

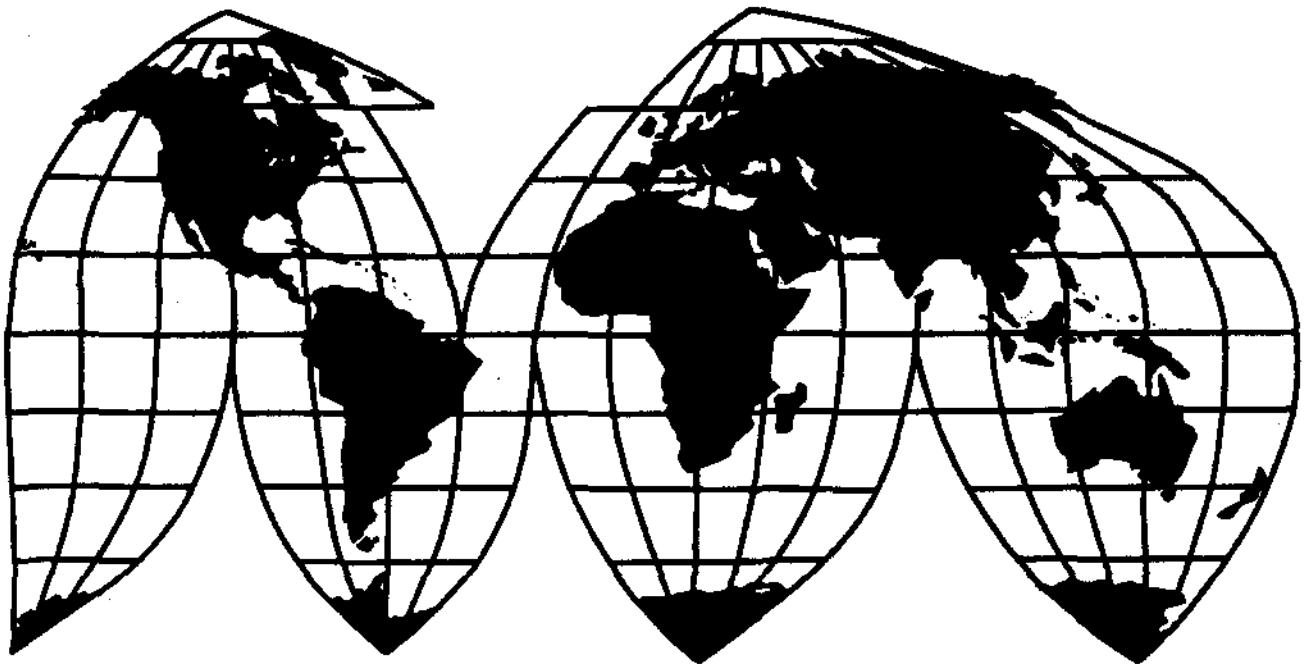
Cut-to-Length Carbon Steel Plate From China, Russia, South Africa, and Ukraine

Investigations Nos. 731-TA-753-756 (Review)

Publication 3626

September 2003

U.S. International Trade Commission



Washington, DC 20436

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Note.—Information that would reveal confidential operations of individual concerns may not be published and therefore has been deleted from the public version of this document. Such deletions are indicated by asterisks (*)**.

UNITED STATES INTERNATIONAL TRADE COMMISSION

Investigations Nos. 731-TA-753-756 (Review)

CUT-TO-LENGTH CARBON STEEL PLATE FROM CHINA, RUSSIA, SOUTH AFRICA, AND UKRAINE

DETERMINATIONS

On the basis of the record¹ developed in the subject five-year reviews, the United States International Trade Commission (Commission) determines, pursuant to section 751(c) of the Tariff Act of 1930 (19 U.S.C. § 1675(c)) (the Act), that termination of the suspended investigations on cut-to-length carbon steel plate from China, Russia, and Ukraine would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time. The Commission further determines that termination of the suspended investigation on the subject product from South Africa would not be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.²

BACKGROUND

The Commission instituted these reviews on September 3, 2002 (67 FR 56311) and determined on December 9, 2002 that it would conduct full reviews (67 FR 77803, December 19, 2002). Notice of the scheduling of the Commission's reviews and of a public hearing to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the *Federal Register* on March 21, 2003 (68 FR 13950). The hearing was held in Washington, DC, on July 8, 2003, and all persons who requested the opportunity were permitted to appear in person or by counsel.

¹ The record is defined in sec. 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR § 207.2(f)).

² Commissioner Stephen Koplán dissenting. Commissioner Charlotte Lane did not participate in these reviews.

VIEWS OF THE COMMISSION

Based on the record in these five-year reviews, we determine under section 751(c) of the Tariff Act of 1930, as amended (the Act), that termination of the suspended investigations on cut-to-length carbon steel plate from China, Russia, and Ukraine would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time, and that termination of the suspended investigation on CTL plate from South Africa would not be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.^{1 2}

The U.S. market for iron and non-alloy steel CTL plate, including micro-alloy steel CTL plate, has undergone certain changes since the Commission's original investigations on CTL plate from China, Russia, South Africa, and Ukraine in 1997. Since 1997, imports subject to these reviews have remained in the U.S. market, at times in large volumes, but have been constrained by suspension agreements. During this time, however, imports of CTL plate from other countries increased their presence in the United States, resulting in additional antidumping and countervailing duty orders in 2000 and a safeguard action in March 2002. In addition, demand for CTL plate remained strong in the years immediately following the Commission's original investigations, but began to weaken in 1999; the market has remained soft into 2003, in sharp contrast to market conditions during 1994-96 and into 1997. Finally, the domestic industry itself has changed, with the closure of several established mill and processor production facilities and the opening (or re-opening) of several new or renovated facilities.

Many important characteristics of the U.S. CTL plate market have not changed, however. Suppliers continue to sell CTL plate to end users and, increasingly, to a broad network of service centers and distributors. Purchasers continue to purchase CTL plate based on quality and price. CTL plate itself is frequently certified to common industry-recognized standards and faces minimal direct competition from substitute products.

The state of the domestic industry initially exhibited some improvement as a result of the suspension agreements. The rapid increase in imports from other sources, however, followed by protracted weakness in the market for CTL plate, has left the domestic CTL plate industry vulnerable to material injury if the suspension agreements, specifically those covering the larger, lower priced suppliers, are terminated. The domestic industry's current weakness is demonstrated by its declining capacity utilization (despite reductions in capacity), production, employment, capital investment, and sales, as well as substantial (and increasing) operating losses.

In light of the vulnerability of the domestic industry and the importance of price in purchasing considerations for this largely undifferentiated product, we conclude that subject imports from China, Russia, Ukraine, or even South Africa -- all of which have maintained a presence in the U.S. market, even after the imposition of the safeguard action -- are not likely to have no discernible adverse impact. Imports of CTL plate from each of these countries has demonstrated, and continues to demonstrate, a reasonable overlap of competition with other subject imports and with the domestic like product.³

With respect to China, Russia, and Ukraine, each subject foreign industry has substantial capacity, existing unused capacity and, in the case of China, projections of substantial increases in capacity. Each has existing inventories, the ability to engage in product shifting, and faces substantial barriers to importation into countries other than the United States (while nonetheless maintaining moderate to large volumes of CTL plate exports). Significant volumes of U.S. imports from China,

¹ For purposes of these reviews, we shall refer to rectangular plates of iron or non-alloy steel as "CTL plate."

² Commissioner Koplan dissents with respect to the negative determination on subject imports from South Africa. See Dissenting Views of Commissioner Stephen Koplan.

³ Commissioner Koplan does not join in the balance of this discussion.

Russia, and Ukraine nearly universally undersold the domestic like product during the period examined in the original investigations and, during more recent periods as well, substantial volumes of these subject imports have been sold below the prices of domestically produced CTL plate, even after the imposition of the U.S. safeguard measure on flat-rolled steel.

CTL plate from South Africa, in contrast, has exhibited distinct trends in volume and market share since 1994 (declining during the original period examined, and remaining at relatively low levels during the review period despite some increases), and was in most years the smallest of the four subject sources of supply. In addition, the subject imports from South Africa largely exhibited different – higher – average unit values and different price levels, even allowing for differences in product mix. Moreover, notwithstanding noticeable under-reporting by the industries in China and Ukraine, South Africa’s industry is one-quarter to one-eighth the reported size of the other subject industries and unrestrained by trade barriers to exports of CTL plate to third-country markets, with the exception of Canada. Thus, the industries in South Africa and in China, Russia, and Ukraine are differently situated, and subject imports from these sources are likely to face significantly different conditions of competition in the U.S. market. This is particularly apparent in light of the Section 201 investigation and the President’s remedy (from which South Africa is exempted), which altered the U.S. market for many steel products, including CTL plate. Accordingly, we do not cumulate the subject imports from South Africa with the subject imports from China, Russia, and Ukraine in these reviews.

South Africa’s capacity remained stable during the review period, and there are no projections of increased capacity in 2003 or 2004. Despite existing available capacity and inventories and the ability to engage in product shifting, the CTL plate industry in South Africa has focused increasingly on its home market, as demonstrated by the modest levels of total exports since 1999. Shipment value data provided by South African producers indicate that at times they may be receiving higher prices for CTL plate in their home market than in the United States and thus would have less incentive to redirect large volumes of CTL plate to the United States. Recent direct price-based competition between domestic CTL plate and CTL plate from South Africa has been sporadic, and during the original investigations pricing comparisons resulted in frequent instances of higher prices for the South African CTL plate, particularly in the most common dimensions and channels through which it was sold. Thus, while we are mindful of underselling with a suspension agreement in place, we find that revocation of the suspension agreement is not likely to lead to significant price effects, in view of our conclusion that the likely volume of subject imports from South Africa will not be significant.

Based on the likely reasonable overlap of competition and no significant differences in conditions of competition, we have exercised our discretion to cumulate subject imports from China, Russia, and Ukraine. While we are fully aware of the importance of the safeguard action on flat-rolled steel, including CTL plate, we find that revocation of the suspension agreements on CTL plate from China, Russia, and Ukraine is likely to lead to significant cumulative volume and price effects, and thus likely to result in a significant negative impact, on a domestic industry that we find to be vulnerable. In contrast, in light of South Africa’s significantly-smaller presence in the U.S. market, accompanied by more sporadic price competition and a history of higher, as well as lower, prices in the U.S. market, we conclude that termination of the suspension agreement on CTL plate from South Africa is not likely to result in a significant negative impact, even though such imports are exempt from the President’s safeguard remedy.

I. BACKGROUND

In December 1997, the Commission determined that an industry in the United States was threatened with material injury by reason of imports of CTL plate from China, Russia, South Africa, and

Ukraine that were being sold at less than fair value (LTFV).⁴ Prior to the Commission's determinations, Commerce issued final LTFV determinations on November 19 and 20, 1997, and, on the basis of suspension agreements that it had entered into with each of the subject countries on October 24, 1997,⁵ Commerce continued the investigations.⁶ There were no appeals from the Commission's original determinations.

On September 3, 2002, the Commission instituted the present reviews pursuant to section 751(c) of the Act to determine whether termination of the suspended investigations on CTL plate from China, Russia, South Africa, and Ukraine would be likely to lead to continuation or recurrence of material injury within a reasonably foreseeable time.⁷

In five-year reviews, the Commission initially determines whether to conduct a full review (which would include a public hearing, the issuance of questionnaires, and other procedures) or an expedited review. In order to make this decision, the Commission first determines whether individual responses to the notice of institution are adequate. Next, based on those responses deemed individually adequate, the Commission determines whether the collective responses submitted by two groups of interested parties – domestic interested parties (such as producers, unions, trade associations, or worker groups) and respondent interested parties (such as importers, exporters, foreign producers, trade associations, or subject country governments) – demonstrate a sufficient willingness among each group to participate and provide information requested in a full review. If the Commission finds the responses from both groups of interested parties to be adequate, or if other circumstances warrant, it will determine to conduct a full review.⁸

The Commission received responses to the notice of institution from domestic interested parties Bethlehem Steel Corp. (Bethlehem), United States Steel Corp. (U.S. Steel), IPSCO Steel Inc. (IPSCO), and Nucor Corp. (Nucor), U.S. producers (or then-U.S. producers) of CTL plate. With regard to respondent interested parties, the Commission received responses from Wuyang Iron and Steel Co., Ltd. (Wuyang), Shanghai Baosteel Group Corp. (Baosteel), Anshan Iron & Steel Group Corp. (Anshan), and Wuhan Iron and Steel Group Co. (Wuhan Group), producers and exporters of CTL plate in China, and China Iron & Steel Industry & Trade Group Corp. (China Steel), on behalf of its subsidiary, China Metallurgical Import and Export Liaoning Co. (China Metallurgical), an exporter of CTL plate in China; JSC Severstal (Severstal), a producer and exporter of CTL plate from Russia, and Severstal Inc. and Severstal Trade, Inc., U.S. importers of subject merchandise from Russia; Highveld Steel and Vanadium Corp. Ltd. (Highveld), and Iscor, Ltd. (Iscor), producers and exporters of CTL plate in South Africa, and Newco Steel Trading (Newco), a U.S. importer of subject merchandise from South Africa; and JSC Azovstal Iron & Steel Works (Azovstal) and JCS Ilych & Steel Works (Ilych), producers and exporters of CTL plate in Ukraine. On December 9, 2002, the Commission determined that both the domestic and

⁴ Cut-to-Length Carbon Steel Plate from China, Russia, South Africa, and Ukraine, Invs. Nos. 731-TA-753-756 (Final), USITC Pub. 3076 (December 1997) (original determinations).

⁵ 62 Fed. Reg. 61766 (Nov. 19, 1997) (Ukraine); 62 Fed. Reg. 61751 (Nov. 19, 1997) (South Africa); 62 Fed. Reg. 61780 (Nov. 19, 1997) (Russia); 62 Fed. Reg. 61773 (Nov. 19, 1997) (China).

⁶ 62 Fed. Reg. 61754 (Nov. 19, 1997) (Ukraine); 62 Fed. Reg. 61731 (Nov. 19, 1997) (South Africa); 62 Fed. Reg. 61787 (Nov. 19, 1997) (Russia); 62 Fed. Reg. 61964 (Nov. 20, 1997) (China).

⁷ 67 Fed. Reg. 56311 (Sept. 3, 2002).

⁸ See 19 C.F.R. § 207.62(a); 63 Fed. Reg. 30599, 30602-05 (June 5, 1998).

respondent interested party group responses were adequate and determined that it should proceed to a full review pursuant to section 751(c)(5) of the Tariff Act of 1930, as amended.^{9 10}

II. DOMESTIC LIKE PRODUCT AND INDUSTRY

A. Domestic Like Product¹¹

In making its determination under section 751(c), the Commission defines the “domestic like product” and the “industry.”¹² The Act defines the “domestic like product” as “a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation under this subtitle.”¹³

The imported product subject to the suspended antidumping duty investigations under review, as defined by Commerce, consists of:

hot-rolled iron and non-alloy steel universal mill plates (i.e., flat-rolled products rolled on four faces or in a closed box pass, of a width exceeding 150 mm but not exceeding 1250 mm and of a thickness of not less than 4 mm, 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 iron and non-alloy steel flat-rolled products not in coils, 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 mm or more in thickness and of a width which exceeds 150 mm and measures at least twice the thickness. Included as subject merchandise . . . are flat-rolled products . . . which have been beveled or rounded at the edges Excluded from the subject merchandise within the scope . . . is grade X-70 plate.¹⁴

Most CTL plate is hot-rolled on a reversing mill, although it also may be rolled in Steckel mills and in continuous hot-strip mills.¹⁵ CTL plate can be made in a variety of widths, thicknesses, and shapes for incorporation into other manufactured products or for further processing into other steel products. Among other applications, it is used in load-bearing and structural applications, such as bridge work, and for machine parts, transmission towers, light poles, buildings, mobile equipment and heavy

⁹ 19 U.S.C. § 1675(c)(5).

¹⁰ 67 Fed. Reg. 77803 (Dec. 19, 2002); see also Explanation of Commission Determination on Adequacy, Public Staff Report (PR) and Confidential Staff Report (CR) at Appendix A. Commissioners Bragg and Koplán found the response on behalf of China Metallurgical to be individually inadequate. Id. at nn.3-4.

¹¹ Commissioner Koplán joins in this discussion until otherwise indicated. See Dissenting Views of Commissioner Stephen Koplán.

¹² 19 U.S.C. § 1677(4)(A).

¹³ 19 U.S.C. § 1677(10). See *Nippon Steel Corp. v. United States*, 19 CIT 450, 455 (1995); *Timken Co. v. United States*, 913 F. Supp. 580, 584 (Ct. Int’l Trade 1996); *Torrington Co. v. United States*, 747 F. Supp. 744, 748-49 (Ct. Int’l Trade 1990), aff’d, 938 F.2d 1278 (Fed. Cir. 1991). See also S. Rep. No. 249, 96th Cong., 1st Sess. 90-91 (1979).

¹⁴ 68 Fed. Reg. 1038 (Jan. 8, 2003) (China, Russia, South Africa); see 68 Fed. Reg. 24434 (May 7, 2003) (Ukraine).

¹⁵ CR at I-16, PR at I-13. The basic CTL plate manufacturing process remains unchanged since the original investigations. See CR at I-16 & n.24, PR at I-13; Original Determinations at I-4.

transportation equipment. It is also used in, *inter alia*, the production of tanks, sills, offshore drilling rigs, pipes, petrochemical plant and machinery, and various fabricated pieces.¹⁶

The starting point of the Commission's like product analysis in a five-year review is the Commission's like product determinations in the original investigations.¹⁷ In the original investigations, the Commission defined the domestic like product as CTL plate, co-extensive with the scope, produced by U.S. mills or cut from coiled plate by service centers.¹⁸ The Commission specifically considered whether plate in coil form should be included in the domestic like product definition. Based on different physical characteristics and end uses, limited interchangeability, different manufacturing facilities for the majority of CTL plate and coiled plate, and differences in price, the Commission did not include coiled plate in its domestic like product definition.¹⁹ The Commission similarly declined to include "certain" coiled plate – coiled product produced to the same specifications, chemistries, or widths as CTL plate and generally shipped to processors, service centers, or distributors – in its domestic like product definition.²⁰ The record in these reviews does not support the inclusion of coiled plate in the definition of the domestic like product.

In the original determinations, the issue did not arise and the Commission did not expressly address whether CTL plate made from microalloy steel should be included in the domestic like product. The scope in these reviews, as in the original investigations, does not reference the specific chemical composition of the subject imports, except to describe it as "iron and non-alloy steel." This is a reference to the distinction in the HTSUS between iron and non-alloy steel, on the one hand, and alloy steel on the other.^{21 22}

¹⁶ CR at I-15-I-16, PR at I-12-I-13.

¹⁷ In its like product determinations, the Commission generally considers a number of factors including: (1) physical characteristics and uses; (2) interchangeability; (3) channels of distribution; (4) common manufacturing facilities, production processes, and production employees; (5) customer or producer perceptions; and, where appropriate, (6) price. *See Timken*, 913 F. Supp. at 584. No single factor is dispositive, and the Commission may consider other factors it deems relevant based on the facts of a particular investigation. The Commission looks for clear dividing lines among possible like products, and disregards minor variations. *See, e.g., S. Rep. No. 249*, 96th Cong., 1st Sess. 90-91 (1979); *Torrington*, 747 F. Supp. at 748-49.

¹⁸ Original Determinations at 8-9.

¹⁹ Original Determinations at 7.

²⁰ Original Determinations at 7-8. In response to the notice of initiation in these reviews and in commenting on draft questionnaires, Severstal argued for a new domestic like product definition that would include "hot rolled flat-rolled carbon steel products in coils," contending that the Commission should "adopt logic similar to that which it adopted in its recent *Steel 201* investigation [(*Steel*, Inv. No. TA-201-73, USITC Pub. 3479 (Dec. 2001))]."
Response to Notice of Initiation of Severstal (Oct. 23, 2002) at 15, 19. *Steel* involved a different statutory scheme with a different purpose and history and is thus, at most, of limited usefulness. *See, e.g., Live Cattle from Canada and Mexico*, Inv. Nos. 701-TA-386 (Preliminary) and 731-TA-812-813 (Preliminary), USITC Pub. 3155 (Feb. 1999) at 5-6 n.20. *Steel* also involved a different factual record and a different range of flat-rolled products. Nor did *Steel* make the like product finding that Severstal advocated. Finally, we conclude that the record in these reviews does not warrant a different conclusion from that reached in the original determinations, that coiled plate (or "certain" coiled plate) is not like CTL plate, much less warrant the far broader domestic like product definition initially requested by Severstal.

²¹ CR, PR at F-3. As noted in Commerce's scope language, however, "Although the HTS subheadings are provided for convenience and Customs purposes, our written description of the scope of this investigation is dispositive." 68 Fed. Reg. 1038 (Jan. 8, 2003) (China, Russia, South Africa); 68 Fed. Reg. 24434 (May 7, 2003) (Ukraine).

²² Commissioner Koplan does not join in the balance of the discussion of domestic like product.

U.S. Steel argues, without opposition from any parties to these reviews, that the domestic like product definition in these reviews should include microalloy steel CTL plate.²³ U.S. Steel's position is that differences between microalloy steel and carbon steel CTL plate do not establish a clear dividing line between the two types of CTL plate.²⁴ U.S. Steel also maintains that, while the production technology used to manufacture microalloy CTL plate is not new, the technology now is used more frequently to manufacture microalloy steel plate than in the original investigations due to increased demand for a stronger, more weldable product.²⁵

While the original like product definition is the starting point for the like product definition in five-year reviews, the Commission has stated that it may revisit its original like product determination in appropriate circumstances, including when there have been significant changes in the product at issue since the original investigation.²⁶ The United States Court of International Trade has endorsed this approach.²⁷ We find it appropriate to include microalloy steel CTL plate in the definition of the domestic like product in these reviews, as explained below.

Microalloy steel generally refers to steel designed to provide better mechanical properties or greater resistance to atmospheric corrosion than conventional carbon steel.²⁸ Since the suspension agreements took effect, there have been no major changes in CTL plate production technology and methods in the United States or in the subject countries. However, the CTL plate market has seen an increased use of microalloy steel CTL plate in applications traditionally filled by carbon steel CTL plate. The CTL plate market has demanded higher strength steels that have the weight and other benefits of microalloy technology.²⁹

Changes in CTL plate usage since the original investigations thus warrants our revisiting the original domestic like product definition to determine whether it should encompass microalloy steel CTL plate for purposes of these reviews. First, microalloy steel is not considered to be an alloy steel.³⁰ Rather, microalloy steel is more similar in physical characteristics and uses to carbon steel than to alloy steel. Only when CTL plate is metallurgically tested are the differences between carbon and microalloy

²³ Response of Bethlehem and U.S. Steel to Notice of Institution at 6-7; Prehearing Brief of U.S. Steel at 3-8; Posthearing Brief of U.S. Steel Exh. 1 at 2-5.

