See Notice of Initiation of Anticircumvention Inquiry: Cut-to-Length Carbon Steel Plate from Canada*, 63 FR 29179 (May 28, 1998). On June 5, 1998, the Department requested information from Canadian producers which were listed as producers of either grader blade or draft key steel in Iron and Steel Works of the World, 12th edition. On June 26, 1998 and July 17, 1998, Gerdau MRM Steel ("MRM") and Co-Steel Lasco ("CSL"), respectively, responded to the Department's questionnaire, identifying themselves as producers of carbon steel products with over 0.0008 percent boron. Based on these responses, the Department issued a full questionnaire to both CSL and MRM on July 30, 1998. CSL filed its response on September 28, 1998. MRM filed its response on October 6, 1998. On October 7, 1998, the Department issued a supplemental questionnaire to CSL, who responded on October 14, 1998. On November 6, 1998, the Department issued a supplemental questionnaire to MRM, which responded on December 7, 1998.

From October 26 through October 28, 1998, Department officials conducted a verification of CSL. The Department reviewed documents and made inquiries of CSL officials with regard to the sales and production of grader blade and draft key carbon steel with and without boron added.

Algoma Steel Inc. and Caterpillar Inc. have also filed notices of appearance with the Department as interested parties to this inquiry.

On December 16, 1998, the Court of International Trade ("CIT") enjoined further proceeding with this inquiry. *See Co-Steel Lasco v. United States (Co-*

Steel) Court No. 98-08-02684. However, the Court of Appeals for the Federal Circuit subsequently reversed the injunction, and on October 12, 2000, the CIT dismissed the case. Thus, we are proceeding with this inquiry and we will make our final determination no later than January 10, 2001.

Scope of the Investigation

The scope language contained in the final determination and antidumping duty order describes the covered merchandise as follows:

Certain Cut-to-Length Carbon Steel Plate
These products 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 coils 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 HTS under item numbers 7208.31.000, 7208.32.000, 7208.33.1000, 7208.33.5000, 7208.41.000, 7208.42.000, 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 in these investigations 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 beveled or rounded at the edges. Excluded from these investigations is grade X-70 plate.

Although the Harmonized Tariff Schedule of the United States (HTS) subheadings are provided for convenience and customs purposes, our written descriptions of the scope of these proceedings are dispositive.

Determination; Certain Cold-Rolled Carbon Steel Flat Products From Argentina, 58 FR 37063 (July 9, 1993), Appendix I. *See also Antidumping Duty Orders: Certain Corrosion-Resistant Carbon Steel Flat Products and Certain Cut-to-Length Carbon Steel Plate From Canada*, 58 FR 44162 (August 19, 1993).

Scope of the Anticircumvention Inquiry

The merchandise subject to this inquiry is certain cut-to-length plate, commonly known as grader blade and draft key steel, made of in-scope high carbon steel to which a small amount of boron (minimum 0.0008 percent boron

by weight) has been added, falling within the physical dimensions outlined in the scope of the order. High carbon steel is defined as steel of AISI or SAE grades 1050, 1152, or 1552, or higher, *i.e.*, carbon steels that may contain 0.55 percent or more carbon by weight. "Grader blade" steel is typically used in grading equipment such as bulldozers and snowplows. "Draft key" steel is used specifically to make locking mechanisms for railroad couplings. Unless otherwise indicated, the terms "boron-added grader blade and draft key carbon steel", "boron-added steel for use in grader blades and draft keys" and "boron-added steel" are synonymous for the purpose of this notice.

Analysis

Section 781 of the Act addresses the prevention of circumvention of antidumping and countervailing duty orders. Subsection 781(c) specifically provides that:

(1) In general—The class or kind of merchandise subject to—

(A) an investigation under this title,

(B) an antidumping duty order issued under section 736,

(C) a finding under the Antidumping Act of 1921, or

(D) a countervailing duty order issued under section 706 or section 303, shall include articles altered in form or appearance in minor respects (including raw agricultural products that have undergone minor processing), whether or not included in the same tariff classification.

(2) Exception—Paragraph (1) shall not apply with respect to altered merchandise if the administering authority determines that it would be unnecessary to consider the altered merchandise within the scope of the investigation, order or finding.

