

MEMORANDUM FOR: David M. Spooner
Assistant Secretary
for Import Administration

FROM: Stephen J. Claeys
Deputy Assistant Secretary
for Import Administration

SUBJECT: Issues and Decision Memorandum for the Administrative Review
of Certain Cut-to-Length Carbon Steel Plate from Romania: Final
Results of Antidumping Duty Administrative Review and Final
Partial Rescission

SUMMARY

We have analyzed the case brief of the respondent in the administrative review of the antidumping duty order on certain cut-to-length carbon steel plate from Romania (A-485-803) for the period August 1, 2005 through December 14, 2005.¹ As a result of our analysis, we have made changes to the margin calculation as discussed below. We recommend that you approve the positions we have described in the “Discussion of the Issues” section of this memorandum. Below is the complete list of the issues in this review for which we received comments by the respondent:

- Issue I. Constructed Export Price Profit Calculation
- Issue II. Freight Revenue and Inland Freight Expenses

BACKGROUND

On July 5, 2007, the Department of Commerce (“the Department”) published the preliminary results of the administrative review of the antidumping duty order on certain cut-to-

¹ Since this order was revoked effective December 15, 2005, the period of review is August 1, 2005, through December 14, 2005. See Revocation Pursuant to Second Five-Year (Sunset) Reviews: Countervailing Duty Orders on Certain Steel Products from Belgium, Brazil, Mexico, Spain and Sweden; Antidumping Duty Orders on Certain Cut-to-Length Carbon Steel Plate from Belgium, Brazil, Finland, Germany, Mexico, Poland, Romania, Spain, Sweden, and the United Kingdom; Antidumping Finding on Carbon Steel Plate from Taiwan, 72 FR 6519 (February 12, 2007).

length carbon steel plate (“cut-to-length plate”) from Romania. See Certain Cut-to-Length Carbon Steel Plate from Romania: Preliminary Results of the Antidumping Duty Administrative Review and Intent to Rescind in Part, 72 FR 36658 (July 5, 2007) (“Preliminary Results”). We invited parties to comment on the Preliminary Results. On August 7, 2007, we received a case brief from respondent, Mittal Steel Galati, S.A. (“MS Galati”). We did not receive any case or rebuttal briefs from domestic interested party, IPSCO Steel Inc. (“IPSCO”), or from petitioner, Nucor Corporation (“Nucor”).

This review covers sales of cut-to-length plate made by one manufacturer, MS Galati.

DISCUSSION OF THE ISSUES

Issue I: Constructed Export Price Profit Calculation

Respondent:

Respondent asserts that in the margin calculation program for the Preliminary Results, the Department did not assign any values to MS Galati’s general and administrative (G&A) and interest (INTEX) expenses, and that the Department should use both G&A and INTEX ratios in its constructed export price (CEP) profit calculation for the final results. Respondent states that section 772(d)(3) of the Tariff Act of 1930, as amended (“the Act”), requires the Department to identify and deduct from the starting price in the U.S. market an amount for profit related to selling, distribution, and further manufacturing activities in the United States. Respondent cites section 772(f) of the Act and Ta Chen Stainless Steel Pipe v. U.S., 342 F.Supp. 2d 1191, 1194 (CIT 2004) (“Ta Chen v. U.S.”), and states that the amount of profit to be designated as CEP profit is calculated by multiplying the total actual profit by the ratio of U.S. expenses to total expenses. Citing Ta Chen v. U.S., 342 F. Supp. at 1194, respondent further states that the total expenses in the ratio are foreign and domestic expenses incurred in the production and sale of goods.

According to respondent, the Department’s standard methodology for calculating the total expenses denominator for CEP profit is to sum up 1) the cost of merchandise for both markets, and 2) the selling, packing and distribution for both markets. See Ta Chen v. U.S., 427 F.Supp. 2d 1265, 1269 (CIT 2006). Respondent argues that in the margin calculation program for the Preliminary Results, the Department did not correctly calculate the CEP profit because it failed to assign any values for MS Galati’s G&A and INTEX expenses.