²⁴ Prehearing Brief of U.S. Steel at 4-8.

²⁵ Posthearing Brief of U.S. Steel Exh. 1, at 2-3.

²⁶ Notice of Final Rulemaking, 63 Fed. Reg. 30599, 30602 (June 5, 1998). See Carbon Steel Wire Rod From Argentina, Invs. Nos. 701-TA-A (Review) and 731-TA-157 (Review), USITC Pub. 3270 (Jan. 2000), at 4-9.

²⁷ Cheffline Corp. v. United States, 170 F. Supp.2d 1320, 1326-27 (Ct. Int'l Trade 2001).

²⁸ CR, PR at F-3. The Commission applied the following definition proposed by U.S. Steel in the questionnaire instructions to define microalloy steel that is otherwise classified as alloy steel in the HTS:

CTL micro-alloy steel plate.—CTL steel plate products, regardless of definitions in the HTS, in which: (1) iron predominates, by weight, over each of the other contained elements; (2) the carbon content is 2 percent or less, by weight; and (3) none of the elements listed below exceeds the quantity, by weight, respectively indicated: 1.80 percent of manganese, or 2.25 percent of chromium, or 0.30 percent of cobalt, or 0.40 percent of lead, or 1.25 percent of nickel, or 0.30 percent of tungsten, or 0.10 percent of molybdenum, or 0.10 percent of niobium, or 0.15 percent of vanadium, or 0.15 percent of zirconium. Imports of nonsubject CTL micro-alloy steel plate may be reported in the following HTS statistical reporting numbers: 7225.40.3050, 7225.40.7000, 7225.50.6000, 7226.91.5000, 7226.91.8000, and 7226.99.0000.

General Information, Instructions, And Definitions For Commission Producer, Importer, And Purchaser Questionnaires, Cut-To-Length (CTL) Carbon Steel Plate From China, Russia, South Africa, And Ukraine, Invs. Nos. 731-TA-753-756 (Review) at 4.

²⁹ Posthearing Brief of U.S. Steel Exh.1 at 3.

³⁰ CR, PR at F-3; Posthearing Brief of U.S. Steel Exh. 3.

steel apparent. The end uses for the two types of plate may be the same.³¹ The two types of plate are interchangeable in a variety of applications, although the generally higher cost of microalloy steel would discourage its use in the most common carbon steel applications.³² Microalloy steel generally is priced from the base price for carbon steel rather than for alloy steel plate.³³ Manufacturing equipment and employees are similar for the two products.³⁴ The channels of distribution are also similar.³⁵ Microalloy steel is considered by the industry to be carbon, rather than alloy, steel because it is designed to satisfy specific mechanical property rather than chemical composition requirements.³⁶

Based on the record in these reviews and in the absence of any argument to the contrary, we find that the differences between carbon steel CTL plate and microalloy steel CTL plate are not so pronounced as to constitute clear dividing lines and, accordingly, we include microalloy steel CTL plate within our domestic like product definition of CTL plate. Such an approach takes into consideration the realities of today's CTL plate industry and is consistent with the Commission's treatment of the domestic like product in the recent original antidumping and countervailing investigations involving CTL plate and other forms of flat-rolled steel.^{37 38}

B. Domestic Industry³⁹

Section 771(4)(A) of the Act defines the relevant domestic industry as the "producers as a [w]hole of a domestic like product, or those producers whose collective output of a domestic like product

³¹ CR, PR at F-4; Posthearing Brief of U.S. Steel Exh. 3.

³² CR, PR at F-5.

³³ CR, PR at F-3.

³⁴ CR, PR at F-6. Differences between the two exist in the melt practice and rolling techniques.

³⁵ CR, PR at F-6.

³⁶ CR, PR at F-3, F-7.

³⁷ E.g., Certain Cut-to-Length Steel Plate From France, India, Indonesia, Italy, Japan, and Korea, Invs. Nos. 701-TA-387-391 (Final) and 701-TA-816-821 (Final), USITC Pub. 3273 (Jan. 2000) at 5; Certain Hot-Rolled Steel Products From Brazil, Japan, and Russia, Invs. Nos. 701-TA-384 (Preliminary) and 731-TA-806-808 (Preliminary), USITC Pub. 3142 (Nov. 1998) at 6. See also Certain Hot-Rolled Steel Products from Japan, Inv. No. 731-TA-807 (Final), USITC Pub. 3202 (June 1999); Certain Cold-Rolled Steel Products from Argentina, Brazil, Japan, Russia, South Africa, and Thailand, Invs. Nos. 701-TA-393 and 731-TA-829-830, 833-834, 836, and 838 (Final), USITC Pub. 3283 (March 2000); Hot-Rolled Steel Products from Argentina and South Africa, Invs. Nos. 701-TA-404 (Final) and 731-TA-898 and 905 (Final), USITC Pub. 3446 (August 2001); and Certain Cold-Rolled Steel Products from Australia, India, Japan, Sweden, and Thailand, Invs. Nos. 731-TA-965, 971-972, 979, and 981 (Final), USITC Pub. 3536 (September 2002).

³⁸ We note that, unlike in the November 2000 reviews in which the Commission declined to expand the domestic like product definition beyond the scope to include microalloy steel, the issue was timely raised in these reviews and the Commission has collected microalloy information upon which to base a determination on the merits. Certain Carbon Steel Products from Australia, Belgium, Brazil, Canada, Finland, France, Germany, Japan, Korea, Mexico, The Netherlands, Poland, Romania, Spain, Sweden, Taiwan, and The United Kingdom, Inv. Nos. AA1921-197 (Review), 701-TA-231, 319-320, 322, 325-328, 340, 342, and 348-350 (Review), and 731-TA-573-576, 578, 582-587, 604, 607-608, 612, and 614-618 (Review), USITC Pub. 3364 (Nov. 2000) (November 2000 Reviews) at 5-6. The microalloy information is identified in Appendix F to the staff report. We note that certain U.S. producers were not able to separate out data on microalloy CTL plate, even had we decided not to include the microalloy product in the domestic like product. CR, PR at Table C-1, Note.

³⁹ Commissioner Koplan joins in this discussion except with respect to microalloy's inclusion in the domestic like product. See Dissenting Views of Commissioner Stephen Koplan.

constitutes a major proportion of the total domestic production of the product.”⁴⁰ In defining the domestic industry, the Commission’s general practice has been to include in the industry producers of all domestic production of the like product, whether toll-produced, captively consumed, or sold in the domestic merchant market, provided that adequate production-related activity is conducted in the United States.⁴¹ In the original determinations, the Commission considered whether the domestic industry should include processors that converted coiled plate into the domestic like product. The Commission analyzed the production-related activities of the processors and concluded that they were properly considered a part of the domestic industry. The Commission therefore defined the domestic industry to include all producers of CTL carbon steel plate, whether toll producers, integrated producers, or processors.⁴²

No party raised objections to this domestic industry definition, and no new facts have been presented to warrant an approach different from that followed by the Commission in the original investigations. We therefore find that the domestic industry includes all producers of the domestic like product.^{43 44}

III. CUMULATION⁴⁵

A. Framework

Section 752(a) of the Act provides that:

the Commission may cumulatively assess the volume and effect of imports of the subject merchandise from all countries with respect to which reviews under section 1675(b) or (c) of this title were initiated on the same day, if such imports would be likely to compete with each other and with domestic like products in the United States market. The Commission shall not cumulatively assess the volume and effects of imports of the subject merchandise in a case in which it determines that such imports are likely to have no discernible adverse impact on the domestic industry.⁴⁶

Thus, cumulation is discretionary in five-year reviews. However, the Commission may exercise its discretion to cumulate only if the reviews are initiated on the same day and the Commission determines that the subject imports are likely to compete with each other and the domestic like product in the U.S. market. The statute precludes cumulation if the Commission finds that subject imports from a country

⁴⁰ 19 U.S.C. § 1677(4)(A).

⁴¹ See United States Steel Group v. United States, 873 F. Supp. 673, 682-83 (Ct. Int’l Trade 1994), aff’d, 96 F.3d 1352 (Fed. Cir. 1996).

⁴² Original Determinations at 9-12.

⁴³ The data respecting U.S. producers’ capacity, shipments, inventories, and employment is based on the questionnaire responses of 21 firms that accounted for approximately 90 percent of production of CTL plate during the period 1997 through March 2003. CR, PR at III-1. Twelve of these companies are mills and 9 are processors. The financial data of U.S. producers’ operations is based on the responses of *** firms. CR, PR at III-6. Three processors reported financial information; ***. CR, PR at III-6.

⁴⁴ There are no related party issues raised in these reviews.

⁴⁵ Commissioner Koplan joins in this discussion except that he dissents from the Commission’s negative findings with respect to South Africa and the discussion of Other Considerations.

⁴⁶ 19 U.S.C. § 1675a(a)(7).

are likely to have no discernible adverse impact on the domestic industry.⁴⁷ We note that neither the statute nor the Uruguay Round Agreements Act (“URAA”) Statement of Administrative Action (“SAA”) provides specific guidance on what factors the Commission is to consider in determining that imports “are likely to have no discernible adverse impact” on the domestic industry.⁴⁸ With respect to this provision, the Commission generally considers the likely volume of the subject imports and the likely impact of those imports on the domestic industry within a reasonably foreseeable time if the orders are revoked.⁴⁹

In these reviews, the statutory requirement for cumulation that all reviews be initiated on the same day is satisfied as the Commission instituted all the reviews on September 3, 2002.

The Commission generally has considered four factors intended to provide a framework for determining whether the imports compete with each other and with the domestic like product.⁵⁰ Only a “reasonable overlap” of competition is required.⁵¹ In five-year reviews, the relevant inquiry is whether there likely would be competition even if none currently exists. Moreover, because of the prospective nature of five-year reviews, we have examined not only the Commission’s traditional competition factors, but also other significant conditions of competition that are likely to prevail if the suspended investigations under review are terminated. *The Commission has considered factors in addition to its traditional competition factors in other contexts where cumulation is discretionary.*⁵²

⁴⁷ 19 U.S.C. § 1675a(a)(7).

⁴⁸ SAA, H.R. Rep. No. 103-316, vol. I (1994).

⁴⁹ For a discussion of the analytical framework of Vice Chairman Hillman and Commissioners Miller and Koplán regarding the application of the “no discernible adverse impact” provision, see Malleable Cast Iron Pipe Fittings from Brazil, Japan, Korea, Taiwan, and Thailand, Inv. Nos. 731-TA-278-280 (Review) and 731-TA-347-348 (Review) USITC Pub. 3274 (Feb. 2000). For a further discussion of Commissioner Koplán’s analytical framework, see Iron Metal Construction Castings from India; Heavy Iron Construction Castings from Brazil; and Iron Construction Castings from Brazil, Canada, and China, Inv. Nos. 303-TA-13 (Review); 701-TA-249 (Review); and 731-TA-262, 263, and 265 (Review) USITC Pub. 3247 (Oct. 1999) (Views of Commissioner Stephen Koplán Regarding Cumulation).

⁵⁰ The four factors generally considered by the Commission in assessing whether imports compete with each other and with the domestic like product are: (1) the degree of fungibility between the imports from different countries and between imports and the domestic like product, including consideration of specific customer requirements and other quality related questions; (2) the presence of sales or offers to sell in the same geographical markets of imports from different countries and the domestic like product; (3) the existence of common or similar channels of distribution for imports from different countries and the domestic like product; and (4) whether the imports are simultaneously present in the market. See, e.g., Wieland Werke, AG v. United States, 718 F. Supp. 50 (CIT 1989).

⁵¹ See Mukand Ltd. v. United States, 937 F. Supp. 910, 916 (CIT 1996); Wieland Werke, AG, 718 F. Supp. at 52 (“Completely overlapping markets are not required.”); United States Steel Group v. United States, 873 F. Supp. 673, 685 (CIT 1994), *aff’d*, 96 F.3d 1352 (Fed. Cir. 1996). We note, however, that there have been investigations where the Commission has found an insufficient overlap in competition and has declined to cumulate subject imports. See, e.g., Live Cattle from Canada and Mexico, Inv. Nos. 701-TA-386 (Preliminary) and 731-TA-812-813 (Preliminary), USITC Pub. 3155 at 15 (Feb. 1999), *aff’d sub nom*, Ranchers-Cattlemen Action Legal Foundation v. United States, 74 F. Supp.2d 1353 (CIT 1999); Static Random Access Memory Semiconductors from the Republic of Korea and Taiwan, Inv. Nos. 731-TA-761-762 (Final), USITC Pub. 3098 at 13-15 (Apr. 1998).

⁵² See, e.g., Torrington Co. v. United States, 790 F. Supp. at 1172 (affirming Commission’s determination not to cumulate for purposes of threat analysis when pricing and volume trends among subject countries were not uniform and import penetration was extremely low for most of the subject countries); Metallwerken Nederland B.V. v. United States, 728 F. Supp. 730, 741-42 (CIT 1989); Asociacion Colombiana de Exportadores de Flores v. United States, 704 F. Supp. 1068, 1072 (CIT 1988).

Based on the record, we find that subject imports from each of the four countries would not be likely to have no discernible adverse impact on the domestic industry were the suspended investigations terminated. We also find a likely reasonable overlap of competition between the subject imports and the domestic like product were the suspended investigations terminated. We do not find significant differences in the conditions of competition among imports from China, Russia, and Ukraine, but do find significant differences with respect to subject imports from South Africa.⁵³ We therefore exercise our discretion to cumulate the likely volume and effects of subject imports from China, Russia, and Ukraine. We do not exercise our discretion to cumulate the likely volume and effects of subject imports from South Africa.⁵⁴

B. Likelihood of No Discernible Adverse Impact

1. China

In the original investigations, subject imports from China increased from 8,639 short tons in 1994 to 301,652 short tons in 1996. China's share of apparent U.S. consumption of CTL plate in this period rose from 0.1 percent to 3.5 percent.⁵⁵ China's production capacity for CTL plate rose from *** short tons in 1994 to *** short tons in 1996; its capacity utilization was 80.1 percent in 1996.⁵⁶

The largest market for Chinese CTL plate since 1997 has been the Chinese home market, with shipments to the home market accounting for more than *** percent of total shipments in that time.⁵⁷ However, during the same period, notwithstanding under-reporting in these reviews, the available capacity data indicate that the Chinese industry's production capacity has increased.⁵⁸ Moreover, capacity is projected to increase markedly in 2003 and 2004.⁵⁹ Capacity utilization has reportedly fluctuated since the suspension agreement, but is projected to decline.⁶⁰ Notwithstanding growth in home market sales of CTL plate, reporting producers from China export moderate to large volumes of CTL plate, including shipments to the United States.⁶¹ There is also evidence that production in China can shift between subject merchandise and other products.⁶² In light of the prevailing conditions of competition in the U.S. market, including the general interchangeability of CTL plate from different

⁵³ Commissioner Koplan dissents with respect to South Africa.

⁵⁴ Commissioner Koplan dissents with respect to South Africa.

⁵⁵ CR, PR at Table I-1.

⁵⁶ CR, PR at Table IV-3. During the original investigations, the Commission received data for 12 mills in China, believed to account for approximately two-thirds of Chinese CTL plate production and approximately 90 percent of such exports to the United States. Original Determinations at VII-1.

⁵⁷ CR at II-4, PR at II-2.

⁵⁸ Reported capacity in China fell from more than *** million short tons in 1997 to less than *** million short tons in 2000, but approached *** million short tons in 2001 and exceeded *** million short tons 2002. CR, PR at Table IV-3. See also Prehearing Brief of IPSCO and Nucor at 24. In these reviews, the Commission has received data from only five producers/exporters regarding CTL plate operations, which accounted for *** percent of U.S. imports of CTL plate from China during 1997, and *** percent of imports during 2002. CR at IV-5, PR at IV-4.

⁵⁹ Reported capacity in China is projected to increase from *** million short tons in 2002 to *** million short tons in 2003 and 2004. CR, PR at Table IV-4.

⁶⁰ Reported capacity utilization ranged from a low of *** to a high of ***, but is projected to decline to ***. CR, PR at Table IV-4.

⁶¹ CR, PR at Table IV-4.

⁶² CR at IV-5, PR at IV-4.

sources and the importance of price considerations to purchasers, we do not find that subject imports from China, with a demonstrated history of rapid increases in volume and underselling (even with the current safeguard measure in place), would likely have no discernible adverse impact on the domestic industry.

2. Russia

In the original investigations, subject imports from Russia increased from 230,156 short tons in 1994 to 252,396 short tons in 1996. Russia's share of apparent U.S. consumption started and finished in this period at 2.9 percent.⁶³ Russia's production capacity for CTL plate rose from 3.9 million in 1994 to 4.0 million in 1996; its capacity utilization was 69.9 percent in 1996.⁶⁴

The production capacity data for the current reviews indicates that the Russian industry's production capacity has increased between 1997 and 2002.⁶⁵ The Russian industry's capacity utilization in 2002 was only 53.8 percent.⁶⁶ Exports accounted for a significant share of total shipments from Russia of CTL plate (**% percent in 1997; **% percent in 2002).⁶⁷ Producers in Russia can shift production between subject merchandise and other products.⁶⁸ In light of the prevailing conditions of competition in the U.S. market, including the general interchangeability of CTL plate from different sources and the importance of price considerations to purchasers, we do not find that subject imports from Russia, with a demonstrated history of substantial volume and underselling (even with the current safeguard measure in place), would likely have no discernible adverse impact on the domestic industry.

3. South Africa

In the original investigations, subject imports from South Africa declined from 115,468 short tons in 1994 to 81,544 short tons in 1996. South Africa's share of apparent U.S. consumption of CTL plate in this period decreased from 1.5 percent in 1994 to 0.9 percent in 1996.⁶⁹ South Africa's production capacity for CTL plate increased from ** short tons in 1994 to ** short tons in 1996. Capacity utilization in the same period declined from ** percent to ** percent.⁷⁰

Although South Africa's CTL plate production capacity declined in 1997 to ** short tons, it has remained unchanged through 2002.⁷¹ Capacity utilization has varied since the suspension agreement,

⁶³ CR, PR at Table I-1.

⁶⁴ CR, PR at Table IV-3.

⁶⁵ Capacity increased from 4.2 million short tons in 1997 to 4.3 short tons in 2002. CR, PR at Table IV-6. The Commission received data from three Russian producers/exporters, accounting for ** percent of U.S. imports of CTL plate from Russia during 1997 and ** percent during 2002. CR at IV-11, PR at IV-9.

⁶⁶ CR, PR at Table IV-6.

⁶⁷ CR, PR at Table IV-6.

⁶⁸ CR at IV-11, PR at IV-9.

⁶⁹ CR at Table I-1.

⁷⁰ CR, PR at Table IV-3. Two South African firms reported production and exports to the United States in the original investigation, Highveld and Iscor. Together they accounted for all South African CTL plate production and exportation. The industry in South Africa has not changed in these respects since the original investigations. CR at IV-15, PR at IV-12.

⁷¹ CR, PR at Table IV-3.

reaching a low of *** percent in ***.⁷² South African producers continue to export CTL plate, although home market shipments have accounted for most of their total shipments since 1997.⁷³ In light of the prevailing conditions of competition in the U.S. market, including the general interchangeability of CTL plate from different sources and the importance of price considerations to purchasers, we do not find that subject imports from South Africa, which have sporadically undersold the domestic like product and have maintained a presence in the U.S. market, would likely have no discernible adverse impact on the domestic industry.

4. Ukraine

In the original investigations, subject imports from Ukraine increased from 295,775 short tons in 1994 to 627,796 short tons in 1996. Ukraine's share of apparent U.S. consumption of CTL plate in this same period increased from 3.7 percent to 7.2 percent.⁷⁴ Ukraine's production capacity for CTL plate for each year in this period was *** short tons; its capacity utilization increased from *** percent in 1994 to *** percent in 1996.⁷⁵

The Ukrainian industry's production capacity increased between 1997 and 2002, from *** short tons in 1997 to *** short tons in 2002,⁷⁶ and its capacity utilization remained low, ranging between *** percent and *** percent since 1997. Exports have accounted for a significant share of total shipments from Ukraine of CTL plate (*** percent in 1997; *** percent in 2002).⁷⁷ Producers in Ukraine can shift production between subject merchandise and other products.⁷⁸ In light of the prevailing conditions of competition in the U.S. market, including the general interchangeability of CTL plate from different sources and the importance of price considerations to purchasers, we do not find that subject imports from Ukraine, with a demonstrated history of rapid increases in volume and underselling (even with the current safeguard measure in place), would likely have no discernible adverse impact on the domestic industry.

C. Likelihood of a Reasonable Overlap of Competition

In the original investigations, the Commission found that subject imports from China, Russia, South Africa, and Ukraine were generally fungible both with the domestic like product and with each other.⁷⁹ There was no dispute that the domestic like product and the subject imports from all four countries competed in the same geographical markets nationwide and maintained a simultaneous presence in the U.S. market. Moreover, the Commission found a fairly substantial overlap in channels of

⁷² CR, PR at Table IV-8.

⁷³ CR, PR at Table IV-8; CR at II-5-II-6, PR at II-3-II-4.

⁷⁴ CR, PR at Table I-1.

⁷⁵ CR, PR at Table IV-3. During the original investigations, the Commission received data for two Ukrainian producers/exporters.

⁷⁶ CR, PR at Table IV-10. In these reviews, the Commission has received data from one producer/exporter in Ukraine regarding its CTL plate operations. This firm accounted for *** percent of U.S. imports of CTL plate from Ukraine during 1997 and *** imports during 2002. CR at IV-19, PR at IV-12.

⁷⁷ CR, PR at Table IV-10.

⁷⁸ CR at IV-19, PR at IV-12.

⁷⁹ Original Determinations at 17.

distribution of the subject imports and the domestic like product.⁸⁰ Accordingly, the Commission determined that the statutory criteria for cumulation were met.⁸¹

In these reviews, no party has argued that circumstances have changed so as to warrant a different result respecting the overlap of competition for cumulation purposes.

1. Fungibility

CTL plate is frequently sold in accordance with common, accepted industry specifications such as ASTM A-36.⁸² In general, U.S. producers and importers reported that domestic CTL plate and subject imports are used interchangeably.⁸³ All responding producers that had knowledge of CTL plate from various sources reported that the U.S. and subject imported products are “always” used interchangeably; importers reported that the domestic and subject imported CTL plate products were either “always” or “sometimes” used interchangeably.⁸⁴ U.S. producers and importers also reported that CTL plate from the various subject countries is used interchangeably. All responding producers that had knowledge of CTL plate from the subject countries reported that the products are “always” used interchangeably; importers reported that CTL plate from the subject countries is either “always” or “sometimes” used interchangeably.⁸⁵

Subject imports and the domestic like product therefore appear no less fungible than they did in the original investigations. Indeed, Highveld, which contended that product mix and quality differentiated imports from South Africa during the original investigations, testified at the hearing that while its product mix is a little less broad than that of other exporters, the types of plate it exported were also exported by other countries and produced by the U.S. industry.⁸⁶

2. Common or Similar Channels of Distribution

Virtually all shipments of subject imports are to distributors or service centers.⁸⁷ Domestic producers ship plate to end users, distributors, and service centers.⁸⁸ The channels of distribution increasingly overlap due to the growing share of sales by domestic producers to distributors or service centers. Indeed, the share of CTL plate shipments by domestic producers to distributors or service

⁸⁰ Original Determinations at 18.