The Scope Review and the Holdings of the U.S. Courts

In its final determination of the scope ruling noted above, the Department found that the scope did not include grader blade steel and draft key steel produced with 0.0008 percent boron or more by weight ("boron-added steel"), the merchandise in question in this inquiry. Respondents have argued in this case that by finding that the product is outside the scope of the order, the Department may not initiate a "minor alterations" anticircumvention inquiry, citing the decision of the CIT in *Wheatland Tube Co. v. United States*, 973 F.Supp. 149 (CIT 1997).

Since the time of initiation, the United States Court of Appeals for the Federal Circuit ("CAFC") has clarified

the law in this area. In *Wheatland Tube Co. v. United States*, the CAFC held that, under the facts of that case, an anticircumvention inquiry was not appropriate. However, the appellate court also determined that "(i)n essence, section 1677j(c) includes within the scope of an antidumping order products that are so insignificantly changed from a covered product that they should be considered within the scope of the order even though the alterations remove them from the order's literal scope." See *Wheatland Tube Co. v. United States*, 161 F.3d 1365 (1998) at 12. Thus, under *Wheatland*, the Department may properly inquire whether, although the merchandise in question is outside the order's literal scope, the merchandise has been altered from an in-scope product in such a minor way that it should be considered within the scope of the order.

Petitioner has alleged, and the facts discovered by the Department to-date have shown, that the out-of-scope boron-added carbon grader blade and draft key steel is made through an economically and metallurgically insignificant alteration of in-scope carbon steel. Consequently, this case presents precisely the sort of inquiry authorized by the court in *Wheatland*.

Additionally, in a related case involving nearly identical facts and the same scope issue, *Nippon Steel Corporation v. United States*, 219 F.3d 1348 (Fed. Cir., July 26, 2000) ("Nippon"), the CAFC further clarified that the minor alteration inquiry in *Wheatland* was prohibited only because the product in question was well-known prior to the order and was specifically excluded from the investigation. In this respect, the Court in *Nippon* distinguished *Wheatland* from the inquiry involving boron-added carbon steel, and determined that a circumvention inquiry of such a product (boron-added carbon steel) was proper. See *Decision Memorandum: Preliminary Determination of Circumvention of the Antidumping Duty Order: Certain Cut-to-Length Carbon Steel Plate from Canada* ("Decision Memo") from Joseph A. Spetrini to Troy Cribb dated October 23, 2000. Moreover, the Federal Circuit in this case (*Co-Steel*) adopted the *Nippon* opinion by reference and found that the circumvention inquiry was indeed proper. See *Co-Steel Lasco v. United States*, 99-1339 (September 22, 2000). As a result, on October 12, 2000, the CIT in this case dissolved the injunction and dismissed the complaint.

Minor Alterations

Petitioner alleges that imports of grader blade and draft key steel that

contain small amounts of boron are circumventing the order on cut-to-length carbon steel plate from Canada. As discussed above, minor alteration anticircumvention inquiries are used when a petitioner claims that, although a product falls outside the literal scope of an order, the product should nevertheless be considered within the scope of an order because it results from an insignificant minor alteration of the in-scope product.

Carbon steel is produced by first melting scrap and/or iron ore with charge carbon in a furnace. Once the steel is sufficiently heated, it is transferred to a ladle arc refiner, where alloys are added according to the specification required. When the steel's chemistry meets specifications, it is poured into a caster to form billets. These billets are cut and cooled. After the billets have cooled, they are reheated and sent to the structural mill, where the billets are rolled and cut according to the customer's specifications.

The only difference in the production of boron-added carbon steel versus ordinary carbon steel is in the refining stage, where boron is simply added to the molten steel. All that is required to meet the HTSUS threshold level of 0.0008 percent boron is the addition of less than 100 pounds of boron to more than a hundred tons of molten steel. All other aspects of production are exactly the same as those for carbon steel. As discussed in "Cost of Modification" below, not only was the alteration to the production "minor" in all respects, the cost of this alteration was also "minor": approximately one third of one percent of the sales price. For a further discussion of this issue, see *Decision Memo* at 6.