Respondent notes that there was no sales-below-cost investigation for the instant review, and states that the U.S. Department of Commerce Policy Bulletin 97/1, Calculation of Profit for Constructed Export Price Transactions (September 4, 1997) (the “CEP Profit Policy Bulletin”) explains the Department’s calculation method for CEP profit when respondent is not required to respond to section D of the Department’s questionnaire or provide a cost database. According to respondent, section 772(f) of the Act and the CEP Profit Policy Bulletin provide that in reviews not involving a sales-below-cost investigation, CEP profit is computed from the respondent’s audited financial statements for the year that most closely corresponds to the period of review. Respondent asserts that for the final results, the Department should correct the CEP profit

calculation by using G&A and INTEX ratios calculated from MS Galati's 2005 audited financial states, which were submitted in MS Galati's Section A Questionnaire Response, dated November 17, 2006, at Exhibit 8 (MS Galati's audited financial statements for 2005) and Exhibit 14 (the parent company, (Mittal Steel Company N.V.'s ("Mittal Steel Company's") audited financial statements for 2005). Respondent states that because the POR is from August 1, 2005, through December 14, 2005, the audited financial statements that most closely correspond to the POR are the 2005 financial statements. Respondent states that Exhibit 1 of its case brief, dated August 7, 2007, includes the calculation of the 2005 G&A ratio based on MS Galati's 2005 audited financial statements. Respondent further states that Exhibit 2 of its case brief includes the calculation of the 2005 INTEX ratio based on Mittal Steel Company's 2005 audited financial statements.²

Domestic Interested Party/Petitioner:

IPSCO and Nucor did not comment on this issue.

Department's Position:

The Department did not conduct a sales below cost investigation in this review. Section 772(f) of the Act provides three alternative methods for determining total expenses for purposes of computing CEP profit, including the method used by the Department in this review. The Department agrees that amounts for G&A and INTEX based on MS Galati's and Mittal Steel Company's audited 2005 financial statements should be included to correct the CEP profit calculation per our normal practice pursuant to section 772(f) of the Act. For more details, see the Analysis Memorandum for the Final Results of the Administrative Review of the Antidumping Duty Order on Certain Cut-to-Length Carbon Steel Plate from Romania, dated November 2, 2007 ("Final Analysis Memo").

Issue II: Freight Revenue and Inland Freight Expenses

Respondent:

Respondent states that it reported the actual transportation expenses incurred on its home market sales with delivered terms, and the associated transportation revenue that it invoiced its customers. Respondent notes that the inland transportation expenses were reported for each observation under variables INLFTC1H and INLFTC2H, and the inland transportation revenues were reported for each observation number under variables FRTREV1H and FRTREV2H. Respondent states that it indicated in its first supplemental questionnaire response that in its section B questionnaire response, it incorrectly reported FRTREV1H, FRTREV2H, INLFTC1H, and INLFTC2H as total inland freight expenses and revenues in Romanian Lei (RON) instead of per-unit values (RON/metric ton). Respondent further states that for the final results, the

² Respondent notes that in Certain Cut-to-Length Carbon Steel Plate from Romania: Preliminary Results of the Antidumping Duty Administrative Review and Partial Rescission, 71 FR 53377, 53379 (September 11, 2006), the Department used the financial expense rate based on the financial statements of MS Galati's parent company, Mittal Steel Company.

Department should convert these values to per-unit values by dividing the variables by the total quantity in metric tons (CMQTY).

Domestic Interested Party/Petitioner:

IPSCO and Nucor did not comment on this issue.

Department's Position:

The Department agrees with respondent's rationale that the values for the FRTREV1H, FRTREV2H, INLFTC1H, and INLFTC2H variables should be converted into per-unit values by dividing them by CMQTY. For these final results, the Department reviewed respondent's statements and confirmed that the values for these four variables were total RON values and should be per-unit values. For more details, see the Final Analysis Memo.

Recommendation

Based on our analysis of the comments received, we recommend adopting the above positions. If these recommendations are accepted, we will publish the final results of review and the final margin for MS Galati in the Federal Register.

AGREE _____

DISAGREE _____

David M. Spooner
Assistant Secretary
for Import Administration

Date