⁸¹ Because the Commission ultimately found no present material injury, it also considered cumulation for purposes of its threat analysis. The Commission exercised its discretion to cumulate the LTFV imports from China, Russia, South Africa, and Ukraine for the same reasons it determined cumulation was warranted for its material injury analysis. The Commission also noted that most of the subject imports exhibited significant increases in volume during the period and that imports from each of the subject countries undersold the domestic like product. Original Determinations at 23-24.

⁸² CR at I-7-I-10, II-10, V-5, PR at I-6-I-8, II-6, V-4-V-5.

⁸³ CR at I-17, II-10, PR at I-13, II-9. See Transcript of Hearing (July 8, 2003) (Tr.) at 43 (“cut-to-length plate from China, Russia, South Africa and Ukraine, is interchangeable with cut-to-length plate produced in the United States”) (Mr. Insetta).

⁸⁴ CR at II-10, PR at II-6; CR, PR at Table II-1.

⁸⁵ CR at II-13-II-14, PR at II-9; CR, PR at Table II-1.

⁸⁶ Tr. at 166-67 (Mr. Bruno) (noting no “good faith” basis upon which to challenge reasonable overlap of competition).

⁸⁷ CR, PR at Table I-2.

⁸⁸ CR, PR at II-1.

centers has increased from 55.2 percent in 1997 to 63 percent in 2002.⁸⁹ In 1996, by comparison, 52.5 percent of U.S.-produced shipments were to end users.⁹⁰

3. Same Geographic Markets

The domestic like product and subject imports continue to be sold nationwide.⁹¹ The widespread distribution of service centers increases the overlap of geographic markets.⁹²

4. Simultaneous Market Presence

While subject import volumes from each subject country are significantly lower than they were during the original period, imports from each country have continued in each year since 1997.⁹³

Based on the traditional four competition factors that the Commission considers, we conclude that subject imports from the subject countries likely would be sufficiently fungible, move in the same channels of distribution, and compete simultaneously in the same geographic markets if the suspended investigations were terminated. Consequently, we conclude that there likely would be a reasonable overlap of competition between subject imports and the domestic like product, and among the subject imports themselves, if the suspended investigations were terminated.

D. Other Considerations⁹⁴

We do not find any significant differences in the conditions of competition among subject imports from China, Russia, and Ukraine and exercise our discretion to cumulate subject imports from China, Russia, and Ukraine. However, we do find significant differences in the conditions of competition as regards South Africa, as discussed below.

The volume of imports from South Africa has been relatively low and has remained at modest levels despite some increases. Imports from South Africa during the period examined in the original investigations decreased 29.4 percent to 81,544 short tons by 1996. In contrast, imports from China increased 3,391.8 percent during the same period to 301,652 short tons, imports from Russia increased 9.7 percent to 252,396 short tons, and imports from Ukraine increased 112.3 percent to 627,796 short tons.⁹⁵

Imports from South Africa during 1997 through 2002 have varied only from 5,771 short tons to 21,177 tons.⁹⁶ In contrast, imports from China have varied from 26,159 short tons to 163,527 short tons during the same period, while imports from Russia have varied from 17,930 short tons to 158,509 short tons, and imports from Ukraine have varied from 3,814 short tons to 184,615 short tons.⁹⁷ While South Africa has been a low-volume and predictable supplier to the U.S. market, China, Russia, and Ukraine have exported higher volumes that have fluctuated significantly. Since 1994, imports from South Africa

⁸⁹ CR, PR at Table I-2.

⁹⁰ Original Determinations at I-9.

⁹¹ Original Determinations at 18; CR, PR at II-1; Prehearing Brief of U.S. Steel Exh. 2.

⁹² Prehearing Brief of IPSCO and Nucor at 10.

⁹³ CR, PR at Table I-1.

⁹⁴ Commissioner Koplan does not join this section. See Dissenting Views of Commissioner Stephen Koplan.

⁹⁵ CR, PR at Table I-1.

⁹⁶ We are mindful that, since 2000, the shipments are ***.

⁹⁷ CR, PR at Table I-1.

also generally have had higher AUVs than those of the other subject countries, consistent with differences in product mix and product pricing.^{98 99}

South Africa's production capacity is also substantially smaller than that of China, Russia, and Ukraine. Based on the reported capacity data for the period of review, South Africa's capacity level was *** short tons, whereas capacity in China ranged from 4.3 million short tons to 4.8 million short tons; in Russia, from 4.2 million short tons to 4.5 million short tons; and in Ukraine from *** short tons to *** short tons.¹⁰⁰ The two South African firms, which represented all of South Africa's production, reported *** plans to expand capacity.¹⁰¹ This stable and comparatively low production capacity differentiates South Africa from the other subject countries.

In addition, South Africa is exempt from the safeguard measures imposed by the President following the Commission's investigation of steel products (Inv. No. TA-201-73).^{102 103} With respect to measures encompassing CTL plate, the President announced tariffs of 30 percent *ad valorem* in the first year, 24 percent *ad valorem* in the second year, and 18 percent *ad valorem* in the third year of the safeguard period.¹⁰⁴ This provided a competitive advantage to South Africa versus the other subject countries in the U.S. market, yet imports from South Africa have continued at their modest levels, whereas imports from the other subject countries decreased in 2002, after the initial Section 201 duties of 30 percent were imposed.¹⁰⁵

Therefore, based on the record in these reviews, we decline to exercise our discretion to cumulate subject imports from South Africa with other subject imports.

⁹⁸ Imports from South Africa had the highest AUVs among subject countries in 1994, 1995, 1996, 1997, 1998, 2000, and 2001. CR, PR at Table I-1. No direct comparisons with other subject imports were available for two of the three products (products 1 and 3) for which the Commission obtained pricing information in these reviews. CR, PR at Tables V-1, V-3. Prices of subject imports from South Africa were higher in 6 of 8 comparisons with other subject imports for product 2. CR, PR at Table V-2.

⁹⁹ The home market prices for CTL plate also generally appear higher in South Africa than in the other subject countries and, at times, may be above those in the United States. CR, PR at Tables IV-4, IV-6, IV-8, IV-10, C-1.

¹⁰⁰ CR, PR at Table IV-3.

¹⁰¹ CR at IV-15, PR at IV-12.

¹⁰² See Presidential Proclamation 7529 of March 5, 2002, 67 Fed. Reg. 10553 (March 7, 2002).

¹⁰³ The Commission found similarly in the 2002 original investigation of cold-rolled steel that the exclusion of certain countries from the Section 201 remedy constituted a difference in the conditions of competition so as to warrant the Commission exercising its discretion not to cumulate the excluded countries with the countries covered by the Section 201 remedy for the purposes of its threat analysis. Certain Cold-Rolled Steel Products From Australia, India, Japan, Sweden, and Thailand, Invs. Nos. 731-TA-965, 971-972, 979, 981 (Final), USITC Pub. 3536 (Sept. 2002), at 43-45.

¹⁰⁴ CR at I-11, PR at I-9.

¹⁰⁵ The suspension agreements that are the subject matter of these reviews have also varied. From 1997 to 2002, China, Russia, and Ukraine were subject to quotas under their respective non-market economy agreements. The quotas limited the volumes that these countries were permitted to import into the United States. South Africa's market economy agreement imposed no quantity limitations, however. Pursuant to South Africa's agreement, signatory firms agreed to sell at or above their cost-based normal values. CR at I-6-I-9, PR at I-5-I-8.

III. LIKELIHOOD OF CONTINUATION OR RECURRENCE OF MATERIAL INJURY IF THE SUSPENDED INVESTIGATIONS ARE TERMINATED

A. Legal Standard In A Five-Year Review¹⁰⁶

In a five-year review conducted under section 751(c) of the Act, Commerce will revoke a countervailing or antidumping duty order or terminate a suspended investigation unless: (1) it makes a determination that dumping is likely to continue or recur, and (2) the Commission makes a determination that revocation of an order or termination of a suspended investigation “would be likely to lead to continuation or recurrence of material injury within a reasonably foreseeable time.”¹⁰⁷ The SAA states that “under the likelihood standard, the Commission will engage in a counter-factual analysis; it must decide the likely impact in the reasonably foreseeable future of an important change in the status quo – the revocation or termination of a proceeding and the elimination of its restraining effects on volumes and prices of imports.”¹⁰⁸ Thus, the likelihood standard is prospective in nature.^{109 110} The statute states that “the Commission shall consider that the effects of revocation or termination may not be imminent, but may manifest themselves only over a longer period of time.”¹¹¹ According to the SAA, a “‘reasonably foreseeable time’ will vary from case-to-case, but normally will exceed the ‘imminent’ time frame applicable in a threat of injury analysis [in antidumping and countervailing duty investigations].”¹¹²

¹⁰⁶ Commissioner Koplan joins in the discussion of the relevant legal standard.

¹⁰⁷ 19 U.S.C. § 1675a(a).

¹⁰⁸ SAA, H.R. Rep. No. 103-316, vol. I, at 883-84 (1994). The SAA states that “[t]he likelihood of injury standard applies regardless of the nature of the Commission’s original determination (material injury, threat of material injury, or material retardation of an industry). Likewise, the standard applies to suspended investigations that were never completed.” SAA at 883.

¹⁰⁹ While the SAA states that “a separate determination regarding current material injury is not necessary,” it indicates that “the Commission may consider relevant factors such as current and likely continued depressed shipment levels and current and likely continued [sic] prices for the domestic like product in the U.S. market in making its determination of the likelihood of continuation or recurrence of material injury if the order is revoked.” SAA at 884.

¹¹⁰ See Usinor Industeel, S.A. v. United States, Slip Op. 02-39 at 13 and 25 (Ct. Int’l Trade April 29, 2002) (remanding review determination to Commission), Slip Op. 02-75 (July 30, 2002) (denying Commission motion to amend and order for interlocutory appeal and for stay of proceeding pending appeal), & Slip Op. 02-152 at 5 & n.6 (December 20, 2002) (Restani, J.); Usinor v. United States, Slip Op. 02-70 at 43-44 (Ct. Int’l Trade July 19, 2002) (remanding review determination to Commission) (Wallach, J.); and Nippon Steel Corp., et al. v. United States, Slip Op. 02-153 at 7-8 (December 24, 2002) (remanding determination to Commission).

¹¹¹ 19 U.S.C. § 1675a(a)(5).

¹¹² SAA at 887. Among the factors that the Commission should consider in this regard are “the fungibility or differentiation within the product in question, the level of substitutability between the imported and domestic products, the channels of distribution used, the methods of contracting (such as spot sales or long-term contracts), and lead times for delivery of goods, as well as other factors that may only manifest themselves in the longer term, such as planned investment and the shifting of production facilities.” *Id.*

¹¹³ In analyzing what constitutes a reasonably foreseeable time, Commissioner Koplan examines all the current and likely conditions of competition in the relevant industry. He defines “reasonably foreseeable time” as the length of time it is likely to take for the market to adjust to a revocation or termination. In making this assessment, he considers all factors that may accelerate or delay the market adjustment process including any lags in response by foreign producers, importers, consumers, domestic producers, or others due to: lead times; methods of contracting;

(continued...)

Although the standard in five-year reviews is not the same as the standard applied in original antidumping or countervailing duty investigations, it contains some of the same fundamental elements. The statute provides that the Commission is to “consider the likely volume, price effect, and impact of imports of the subject merchandise on the industry if the order is revoked or the suspended investigation is terminated.”¹¹⁴ It directs the Commission to take into account its prior injury determination, whether any improvement in the state of the industry is related to the order or the suspension agreement under review, whether the industry is vulnerable to material injury if the order is revoked or the suspension agreement is terminated, and any findings by Commerce regarding duty absorption pursuant to 19 U.S.C. § 1675(a)(4).¹¹⁵

We note that the statute authorizes the Commission to take adverse inferences in five-year reviews, but such authorization does not relieve the Commission of its obligation to consider the record evidence as a whole in making its determination.¹¹⁶ We generally give credence to the facts supplied by the participating parties and certified by them as true, but base our decision on the evidence as a whole, and do not automatically accept the participating parties’ suggested interpretation of the record evidence. Regardless of the level of participation and the interpretations urged by participating parties, the Commission is obligated to consider all evidence relating to each of the statutory factors and may not draw adverse inferences that render such analysis superfluous. “In general, the Commission makes determinations by weighing all of the available evidence regarding a multiplicity of factors relating to the domestic industry as a whole and by drawing reasonable inferences from the evidence it finds most persuasive.”¹¹⁷ In this case, not all interested parties provided questionnaire responses or participated in these reviews. Accordingly, we have relied on the facts available in this review, which consist primarily of the report and opinion in the original determinations, information collected by the Commission since the institution of this review, and information submitted by the domestic producers and respondent parties in this review.

For the reasons stated below, we determine that termination of the suspended investigations on CTL plate from China, Russia, and Ukraine would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time, and that termination of the suspended investigation on CTL plate from South Africa would not be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.¹¹⁸

¹¹³ (...continued)

the need to establish channels of distribution; product differentiation; and any other factors that may only manifest themselves in the longer term. In other words, this analysis seeks to define “reasonably foreseeable time” by reference to current and likely conditions of competition, but also seeks to avoid unwarranted speculation that may occur in predicting events into the more distant future.

¹¹⁴ 19 U.S.C. § 1675a(a)(1).

¹¹⁵ 19 U.S.C. § 1675a(a)(1). The statute further provides that the presence or absence of any factor that the Commission is required to consider shall not necessarily give decisive guidance with respect to the Commission’s determination. 19 U.S.C. § 1675a(a)(5). While the Commission must consider all factors, no one factor is necessarily dispositive. SAA at 886. We note that no duty absorption findings have been made by Commerce.

¹¹⁶ 19 U.S.C. § 1675(e).

¹¹⁷ SAA at 869.

¹¹⁸ Commissioner Koplan dissenting with respect to South Africa. See Dissenting Views of Commissioner Stephen Koplan.

B. Conditions of Competition¹¹⁹

In evaluating the likely impact of the subject imports on the domestic industry, the statute directs the Commission to consider all relevant economic factors “within the context of the business cycle and conditions of competition that are distinctive to the affected industry.”¹²⁰ The following conditions of competition in the CTL plate industry are relevant to our determination.

Supporters and opponents of the continued suspension of the investigations generally agree that the domestic market follows the overall business cycle and that demand has declined since 1999 with no clear evidence that a trough has been reached.¹²¹ Apparent U.S. consumption of CTL plate decreased 7.0 percent between 1999 and 2002, from 6.6 million short tons to 6.1 million short tons.¹²² Apparent U.S. consumption was 13.0 percent lower during January through March 2003 than during the same period in the previous year.¹²³ The parties attributed the decrease to general economic conditions, with specific factors cited such as decreased spending on capital goods and decreased general construction spending.¹²⁴ This economic downturn came after a wave of unfairly traded imports during an upswing in the business cycle, as evidenced by rising apparent U.S. consumption between 1997 and 1999.¹²⁵

Domestic capacity during the period of review has declined 5.6 percent.^{126 127} Nucor began production of CTL plate in 2000 and ISPCO opened a new mill in 2000. Also, U.S. Denro restarted a plate mill in December 1997. However, during the same period, there were several plant closings,

¹¹⁹ Commissioner Koplan joins in this discussion unless otherwise indicated.

¹²⁰ 19 U.S.C. § 1675a(a)(4).

¹²¹ CR, PR at II-1.

¹²² Because Commissioner Koplan did not include microalloy steel in the domestic like product, he finds that apparent U.S. consumption of CTL plate decreased by *** percent between 1999 and 2002, from *** short tons to *** short tons. See CR, PR at Table C-3.

¹²³ CR, PR at Table C-4.

¹²⁴ CR at II-2, PR at II-5.

¹²⁵ CR, PR at Table I-1; Certain Carbon Steel Products from Australia, Belgium, Brazil, Canada, Finland, France, Germany, Japan, Korea, Mexico, The Netherlands, Poland, Romania, Spain, Sweden, Taiwan, and The United Kingdom, Inv. Nos. AA1921-197 (Review), 701-TA-231, 319-320, 322, 325-328, 340, 342, and 348-350 (Review), and 731-TA-573-576, 578, 582-587, 604, 607-608, 612, and 614-618 (Review), USITC Pub. 3364 (Nov. 2000) (November 2000 Reviews) at 32. In Certain Cut-to-Length Steel Plate from France, India, Indonesia, Italy, Japan and Korea, Inv. Nos. 701-TA-387-391 (Final) and 731-TA-816-821 (Final), USITC Pub. 3273 (Jan. 2000) (January 2000 Determinations) at 23 (footnote omitted), the Commission explained as follows:

The subject imports in 1997 initially gained market share at the expense of other imports after the filing of petition against China, Russia, South Africa, and Ukraine in the last CTL plate case [the original investigation here] and the suspension agreements that ensued. U.S. producers also gained market share from 1996 to 1997. However, the subject imports continued to gain market share, at the expense of the domestic industry, particularly from 1997 to 1998 and in the second half of 1998. In the face of rising U.S. consumption of CTL plate over the period for which data were collected, U.S. producers' market share declined in 1998 to close to 1996 levels, while subject imports as a share of consumption more than tripled during the period for which data were collected.

¹²⁶ CR, PR at Table C-1. Capacity has declined from 8.7 million short tons in 1997 to 8.2 million short tons in 2002.

¹²⁷ Commissioner Koplan notes that the Commission does not have exact capacity data for the CTL plate market exclusive of microalloy CTL plate. However, he concurs in this statement because it is based on the best data available.

including Gulf States Steel and Geneva Steel, as well as the idling of certain production capacity by Bethlehem Steel (now ISG).¹²⁸ As the domestic industry has consolidated, productivity has increased.¹²⁹

The commodity nature of CTL plate and the domestic product's interchangeability with subject imports remain unchanged from the original investigations,¹³⁰ while the importance of service centers in the distribution of CTL plate in the U.S. market has grown since the original investigations. Sixty-three percent of U.S.-produced shipments and all reported subject imports were sold to distributors/service centers in 2002.¹³¹ Service centers increase price competition in the U.S. market because of their buying leverage and ability to make large purchases and hold sizeable quantities of CTL plate in inventory.¹³²

As noted above, President Bush issued a proclamation on March 5, 2002, imposing safeguard duties on imported CTL plate, among other steel products, for a period not to exceed three years and one day. Import relief relating to CTL plate consisted of an additional tariff of 30 percent *ad valorem* on imports in the first year, 24 percent in the second year, and 18 percent in the third year. China, Russia, and Ukraine are subject to this temporary import relief while South Africa is an exempted country.^{133 134}

Nonsubject imports of CTL plate increased markedly from a low of 378,226 short tons in 1995 to a high of 1,379,685 short tons in 1998, and remained above 500,000 short tons annually throughout 1997 through 2002.¹³⁵ During the review period, however, antidumping and countervailing duties were imposed on several other countries exporting CTL plate to the United States and were continued on certain other countries as a result of affirmative determinations in 2000 by the Commission and Commerce in original investigations and five year reviews.¹³⁶

Except as otherwise noted, we find that the foregoing conditions of competition are likely to prevail for the reasonably foreseeable future and thus provide an adequate basis upon which to assess the likely effects of termination of the suspended investigations within the reasonably foreseeable future.

¹²⁸ CR, PR at Table I-5.

¹²⁹ CR, PR at Table III-5.

¹³⁰ See, e.g., Tr. at 46 (Mr. Insetta) ("Cut-to-length plate is still a price-sensitive commodity product and cut-to-length plate from China, Russia, South Africa and Ukraine is interchangeable with cut-to-length plate produced in the United States. The products from each country are also interchangeable amongst each other. That means price is a very important factor in purchasing decisions."); Tr. at 160 ("We will buy from a quality standpoint, but by and large we are in a commodity business, so price is going to drive it.") (Mr. Ballou).

¹³¹ CR, PR at Table I-2.

¹³² See, e.g., Tr. at 30-31 ("We are a full line distributor with over 28 service centers in the United States. Plate is our largest investment we have, both in tons and in dollars. ... We prefer to purchase plate from the domestic sources, but because of the competitive nature of our business, I am forced to buy at the lowest price source, no matter where. I know that if I buy imported plate that is offered at prices that are lower than current market prices, then a buyer at one of the competitor service center chains will do so and my company will lose out.") (Mr. Ballou). See also Prehearing Brief of IPSCO and Nucor at 16; Posthearing Brief of IPSCO and Nucor at 10.

¹³³ CR at I-11, PR at I-9.

¹³⁴ Commissioner Koplan notes that the Section 201 relief has not been in effect long enough for him to quantify its effects on these subject countries particularly when he takes into account the pendency of these instant reviews.

¹³⁵ CR, PR at Table I-1.

¹³⁶ Certain Cut-to-Length Steel Plate from France, India, Indonesia, Italy, Japan and Korea, Inv. Nos. 701-TA-387-391 (Final) and 731-TA-816-821 (Final), USITC Pub. 3273 (Jan. 2000); Certain Carbon Steel Products from Australia, Belgium, Brazil, Canada, Finland, France, Germany, Japan, Korea, Mexico, The Netherlands, Poland, Romania, Spain, Sweden, Taiwan, and The United Kingdom, Inv. Nos. AA1921-197 (Review), 701-TA-231, 319-320, 322, 325-328, 340, 342, and 348-350 (Review), and 731-TA-573-576, 578, 582-587, 604, 607-608, 612, and 614-618 (Review), USITC Pub. 3364 (Nov. 2000). We note that the order with respect to CTL plate from Canada was revoked.