Respondent CSL argues that "alloy steel plate," or boron-added grader blade and draft key steel, cannot be made by altering carbon steel plate. CSL states that in order for carbon steel plate, the subject merchandise, to be altered into alloy steel plate, the carbon steel plate would have to be remelted in order to introduce boron into the molten steel, and then follow the production process from pouring billets to cutting rolled plate. However, respondent misinterprets the minor alterations provision. Neither the statute nor its legislative history require that a minor alteration be made to a finished product. Indeed, the legislative history indicates that Congress anticipated that slight changes in production might allow an exporter to circumvent an order.

Factors of Consideration

While the statute is silent regarding what factors to consider in determining whether alterations are properly considered "minor," the legislative history of this provision indicates that there are certain factors which should be considered before reaching an anticircumvention determination. The petitioner cites to the Senate Finance Committee report on the Omnibus Trade and Competitiveness Act of 1988 (which amended the Tariff Act of 1930 to include the anticircumvention provisions contained in section 781), which states:

[i]n 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. The Commerce Department should consider 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).

KES presented evidence with respect to each of the criteria listed in the Senate report, and the Department has examined the information on the record regarding each of these criteria. Our findings are discussed below.

Overall Physical Characteristics

The cut-to-length plate product at issue in this inquiry is a high carbon steel (minimum 0.55 percent by weight) with small amounts of boron added. The petitioner claims that while boron is traditionally added to steel to improve "hardenability," when the level of carbon is already at 0.60 percent by weight or above, the added boron's effect on the final product is negligible. For this reason, petitioner claims that it is the steelmaking industry's practice not to add boron to high-carbon grades.

Co-Steel Lasco

According to CSL, the only metallurgical difference between boron-added steel and carbon steel is the amount of boron added. All other specifications remain the same, within a given ASTM grade. CSL contends that its rationale for adding boron is not to increase hardness, but to improve the grain size, and therefore, the "toughness" of the steel. "Toughness" refers to the steel's ability to withstand shearing, breaking and cracking on impact. At verification, CSL officials stated that members of the steelmaking industry were "skeptical" regarding

whether boron added to high carbon steel improves toughness. CSL officials also stated that to the best of their knowledge, no other producer uses boron as a grain refiner in high carbon steel. See Verification Report at 14. CSL stated that it did not represent to its customers that the boron-added steel was an improvement over the carbon steel, because it could not quantify the improvement. However, CSL was aware that there were tests that could indicate if the boron was improving toughness. One of these tests is a test for grain size. The smaller the grain size of the steel, the tougher it is. We believe that record evidence indicates that CSL did not assign a high priority to confirming the alleged improvement to the boron-added steel. See *Decision Memorandum*.

Gerdau MRM Steel

Respondent MRM contends that the addition of boron facilitates the formation of martensite, which, if the steel is subsequently heat treated and quick-quenched (a process of raising the temperature of the metal to a "critical" level and cooling it rapidly), imparts greater hardenability to the steel, particularly "through hardness." MRM has stated that "it is of the opinion that all customers who purchase alloy grade steel do include heat treatment and/or flame hardening as part of their production process." See MRM submission, dated October 6, 1998. However, both CSL and petitioner have stated that grader blade and draft key customers do not heat treat steel. Moreover, MRM's discussion of martensite only appears to apply to low carbon steel, not to the high carbon grade blade and draft key steels which are the subjects of this inquiry. See *Decision Memo* at 8.

In addition, respondents have often referred to the boron-added grader blade steel as an "alloy steel" and have discussed general differences between "alloy steel" and carbon steel. However, we believe that this reference is misleading. Although the carbon steel to which a small amount of boron has been added is technically an "other alloy" steel for the purposes of the HTSUS classification, a true alloy steel as recognized by the industry is markedly different from the product at issue. The ITC Staff Report describes a true alloy steel as a significantly higher priced product with distinct characteristics and uses, containing much higher levels of alloys. *Staff Report, Certain Flat-Rolled Carbon Steel Products from Various Countries*, USITC Pub. 2664, Vol. 2 (August 1993), at I-37. The "alloy" steel produced by respondents has, with the exception of its boron content, exactly

the same physical and metallurgical properties of its carbon steel counterpart.

Based on the record evidence, the Department finds that there is no substantial difference in the physical characteristics between boron-added and carbon steel—indeed the differences are "minor". Both kinds of steel are produced to the same specifications with the exception of boron content. Although respondents claim that differences exist in terms of toughness and through hardening, neither respondent has made any effort to confirm and quantify any improvement that would indicate a difference in physical characteristics. The record evidence indicates that respondents are not primarily concerned with the steel's purported improvement.