C. China, Russia, and Ukraine¹³⁷

1. Likely Volume of Cumulated Imports

In evaluating the likely volume of imports of subject merchandise if the suspended investigations under review are terminated, the Commission is directed to consider whether the likely volume of imports would be significant either in absolute terms or relative to production or consumption in the United States.¹³⁸ In doing so, the Commission must consider "all relevant economic factors," including four enumerated factors: (1) any likely increase in production capacity or existing unused production capacity in the exporting country; (2) existing inventories of the subject merchandise, or likely increases in inventories; (3) the existence of barriers to the importation of the subject merchandise into countries other than the United States; and (4) the potential for product shifting if production facilities in the foreign country, which can be used to produce the subject merchandise, are currently being used to produce other products.¹³⁹

In its present material injury analysis in the original investigations, the Commission found that the increase in volume and market share of subject imports, both in absolute terms and relative to U.S. consumption, was significant. The Commission found a significant rate of increase of the volume of subject imports indicating the likelihood of substantially increased imports in the near future.¹⁴⁰ In its threat analysis, the basis for the affirmative determinations, the Commission noted that the volume of cumulated subject imports rose from 650,038 short tons in 1994 to 1,263,389 short tons in 1996, an overall increase of 94.4 percent, and that there was a further increase of 76.3 percent between the interim periods (first quarter 1996 and first quarter 1997).¹⁴¹ The Commission found that the dramatic surge of subject imports in interim 1997 demonstrated the ability of respondents to ship very large volumes of subject imports to the United States and the likelihood that respondents would do so in the absence of an affirmative determination.¹⁴² The Commission also noted that the rate of increase far outpaced growth in domestic demand, resulting in increased market share for subject imports. The Commission was unpersuaded by arguments of the Chinese, Russian, and Ukrainian respondents that home market shipments would expand to the extent necessary to lead to a significant decrease in the volumes exported to the United States. The Commission found that there was current excess capacity to allow exports to the United States to increase greatly. The Commission also considered it significant that each of the subject countries was facing at least one and, in some cases, several antidumping findings, investigations, or quantitative restrictions in major export markets other than the United States.¹⁴³

Following the suspension agreements, cumulated subject imports from the three countries dropped dramatically. With respect to the cumulated countries, subject imports declined 42.8 percent

¹³⁷ Commissioner Koplan does not join the remainder of the opinion.

¹³⁸ 19 U.S.C. § 1675a(a)(2).

¹³⁹ 19 U.S.C. § 1675a(a)(2)(A-D).

¹⁴⁰ Original Determinations at 19.

¹⁴¹ Original Determinations at 24. The cumulated subject imports also included South Africa. Without South Africa, cumulated subject imports rose from 534,570 short tons in 1994 to 1,181,845 short tons in 1996 and were 426,217 short tons in the first quarter of 1997 as compared to 228,972 short tons in the first quarter of 1996. Original Determinations at Table C-1.

¹⁴² Original Determinations at 24-25.

¹⁴³ Original Determinations at 25.

between 1996 and 1997, from 1,181,845 short tons in 1996 to 506,652 short tons in 1997.¹⁴⁴ Subject imports from the cumulated countries continued to decline in volume through the period of review, decreasing to 420,918 short tons in 1998, notwithstanding a rise in apparent U.S. consumption in that year.¹⁴⁵ Subject imports from the cumulated countries declined 85.9 percent in volume between 1997 and 2002 and a further 85.8 percent in January through March 2003 as compared to the same period in the previous year,¹⁴⁶ reflecting the combined impact of the suspension agreements and the temporary import relief imposed under U.S. safeguards law beginning in March 2002. Such temporary relief, in the form of an additional tariff of 30 percent, was reduced in March 2003 to 24 percent, will be further reduced to 18 percent in March 2004, and does not extend beyond March 2005.

Several factors support the conclusion that subject import volume from the cumulated countries is likely to be significant if the suspended investigations are terminated. First, in the three years prior to the suspension agreements (1994 through 1996), the volume of subject imports from China, Russia, and Ukraine increased by 121.1 percent from 534,569 short tons in 1994 to 1.2 million short tons in 1996.¹⁴⁷ In the same period, the share of apparent U.S. consumption held by subject plate from China, Russia, and Ukraine doubled from 6.8 percent to 13.6 percent.¹⁴⁸ Thus the subject countries have the demonstrated ability to increase exports to the United States rapidly without the restraining effects of the suspension agreements. While the temporary relief afforded under the Section 201 proceeding on imported steel products will provide some restraint on increased imports from the subject countries, we note that that relief was reduced this year, and is scheduled to be further reduced in March 2004. Its restraining effects will thus diminish considerably in the reasonably foreseeable future and will expire in March 2005.¹⁴⁹

Second, despite certain limitations in the scope of coverage of data on foreign production noted previously, the data collected by the Commission show considerable production capacity over the period of review and, further, that this capacity has increased. China's reported production capacity increased from 4.4 million short tons in 1997 to 4.8 million short tons in 2002. Russia's production capacity has increased from 4.2 million short tons in 1997 to 4.3 million short tons in 2002. Ukraine's production capacity increased from *** short tons in 1997 to *** short tons in 2002.¹⁵⁰ In 2002, therefore, total capacity for China, Russia, and Ukraine, based on the available data, is *** short tons.¹⁵¹ In 2002, production of CTL plate from these three countries was, respectively, 4.3 million short tons, 2.3 million

¹⁴⁴ Table I-1A (Aug. 13, 2003, Staff Tables).

¹⁴⁵ Table I-1A (Aug. 13, 2003, Staff Tables).

¹⁴⁶ Table I-1A (Aug. 13, 2003, Staff Tables).

¹⁴⁷ Table I-1A (Aug. 13, 2003, Staff Tables). Imports from China increased from 8,639 short tons in 1994 to 301,652 in 1996; from January through March 1997, imports from China totaled 153,352 short tons as compared to 47,843 short tons during the same period in 1996. Imports from Russia increased from 230,156 short tons in 1994 to 252,396 short tons in 1996; from January through March 1997, imports from Russia totaled 100,444 short tons as compared to 56,937 short tons during the same period in 1996. Imports from Ukraine increased from 295,775 short tons in 1994 to 627,796 short tons in 1996; from January through March 1997, imports from Ukraine totaled 172,421 short tons as compared to 124,192 short tons during the same period in 1996. Original Determinations at Table C-1. The volume in the interim period therefore rose 86.1 percent over the same period in the preceding year.

¹⁴⁸ Table I-1A (Aug. 13, 2003, Staff Tables).

¹⁴⁹ CR at I-10-I-11, PR at I-9. Certain CTL products were excluded from relief. CR at I-11, PR at I-9.

¹⁵⁰ CR, PR at Table IV-3.

¹⁵¹ Table IV-B (Aug. 13, 2003, Staff Tables).

short tons, and *** short tons, for a combined total of *** short tons,¹⁵² resulting in unused capacity of *** short tons in 2002, the equivalent of *** percent of apparent U.S. consumption in 2002.¹⁵³

In addition, all three countries also have the capacity to shift production between subject merchandise and other products. In China, production of other plate products on the same equipment reportedly includes alloy, low-alloy, shipbuilding, high-grade structural, and pressure plate.¹⁵⁴ In Russia, firms produce *** on the same equipment used to produce CTL plate.¹⁵⁵ In Ukraine, *** were reportedly produced on the same equipment used to produce CTL plate.¹⁵⁶

Third, the CTL plate industry is highly capital intensive.¹⁵⁷ This places pressure on producers to operate at high levels of capacity utilization and such production is, to at least some extent, typically exported.

The industries in the cumulated countries are at least somewhat export oriented. As a share of total shipments, shipments for exportation during the period of review ranged from *** percent (2002) to *** percent (1997).¹⁵⁸ Exports constituted *** percent of Ukraine's total shipments in 2002 and *** percent of Russia's shipments.¹⁵⁹ China's home market grew in the period of review, but the industry's considerable size, unused capacity, and increasing capacity persuade us that export markets remain an important part of the industry's commercial future.

Fourth, the United States is an attractive market for foreign producers because of its size and its established distribution system. Service centers have consolidated and enhanced their ability to purchase and hold in inventory sizeable quantities. Their buying power and demand for low priced imports further facilitates exports to the U.S. market.¹⁶⁰ The AUV data provided by the subject country producers on their exports to third-country markets and on their home market shipments, as well as certain pricing data on the record, indicate that U.S. prices for CTL plate is often higher than prices in other markets,¹⁶¹ making the United States an attractive CTL plate market. Exports of subject merchandise from China, Russia, and Ukraine are also subject to a number of tariff and non-tariff barriers in third-country markets, further increasing the attractiveness of the U.S. market.¹⁶²

Accordingly, based on the demonstrated ability of the CTL plate industries in China, Russia, and Ukraine to increase imports into the U.S. market rapidly, their existing inventories and ability to shift

¹⁵² CR, PR at Table IV-3.

¹⁵³ CR, PR at Table C-4; Table IV-B (Aug. 13, 2003, Staff Tables). China, Russia, and Ukraine each had existing inventories. As a share of production, inventories have fluctuated from a high of *** percent in 1998 to a low of *** percent in 2002. Table IV-B (Aug. 13, 2003, Staff Tables). Despite diminishing levels of inventories, reporting producers held *** short tons in inventory as of December 2002, and *** short tons in inventory as of March 2003. Table IV-B (Aug. 13, 2003, Staff Tables). U.S. inventories of CTL plate from these countries totaled *** short tons in December 2002 and *** short tons in March 2003. CR, PR at Table IV-2.

¹⁵⁴ CR at IV-5, PR at IV-4.

¹⁵⁵ CR at IV-11, PR at IV-9.

¹⁵⁶ CR at IV-19, PR at IV-12.

¹⁵⁷ Tr. at 43 (Mr. Insetta); Tr. at 63 (Mr. Dempsey).

¹⁵⁸ Table IV-B (Aug. 13, 2003, Staff Tables).

¹⁵⁹ CR, PR at Table IV-3.

¹⁶⁰ Tr. at 30-31 (Mr. Ballou); Posthearing Brief of IPSCO and Nucor at 9-10.

¹⁶¹ CR, PR at Tables IV-4, IV-7, IV-11, V-1-V-3.

¹⁶² The EU and Canada have imposed antidumping duties on subject exports from China. The EU, Mexico, Colombia, China, Egypt, and Poland have imposed import restrictions on subject exports from Russia. Canada, Russia, Czech Republic, Turkey, and Hungary have imposed import restrictions on subject exports from Ukraine. CR, PR at Table IV-12 (as revised in Memorandum, Inv-AA-116 (Aug. 6, 2003)).

production, substantial production capacity, production, and unused capacity, their reliance on export markets (despite numerous barriers), and their incentives to increase imports into the United States in the absence of the suspension agreements, we find that the likely volume of subject imports, both in absolute terms and as a share of the U.S. market, would be significant.

2. Likely Price Effects of Cumulated Imports

In evaluating the likely price effects of subject imports if the suspended investigations are terminated, the Commission is directed to consider whether there is likely to be significant underselling by the subject imports as compared to domestic like products and whether the subject imports are likely to enter the United States at prices that otherwise would have a significant depressing or suppressing effect on the price of domestic like products.¹⁶³

In the original determinations, the Commission stated that price is a significant factor for purchasers of CTL plate, which is essentially a commodity-type product, and that for a majority of purchasers the lowest priced CTL plate would usually win the sale.¹⁶⁴ Given the interchangeability of domestically produced and imported CTL plate, the Commission also found that large or rapidly increasing volumes of low-priced imports can have significant adverse price effects in this industry. The Commission determined that subject imports undersold the domestic product in the overwhelming majority of comparisons, with margins of underselling ranging from 0.3 to 36.2 percent.¹⁶⁵ The Commission also found that prices obtained by domestic producers for sales to distributors peaked in early 1995, as did prices for two of three pricing products sold to end users, before declining through early 1996.¹⁶⁶

In its threat analysis, the Commission found evidence that increased subject imports would enter at prices likely to depress or suppress domestic prices to a significant degree. The Commission noted that subject imports undersold the domestic product in the overwhelming majority of comparisons at margins up to 36.2 percent. The Commission found the beginnings of price depression and suppression based on declines in price in mid-to-late 1996 and continuing through early 1997, notwithstanding a strong growth in demand.¹⁶⁷

Price remains an important factor in the purchase of CTL plate¹⁶⁸ and, indeed, with the increasing role of service centers in the distribution of CTL plate in the U.S. market, the dynamic for price competition appears to have increased since the original investigations. Prices generally are determined

¹⁶³ 19 U.S.C. § 1675a(a)(3). The SAA states that “[c]onsistent with its practice in investigations, in considering the likely price effects of imports in the event of revocation and termination, the Commission may rely on circumstantial, as well as direct, evidence of the adverse effects of unfairly traded imports on domestic prices.” SAA at 886.

¹⁶⁴ Original Determinations at 20.

¹⁶⁵ Imports from China were priced lower than the domestic product in 69 of 78 quarters by margins ranging from 0.3 to 25.9 percent; imports from Russia were priced lower than the domestic product in 54 of 55 quarters by margins ranging from 2.1 to 36.2 percent; imports from Ukraine were priced lower than domestic product in the 59 quarters in which price comparisons could be made with margins ranging from 0.7 to 29.8 percent. Original Determinations at 20 n.131.

¹⁶⁶ Original Determinations at 20-21.

¹⁶⁷ Original Determinations at 26.

¹⁶⁸ Quality is also an important consideration, but we are persuaded that, in this generally commodity-driven industry in which the domestic product and subject imports are broadly interchangeable, price is a critical element in purchasing decisions. CR at II-9-II-15, PR at II-5-II-10; Tr. at 152-53 (Mr. Ballou).

through negotiations between buyers and sellers. U.S. producers commonly give discounts from list prices in order to be competitive. Importers, on the other hand, do not use price lists.¹⁶⁹

The evidence collected in these reviews indicates that there was significant underselling of the imported product even with the suspension agreements in place. Pricing data were obtained for three products. Underselling occurred across product lines and throughout the period of review.¹⁷⁰ For product 1, imports from China undersold the domestic product in 14 of 21 quarterly comparisons by margins ranging from 0.7 percent to 20.3 percent. Imports from Russia undersold the domestic product in 16 of 18 quarterly comparisons by margins ranging from 0.7 percent to 41.4 percent. Imports from Ukraine were lower in 12 of 20 quarterly comparisons by margins ranging from 0.9 percent to 40.9 percent.¹⁷¹

For product 2, imports from China undersold the domestic product in 14 of 22 quarterly comparisons with margins ranging from 1.4 percent to 37.4 percent. Imports from Russia were priced lower in 15 of 16 quarterly comparisons with margins ranging from 8.8 percent to 38.4 percent. Imports from Ukraine were priced lower in 7 of 17 quarterly comparisons with margins ranging from 7.9 percent to 32.3 percent.¹⁷²

For product 3, imports for China undersold the domestic product in 5 of 16 quarterly comparisons by margins ranging from 9.6 percent to 21.4 percent. Imports from Russia undersold the domestic product in 8 of 13 quarterly comparisons by margins ranging from 5.5 percent to 47.1 percent. Only two quarterly comparisons were available with respect to imports from Ukraine. In one of those comparisons Ukrainian product undersold the domestic product by a margin of 22.1 percent.¹⁷³

Prices for all three products sold to service centers generally trended downward over the period of review.¹⁷⁴

We have considered whether and to what extent the U.S. safeguard action on flat-rolled steel (including CTL plate) would moderate the likely price effects of the subject imports from China, Russia, and Ukraine if the suspension agreements were revoked. Although the safeguard action, in conjunction with the suspension agreements that established floor prices for the subject imports, appears to have reduced subject import volumes, only prices for thin-gauge plate (pricing item 3) from China showed any real increase in the final four quarters of the period examined in these reviews.¹⁷⁵ Russian prices in particular were very low during the first year of the safeguard action.¹⁷⁶ During the first four quarters of the safeguard action (the last four quarters of the period examined in these reviews), subject imports from China, Russia, and Ukraine undersold comparable domestic products in 16 of 18 comparisons.¹⁷⁷ Particularly in light of the reduction in safeguard tariffs in March 2003, the expected reduction in March 2004, and the expected termination in March 2005 of these tariffs, we are not convinced that the safeguard action alone would preclude significant price effects by the subject imports.

Given the likely significant volume of imports, the importance of price in the CTL plate market, the interchangeability of subject imports and the domestic like product, the price effects of low-priced

¹⁶⁹ CR, PR at V-4.

¹⁷⁰ We note that for sales to end-users, no quarterly comparisons were available.

¹⁷¹ CR at V-22, PR at V-11; CR, PR at Table V-7.

¹⁷² CR at V-22, PR at V-11; CR, PR at Table V-8.

¹⁷³ CR at V-22, PR at V-11; CR, PR at Table V-9.

¹⁷⁴ CR, PR at Figures V-2-V-4.

¹⁷⁵ CR, PR at Tables V-1 through V-3. Even this reduction reflected the fact that the first quarter 2002 price was itself already very low. CR, PR at Table V-3.

¹⁷⁶ CR, PR at Tables V-1-V-3.

¹⁷⁷ CR, PR at Table V-8.

imports in the original investigation, the underselling by subject imports during the period of review, and the incentive that exists for subject imports to enter the U.S. market, we find a likelihood of significant negative price effects from the subject imports. We conclude that, if the suspended investigations were terminated, significant volumes of subject imports from China, Russia, and Ukraine likely would significantly undersell the domestic like product to gain market share and likely would have significant depressing or suppressing effects on the prices of the domestic like product.

3. Likely Impact of Cumulated Imports

In evaluating the likely impact of imports of subject merchandise if the suspended investigations were terminated, the Commission is directed to consider all relevant economic factors that are likely to have a bearing on the state of the industry in the United States, including but not limited to: (1) likely declines in output, sales, market share, profits, productivity, return on investments, and utilization of capacity; (2) likely negative effects on cash flow, inventories, employment, wages, growth, ability to raise capital, and investment; and (3) likely negative effects on the existing development and production efforts of the industry, including efforts to develop a derivative or more advanced version of the domestic like product.¹⁷⁸ All relevant economic factors are to be considered within the context of the business cycle and the conditions of competition that are distinctive to the industry.¹⁷⁹ As instructed by the statute, we have considered the extent to which any improvement in the state of the domestic industry is related to the suspension agreements at issue and whether the industry is vulnerable to material injury if the suspended investigations are revoked.¹⁸⁰

In the original determinations, the Commission found that the adverse impact of the subject imports on the domestic industry was not of sufficient magnitude to conclude that the domestic industry was materially injured by reason of subject imports, but that it was threatened with material injury.¹⁸¹ In

¹⁷⁸ 19 U.S.C. § 1675a(a)(4).

¹⁷⁹ 19 U.S.C. § 1675a(a)(4). Section 752(a)(6) of the Act states that “the Commission may consider the magnitude of the margin of dumping” in making its determination in a five-year review. 19 U.S.C. § 1675a(a)(6). The statute defines the “magnitude of the margin of dumping” to be used by the Commission in five-year reviews as “the dumping margin or margins determined by the administering authority under section 1675a(c)(3) of this title.” 19 U.S.C. § 1677(35)(C)(iv). See also SAA at 887. In the final results of its full sunset review of the suspended antidumping duty investigation on CTL carbon steel plate from Ukraine, Commerce determined that termination of the suspended investigation would likely lead to a continuation or recurrence of dumping at weighted-average margins as follows: 81.43 percent for Azovstal; 155.00 percent for Ilyich; and 237.91 percent for a PRC-wide rate. 68 Fed. Reg. at 24425 (May 7, 2003).

In the final results of its expedited sunset review of suspended antidumping duty investigations on CTL carbon steel plate from China, Russia, and South Africa, Commerce determined that termination of the suspended investigations would likely lead to a continuation or recurrence of dumping as follows. For China: 30.68 percent for Anshan; 30.51 percent for Baoshan; 17.33 percent for Liaoning; 38.16 percent for Shanghai Pudong; 128.59 percent for WISCO; and 128.59 percent for a PRC-wide rate. For Russia: 53.81 percent for Severstal and 185.00 percent for a Russia-wide rate. For South Africa: 26.01 percent for Highveld; 50.87 percent for Iscor; and 38.36 percent for all others. 68 Fed. Reg. at 1039 (Jan. 8, 2003).

¹⁸⁰ The SAA states that in assessing whether the domestic industry is vulnerable to injury if the order is revoked, the Commission “considers, in addition to imports, other factors that may be contributing to overall injury. While these factors, in some cases, may account for the injury to the domestic industry, they may also demonstrate that an industry is facing difficulties from a variety of sources and is vulnerable to dumped or subsidized imports.” SAA at 885.

¹⁸¹ The Commission found that, although volume and market penetration of the subject imports increased, the data on the condition of the industry was mixed and any deterioration in the domestic industry’s condition was

(continued...)

its threat analysis, the Commission found that, in the absence of an affirmative determination, the volume of subject imports and the price pressure exerted by these imports would increase, resulting in further reductions in prices or suppression of price increases that, in turn, would lead to declines in domestic industry revenues and profitability. The Commission considered declines in the industry's financial performance at the end of the period of investigation to be a strong indication that the industry's condition would further deteriorate in the near future if the escalating volume and price pressure of subject imports continued. The Commission noted that most mills and processors reported that they anticipated negative effects from subject imports in the future.¹⁸²

In the first full year following the suspension agreements, 1998, the domestic industry increased production and capacity, despite losing market share to non-subject imports.¹⁸³ U.S. shipments increased in the same period, as did operating income.¹⁸⁴ During the period of the review, however, 1998 was the peak of domestic production and capacity utilization. Declines in a number of indicators have followed. For example, production declined to 5.6 million short tons in 2002.¹⁸⁵ Capacity declined to 8.2 million short tons in 2002.¹⁸⁶ U.S. shipments declined to 5.2 million short tons in 2002.¹⁸⁷ Production workers have declined to 4,862 in 2002.¹⁸⁸ Capital expenditures also declined.¹⁸⁹ Gross profits and operating income are all recorded as losses since 1999.¹⁹⁰ The shift to losses generally corresponds to the apparent decline in overall CTL plate sales volume after 1998.¹⁹¹

The record shows that, despite an initial improvement as a result of the suspension agreements, the domestic industry's condition deteriorated significantly during the review period, due to a wave of unfairly traded imports from other countries, particularly in 1998. Thus, although demand, as evidenced by apparent U.S. consumption, grew markedly in 1998, the industry's overall profitability improved only marginally in that year, and declined significantly thereafter, with the industry operating at a loss from 1999 through 2002. Although additional countries became subject to antidumping and countervailing duties in 2000, and to safeguard duties in 2002, the industry's recovery has been slowed in part by a drop-off in demand after 1999. We thus find that the domestic industry's performance over the period of review indicates that it is vulnerable to material injury from the subject imports.

Based on the record in these reviews, we conclude that termination of the suspended investigations would likely lead to a significant increase in the volume of subject imports that would undersell the domestic like product and significantly suppress or depress U.S. prices. We also find that

¹⁸¹ (...continued)

reflected primarily in the interim 1997 data, upon which the Commission placed less weight than pre-petition data. Original Determinations at 22-23.

¹⁸² Original Determinations at 26.

¹⁸³ Production increased from 6.3 million short tons in 1997 to 7.4 million short tons in 1998. Capacity grew from 8.7 million short tons in 1997 to 10.0 million short tons in 1998. The domestic industry's share of U.S. consumption dropped from 83.0 percent in 1997 to 79.6 percent, while non-subject imports increased from 10.0 percent in 1997 to 15.4 percent in 1998. CR, PR at Table C-1.

¹⁸⁴ U.S. shipments increased from 6.1 million short tons in 1997 to 7.1 million short tons in 1998. Operating income increased from \$79.3 million in 1997 to \$138.9 million in 1998. CR, PR at Table C-1.

¹⁸⁵ CR, PR at Table C-1.

¹⁸⁶ CR, PR at Table C-1.

¹⁸⁷ CR, PR at Table C-1.