Expectations of the Ultimate Users

The petitioner maintains that carbon steel users purchase high carbon steel with the expectation that the product be especially hard and durable, and that these characteristics are imparted by the presence of sufficient levels of carbon. Petitioner states that consumers of this product are fully aware that carbon steel of the sort at issue does not rely on or benefit from the presence of boron, and thus "do not expect, seek, or desire" its presence.

Typical uses for grader blade steel are blades for snowplows and bulldozers. Draft key steel is used to make locking devices for railroad car couplings. Because of their application, customers require and expect that the steel they buy will be hard. The primary characteristic of high carbon steel is its hardness, due to the level of carbon. Although CSL and MRM claim to have improved the steel, no evidence has been presented to significantly distinguish boron-added steel from the in-coship high carbon steel in terms of use or performance. CSL reports that there is no application that restricts customers to using boron-added steel versus a carbon steel. MRM presented no evidence for the record that customers could use the boron-added steel in applications where they could not use the carbon steel.

Co-Steel Lasco

Respondent CSL reports that the decision to use boron was not the result of customer dissatisfaction, specific requests, or problems with the process of production. CSL reported at verification that customers did not request boron, and have to date made no comment regarding its addition, or any purported improvement. In addition,

CSL did not indicate to its customers that the boron-added product was significantly better than the carbon product, nor did the company charge more for the product. CSL reported that it only told its customers that boron was being added to the steel as a grain refiner, and that its addition "wouldn't hurt the steel." Record evidence offers other indications that CSL has sold both boron-added and carbon grader blade steel to its customers, and that none of CSL's customers made any distinction between the two products. For a further discussion of this issue, see *Decision Memo*.

Gerda MRM Steel

MRM has not presented any corroborated evidence that the ultimate users of its products have any expectations with regard to any improvement in the increased surface and through hardness of the boron-added grader blade and draft key steel vis-a-vis an ordinary carbon grader blade and draft key steel. For a further discussion of this issue, see *Decision Memo*.

Use of the Merchandise

The petitioner maintains that, with or without boron, high carbon grader blade and draft key steel have the same uses: making blades on grading equipment and locking devices on railroad couplings. The petitioner states that knowledgeable purchasers would be aware that there are no uses of high carbon steel containing small amounts of boron that cannot fully be met without boron, and that the addition of boron neither responds to a new need in the market, nor improves the way existing technical needs are met.

CSL reports that there is no difference in the use of the boron-added product versus the carbon product, both in its responses and at verification. As noted above in "Expectations of End-Users," CSL has sold both boron-added and carbon steel to the same customer, and has not received any comments concerning any differences in application or performance.

MRM claims that it "cannot state with certainty what their customers 'intended use' was or is with alloy steel or carbon steel." See MRM response, October 6, 1998, at 15. However, the sales-related documentation MRM submitted in its responses indicate that MRM did have knowledge of its customers' use of the merchandise. Every sample sale presented by MRM in its October 6 and December 7, 1998 responses include descriptions of products that are either clearly grader blade products, or clearly

not grader blade products. This evidence, coupled with the sales and marketing process of direct contact with customers, indicates that MRM is fully aware of customers' use of the merchandise. MRM has not presented any evidence that indicates that boron-added steel is used in a manner different from that of ordinary carbon steel. For a further discussion of this issue, see *Decision Memo*.

Channels of Marketing

The petitioner states that steel producers, with few exceptions, sell directly to manufacturers of grader blades and draft keys through company sales forces. Petitioner claims that, because carbon grader blade and draft key steels are used for precisely the same products as are the boron-added versions of the products, boron-added steel is sold in precisely the same sales channels as carbon steel.

The grader blade and draft key steel market has been reported to be mature, with few customers and a limited number of suppliers. Record evidence indicates that CSL and MRM have sold their products to the same U.S. customers before and after the investigation in 1993. Both CSL and MRM have stated that their products are marketed by direct contact with the customer, and have made no distinction between the sales and marketing process for either the boron-added or carbon steel.