¹⁸⁸ Between 1997 and 2002, productivity rose 41.2 percent. CR, PR at Table C-1.

¹⁸⁹ CR, PR at Table III-10.

¹⁹⁰ CR, PR at Table III-6.

¹⁹¹ CR at III-7, PR at III-6. There is no clear evidence that demand has bottomed out. CR, PR at II-1.

the volume and price effects of the subject imports would likely have a significant adverse impact on the production, shipment, sales, market share, and revenues of the domestic industry. This reduction in the industry's production, shipments, sales, market share, and revenues would have a direct adverse impact on the industry's profitability as well as its ability to raise capital and make and maintain necessary capital investments. Accordingly, we conclude that, if the suspended investigations were terminated, subject imports from China, Russia, and Ukraine would be likely to have a significant adverse impact on the domestic industry within a reasonably foreseeable time.

D. South Africa

1. Likely Volume of Subject Imports

In the original investigations, South Africa's volumes were relatively low and declining.¹⁹² As a share of apparent U.S. consumption, imports from South Africa never rose above 1.5 percent during the period examined in the original investigation.¹⁹³ Moreover, following the suspension agreement, South Africa's share of apparent U. S. consumption has remained between 0.1 percent and 0.2 percent.¹⁹⁴ The volume of imports from South Africa increased in 2002 to 11,889 short tons from a low point of 5,771 short tons in 1999, but the interim 2003 data evidences a 71.4 percent decline in imports from South Africa as compared to the same period in 2002. In the interim period January through March 2003, imports from South Africa declined 71.4 percent.¹⁹⁵ South Africa has been, therefore, a low-volume, consistent CTL plate supplier to the U.S. market.

South Africa's CTL plate capacity has remained unchanged since 1997,¹⁹⁶ and South African firms reported *** plans to expand capacity.¹⁹⁷ South Africa's capacity is also comparatively small at *** short tons and has remained unchanged during the review period.¹⁹⁸ South Africa has excess capacity, but most of its shipments are directed to the home market.¹⁹⁹ The two South African producers reported that the domestic market in South Africa is their priority, and that home market demand for CTL plate has increased significantly because of large infrastructure projects.²⁰⁰ Iscor, which represents more than *** of South African capacity, ceased exporting CTL plate to the United States in 2000, thus complicating any return to the U.S. market.²⁰¹ We also note that South Africa's inventories are low and not significant.²⁰²

¹⁹² Imports from South Africa declined 29.4 percent between 1994 and 1996. CR, PR at Table I-1.

¹⁹³ CR, PR at Table I-1.

¹⁹⁴ CR, PR at Table I-1.

¹⁹⁵ CR, PR at Table I-1.

¹⁹⁶ CR, PR at Table IV-3.

¹⁹⁷ CR at IV-15, PR at IV-12.

¹⁹⁸ CR, PR at Table IV-8.

¹⁹⁹ Since 1999, more than *** of the South African industry's shipments have been to its home market; in 2002, that share reached *** percent. CR, PR at Table IV-8.

²⁰⁰ Memorandum, Inv-AA-116 (Aug. 6, 2003), at IV-15.

²⁰¹ Iscor has stated that it ***. Iscor Questionnaire at 13.

²⁰² CR, PR at Table IV-8. Inventories in South Africa have declined from *** short tons in 1997 to *** short tons in 2002. CR, PR at Table IV-8. U.S. inventories of CTL plate from South Africa totaled *** short tons in December 2002 and *** short tons in March 2003. CR, PR at Table IV-2. We also note that Highveld testified that it has the capacity to produce both plate and coil from the same facility. Tr. at 173 (Mr. Vorster).

In addition, imports from South Africa have continued at their normal, low levels, notwithstanding the absence of a quota level in South Africa's suspension agreement, as well as the competitive advantage South African firms gained when the President imposed Section 201 safeguard measures on other countries. Such measures do not apply to South Africa as a developing country.²⁰³ South Africa is also subject to fewer third-country barriers to entry.²⁰⁴

The shipment value data provided by South African producers also indicate that they may at times be receiving higher prices for CTL plate in their home market than in the United States and thus would have less incentive to redirect large volumes to the U.S. market.²⁰⁵

We find that the volume of imports from South Africa is not likely to change to a significant degree as a result of termination of the suspended investigation and that likely levels in the foreseeable future of subject imports from South Africa will not be significant.

2. Likely Price Effects of Subject Imports

In the original investigation, there was mixed evidence of underselling by South Africa. Prices for CTL plate from South Africa were lower than domestic prices in 25 of 45 comparisons, with margins of underselling ranging from 0.3 percent to 13.3 percent.²⁰⁶ However, prices of the product sold to service centers in South Africa's largest selling product category were higher than the domestic price in all comparisons.²⁰⁷ The Commission made no finding respecting the likely price effects of subject imports from South Africa independent of its findings with respect to the cumulated subject imports.

During the period of review, there is evidence of underselling by South Africa, but the evidence is sporadic. Pricing comparisons were only possible in 8 out of 150 quarterly observations.²⁰⁸ This indicates that there were few instances in which imports from South Africa competed with U.S. and subject imports in the market for the three products for which the Commission requested data. In those instances in which quarterly comparisons were available, the volumes of imports from South Africa were small and of a different magnitude than domestic shipments.²⁰⁹

Given the relatively small volumes and the limited instances of direct price-based competition, we find that subject imports from South Africa are not likely to have significant price effects. The likely volumes of subject imports from South Africa will likely be too small to affect domestic prices to any significant degree.

²⁰³ CR at I-11, PR at I-9.

²⁰⁴ CR, PR at Table IV-12 (Canada only).

²⁰⁵ CR, PR at Table V-8.

²⁰⁶ Original Determinations at V-15.

²⁰⁷ Original Determinations at 20 n.131 and V-15.

²⁰⁸ CR at V-22, PR at V-11; CR, PR at Table V-7. There were no prices reported for product 1, only four quarters for product 2, and four for product 3. Imports from South Africa undersold the domestic product for the eight available comparisons for products 2 and 3, by margins ranging from 14.2 percent to 23.5 percent and 8.8 percent to 19.3 percent, respectively. CR at V-22, PR at V-11.

²⁰⁹ In the four quarterly comparisons available for product 3, imports from South Africa were *** short tons per quarter; the average quarterly quantity for U.S. product in the same period was *** short tons. In the four quarterly comparisons available for product 2, imports from South Africa were *** short tons per quarter; the average quarterly quantity for U.S. product in the same period was *** short tons. CR, PR at Tables V-2, V-3.

3. Likely Impact of Subject Imports

Because we have concluded that no significant adverse volume or price effects are likely to occur if the suspended investigation were terminated, we do not find it likely that subject imports from South Africa would have an adverse impact on the domestic industry even though the industry, as described above, is currently in a vulnerable condition. South Africa has remained a low-volume supplier despite recent competitive advantages over the other subject countries. The evidence in the record supports a finding that any likely adverse impact would not be significant. Accordingly, we determine that termination of the suspended investigation on CTL plate from South Africa is not likely to lead to continuation or recurrence of material injury to the domestic industry within a reasonably foreseeable time.

CONCLUSION

For the above-stated reasons, we determine that termination of the suspended investigations on CTL plate from China, Russia, and Ukraine would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time, and that termination of the suspended investigation on CTL plate from South Africa would not be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.

DISSENTING VIEWS OF COMMISSIONER STEPHEN KOPLAN

Based on the record in these five-year reviews, I determine under section 751(c) of the Tariff Act of 1930, as amended (“the Act”), that termination of the suspended investigations on cut-to-length carbon steel plate from China, Russia, South Africa, and Ukraine would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time. Therefore I dissent from the Commission’s negative determination in these reviews with respect to subject imports from South Africa. While I join the Commission’s discussion of, and conclusions regarding, China, Russia, and Ukraine, I write separately to explain why I do not join with the Commission in expanding the definition of the domestic like product and the relevant domestic industry and why I have exercised my discretion to cumulate subject imports of cut-to-length plate from South Africa with subject imports from China, Russia, and Ukraine.

I. BACKGROUND

I join the Views of the Commission with respect to the Background portion of its determinations.

II. DOMESTIC LIKE PRODUCT AND INDUSTRY

A. Domestic Like Product

I join the Views of the Commission with respect to its discussion of domestic like product except that I dissent from its finding that the domestic like product found in the original investigations should be expanded to include CTL plate made from microalloy steel. Commerce has defined the CTL plate subject to these reviews as follows:

The products covered under the suspension agreements are hot-rolled iron and non-alloy steel universal mill plates (i.e., flat-rolled products rolled on four faces or in a closed box pass, of a width exceeding 150 mm but not exceeding 1,250 mm and of a thickness of not less than 4 mm, 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 iron and nonalloy steel flat-rolled products not in coils, 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 mm or more in thickness and of a width which exceeds 150 mm and measures at least twice the thickness. Included as subject merchandise . . . 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.¹

Excluded from the definition is grade X-70 plate.

¹ *Cut-to-Length Carbon Steel Plate from the People’s Republic of China, the Russian Federation, and South Africa; Final Results of Expedited Sunset Review of Suspended Antidumping Duty Investigations*, 68 FR 1038, January 8, 2003.

The starting point of the Commission's like product analysis in a five-year review is the like product determination in the Commission's original investigation.² In the original investigations the Commission did not include CTL microalloy steel plate in its like product definition, which was consistent with the scope as defined by Commerce. In these review investigations, domestic producer U.S. Steel did not urge Commerce to revisit and expand its original scope to include CTL plate made from microalloy steel, but instead urged the Commission to expand its original definition of the domestic like product by including it.³ I note that IPSCO Steel and Nucor Corporation in their Joint Prehearing Brief stated: "The domestic industry does not seek any change in the definition of like product from that made in the original investigation."⁴ In addition, counsel for ISG stated, in part, to my question posed at the hearing on this issue that: "As a matter of legal consequence, it is not clear to me either that this should happen in the context of this sunset review."⁵ While in these review investigations, the Commission has acceded to U.S. Steel's request, I find that the record does not provide sufficient basis for me to join in that finding. I therefore dissent from my colleagues on this issue.

The Commission dealt with this same issue in grouped carbon steel five-year reviews as recently as November 27, 2000.⁶ In those reviews the Commission determined that it had "not seen sufficient record evidence to indicate that changes in the marketplace have been sufficiently dramatic to support modification of the domestic like product determinations made in the original investigations, or to warrant a like product that is broader than the scope of the imported products subject to reviews."⁷ In those reviews, the Commission did not include microalloy in the domestic like products. The earlier determinations that U.S. Steel relies upon are easily distinguishable. It is true that the Commission did include microalloy steel within the definition of the domestic like product in the 1999-2000 determinations on CTL plate from France, India, Indonesia, Italy, Japan, and Korea.⁸ However, those were original investigations not reviews. Importantly, in those investigations the Commission found a single like product corresponding to Commerce's scope, which expressly included microalloy steel plate.⁹ Thus, the Commission was not asked in those original investigations to expand the like product definition beyond Commerce's scope; rather the Commission was simply not at variance with Commerce. I note

² 19 U.S.C. §1675a (a)(1)(a). In its like product determination, the Commission generally considers a number of factors including: (1) physical characteristics and uses; (2) interchangeability; (3) channels of distribution; (4) common manufacturing facilities, production processes, and production employees; (5) customer or producer perceptions; and, where appropriate, (6) price. See *Timken*, 913 F. Supp. at 584. No single factor is dispositive, and the Commission may consider other factors it deems relevant based on the facts of a particular investigation. The Commission looks for clear dividing lines among possible like products, and disregards minor variations. See, e.g., S. Rep. No. 249, 96th Cong., 1st Sess. 90-91 (1979); *Torrington*, 747 F. Supp. at 748-49.

³ It argued to the Commission that: "In these reviews, a change in the definition of the domestic like product is warranted by developments in the domestic industry and more recent Commission determinations. Since the original investigations were suspended, a change in the CTL plate market has been the increased development of carbon steel with slightly elevated levels of alloying elements ("microalloy steels)." *Prehearing Brief of U.S. Steel* at 3. U.S. Steel alleged that current technology and technical advances are the basis for these developments. *Id.*

⁴ Joint Prehearing Brief of IPSCO and Nucor at 7.

⁵ Transcript of the Hearing ("Tr.") at 74-75. (Mr. Stewart).

⁶ Certain Carbon Steel Products from Australia, Belgium, Brazil, Canada, Finland, France, Germany, Japan, Korea, Mexico, the Netherlands, Poland, Romania, Spain, Sweden, Taiwan, and the United Kingdom, Inv. Nos. AA1921-197 (Review), 701-TA-231, 319-320, 322, 325-328, 340, 342 & 348-350 (Review), and 731-TA-573-576, 578, 582-587, 604, 607-608, 612 & 614-618 (Review), USITC Pub. No. 3364 (Nov. 2000)(November 2000 Reviews).

⁷ November 2000 Determinations at 6-7.

⁸ Certain Cut-to-Length Steel Plate from France, India, Italy, Japan, and Korea, Inv. Nos. 701-TA-387-391 (Final) and 731-TA-816-821 (Final), USITC pub. 3273 (January 2000 Determinations).

⁹ January 2000 Determinations at 4.

that in no review investigation has the Commission been at variance with Commerce by redefining this domestic like product to include CTL microalloy steel plate.¹⁰

In review investigations, unlike original investigations, the Commission does not make its like product determination *de novo*, but rather takes as its starting point the like product as defined in the original investigations.¹¹ In the Commission's Notice of Final Rulemaking preamble, the Commission stated that:

In appropriate circumstances, the Commission may revisit its original domestic like product and domestic industry determinations in five-year reviews. For example, the Commission may revisit its like product determination when there have been significant changes in the product at issue since the original investigation or when domestic like product definitions differed for individual orders within a group concerning similar products.¹²

As noted above, in our November 2000 carbon steel reviews we considered this same issue and rejected arguments similar to those raised in the instant reviews by U.S. Steel.¹³ In its Posthearing Brief, U.S. Steel acknowledges that the discussion of "current technology" in its prehearing brief at 3 "was not intended to imply that the production technology used to manufacture microalloy CTL plate is new technology." Rather it now argues that the technology "is now used more frequently to manufacture microalloy CTL plate as compared to when the original investigations were undertaken."¹⁴ In the November 27, 2000 grouped reviews, the Commission acknowledged that application of its six-factor test provided some evidence for the inclusion of microalloy products in each of the three domestic like products at issue. However, the Commission had not included microalloy products in the domestic like products in the original 1993 determinations and microalloy products remained outside the scope of the reviews. Given these facts, the Commission found that the record did not indicate that changes in the marketplace had been sufficiently dramatic to support modification of the original domestic like product determinations or to warrant a like product broader than the scope of the imported product subject to review.¹⁵

Similarly, in the present review investigations, there is no evidence of significant technological changes in the production of carbon steel CTL plate since the original investigations. Since the suspension agreements took effect, U.S. Steel acknowledges that there have been no major changes in CTL plate production technology or methods in the United States or in the subject countries, although it argues that existing microalloy technology is used more frequently than in the original investigations.¹⁶ U.S. Steel's reasons for wishing to include microalloy steel within the like product definition appear to

¹⁰ See November 2000 Reviews, USITC Pub. No. 3364 at 6. ("Upon reviewing the Commission's earlier determinations, we find that the microalloy products at issue were not included in any domestic like product defined by the Commission.")

¹¹ See 19 U.S.C § 1675a(a)(1)(a).

¹² Notice of Final Rulemaking, 63 Fed. Reg. 30599, 30602 (June 5, 1998).

¹³ Petitioners in those review investigations argued that microalloy products are produced in the same facilities, using the same employees and the same equipment, that both types of steel move in similar channels of distribution, and that prices for microalloy steels are closely related to prices for carbon steels. November 2000 Reviews at 6.

¹⁴ Posthearing Brief at Exh. 1, p. 2.

¹⁵ November 2000 Reviews, USITC Pub. 3364 at 5-7.

¹⁶ Post-Hearing Brief of US Steel at Exhibit 1, p. 2. At the Commission's hearing, I explored whether technological changes had taken place since 1997 that supported the request to include microalloy in the like product. At that time, representatives from US Steel indicated that there had been no significant capital expenditures or changes in the types of equipment used to make CTL plate since the original investigations. Tr. at 71-72 (Mr. Dempsey).

arise out of concerns of evasion or circumvention of agreements by subject producers adding small amounts of alloying elements for the purpose of importing substantially the same steel products under the HTS heading for alloy steel rather than carbon steel.¹⁷ However, no evidence of such circumvention was presented in these review investigations.¹⁸ In my judgment, the evidence in the record regarding changes in the product falls short of establishing support for a modification of the original domestic like product determinations or for warranting a like product broader than the scope of the imported products subject to the reviews.

B. Domestic Industry

Section 771(4)(A) of the Act defines the relevant industry as the “producers as a whole of a domestic like product, or those producers whose collective output of a domestic like product constitutes a major proportion of the total domestic production of the product.”¹⁹ In the original investigations, the Commission defined the domestic industry to include all producers of CTL carbon steel plate, whether toll producers, integrated producers, or processors.²⁰ Similarly, in these review investigations, I find that the domestic industry consists of all producers of CTL carbon steel plate. I join the Views of the Commission with respect to this issue, except to note that I do not include CTL plate produced from microalloy steel in the domestic like product.

III. CONDITIONS OF COMPETITION

I join in significant part with the Views of the Commission with respect to Conditions of Competition.

IV. CUMULATION

In these review investigations I have cumulated the imports of CTL plate from each of the four subject countries. I join in the Views of the Commission with respect to Cumulation, except that I dissent from the Commission’s findings with respect to South Africa. I agree that the no discernible adverse impact standard is not met and I exercise my discretion to cumulate subject imports from South Africa with subject imports from China, Russia and Ukraine. Therefore, I do not join the Views of the Commission with respect to its discussion of Other Considerations.

A. Discernible Adverse Impact with Respect to Imports from South Africa

As stated above, I find that the no discernible adverse impact standard is not met with regard to subject imports from South Africa. I further note, however, that while the size of the CTL plate industry in South Africa is relatively small in comparison to the U.S. market, South Africa nevertheless possesses significant excess capacity to produce CTL plate.²¹ In 2002, the most recent full year for which data is available, capacity utilization in South Africa was only *** percent.²² Moreover at the hearing, Mr. Vossie Vorster, Senior Manager, Export Steel, Marketing and Order Services, Highveld Steel and Vanadium Corporation testified in response to a question that: “...Highveld Steel has the facility on our

¹⁷ See Post-Hearing Brief of U.S. Steel at Exh. 3.

¹⁸ These concerns would appear to give rise to classification or scope issues rather than domestic like product issues and therefore would have been more appropriately raised at Commerce than the Commission.

¹⁹ 19 U.S.C § 1677(4)(A).

²⁰ Original Determinations at 9.

²¹ CR, PR at Table IV-8.

²² CR, PR at Table IV-8.

flat products mill to produce both plate and coil through the same facility.”²³ In other words, Highveld has acknowledged that it has the technological ability in place to product shift as do the producers in the other subject countries.

Even though the majority of South Africa's shipments of subject product are to its home market, the percentage of CTL plate that it exported to the United States increased between 2000 and 2002 and increased substantially in interim 2003.²⁴ It appears that in the first quarter of 2003, South Africa demonstrated a proclivity to advantage itself of the fact that it was exempted from the 201 relief. I also find that U.S.-produced CTL plate and subject imports from South Africa are substitutable and that in all but one of the instances when price comparisons could be made, South Africa has undersold the domestic product.²⁵

B. Other Considerations

The domestic producers of CTL have demonstrated that they remain vulnerable. South Africa's primary subject product is commodity grade A36 plate, which competes directly with both the domestic product and other subject imports.²⁶ South African producers *** and therefore have easy access to the channels of distribution necessary to increase their exports of subject CTL plate in the event its suspension agreement is terminated.²⁷

Based on the above, I exercise my discretion to cumulate subject imports from South Africa along with subject imports from China, Russia, and Ukraine.

V. LIKELIHOOD OF CONTINUATION OR RECURRENCE OF MATERIAL INJURY IF THE SUSPENDED INVESTIGATIONS ARE TERMINATED

China, Russia, South Africa, and Ukraine

A. Likely Volume of Cumulated Imports

In evaluating the likely volume of imports of subject merchandise if the suspended investigations under review are terminated, I am directed to consider whether the likely volume of imports would be significant either in absolute terms or relative to production or consumption in the United States.²⁸ In doing so, I am to consider “all relevant economic factors,” including four enumerated factors: (1) any likely increase in production capacity or existing unused production capacity in the exporting countries; (2) existing inventories of the subject merchandise, or likely increases in inventories; (3) the existence of barriers to the importation of the subject merchandise into countries other than the United States; and (4) the potential for product shifting if production facilities in the foreign country, which can be used to produce the subject merchandise, are currently being used to produce other products.²⁹

In the original investigations, the Commission found in its consideration of material injury that the increase in volume and market share of subject imports from China, Russia, South Africa, and Ukraine, both in absolute terms and relative to U.S. consumption, was significant.³⁰ In those investigations, the Commission noted that the volume of cumulated subject imports from China, Russia,

²³ Tr. at 173 (Mr. Vorster).

²⁴ CR, PR at Table IV-8.

²⁵ CR, PR at Tables V-8 & V-9.

²⁶ Tr. at 201 (Mr. Vorster).

²⁷ Tr. at 209 (Mr. Schagrin).

²⁸ 19 U.S.C. § 1675a(a)(2).

²⁹ 19 U.S.C. § 1675a(a)(2)(A-D).

³⁰ Original Determinations at 19

South Africa, and Ukraine rose from 650,038 short tons in 1994 to 1,263,389 short tons in 1996, an overall increase of 94.4 percent.³¹ It further noted that such imports continued to increase in the interim period.³² Thus, the market share of subject imports from China, Russia, South Africa, and Ukraine rose from 8.2 percent in 1994 to 14.6 percent in 1996 and was 19.0 percent in interim 1997 compared with 11.8 percent in interim 1996.³³ In its threat determinations, the Commission found that the significant rate of increase in subject imports over the period examined indicated that such imports were likely to increase substantially in the near future.³⁴ It also found that the degree of excess capacity in existence over the period of investigation would allow exports to the United States to increase greatly.³⁵

In the present review investigations, I now consider the statutorily enumerated volume factors in turn:

1. any likely increase in production capacity or existing unused production capacity in the exporting countries

Over the period of review, combined production capacity for subject CLT plate in China, Russia, South Africa, and Ukraine increased from *** million short tons in 1997 to *** million short tons in 2002.³⁶ Capacity utilization for those countries increased from *** percent in 1997 to *** percent in 2002, but nevertheless remained relatively low throughout the period.³⁷ Such low capacity utilization in the subject exporting countries poses a particular threat to the domestic CTL plate industry in light of the incentives that CTL plate producers face to operate at high rates of capacity utilization to remain profitable.³⁸

2. existing inventories of the subject merchandise, or likely increases in inventories

End-of-period inventories of CTL plate in the subject countries were relatively small and decreased from 2000 to 2002, from *** short tons to *** short tons.³⁹ Such inventories were lower in the first quarter of 2003 than in the same period in 2002 and are projected to fall further in 2003 and 2004.⁴⁰

U.S. inventories of subject imports from China, Russia, South Africa, and Ukraine, however, increased between 2000 and 2002, from *** short tons to *** short tons.⁴¹ Such inventories increased between 2000 and 2002 for every subject country except Ukraine. U.S. inventories from China, Russia,

³¹ Original Determinations at 19.

³² Original Determinations at 19.

³³ Original Determinations at 19.

³⁴ Original Determinations at 24.

³⁵ Original Determinations at 25.

³⁶ Table IV-A (Aug. 13, 2003, Staff Tables).

³⁷ Table IV-A (Aug. 13, 2003, Staff Tables).

³⁸ Tr. at 43 ("For example, the cut to length plate industry continues to be highly capital-intensive, which means there is significant pressure to operate at high levels of capacity utilization."(Mr. Insetta)); See also Tr. At 63 (Mr. Dempsey).

³⁹ Table IV-A (Aug. 13, 2003, Staff Tables).

⁴⁰ Table IV-A (Aug. 13, 2003, Staff Tables). Such inventories were *** short tons in the first quarter of 2003 as compared to *** short tons in the first quarter of 2002. Reported projected end-of-period inventories for China, South Africa, and Ukraine were *** short tons in 2003 and *** short tons for 2004. I note, however, that such projections are inherently speculative.

⁴¹ CR, PR at Table IV-2.

South Africa, and Ukraine continued to increased in the interim period, rising from *** short tons in the first three months of 2002 to *** short tons in the first three months of 2003.⁴²

3. the existence of barriers to the importation of the subject merchandise into countries other than the United States

Each of the subject countries faces existing barriers to importation of the subject merchandise into third countries. Both the EU and Canada have imposed antidumping duties on CTL plate from China.⁴³ Restrictions on imports of CTL plate from Russia have been imposed by the EU, Mexico, Columbia, China, Egypt, and Poland.⁴⁴ South African CTL plate producers are subject to both a quota and a price undertaking in Canada.⁴⁵ Finally, Canada, Czech Republic, Turkey, Hungary and Russia have imposed restrictions on imports of the subject merchandise from Ukraine.⁴⁶

4. the potential for product shifting if production facilities in the foreign country, which can be used to produce the subject merchandise, are currently being used to produce other products

Evidence collected in these review investigations indicates that steel producers generally are able to produce CTL plate in the same production facilities used to produce other carbon steel products.⁴⁷ While the Commission collected no capacity or production data regarding carbon steel products produced on the same or similar equipment and machinery as CTL plate, the fact that such machinery can be used to produce CTL plate increases the threat of a significant increase in the volume of subject CTL plate imports should the suspended investigations be terminated.

Several additional factors support the conclusion that subject import volume from the cumulated countries is likely to be significant if the suspended investigations are terminated. First, subject import trends in recent years suggest that imports of the subject merchandise are likely to increase in the event of termination of the suspended investigations. Following the imposition of the suspension agreements, in October of 1997, the volume of subject imports dropped significantly. The volume of such imports declined between 1996 and 1997 from 1,263,389 short tons in 1996 to 514,597 short tons in 1997,⁴⁸ and continued to decline to 442,094 short tons in 1998.⁴⁹ From 1999 to 2002, however, imports of subject merchandise from China, Russia, South Africa, and Ukraine increased by 43.5 percent, from *** short

⁴² CR, PR at Table IV-2.

⁴³ CR, PR at Table IV-12.

⁴⁴ CR, PR at Table IV-12.

⁴⁵ CR, PR at Table IV-12.

⁴⁶ CR, PR at Table IV-12 (as revised in Memorandum, Inv-AA-116 (Aug. 6, 2003)).

⁴⁷ CR at II-2, PR at II-1 (“the majority of the U.S. producers are able to shift their facilities from production of CTL plate to other products in response to changing market conditions.”); CR at II-3, PR at II-2 (“several Chinese producers reported that they do produce products other than CTL plate on the same equipment/machinery as they use to produce CTL plate; this ability provides the producers with some flexibility to shift production between different products in response to price changes.”); CR at II-5, PR at II-3 (“Russian producers reported that they do produce products other than CTL plate on the same equipment/machinery as they use to produce CTL plate; this ability enhances the supply responsiveness of Russian producers as it provides the flexibility to shift production between different products in response to price changes.”); CR at II-6 & II-7, PR at II-4. (Azovstal reported that ***; Tr. at 173 (“... Highveld Steel has the facility on our flat products mill to produce both plate and coil through the same facility.”))

⁴⁸ CR, PR at Table I-1.

⁴⁹ CR, PR at Table I-1.

tons to *** short tons.⁵⁰ In March 2002, the President imposed safeguard relief in the form of an additional tariff of 30 percent on subject imports from China, Russia, and Ukraine.⁵¹ Subsequently, the volume of subject imports decreased by 83 percent in the first quarter of 2003 as compared to the first quarter of 2002, presumably at least in part, in response to the imposition of additional tariffs.⁵²

The significant increase in subject imports from 2000 to 2002 indicates that even with the restraining effects of the suspension agreements, China, Russia, South Africa, and Ukraine have already demonstrated the ability to rapidly increase exports to the United States. While the temporary relief afforded under the section 201 proceeding on imported steel products in March 2002, will, if it is continued by the President, serve as some restraint on increased subject imports from China, Russia, and Ukraine, despite the fact that it is being phased down, its restraining effects will thus diminish considerably in the reasonably foreseeable future and, if not otherwise revoked, will expire in March 2005.⁵³ As previously noted, the section 201 safeguard relief imposed by the President exempted CTL plate imports from South Africa.

Second, the industries in the subject countries are at least somewhat export oriented. Exports constituted *** percent of total shipments in 2002 for the subject countries.⁵⁴ Moreover, evidence in the record indicates that manufacturers of CTL plate in the subject countries have the ability to shift production from other products to the subject merchandise, should the suspended investigations be terminated.⁵⁵

Third, the United States is an attractive market for foreign producers because it is large and has an established distribution system.⁵⁶ I note that virtually all sales of subject imports were made through service centers or other distributors, rather than to end users.⁵⁷

Accordingly, based on the degree of existing unused production capacity of the CTL plate industries in China, Russia, South Africa, and Ukraine, the existence of barriers to importation of the subject merchandise into third countries, the potential for product shifting, the trends in subject import volumes subsequent to the imposition of the suspension agreement, and the well-developed U.S. distribution system for CTL plate imports, I find that the likely volume of imports from the subject countries, both in absolute terms and as a share of the U.S. market, would be significant should the suspended investigations be terminated.

B. Likely Price Effects of Cumulated Subject Imports

In evaluating the likely price effects of subject imports if the suspended investigations are terminated, I am directed to consider whether there is likely to be significant underselling by the subject imports as compared to domestic like products and whether the subject imports are likely to enter the United States at prices that otherwise have a significant depressing or suppressing effect on the price of

⁵⁰ CR, PR at Table C-1.

⁵¹ Subject imports from South Africa were exempted by the President from the section 201 safeguard tariffs due to its status as a developing country. Presidential Proclamation 7529 of March 5, 2002 (67 FR 10553, Mar. 7, 2002). In March 2003, such relief was reduced to 24 percent, and is scheduled to be reduced to 18 percent in March 2004.

⁵² CR, PR at Table C-1.

⁵³ CR at I-10 to I-11, PR at I-9. In addition, certain CTL products were excluded from relief. CR at I-11, PR at I-9.

⁵⁴ Table IV-A (Aug. 13, 2003, Staff Tables).

⁵⁵ CR at II-2, PR at II-1; CR at II-3, PR at II-2; CR at II-5, PR at II-3; CR at II-6 & II-7, PR at II-4; Tr. at 173 (Mr. Vorster).

⁵⁶ CR, PR at Table I-2; Tr. at 64-65(Mr. Ballou); Tr. at 94-95(Mr. Tullock).

⁵⁷ CR at V-5, PR at V-4.

domestic like products.⁵⁸ In the original investigations, the Commission found in its material injury analysis, that “price is a significant factor for purchasers for CTL plate, which is essentially a commodity-type product.”⁵⁹ Thus, it found that “large or rapidly increasing volumes of low-priced imports can have significant adverse price effects in this industry.”⁶⁰ It also noted that “The subject imports undersold the domestic product in the overwhelming majority of comparisons with margins of underselling ranging from 0.3 to 36.2 percent,” and that the beginnings of price depression and price suppression were indicated by a decline in domestic prices that coincided with a sharp increase in subject imports.⁶¹

The evidence collected in these reviews indicates that subject imports of CTL plate from China, Russia, South Africa, and Ukraine continue to undersell the domestic like product to a significant degree after the imposition of the suspension agreements. The Commission collected pricing data for three CTL plate products. Underselling occurred across product lines and throughout the period of review.⁶² For product one, Chinese imports undersold the domestic product in 14 of 21 quarterly comparisons by margins ranging from 0.7 percent to 20.3 percent.⁶³ Russian imports undersold the domestic product in 16 of 18 instances by margins ranging from 0.7 percent to 41.4 percent.⁶⁴ Ukrainian imports were lower than the domestic like product in 12 of 20 instances, by margins ranging from 0.9 percent to 40.9 percent.⁶⁵ There were no possible comparisons for price for product one for South Africa.⁶⁶ In sum, during the period examined, for product one, subject imports undersold the domestic like product in 42 out of 59 possible price comparisons.⁶⁷

For product two, Chinese imports undersold the domestic product in 14 of 22 quarterly comparisons with margins ranging from 1.4 percent to 37.4 percent.⁶⁸ Subject Russian imports were priced lower in 15 of 16 quarterly comparisons with margins ranging from 8.8 percent to 38.4 percent.⁶⁹ Subject imports from South Africa undersold the domestic product in each of the four quarters of 2002 for which data were available by 14.2 percent to 23.5 percent. Ukrainian imports were lower in 7 of 17 quarterly comparisons by margins ranging from 7.9 percent to 32.3 percent.⁷⁰ Thus, for product two, subject imports undersold the domestic product in 40 of 59 possible price comparisons.⁷¹

For product three, Chinese imports undersold the domestic product in five of sixteen quarterly comparisons by margins ranging from 9.6 percent to 21.4 percent.⁷² Subject Russian CTL plate imports undersold the domestic product in 8 of 13 quarterly comparisons by margins ranging from 5.5 percent to

⁵⁸ 19 U.S.C. § 1675a(a)(3). The SAA states that “***onsistent with its practice in investigations, in considering the likely price effects of imports in the event of revocation and termination, the Commission may rely on circumstantial, as well as direct, evidence of the adverse effects of unfairly traded imports on domestic prices.” SAA at 866.

⁵⁹ Original Determinations at 20.

⁶⁰ Original Determinations at 20.

⁶¹ Original Determinations at 26.

⁶² CR V-22, PR at V-11.

⁶³ CR, PR at Table V-7.

⁶⁴ CR, PR at Table V-7.

⁶⁵ CR at V-22, PR at V-11; CR, PR at Table V-7.

⁶⁶ CR at V-22, PR at V-11.

⁶⁷ CR, PR at Table V-7.

⁶⁸ CR, PR at Table V-8.

⁶⁹ CR, PR at Table V-8.

⁷⁰ CR at V-22, PR at V-11; CR, PR at Table V-8.

⁷¹ CR, PR at Table V-7.

⁷² CR, PR at Table V-9.

47.1 percent.⁷³ The price for subject imports from South Africa for product three was lower in each of the four quarters of 1999 for which data were available by 8.8 percent to 19.3 percent.⁷⁴ Only two quarterly comparisons were available with respect to Ukrainian imports. In one of those comparisons Ukrainian subject imports undersold the domestic product by a margin of 22.1 percent.⁷⁵ For product three, therefore, subject imports undersold the domestic like product in 18 out of 35 possible price comparisons.⁷⁶

In addition to underselling by subject imports, the record contains evidence of both significant price depression and price suppression. With respect to price depression, domestic prices for sales of product one to end users fell from *** per short ton in the first quarter of 1997 to *** per short ton in the first quarter of 2003.⁷⁷ Similarly, the domestic prices for sales of product two to end users dropped from *** per short ton in the first quarter of 1997 to *** per short ton in the first quarter of 2003.⁷⁸ The U.S. price of product three to end users fell from *** per short ton in the first quarter of 1997 to *** per short ton in the first quarter of 2002.⁷⁹ However, prices for product three rose to *** per short ton in the first quarter of 2003, presumably in response to the imposition of section 201 Safeguard relief in March of 2002.⁸⁰

Domestic prices for sales of subject CTL plate to distributors and service centers also declined. For product one, domestic prices declined from *** per short ton in the first quarter of 1997 to *** per short ton in the first quarter of 2003.⁸¹ For product two, domestic prices declined from *** per short ton in the first quarter of 1997 to *** per short ton in the first quarter of 2003.⁸² Finally, the domestic price for product three declined from *** per short ton in the first quarter of 1997 to *** per short ton in the first quarter of 2003.⁸³

The record also contains evidence of price suppression. At the Commission's hearing, Mr. McFadden of Nucor testified that his company had tried unsuccessfully on various occasions to implement price increases, most recently in March 2003, but that Nucor had "failed to collect that increase."⁸⁴

Given the likely significant volume of subject CTL plate imports, the importance of price in the CTL plate market, the interchangeability of subject imports with the domestic like product, the clear price effects of dumped subject imports in the original investigations, the significant underselling by subject imports during the period of review, and current incentives for subject imports to enter the U.S. market in the absence of the suspension agreements, I find a likelihood of significant negative price effects from subject imports if the suspended investigations are terminated. I also find that if the suspended investigations are terminated, significant volumes of subject imports from China, Russia, South Africa, and Ukraine would significantly undersell the domestic like product to gain market share and likely would have significant depressing or suppressing effects on the prices of the domestic like product.

⁷³ CR, PR at Table V-9.

⁷⁴ CR, PR at Table V-9.

⁷⁵ CR at V-22, PR at V-11; CR, PR at Table V-9.

⁷⁶ CR, PR at Table V-9.

⁷⁷ CR, PR at Table V-4.

⁷⁸ CR, PR at Table V-5.

⁷⁹ CR, PR at Table V-6.

⁸⁰ CR, PR at Table V-6.

⁸¹ CR, PR at Table V-1.

⁸² CR, PR at Table V-2.

⁸³ CR, PR at Table V-3.

⁸⁴ Tr. at 58 (Mr. McFadden).

C. Likely Impact of Cumulated Subject Imports

My consideration of the likely impact of subject imports in a sunset review is addressed in 19 U.S.C. § 1675a(a)(4). That section instructs me to consider all relevant economic factors that are likely to have a bearing on the state of the industry in the United States, including: (1) likely declines in output, sales, market share, profits, productivity, return on investments, and utilization of capacity; (2) likely negative effects on cash flow, inventories, employment, wages, growth, ability to raise capital, and investment; and (3) likely negative effects on the existing development and production efforts of the industry, including efforts to develop a derivative or more enhanced version of the domestic like product.⁸⁵ All relevant economic factors are to be considered within the context of the business cycle and the conditions of competition which are distinctive to the industry.⁸⁶ As instructed by the statute, I have considered the extent to which any improvement in the state of the domestic industry is related to the suspension agreements at issue and whether the industry is vulnerable to material injury if the suspension agreement is terminated.⁸⁷

In the original investigations, the Commission found that the domestic industry was threatened with material injury by reason of subject imports of CTL plate from China, Russia, South Africa, and Ukraine.⁸⁸ While at that time we did not find that the domestic industry was materially injured by reason of subject imports, the Commission did find that the deteriorating condition of the domestic industry supported a finding that the domestic industry was threatened by imports from the subject countries.⁸⁹ The deterioration in the domestic industry was reflected in declines in gross profit, operating income, capital expenditures, and in the interim period by declines in production, capacity utilization, production-related employment, and market share.⁹⁰

From 1999 to 2002, U.S. domestic consumption decreased by approximately *** percent, while U.S. producers' share of such consumption remained relatively stable.⁹¹ Consequently, U.S. producers' domestic shipments declined by *** percent. During this period the value of net sales decreased by *** percent.⁹² U.S. producers suffered net losses during each year of the period and the magnitude of those losses increased by *** percent from 1999 to 2002. At the same time, the industry's level of capital expenditures decreased by *** percent.⁹³ In light of these facts, I find that the domestic industry's poor performance over the period of review indicates that it is vulnerable to a continuation of material injury from subject imports.

In light of the price-sensitive nature of the CTL plate market and the great likelihood that subject imports will enter the U.S. market in larger quantities and continue to undersell the domestic like product, I find that termination of the suspended investigations is likely to lead to declines in output, sales, market

⁸⁵ 19 U.S.C. § 1675a(a)(4).

⁸⁶ 19 U.S.C. § 1675a(a)(4).

⁸⁷ The SAA states that in assessing whether the domestic industry is vulnerable to injury if the order is revoked, the Commission "considers, in addition to imports, other factors that may be contributing to overall injury. While these factors, in some cases, may account for the injury to the domestic industry, they may also demonstrate that an industry is facing difficulties from a variety of sources and is vulnerable to dumped or subsidized imports." SAA at 885.

⁸⁸ Original Determinations at 3.

⁸⁹ Original Determinations at 23.

⁹⁰ CR, PR at Table C-3.

⁹¹ CR, PR at Table C-3. U.S. producers' share of U.S. consumption ranged from a low of *** percent in 2000 to *** percent in 2002. I have used the period 1999 to 2002 in my analysis in order to make use of the most recent data collected by the Commission in these review investigations. I note that because the issue of including CTL plate produced from microalloy steel was not raised in the original investigations, it is unclear whether domestic producers in those investigations included or excluded such data in their questionnaire responses.

⁹² CR, PR at Table C-3.

⁹³ CR, PR at Table C-3.

share and capacity utilization for the domestic industry. Because operating at high capacity levels is necessary in this capital intensive industry, such declines in output and market share are likely to have a significant detrimental effect on the industry's profits, cash flow, and ability to raise capital. This, in turn, is likely to have further negative effects on the industry's ability to make necessary capital investments.

Accordingly, based on the record in this review, I find that, if the suspended investigations are terminated, significant volumes of subject imports from China, Russia, South Africa, and Ukraine likely would undersell the domestic like product and depress or suppress prices for the domestic like product, and thus would be likely to have a significant adverse impact on the currently vulnerable domestic industry within a reasonably foreseeable time.

CONCLUSION

For the above-stated reasons, I determine that termination of the suspended investigations of CTL plate from China, Russia, South Africa, and Ukraine would be likely to lead to continuation or recurrence of material injury to the domestic industry within a reasonably foreseeable time.

PART I: INTRODUCTION AND OVERVIEW

BACKGROUND

On September 3, 2002, pursuant to section 751(c) of the Tariff Act of 1930 (“the Act”), the Commission instituted five-year (sunset) reviews to determine whether termination of the suspension agreements on cut-to-length (CTL) carbon steel plate¹ from China, Russia, South Africa, and Ukraine would be likely to lead to continuation or recurrence of material injury within a reasonably foreseeable time. On December 13, 2002, the Commission determined that responses to its notice of institution of the subject five-year reviews were adequate such that full reviews should proceed. Information relating to the background of these reviews is presented in the following tabulation.²

| Effective date | Action | Federal Register citation |
|----------------|--|-----------------------------|
| Oct. 24, 1997 | Department of Commerce (Commerce) and the Governments of China, Russia, South Africa, and Ukraine signed suspension agreements | 62 FR 61751 (Nov. 19, 1997) |
| Dec. 17, 1997 | Commission's final determinations | 62 FR 66128 |
| Sept. 3, 2002 | Commission's institution of five-year reviews | 67 FR 56311 |
| Dec. 9, 2002 | Commission's determination to conduct full 5-year reviews | 67 FR 77803 (Dec. 19, 2002) |
| Jan. 8, 2003 | Commerce's final results of expedited sunset reviews for China, Russia, and South Africa | 68 FR 1038 |
| Jan. 23, 2003 | Commerce's revision of the suspension agreement with Russia | 68 FR 3859 (Jan. 27, 2003) |
| Mar. 14, 2003 | Commission's scheduling of full 5-year reviews | 68 FR 13950 (Mar. 21, 2003) |
| May 7, 2003 | Commerce's final results of full sunset review for Ukraine | 68 FR 24434 |
| July 8, 2003 | Commission's public hearing ³ | 68 FR 13950 (Mar. 21, 2003) |
| Aug. 18, 2003 | Commission's votes | NA |
| Aug. 28, 2003 | Commission's determinations sent to Commerce | NA |

¹ A complete description of the imported products subject to these reviews is presented in the portion of section of the report entitled *The Subject Imports*.

² *Federal Register* notices cited in the tabulation, and the Commission's statement on adequacy are presented in app. A.

³ A list of witnesses appearing at the hearing is presented in app. B.

STATUTORY CRITERIA AND ORGANIZATION OF THIS REPORT

Section 751(c) of the Tariff Act of 1930 ("Five-Year Review") requires Commerce and the Commission to conduct a review no later than five years after the issuance of an antidumping or countervailing duty order or the suspension of an investigation to determine whether revocation of the order or termination of the suspended investigation "would be likely to lead to continuation or recurrence of dumping or a countervailable subsidy (as the case may be) and of material injury."

Section 752(a) of the Act provides that in making its determination of likelihood of continuation or recurrence of material injury—

(1) IN GENERAL.-- The Commission shall consider the likely volume, price effect, and impact of imports of the subject merchandise on the industry if the order is revoked or the suspended investigation is terminated. The Commission shall take into account--

(A) its prior injury determinations, including the volume, price effect, and impact of imports of the subject merchandise on the industry before the order was issued or the suspension agreement was accepted,

(B) whether any improvement in the state of the industry is related to the order or the suspension agreement,

(C) whether the industry is vulnerable to material injury if the order is revoked or the suspension agreement is terminated, and

(D) in an antidumping proceeding, [Commerce's findings] regarding duty absorption. . .

(2) VOLUME.--In evaluating the likely volume of imports of the subject merchandise if the order is revoked or the suspended investigation is terminated, the Commission shall consider whether the likely volume of imports of the subject merchandise would be significant if the order is revoked or the suspended investigation is terminated, either in absolute terms or relative to production or consumption in the United States. In so doing, the Commission shall consider all relevant economic factors, including--

(A) any likely increase in production capacity or existing unused production capacity in the exporting country,

(B) existing inventories of the subject merchandise, or likely increases in inventories,

(C) the existence of barriers to the importation of such merchandise into countries other than the United States, and

(D) the potential for product-shifting if production facilities in the foreign country, which can be used to produce the subject merchandise, are currently being used to produce other products. . .