Cost of Modification

Petitioner alleges that, by adding boron to high carbon steels, Canadian producers have been able to avoid dumping duties ranging from 1.47 percent to 68.7 percent, and that the cost of avoiding these duties, relative to the total value of the product itself, is negligible. Based on records examined at verification of CSL, the additional cost of making a boron-added steel is wholly insignificant. For a further discussion of this issue, see *Decision Memo*.

MRM claims that "it has no basis for a comparison between carbon steel and high-carbon/boron alloy steel." See MRM response, dated December 7, 1998, at 4. MRM's only reference to a price difference between carbon steel and "high-carbon/boron alloy steel" is a comparison of *all* carbon steels (not just grader blade and draft key steels) in unadjusted dollars over a four year period. *Id.* However, MRM has not made any claim regarding additional cost in the cost of producing a boron-added steel vis-a-vis a carbon steel without boron. If the only additional cost is the cost of the boron, it may be assumed

that CSL's boron costs and MRM's costs are similar, and therefore, the price differential would also be similar.

Additional Factors

In addition to the criteria above, we note that the Department has in a prior anticircumvention proceeding considered other factors as relevant to the circumvention allegation. These factors are: (i) the circumstances under which the subject products entered the United States, (ii) the timing of these entries during the circumvention review period, and (iii) the total quantity of the merchandise entered during this period. See *Brass Sheet and Strip from Germany; Negative Preliminary Determination of Circumvention of Antidumping Duty Order*, 55 FR 32655 (August 10, 1990).

1. Circumstances Under Which the Products Enter the United States

The Department is not required to determine intent during a circumvention inquiry. Nevertheless, the facts surrounding CSL's production and importation of boron-added steel tend to indicate a deliberate attempt to modify carbon steel so as to avoid the effects of the antidumping duty order.

Record evidence indicates that CSL clearly distinguishes its boron-added grader blade and carbon grader blade. CSL's own metallurgical specification records indicate a deliberate effort to avoid antidumping duties on products shipped to the United States. Boron-added grader blade steel is almost exclusively, and seemingly by design, produced for U.S. customers, while grader blade steel without boron represents the vast majority of products sold to Canadian customers. If the addition of boron served any purpose other than circumvention, we would expect to see boron added to steel regardless of whether the customer was located in the United States or Canada. For a further discussion of this issue, see *Decision Memo*.

2. The Timing of the Entries During the Circumvention Review Period

Generally speaking, a preliminary affirmative determination by the Department in an antidumping investigation is seen by foreign manufacturers/exporters as the first reliable indication that antidumping duties will most likely be imposed. This is because it is the first formal determination by the Department, and the first time the Department directs the Customs Service to suspend liquidation and collect a cash deposit of estimated dumping duties. In the antidumping investigation of cut-to-length carbon

steel plate from Canada, a preliminary affirmative determination was published on February 4, 1993. See *Notice of Preliminary Determinations of Sales at Less Than Fair Value: Certain Hot-Rolled Carbon Steel Flat Products, Certain Cold-Rolled Carbon Steel Flat Products, Certain Corrosion-Resistant Carbon Steel Flat Products, and Certain Cut-to-Length Carbon Steel Plate from Canada*, 58 FR 7085 (February 4, 1998).

CSL's records indicate that boron-added steel, technically out of the scope of the order, was first produced shortly after the publication of the preliminary affirmative determination. This suggests that the addition of boron may have been in response to the preliminary determination.

Each "batch" of steel, called a heat, has a specific chemistry, namely, the content levels of certain elements and alloys in the heat. On one occasion, CSL appears to have modified a heat to contain boron levels above the HTSUS threshold. This could indicate a deliberate attempt to exceed the 0.0008 percent threshold. For a further discussion of this issue, see *Decision Memo*.

The facts surrounding MRM's production and importation of boron-added steel also indicates circumvention. According to MRM's July 17, 1998 response, boron-added grader blade and draft key steels were not sold to either Canadian or U.S. customers prior to 1993, but were sold exclusively to U.S. customers after 1993, the year of the investigation. In contrast, with the exception of a negligible amount, all of MRM's sales to its Canadian customers, before and after 1993, involved grades that did not include boron. For a further discussion of this issue, see *Decision Memo*.