(3) PRICE.--In evaluating the likely price effects of imports of the subject merchandise if the order is revoked or the suspended investigation is terminated, the Commission shall consider whether--

(A) there is likely to be significant price underselling by imports of the subject merchandise as compared to domestic like products, and

(B) imports of the subject merchandise are likely to enter the United States at prices that otherwise would have a significant depressing or suppressing effect on the price of domestic like products.

(4) IMPACT ON THE INDUSTRY.--In evaluating the likely impact of imports of the subject merchandise on the industry if the order is revoked or the suspended investigation is terminated, the Commission shall consider all relevant economic factors which are likely to have a bearing on the state of the industry in the United States, including, but not limited to--

(A) likely declines in output, sales, market share, profits, productivity, return on investments, and utilization of capacity,

(B) likely negative effects on cash flow, inventories, employment, wages, growth, ability to raise capital, and investment, and

(C) likely negative effects on the existing development and production efforts of the industry, including efforts to develop a derivative or more advanced version of the domestic like product.

The Commission shall evaluate all such relevant economic factors within the context of the business cycle and the conditions of competition that are distinctive to the affected industry.

Section 752(a)(6) of the Act states further that in making its determination, "the Commission may consider the magnitude of the margin of dumping or the magnitude of the net countervailable subsidy."

Information relating to the original investigations and injury determinations is presented in Part I. Information on conditions of competition and other relevant economic factors is presented in Part II. Part III contains information on the condition of the U.S. industry, including the financial experience of U.S. producers. Information on the likely volume and price effects of imports is presented in Parts IV and V, respectively.

SUMMARY DATA

A summary of data collected in these reviews is presented in appendix C. U.S. industry data are based on questionnaire responses of 21 firms accounting for approximately 90 percent of domestic production of CTL plate for the period 1997 through March 2003, the period for which data were gathered in these reviews. U.S. imports of CTL plate are based on official Commerce statistics. Available comparative data from the original investigations and the current sunset reviews are presented in table I-1.

THE ORIGINAL INVESTIGATIONS

Background

On November 5, 1996, petitions were filed with Commerce and the Commission by counsel for Geneva Steel Co., Provo, UT; and Gulf States Steel, Inc., Gadsden, AL. The petitions alleged that an industry in the United States was materially injured or threatened with material injury by reason of less-than-fair-value ("LTFV") imports of CTL plate from China, Russia, South Africa, and Ukraine. On October 24, 1997, Commerce signed suspension agreements with the subject countries. On December 17, 1997, the Commission issued its final determinations of material injury to the U.S. industry producing CTL plate by reason of the subject imports (62 FR 66128).

Table I-1

CTL plate: Comparative data of the U.S. market and industry from the original investigations and the current reviews, 1994-2002

(Quantity in short tons, value in 1,000 dollars, shares/ratios in percent)

| Item | 1994 | 1995 | 1996 | 1997 | 1998 | 1999 | 2000 | 2001 | 2002 |
|------------------------------------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|
| U.S. consumption quantity-- | | | | | | | | | |
| Amount | 7,918,112 | 7,745,003 | 8,675,485 | 7,348,408 | 8,938,897 | 6,538,528 | 6,448,960 | 6,123,347 | 5,814,031 |
| U.S. producers' share | 82.9 | 82.6 | 79.4 | 83.0 | 79.6 | 88.8 | 87.6 | 88.1 | 89.2 |
| U.S. importers' share: | | | | | | | | | |
| China | 0.1 | 2.3 | 3.5 | 2.2 | 1.7 | 0.4 | 2.3 | 1.5 | 0.5 |
| Russia | 2.9 | 3.0 | 2.9 | 2.2 | 1.3 | 0.3 | 1.4 | 1.3 | 0.6 |
| South Africa | 1.5 | 0.7 | 0.9 | 0.1 | 0.2 | 0.2 | 0.1 | 0.2 | 0.2 |
| Ukraine | 3.7 | 6.5 | 7.2 | 2.5 | 1.7 | 0.1 | 0.4 | 0.5 | 0.1 |
| Subtotal subject imports | 8.2 | 12.6 | 14.6 | 7.0 | 4.9 | 0.9 | 4.2 | 3.5 | 1.4 |
| All other | 8.9 | 4.9 | 6.0 | 10.0 | 15.4 | 10.3 | 8.2 | 8.4 | 9.4 |
| Total imports | 17.1 | 17.4 | 20.6 | 17.0 | 20.4 | 11.2 | 12.4 | 11.9 | 10.8 |
| U.S. imports from-- | | | | | | | | | |
| China: | | | | | | | | | |
| Quantity | 8,639 | 181,737 | 301,852 | 163,527 | 154,955 | 26,159 | 151,126 | 91,510 | 31,138 |
| Value | 2,836 | 62,271 | 105,874 | 56,247 | 56,471 | 9,003 | 46,031 | 28,309 | 10,980 |
| Unit value | \$328 | \$343 | \$351 | \$344 | \$364 | \$344 | \$305 | \$309 | \$353 |
| Russia: | | | | | | | | | |
| Quantity | 230,156 | 234,255 | 252,396 | 158,509 | 117,614 | 17,390 | 87,898 | 79,070 | 34,453 |
| Value | 69,556 | 78,164 | 78,514 | 53,098 | 39,929 | 6,115 | 23,933 | 20,690 | 10,399 |
| Unit value | \$302 | \$334 | \$311 | \$335 | \$339 | \$352 | \$272 | \$262 | \$302 |
| South Africa: | | | | | | | | | |
| Quantity | 115,468 | 56,110 | 81,544 | 7,945 | 21,177 | 10,561 | 5,771 | 10,992 | 11,889 |
| Value | 41,481 | 23,688 | 31,769 | 3,059 | 8,625 | 3,449 | 1,983 | 3,665 | 3,484 |
| Unit value | \$359 | \$422 | \$390 | \$385 | \$407 | \$327 | \$344 | \$333 | \$293 |
| Ukraine: | | | | | | | | | |
| Quantity | 295,775 | 500,266 | 627,796 | 184,615 | 148,349 | 3,814 | 28,627 | 31,316 | 5,650 |
| Value | 92,085 | 179,955 | 217,574 | 63,018 | 59,955 | 1,904 | 8,884 | 9,899 | 2,184 |
| Unit value | \$311 | \$360 | \$347 | \$341 | \$404 | \$499 | \$310 | \$316 | \$387 |
| Subtotal subject countries: | | | | | | | | | |
| Quantity | 650,038 | 972,388 | 1,263,389 | 514,597 | 442,094 | 57,923 | 273,422 | 212,888 | 83,130 |
| Value | 205,957 | 344,078 | 433,731 | 175,420 | 164,980 | 20,471 | 80,830 | 62,563 | 27,046 |
| Unit value | \$317 | \$354 | \$343 | \$341 | \$373 | \$353 | \$296 | \$294 | \$325 |
| All other sources: | | | | | | | | | |
| Quantity | 701,627 | 378,228 | 520,807 | 732,631 | 1,379,685 | 671,426 | 529,085 | 515,870 | 546,414 |
| Value | 322,594 | 222,665 | 263,404 | 333,833 | 588,526 | 269,054 | 227,994 | 213,188 | 230,775 |
| Unit value | \$460 | \$589 | \$506 | \$455 | \$427 | \$401 | \$431 | \$413 | \$422 |

-Table continued on next page.

Table I-1--Continued

CTL plate: Comparative data of the U.S. market and industry from the original investigations and the current reviews, 1994-2002

(Quantity in short tons, value in 1,000 dollars, shares/ratios in percent)

| Item | 1994 | 1995 | 1996 | 1997 | 1998 | 1999 | 2000 | 2001 | 2002 |
|---|-----------|-----------|-----------|-----------|------------|-----------|-----------|-----------|-----------|
| U.S. producers¹: | | | | | | | | | |
| Capacity | 9,064,709 | 8,960,893 | 9,222,170 | 8,667,033 | 10,010,548 | 9,431,014 | 9,258,670 | 8,340,306 | 8,181,782 |
| Production | 6,676,099 | 6,532,841 | 6,942,185 | 6,330,510 | 7,419,073 | 6,088,967 | 5,861,042 | 5,669,296 | 5,625,598 |
| Capacity utilization | 73.6 | 72.9 | 75.3 | 73.0 | 74.1 | 64.6 | 63.3 | 67.6 | 68.4 |
| U.S. shipments: | | | | | | | | | |
| Quantity | 6,566,447 | 6,394,408 | 6,891,290 | 6,101,180 | 7,117,118 | 5,809,179 | 5,646,453 | 5,394,589 | 5,184,488 |
| Value | 2,839,141 | 2,929,208 | 3,098,162 | 2,689,586 | 3,133,676 | 2,178,196 | 2,132,169 | 1,900,745 | 1,846,983 |
| Unit value | \$432 | \$458 | 450 | 441 | 440 | \$375 | \$378 | \$352 | \$356 |
| Export shipments: | | | | | | | | | |
| Quantity | 75,884 | 115,861 | 70,158 | 170,955 | 226,837 | 194,051 | 217,225 | 177,518 | 227,124 |
| Value | 35,033 | 55,376 | 34,763 | 77,713 | 102,976 | 72,252 | 79,492 | 63,468 | 78,244 |
| Unit value | \$462 | \$478 | 495 | 455 | 454 | \$372 | \$366 | \$358 | \$344 |
| Production and related workers | 7,489 | 7,383 | 7,778 | 7,577 | 7,979 | 6,522 | 6,641 | 6,082 | 4,862 |
| Hours worked (1,000) | 16,596 | 16,667 | 17,332 | 17,212 | 18,087 | 14,277 | 14,384 | 12,962 | 10,908 |
| Hourly wage | \$20.33 | \$20.99 | \$21.08 | \$21.81 | \$22.23 | \$22.28 | \$22.34 | \$23.15 | \$23.69 |
| Net sales (value) | 2,739,295 | 2,868,752 | 3,017,747 | 2,514,284 | 3,005,441 | 1,964,899 | 1,875,286 | 1,771,524 | 1,752,442 |
| Operating income or (loss) (value) | 78,845 | 159,682 | 142,814 | 79,265 | 138,846 | (130,501) | (153,761) | (217,702) | (122,910) |
| Ratio operating income or (loss)/sales | 2.9 | 5.6 | 4.7 | 3.2 | 4.6 | (6.6) | (8.2) | (12.3) | (7.0) |
| Source: Data for 1994-96 are compiled from <i>Certain Carbon Steel Plate from China, Russia, South Africa, and Ukraine</i> (Inv. Nos. 731-TA-753-756 (Final)), USTIC Pub. 3076, Dec. 1997. Data for 1997-2002 are compiled from responses to the Commission questionnaires in the current reviews, and from official Commerce statistics. | | | | | | | | | |

Suspension Agreements

The following is a summary of the terms of and activities under the subject country suspension agreements.

China⁴

On October 24, 1997, Commerce signed a non-market economy (NME) agreement with the Government of the People's Republic of China suspending the antidumping duty investigation of CTL plate from China. The agreement provided for five years of quotas, and was amended on January 9, 2003, to extend the quota through October 31, 2003. This amendment allows continued shipments of

⁴ Information provided by ***, Import Administration, Commerce, in e-mail of June 16, 2003.

CTL plate from China pending the results of the five-year termination (sunset) review in late August 2003. If the suspended investigation is not terminated under the sunset review, effective November 1, 2003, Chinese exporters will no longer be able to sell under the agreement. The agreement may be either renegotiated or terminated in favor of an antidumping order.

Under the agreement, the export products, limits, and reference prices for CTL plate from China are as follows:

| Period | Products ¹ | Reference price (dollars per short ton) ² | Export quota (short tons) ³ |
|---------------|-----------------------|---|---|
| Initial level | A36 | 318 | 165,347 |
| Current level | A36 | 254 | 136,839 |

¹ Not more than 27,558 short tons may be used for thin (0.375 inch or less in actual or nominal thickness) and heavy (3.0 inches or more in actual or nominal thickness) CTL plate.

² Commerce adjusts reference prices quarterly (based on changes to the Bureau of Labor Statistics Producer Price Index (PPI)). If the PPI falls by more than 2.6 percent from the average of the first two months of the period, the reference price will be adjusted for the last month of the period. There is no cap on PPI changes.

³ Commerce recalculates upward or downward annual adjustments in export limits based on apparent U.S. consumption of CTL steel plate (based on statistics from the U.S. Census Bureau and the American Iron and Steel Institute, calculated on the most recent 12 months of data, with a maximum adjustment +/- 6 percent.

Russia⁵

On October 24, 1997, Commerce signed an NME agreement with the Government of the Russian Federation suspending the antidumping duty investigation of CTL plate from Russia. The agreement provided for quotas and was replaced by a market economy agreement on December 20, 2002. Under the current agreement, signatory manufacturers/exporters in Russia must sell at or above their cost-based normal values. Normal values, as calculated by Commerce, will be effective for semiannual periods, and no normal values have yet been established under the agreement.

Under the original NME agreement, the export products, limits, and reference prices for CTL plate from Russia were as follows:

| Period | Products | Reference price (dollars per short ton) ¹ | Export quota (short tons) ² |
|---------------|----------|---|---|
| Initial level | A36 | 272 | 110,231 |
| | A572 | 295 | |

¹ Commerce adjusted reference prices quarterly (based on changes to the Bureau of Labor Statistics Producer Price Index (PPI)). If the PPI fell by more than 2.6 percent from the average of the first two months of the period, the reference price was adjusted for the last month of the period. There was no cap on PPI changes.

² Commerce recalculated upward or downward annual adjustments in export limits based on apparent U.S. consumption of CTL steel plate (based on statistics from the U.S. Census Bureau and the American Iron and Steel Institute, calculated on the most recent 12 months of data, with a maximum adjustment +/- 6 percent.

⁵ *Id.*

South Africa⁶

On October 24, 1997, Commerce entered into a market economy agreement with two manufacturers/exporters in South Africa: Highveld and Iscor. Under the current agreement, signatory firms must sell at or above their cost-based normal values. Commerce issues normal values quarterly to either or both companies who request that they be issued. Commerce may adjust normal value based on inaccurate or incomplete data for a previous quarter. Producers/exporters agree to permit Commerce verification of all costs and sales information at least semi-annually; more frequently as determined by Commerce. Currently, Iscor has not requested normal values for the past year whereas Highveld continues to request normal values.

The suspension agreement was slated to last five years. However, there were no automatic sunset provisions. Instead, respondents must request an administrative review before the agreement can terminate. Neither respondent has requested an administrative review. During the agreement, Highveld sold merchandise below the normal value due to damage to the merchandise. Commerce instituted a payback procedure by adding a cost per ton to future sales until the deficient amount was paid. In addition, in early 2003, currency exchange movements created a situation where the normal values, in dollar terms, were very low. Sales by Highveld increased during this time. The current currency movements have raised the normal values. Highveld's average normal values and average unit sales values, by products, during the period of review are presented in the following tabulation:

| Period | Average normal value (dollars per short ton) | | | U.S. sales (dollars per short ton) | | |
|--------|---|------|------|---------------------------------------|------|------|
| | A36 | A572 | A516 | A36 | A572 | A516 |
| 1997 | *** | *** | *** | *** | *** | *** |
| 1998 | *** | *** | *** | *** | *** | *** |
| 1999 | *** | *** | *** | *** | *** | *** |
| 2000 | *** | *** | *** | *** | *** | *** |
| 2001 | *** | *** | *** | *** | *** | *** |
| 2002 | *** | *** | *** | *** | *** | *** |

¹ ***

Source: Highveld's posthearing brief, exhibit 2.

Ukraine⁷

On October 24, 1997, Commerce signed an NME agreement with the Government of Ukraine suspending the antidumping duty investigation of CTL plate from Ukraine. The agreement sets a quota, or export limit, for shipments of CTL plate and sets a minimum reference price at which Ukrainian mills are required to sell their CTL plate products. Whereas the Russians and Chinese accepted a lower quota

⁶ Information provided by ***, Import Administration, Commerce, in e-mails of June 11 and June 13, 2003.

⁷ Information provided by ***, Import Administration, Commerce, in e-mails of June 11 and June 16, 2003.

in exchange for a lower reference price, the Ukrainians opted to accept a high reference price in exchange for a higher quota.

Pursuant to the agreement, the export limit remained in effect until November 1, 2002. On January 10, 2003, Commerce agreed to an amendment to the agreement which allowed imports of CTL plate from Ukraine until November 1, 2003. If after November 1, 2003 the underlying investigation remains suspended, the Government of Ukraine and Commerce will enter into consultations to agree upon export limits in order to permit future shipments under the agreement.

Under the current agreement, the export products, limits, and reference prices for CTL plate from Ukraine are as follows:

| Period | Products ¹ | Reference price (dollars per short ton) ² | Export quota (short tons) ³ |
|---------------|------------------------|---|---|
| Initial level | A36 | 326 | 174,165 |
| | A516 | 354 | |
| | A572 | 351 | |
| | API2H | 481 | |
| Current level | A36 | 254 | 144,188 |
| | A516 | 277 | |
| | A572 | 274 | |
| | API2H | 376 | |
| | A283 | 252 | |
| | ABS Gr.A/Gr. B A515 | 256 274 | |

¹ Not more than 22,046 short tons of CTL plate 0.375 inch or less in actual or nominal thickness may be sold. A 5 percent increase in export tonnage is allowed under the following circumstances: (1) if the weighted-average f.o.b. sales price for A36 plate over 0.375 inch exceeds the reference price by more than 5 percent; (2) increased tonnage can be only for A36 over 0.375 inch in thickness; and (3) the Government of Ukraine has complied with data reporting requirements set down by Commerce.

² Commerce adjusts reference prices quarterly (based on changes to the Bureau of Labor Statistics Producer Price Index (PPI)). If the PPI falls by more than 2.6 percent from the average of the first two months of the period, the reference price will be adjusted for the last month of the period. There is no cap on PPI changes.

³ Commerce recalculates upward or downward annual adjustments in export limits based on apparent U.S. consumption of CTL steel plate (based on statistics from the U.S. Census Bureau and the American Iron and Steel Institute, calculated on the most recent 12 months of data, with a maximum adjustment +/- 6 percent.

PREVIOUS AND RELATED INVESTIGATIONS

Title VII Investigations

Since 1980, the Commission has conducted 93 original investigations (32 countervailing duty and 61 antidumping) of CTL plate involving 29 countries, under Title VII of the Act. There are currently 29 duty orders (12 countervailing duty and 17 antidumping) and four suspension agreements outstanding against 21 countries.⁸

⁸ See app. D for additional information relating to Title VII investigations instituted and orders/suspension agreements outstanding.

Safeguard Investigations

In 1984, the Commission determined that carbon and alloy steel plate (in coils or CTL) were being imported into the United States in such increased quantities as to be a substantial cause of serious injury to the domestic industry producing such articles, and recommended quantitative restrictions of imports for a period of 5 years.⁹ President Reagan determined that import relief under section 201 of the Trade Act of 1974 was not in the national interest.¹⁰

In 2001, the Commission conducted a safeguard investigation of steel products (Inv. No. TA-201-73) that included the CTL plate subject to these reviews. Following affirmative determinations of serious injury and remedy recommendations by the Commission, President Bush issued a proclamation on March 5, 2002, imposing temporary import relief for a period not to exceed three years and one day.¹¹ Import relief relating to CTL plate consisted of an additional tariff of 30 percent *ad valorem* on imports in the first year, 24 percent in the second year, and 18 percent in the third year. However, South Africa is an exempt country, and certain CTL products have been excluded from the relief measure. For the period March 2002-March 2003, excluded imports of CTL plate amounted to 156,878 tons valued at \$97.5 million, and an average unit value of \$622 per ton.¹²

NATURE AND EXTENT OF SALES AT LTFV

Final Results of Sunset Reviews

On January 8, 2003, Commerce determined, following expedited reviews,¹³ that termination of the suspended antidumping investigations on CTL plate from China, Russia, and South Africa would likely lead to continuation or recurrence of dumping at the levels listed below:¹⁴

⁹ *Carbon and Alloy Steel Products*, Inv. N. TA-201-51, USITC Pub. 1553, July 1984, p. 2.

¹⁰ 49 FR 36813, Sept. 20, 1984. At the President's direction, quantitative limitations under voluntary restraint agreements (VRAs) for a 5-year period ending Sept. 30, 1989, were negotiated. In July 1989, the VRAs were extended for 2 ½ years until March 31, 1992.

¹¹ Presidential Proclamation 7529 of Mar. 5, 2002 (67 FR 10553, Mar. 7, 2002).

¹² Thirty-two CTL product categories excluded and specified in U.S. note 11 to chapter 99 of the HTS, contained import data during March 2002-March 2003. Petitioner US Steel identified 49 CTL plate products excluded from section 201 import relief, but that list included nonsubject alloy and clad CTL plate. Petitioner US Steel's posthearing brief, exhibit 1, pp. 10-12.

¹³ Commerce reported that respondent parties waived participation in the reviews; *i.e.*, no substantive responses were received from any respondent interested party which, by regulation, constitutes a waiver of participation.

¹⁴ *Cut-to-Length Carbon Steel Plate from the People's Republic of China, the Russian Federation, and South Africa; Final Results of Expedited Sunset Review of Suspended Antidumping Duty Investigations*, 68 FR 1038, Jan. 8, 2003.

| Country/Company | Dumping margins (percent ad valorem) |
|---------------------|---|
| China | |
| Anshan | 30.68 |
| Baoshan | 30.51 |
| Liaoning | 17.33 |
| Shanghai Pudong | 38.16 |
| WISCO | 128.59 |
| China-wide | 128.59 |
| Russia | |
| Severstal | 53.81 |
| Russia-wide | 185.00 |
| South Africa | |
| Highveld | 26.01 |
| Iscor | 50.87 |
| All others | 38.36 |

On May 7, 2003, Commerce determined, following a full sunset review, that termination of the suspended antidumping investigation on CTL plate from Ukraine would likely lead to continuation or recurrence of dumping at the levels listed below.¹⁵

| Company | Dumping margins (percent ad valorem) |
|--------------|---|
| Azovstal | 81.43 |
| Ilyich | 155.00 |
| Ukraine-wide | 237.91 |

History of Agreements

Commerce has conducted no administrative reviews of the suspension agreements on imports of CTL plate from China, Russia, South Africa, and Ukraine since their imposition.

¹⁵ *Final Results of Five-Year Sunset Review of Suspended Antidumping Duty Investigation on Certain Cut-to-Length Carbon Steel Plate from Ukraine*, 68 FR 24434, May 7, 2003.

LIKELY EFFECTS OF TERMINATION OF THE SUSPENSION AGREEMENTS

Responses by U.S. producers, importers, and purchasers of CTL plate, and producers of the subject product in China, Russia, South Africa, and Ukraine to a series of questions concerning the significance of the existing suspension agreements and the likely effects of their termination are presented in appendix E. Summary arguments by parties to the review investigations are presented below.