3. The Quantity of Merchandise Entered During the Circumvention Review Period

Record evidence indicates that, after the investigation in 1993, both CSL and MRM shifted all of their production for U.S. customers to boron-added steel. Sales data submitted by both respondents indicate that all grader blade and draft key steel sold in the United States has boron added, while steel sold in Canada is, for the most part, produced without boron. Neither respondent has presented any evidence that explains why only U.S. customers are sold the allegedly "improved" boron-added steel.

Preliminary Ruling

As a result of our inquiry, we preliminarily determine that exports of boron-added grader blade and draft key

steel from Canada are circumventing the antidumping order on certain cut-to-length carbon steel plate from Canada. While carbon steel plate products containing over 0.0008 percent boron by weight are, by definition, technically outside the literal scope of the antidumping duty order, we have preliminarily determined that, pursuant to "minor alterations" provision of the statute, it is appropriate to include the putatively out-of-scope boron-added steel, which is the subject of this inquiry, in the class or kind of merchandise subject to the order on cut-to-length carbon steel plate. See Section 781(c) of the Act.

Boron-added steel is made by slightly altering carbon steel during its production process. With the exception of the presence of boron, boron-added steel has the same physical characteristics as carbon steel. There are no differences in the expectations of the ultimate users, uses of the merchandise, and channels of marketing between boron-added steel and the subject merchandise. Furthermore, the cost of adding boron in the course of production is negligible. Since the original investigation, respondents have shifted their entire production for U.S. customers away from in-scope carbon steel to out-of-scope carbon steel to out-of-scope boron-added steel. No similar shift has occurred in the home market, where the majority, if not all, of both respondents' production is devoted to carbon grader blade and draft key steel without boron. The timing of this shift further indicates circumvention of the order by making a minor alteration. Taken as a whole, this evidence leads to our determination that boron-added grader blade and draft key steel is being produced in circumvention of the antidumping law, undermining its intent, and eviscerating its effectiveness.

After a thorough analysis of the physical characteristics of the merchandise subject to this inquiry, the expectations of the ultimate users, the ultimate use of the merchandise, the cost of modification, and the additional factors listed above, we have determined that Canadian manufacturers/exporters of grader blade and draft key steel have made minor alterations in their in-scope merchandise within the meaning of section 781(c) of the Act, resulting in circumvention of the antidumping order covering certain cut-to-length carbon steel plate from Canada. This preliminary determination extends only to those products manufactured by Co-Steel Lasco and Gerdau MRM Steel.

Suspension of Liquidation

In accordance with section 351.225(1) of the Department's regulations, we are directing the U.S. Customs Service to suspend liquidation of all imports of high carbon (minimum 0.55 percent by weight) cut-to-length carbon steel plate with boron (minimum 0.0008 percent by weight), falling within the physical parameters outlined in the scope of this order, manufactured or exported by Co-Steel Lasco or Gerdau MRM Steel that are entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**. We will also instruct the U.S. Customs Service to require a cash deposit of estimated duties for each unliquidated entry of the product entered, or withdrawn from warehouse, on or after the date of initiation of this inquiry, in accordance with section 351.225(1)(2) of our regulations. We will instruct the U.S. Customs Service to require a cash deposit at the applicable rates for MRM and CSL listed below. These suspension-of-liquidation instructions will remain in effect until further notice.

Exporter/manufacture	Weighted-average margin percentage
Co-Steel Lasco	61.88
Gerdau MRM Steel	0.0

As a result of this preliminary determination, the merchandise subject to the scope of this order includes merchandise entered under the following additional HTSUS number: 7211.14.0030.

Public Comment

Case briefs or other written comments in at least ten copies must be submitted to the Assistant Secretary for Import Administration no later than 30 days after the publication of the preliminary determination, and rebuttal briefs, limited to issues raised in case briefs, no later than 35 days after the publication of the preliminary determination. A list of authorities used and an executive summary of issues should accompany any briefs submitted to the Department. Such summary should be limited to five pages total, including footnotes. We will hold a public hearing, if requested, to afford interested parties an opportunity to comment on arguments raised in case or rebuttal briefs. Tentatively, the hearing will be held 37 days after the publication of the preliminary determination, time and room to be determined, at the U.S. Department of Commerce, 14th Street and Constitution

Avenue, N.W., Washington, D.C. 20230. Parties should confirm by telephone the time, date, and place of the hearing 48 hours before the scheduled time.

Interested parties who wish to request a hearing, or to participate 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. Oral presentations will be limited to issues raised in the briefs. If this investigation proceeds normally, we will make our final determination no later than January 10, 2001.

This determination is issued and published in accordance with section 777(i)(1) of the Act.

Dated: October 23, 2000.

Troy H. Cribb,

Acting Assistant Secretary for Import Administration.

[FR Doc. 00-27949 Filed 10-30-00; 8:45 am]

BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 102400E]

Western Pacific Fishery Management Council; Public Meeting

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

ACTION: Notice of public meeting.

SUMMARY: The Western Pacific Fishery Management Council's (Council) Recreational Fisheries Data Task Force (RFDTF) will hold a meeting.

DATES: The meeting will be held November 15, 2000, from 8:30 a.m. to 5 p.m.

ADDRESSES: The meeting will be held at the Western Pacific Fishery Management Council office, 1164 Bishop St., Suite 1400, Honolulu, HI 96813.

FOR FURTHER INFORMATION CONTACT: Kitty M. Simonds, Executive Director; telephone: 808-522-8220.

SUPPLEMENTARY INFORMATION: This will be the sixth meeting of the RFDTF and will discuss the following topics: the implementation of the NMFS Marine Recreational Fisheries Statistical Survey (MRFSS), Pelagic Environmental Impact Statement & recreational fisheries,

outcome of the seventh Multilateral High Level Conference for tuna management in the Central-West Pacific, the pros and cons for a marine recreational fishery license in Hawaii, recreational bag limits and minimum sizes for sale, effectiveness of bottomfish closed areas in the Main Hawaiian Islands, new Council Advisory Panels and the future of the RFDTF.

Although non-emergency issues not contained in this agenda may come before this group for discussion, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically identified in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Kitty M. Simonds, 808-522-8220 (voice) or 808-522-8226 (fax), at least 5 days prior to meeting date.

Dated: October 25, 2000.

Richard W. Surdi,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 00-27875 Filed 10-30-00; 8:45 am]

BILLING CODE 3510-22-S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 101900B]

Marine Mammals; File No. 633-1483-03

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

ACTION: Receipt of application for amendment.

SUMMARY: Notice is hereby given that Dr. Charles A. Mayo, Center for Coastal Studies, 59 Commercial Street P.O. Box 1036, Provincetown, Massachusetts 02657, has requested an amendment to scientific research Permit No. 633-1483. **DATES:** Written or telefaxed comments must be received on or before November 30, 2000.

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

Permits and Documentation Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910 (301/713-2289); and

Northeast Region, NMFS, One Blackburn Drive, Gloucester, MA 01930-2298; phone (508)281-9250; fax (508)281-9371.

Written comments or requests for a public hearing on this request should be submitted to the Chief, Permits and Documentation Division, F/PR1, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13130, Silver Spring, MD 20910. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular amendment request would be appropriate.

Comments may also be submitted by facsimile at (301) 713-0376, provided the facsimile is confirmed by hard copy submitted by mail and postmarked no later than the closing date of the comment period. Please note that comments will not be accepted by e-mail or other electronic media.

FOR FURTHER INFORMATION CONTACT:

Simona Roberts or Ruth Johnson, 301/713-2289.

SUPPLEMENTARY INFORMATION: The subject amendment to Permit No. 633-1483, issued on March 3, 1999 (64 FR 10276), is requested under the authority of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 et seq.), the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR part 216), the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 et seq.), and the regulations governing the taking, importing, and exporting of endangered and threatened species (50 CFR 222-227).

Permit No. 633-1483 authorizes the permit holder to (Project I): (1) conduct behavioral observations of, and photo-identify northern right whales during aerial and vessel surveys; (2) place VHF tags on right whales during the course of vessel surveys; (3) collect skin and blubber biopsy samples and sloughed skin; and (4) export skin samples for genetic analysis. And, under Project II (humpback whales), to: (1) develop a genealogy of the Gulf of Maine humpback whale population; (2) determine paternity and evaluate male reproductive success; (3) evaluate the influence of relatedness on feeding distribution, behavior and social organization; (4) determine individual movement and habitat preferences; (5) evaluate rates and severity of entanglement; (6) monitor trends in abundance, reproductive rates,