Supporters of Continuation

Supporters of continuation of the suspension agreements have argued that: (1) the domestic industry has not experienced significant recovery during the suspension agreements and remains extremely vulnerable to increased imports from the subject countries, and (2) termination of the agreements would likely result in increased volumes of subject imports because of excess production capacity in the subject countries, third-country barriers to trade of the subject exports, and the ability to shift production from other types of flat-rolled products.¹⁶

Supporters of Termination

Counsel for respondent producers/exporters in China, Russia, South Africa, and Ukraine have argued that there is little likelihood that subject import volumes will increase if the suspension agreements are terminated because: (1) apart from South Africa, all subject imports are subject to import remedy relief under section 201 until 2005; (2) China's infrastructure and economy continues to grow and China continues to be a net importer of steel; (3) imports from South Africa have not historically played a significant role in the U.S. market and producers have high capacity utilization rates for demand in the home market; and (4) companies in Ukraine have fully privatized and operate in accordance with market principles in their home and export markets.¹⁷

THE SUBJECT IMPORTS

Commerce has defined the CTL plate subject to these reviews as follows:¹⁸

The products covered under the suspension agreements are hot-rolled iron and non-alloy steel universal mill plates (*i.e.*, flat-rolled products rolled on four faces or in a closed box pass, of a width exceeding 150 mm but not exceeding 1,250 mm and of a thickness of not less than 4 mm, not in coils and without patterns in relief), of rectangular shape, neither clad, plated nor coated with metal, and whether or not painted, varnished, or coated with plastics of other nonmetallic substances; and certain iron and nonalloy steel flat-rolled products, hot-rolled, neither clad, plated, nor coated with metal, and whether or not painted, varnished, or coated with plastics or other nonmetallic substances, 4.75 mm or

¹⁶ Sept. 24, 2002, responses to the Commission's Notice of Institution submitted by Schagrin Associates, pp. 8-11; and Dewey, Skadden, pp. 22-30.

¹⁷ Oct. 23, 2002, responses to the Commission's Notice of Institution by Sidley Austin, pp. 6-8; White & Case, p. 2; Dorsey & Whitney, pp. 2-3; Thompson Coburn, p. 4; and Kalik Lewin, p. 2.

¹⁸ *Cut-to-Length Carbon Steel Plate from the People's Republic of China, the Russian Federation, and South Africa; Final Results of Expedited Sunset Review of Suspended Antidumping Duty Investigations*, 68 FR 1038, January 8, 2003.

more in thickness and of a width which exceeds 150 mm and measures at least twice the thickness. Included as subject merchandise . . . 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”)—*e.g.*, products which have been bevelled or rounded at the edges.

CTL plate is covered by the following statistical reporting numbers of the HTS: 7208.40.3030, 7208.40.3060, 7208.51.0030, 7208.51.0045, 7208.51.0060, 7208.52.0000, 7208.53.0000, 7208.90.0000, 7210.70.3000, 7210.90.9000, 7211.13.0000, 7211.14.0030 (not in coil form), 7211.14.0045, 7211.90.0000, 7212.40.1000, 7212.40.5000, and 7212.50.0000.¹⁹ Excluded from this definition is grade X-70 plate.

THE DOMESTIC LIKE PRODUCT

In making its injury determinations the Commission first determines the domestic like product. The Act defines “domestic like product” as “a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation” (19 USC § 1677(10)).²⁰

During the original investigations, the Commission determined that the like product consisted of CTL carbon steel plate produced by U.S. mills and CTL plate cut from coiled plate by service centers.²¹ In making its domestic like product determination, the Commission considered arguments from respondents that CTL plate in coil form should be included in the domestic like product. The Commission determined that “(b)ased on the different physical characteristics and end uses, limited interchangeability, different manufacturing facilities for the majority of CTL plate and coiled plate, and differences in price, we do not include coiled plate in the domestic like product.”²²

Physical Characteristics and Uses

CTL plate can be made in a variety of widths, thicknesses, and shapes in order to be incorporated into other products or to be further processed into products. Plate is used in welded load-bearing and structural applications, such as bridge-work; machine parts (*e.g.*, the body of the machine or its frame); transmission towers and light poles; buildings; mobile equipment (*e.g.*, cranes, bulldozers, scrapers, and

¹⁹ The column 1-general, or normal trade relations, rates of duty for CTL plate range from 0.3 to 0.6 percent *ad valorem*. These duties are being reduced in annual stages as a result of the Uruguay Round Agreement and will be eliminated by January 1, 2004.

²⁰ The Commission’s decision regarding the appropriate domestic product that is “like” the subject imported product is based on a number of factors including (1) physical characteristics and uses; (2) interchangeability; (3) channels of distribution; (4) customer and producer perceptions; (5) common manufacturing facilities and production employees; and where appropriate, (6) price.

²¹ See *Certain Carbon Steel Plate from China, Russia, South Africa, and Ukraine*, Invs. Nos. 731-TA-753-756 (Final), USITC Pub. 3076, December 1997, p. 9.

²² *Id.*, p. 7. The Commission also determined that “certain coiled plate” should not be included in the domestic like product for the same reasons, p. 8.

other tracked or self-propelled machinery); and heavy transportation equipment, such as railroad cars (especially tank cars) and ships. CTL plate also is used in the production of tanks, sills, OEM parts, offshore drilling rigs, pipes, petrochemical plant and machinery, and various fabricated pieces. CTL plate can also be used in utility applications and in pressure vessels. In certain applications, such as construction products or storage tanks, concrete and fiberglass can substitute for CTL plate.

Manufacturing Process

CTL plate is made from hot-rolled non-alloy steel.²³ Most CTL plate is hot-rolled on a reversing mill (also called a “sheared plate mill”).²⁴ Plate also is rolled in “Steckel mills” and in continuous hot-strip mills. Steckel mills are like reversing mills except with heated coilers at both ends of the mill. This allows Steckel mills to produce long pieces, coiled plate, as well as cut-to-length.

Hot-strip mills produce mostly hot-rolled sheet; i.e., product less than 0.1875 inch (4.75 mm) thick, and are usually limited to product no wider than 72 inches (1828.8 mm). In contrast, a sheared plate mill is somewhat flexible with regard to the slab width used to produce a given plate width. A Steckel mill or continuous hot-strip mill must have a slab slightly wider than the width of the plate to be produced and has the advantage of being able to roll longer, heavier slabs than could be used on a sheared plate mill.

Reversing mills produce plate ranging from 0.187 inch to 20 inches (4.75 mm to 508 mm) in thickness and from 48 inches to 154 inches (1219 mm to 3912 mm) in width, while plate produced on a Steckel mill typically ranges from 0.187 inch to 0.750 inch (4.75 mm to 19.1 mm) in thickness and 48 inches to 96 inches (1219 mm to 2438 mm) in width. A reversing mill is preferred for producing steel for welded load-bearing and structural applications.

Plate producers may have several types of mills at a single steel facility. In such facilities, the reversing plate mill is usually separated from the hot-strip mill and employs different production workers.

Steel service centers traditionally have served as distributors of plate, and therefore, typically do not have plate mills. Some service centers also perform a wide range of value-added processing of many steel products, such as uncoiling, flattening, and cutting plate products to length or flame/plasma cutting plate into non-rectangular shapes. Service centers that process coiled plate into cut lengths or non-rectangular shapes may purchase the coiled plate from U.S. or foreign mills. The process of producing plate from coiled plate is the same whether performed at the steel mill or by a service center.

Interchangeability and Customer and Producer Perceptions

Interchangeability between CTL plate produced in the United States and in the subject and nonsubject countries is discussed in detail in Part II of this report. Generally, questionnaire respondents report that domestically produced and imported CTL plate are broadly interchangeable.

²³ Hot-rolled non-alloy steel is produced in three distinct stages that include (1) melting or refining steel, (2) casting steel into semi-finished forms, and (3) hot-rolling semi-finished forms into flat-rolled steel mill products.

²⁴ For a detailed description of the plate manufacturing process, see *Certain Carbon Steel Plate from China, Russia, South Africa, and Ukraine*, Invs. Nos. 731-TA-753-756 (Final), USITC Pub. 3076, December 1997, pp. I-4-I-7.

Channels of Distribution

Table I-2 presents the channels of distribution for domestically produced and imported CTL plate.

Table I-2
CTL plate: Shares of shipments, by channels of distribution and sources, 1997-2002

(Percent)

| Item | Calendar year | | | | | |
|--|------------------|------------------|------------------|------------------|------------------|------------------|
| | 1997 | 1998 | 1999 | 2000 | 2001 | 2002 |
| Shipments to distributors/service centers: | | | | | | |
| U.S.-produced | 55.2 | 59.2 | 61.8 | 59.4 | 61.2 | 63.0 |
| Imports from— | | | | | | |
| China | 100.0 | 100.0 | 100.0 | 100.0 | 95.4 | 100.0 |
| Russia | 100.0 | 100.0 | 100.0 | 98.5 | 67.3 | 100.0 |
| South Africa | 100.0 | (¹) | 100.0 | (¹) | (¹) | 100.0 |
| Ukraine | 98.9 | 100.0 | 100.0 | 100.0 | 100.0 | 100.0 |
| Subject imports | 99.4 | 100.0 | 100.0 | 99.5 | 92.4 | 100.0 |
| Shipments to end users: | | | | | | |
| U.S.-produced | 44.8 | 40.8 | 38.2 | 40.6 | 38.8 | 37.0 |
| Imports from— | | | | | | |
| China | (¹) | (¹) | (¹) | (¹) | 4.6 | (¹) |
| Russia | (¹) | (¹) | (¹) | 1.5 | 32.7 | (¹) |
| South Africa | (¹) | (¹) | (¹) | (¹) | (¹) | (¹) |
| Ukraine | 1.1 | (¹) | (¹) | (¹) | (¹) | (¹) |
| Subject imports | 0.6 | (¹) | (¹) | 0.5 | 7.6 | (¹) |
| ¹ Not applicable. | | | | | | |
| Source: Compiled from data submitted in response to Commission questionnaires. | | | | | | |

Prices

Table I-3 presents data on the average unit values of domestically produced and imported CTL plate. Information regarding specific pricing items is presented in Part V of this report.

Table I-3
 CTL plate: Average unit values, by sources, 1997-2002

(Dollars per ton)

| Item | Calendar year | | | | | |
|-------------------------|---------------|------|------|------|------|------|
| | 1997 | 1998 | 1999 | 2000 | 2001 | 2002 |
| U.S.-produced | 441 | 440 | 375 | 378 | 352 | 56 |
| Imports from— | | | | | | |
| China | 344 | 364 | 344 | 305 | 309 | 353 |
| Russia | 335 | 339 | 352 | 272 | 262 | 302 |
| South Africa | 385 | 407 | 327 | 344 | 333 | 293 |
| Ukraine | 341 | 404 | 499 | 310 | 316 | 387 |
| Average subject imports | 341 | 373 | 353 | 296 | 294 | 325 |
| All other sources | 455 | 427 | 401 | 431 | 413 | 422 |
| Average total imports | 408 | 414 | 397 | 385 | 378 | 410 |

Source: Compiled from data submitted in response to Commission questionnaires and official Commerce statistics.

DOMESTIC LIKE PRODUCT ISSUES

During these review investigations, petitioners have requested that the Commission expand the definition of the like product to include micro-alloyed products currently considered to be “carbon steel products” by the domestic industry.²⁵ In its 1999 antidumping and countervailing duty investigations of CTL plate, the Commission found a single like product “consisting of all domestically produced CTL steel plate that corresponds to Commerce’s scope . . . including micro-alloy steel plate.”²⁶ In its 2000 review investigation of CTL plate, the Commission did not include micro-alloy products in the domestic like product which were outside the scope of the reviews.²⁷ Discussion of available information, and comments from questionnaire respondents regarding differences and similarities between CTL carbon steel plate and CTL micro-alloy steel plate, are presented in appendix F.

Counsel for producers/exporters in Russia argued that the Commission should expand the domestic like product to include hot-rolled carbon steel sheet in coils or cut-to-length, as well as carbon

²⁵ Oct. 23, 2002, domestic producers’ response to the notice of initiation, pp. 6-7.

²⁶ *Certain Cut-to-Length Steel Plate from France, India, Indonesia, Italy, Japan, and Korea* (Invs. Nos. 701-TA-387-391 and 731-TA-816-921 (Final), USITC Pub 3273, January 2000, p. 5.

²⁷ *Certain Carbon Steel Products from Australia, Belgium, Brazil, Canada, Finland, France, Germany, Japan, Korea, Mexico, the Netherlands, Poland, Romania, Spain, Sweden, Taiwan, and the United Kingdom* (Invs. Nos. AA1921-197, 701-TA-231, 319-320, 322, 325-328, 340, 342, and 348-350, 731-TA-573-576, 578, 582-587, 604, 607-608, 612, and 614-618 (Review), USITC Pub 3364, November 2000, pp. 6-7.

steel plate products in coiled form.²⁸ In the original investigations of the current reviews, the Commission considered but did not include coiled plate in the domestic like product.²⁹ The Commission did not seek information through its questionnaires regarding these additional products that reportedly would triple or quadruple the volume of domestic like product.³⁰

U.S. MARKET PARTICIPANTS

U.S. Producers

Sixteen firms reported producing CTL plate in the United States during the period of these reviews compared to 29 during the original investigations. Table I-4 presents information on U.S. producers, their positions on continuation of the suspension agreements, production locations, and ownership interests.

Industry structure and capacity enhancements

During January 1997 through March 2003, the CTL plate operations of the U.S. steel industry have been affected by a series of activities. Table I-5 lists significant bankruptcies, mergers and acquisitions, and new capacity information for the period of review.

²⁸ Oct. 23, 2002, Severstal response to the notice of initiation, Sidley Austin, pp. 15-19; and Mar. 27, 2003, *comments on draft questionnaires*, Sidley Austin, p. 3. *Russian respondents argue that the request to redefine the like product is based on: (1) significant technological developments in the U.S. industry which have undermined the distinctions between the subject merchandise and other hot-rolled carbon steel products; and (2) the production-based reasons offered by the Commission in the Steel 201 determination.* Mar. 27, 2003, *comments on draft questionnaires*, Sidley Austin, p. 5.

²⁹ *Certain Carbon Steel Plate from China, Russia, South Africa, and Ukraine* (Invs. Nos. 731-TA-753-756 (Final), USITC Pub 3076, Dec. 1997, pp. 5-7.

³⁰ Mar. 27, 2003, *comments on draft questionnaires*, Sidley Austin, p. 9.

Table I-4

CTL plate: U.S. producers, positions on continuation of suspension agreements, U.S. production locations, and parent companies

| Firm | Position on continuation | Plant location(s) | Parent |
|---|--------------------------|---|--|
| U.S. mills: | | | |
| Citisteel | *** | Claymont, DE | CITIC USA Holdings (U.S.) |
| IPSCO | Supports ¹ | Montpelier, IA Axis, AL St. Paul, MN Houston, TX | IPSCO Inc. (Canada) |
| ISG | *** | Burns Harbor, IN Coatesville, PA Conshohocken, PA | International Steel Group (U.S.) |
| LeTourneau | *** | Longview, TX | Rowan Companies, Inc. (U.S.) |
| North Star | *** | Calvert City, KY | North Star Steel Co. (U.S.) |
| Nucor | Supports ² | Cofield, NC | Nucor Corp. (U.S.) |
| Oregon | *** | Portland, OR | Oregon Steel Mills, Inc. (U.S.) |
| Tuscaloosa | *** | Tuscaloosa, AL | Corus America Holding, a subsidiary of Corus Group plc (U.K.-100%) |
| US Denro | *** | Baytown, TX | *** |
| US Steel | Supports ³ | Gary, IN | United States Steel Corp. (U.S.) |
| U.S. processors: | | | |
| American | *** | Kent, WA | Reliance Steel (U.S.-***); American Steel LLC-(U.S.-***) |
| Cargill | *** | Nashville, TN | Cargill, Inc. (U.S.) |
| Crest | **** ⁴ | Carson, CA | Crest Steel Corp. (U.S.-***); Marubeni-Itochu Steel America (U.S.-***) |
| Friedman | *** | Houston, TX Lone Star, TX Armored, AR | Friedman Industries (U.S.) |
| JIT | *** ⁵ | Tulare, CA | Mitsui Co. (USA), Inc. (U.S.) |
| PDM | *** | Fresno, CA | Reliance Steel (U.S.) |
| Robinson | *** | East Chicago, IN Granite City, IL | Robinson Steel (U.S.) |
| Feralloy | *** | Chicago, IL Portage, IN | TUI-AG (Germany) |
| ¹ IPSCO stated that "****." ² Nucor stated that "****." ³ US Steel stated that "****." ⁴ Crest stated that "****." ⁵ JIT stated that "****." | | | |
| Source: Compiled from data submitted in response to Commission questionnaires. | | | |

Table I-5
 CTL plate: U.S. producers' bankruptcies, mergers and acquisitions, and new capacity, 1997-2003

| Company and location | Date | Action | Comments |
|---|---------------------|--|--|
| IPSCO Inc. Montpelier, IA | November 1997 | Opened plate mill | IPSCO took over its Montpelier plate production facility from the general contractor on Nov. 3, 1997, and then began a six-month commissioning phase, with some production. In late 1997, the facility produced approximately 58,900 tons. |
| U.S. Denro Steels Inc., dba Jindal United Steel Corp. | December 1997 | Restarted plate mill | Jindal United restarted the former U.S. Steel plate mill in late 1997. The plate mill was closed by U.S. Steel in 1987. |
| Lukens Inc. Coatesville and Conshohocken, PA | May 1998 | Acquired by Bethlehem Steel | Bethlehem Steel acquired Lukens Inc. for a cost of \$560.6 million. Lukens, Inc. produced plate principally at Coatesville and Conshohocken, PA. In 1997, Lukens shipped 753,900 tons of carbon and alloy plate. |
| Acme Metals | September 1998 | Filed for bankruptcy | During bankruptcy, in September 2000, WCI Steel, Inc., intended to negotiate the purchase of Acme Steel, but due to adverse market conditions ceased its interest. Also in September 2000, the Emergency Steel Loan Guarantee Board offered to guarantee a \$100-million loan application filed by Citicorp USA on Acme's behalf. However, the application required further updating of credit information and was never made. |
| Bethlehem Steel Corp. Burns Harbor, IN Sparrows Point, MD Coatesville and Conshohocken, PA | Fourth quarter 1998 | Closed a plate mill | Bethlehem Steel closed its 160-inch plate mill at Sparrows Point, MD and increased output at Burns Harbor, Coatesville, and Conshohocken. |
| Geneva Steel Co. Provo, UT | February 1999 | Filed for bankruptcy | Geneva Steel filed for bankruptcy because of insufficient liquidity. |
| Gulf States Steel, Inc. of Alabama Gadsden, AL | July 1999 | Filed for bankruptcy | Gulf States, for the fiscal year ended October 31, 1999, shipped 332,000 tons of plate products. The company facilities had a capacity of 1,000,000 tons annually and produced other products such as hot-rolled, cold-rolled, and galvanized sheet. |
| Gulf States Steel, Inc. of Alabama Gadsden, AL | August 2000 | Shut down operations | Gulf States determined that its business was no longer economically viable. |
| Nucor Corp. Hertford, NC | October 2000 | Opened plate mill—casting and rolling facility | This facility cost approximately \$450 million with a capacity of 1,000,000 tons. Nucor's sales of plate to outside customers, totaled 20,000 tons in 2000; 522,000 tons in 2001; and 872,000 tons in 2002. |

Table continued on next page.

Table I-5--Continued

CTL plate: U.S. producers' bankruptcies, mergers and acquisitions, and new capacity, 1997-2003

| Company and location | Date | Action | Comments |
|--|---------------|---|---|
| Geneva Steel Co. Provo, UT | January 2001 | Emerged from bankruptcy | Emerged from bankruptcy as Geneva Steel Holdings Corp. with increased liquidity from a \$110 million loan 85 percent guaranteed by the Federal Government under the Emergency Steel Loan Guaranty Act of 1999 and a \$125 million revolving line of credit. |
| Acme Metals Inc. Riverdale, IL | October 2001 | Began phased shutdown of operating facilities | Acme's hot band production was 920,940 tons in 2000, 989,148 tons in 1999, and 779,791 tons in 1997. Acme's shipments of flat-rolled steel were 864,860 tons in 2000, 945,597 tons in 1999, and 775,958 tons in 1997. |
| Bethlehem Steel Coatesville and Conshohocken, PA | October 2001 | Filed for bankruptcy | |
| IPSCO Inc. Mobile, AL | November 2001 | Opened in-line plate mill | IPSCO officially opened its Mobile, AL mini-mill. Testing began in March 2001. The mini-mill has a Steckel rolling mill to produce discrete plate and coiled hot rolled plated. The facility cost \$425 million with a capacity of 1,250,000 tons. |
| Geneva Steel Co. Provo, UT | November 2001 | Temporary shutdown of facilities | Geneva began temporary shutdown operations and laid off most of its employees. |
| Geneva Steel Co. Provo, UT | January 2002 | Re-entered bankruptcy | The temporary shutdown of operations begun November 2001 eventually becomes permanent. |
| National Steel Corp. Ecorse, MI Granite City, IL | March 2002 | Filed for bankruptcy | |

Table continued on next page.

Table I-5--Continued

CTL plate: U.S. producers' bankruptcies, mergers and acquisitions, and new capacity, 1997-2003

| Company and location | Date | Action | Comments |
|--|----------------|---|--|
| Acme Metals, Inc. Riverdale, IN | August 2002 | Certain assets of Acme Metals, Inc. acquired by International Steel Group (ISG) | ISG acquired from Acme Metals Inc. the compact strip process minimill and other assets operated by Acme Steel Inc. for \$65 million. In March 2002, ISG was formed by W.L. Ross & Co., LLC (Ross). Ross had acquired certain assets of The LTV Corp., a large integrated steel producer that also produced coiled plate. In May 2002, ISG started production at the former LTV facilities it had purchased. |
| Geneva Steel Holdings, parent of Geneva Steel Co. Provo, UT | September 2002 | Filed for bankruptcy | In April 2003, Geneva reached agreement with Casey Equipment to assist in asset liquidation. |
| Bethlehem Steel Burns Harbor, IN Coatesville and Conshohocken, PA | May 2003 | Certain operating assets of Bethlehem Steel acquired by International Steel Group (ISG) | Bethlehem Steel's net sales of plate as a share of total sales were 17.4 percent in 2002; 21.6 percent in 2001; and 20.5 percent in 2000. Burns Harbor, IN has a 100-inch sheared plate mill and a 160-inch sheared plate mill; Coatesville, PA has a 140-inch plate mill and a 206-inch plate mill; Conshohocken, PA has a 110-inche Steckel mill. |
| National Steel Corp. Ecorse, MI Granite City, IL | May 2003 | Substantially all assets of National Steel acquired by U.S. Steel Corp. | U.S. Steel Corp. acquired National Steel for \$850 million in cash and \$200 million in assumed obligations. |
| Source: Various company filings with the U.S. Securities and Exchange Commission, press releases, and news articles. | | | |

U.S. Importers

Seven firms reported imports of CTL plate from the subject countries during the period of review. During the original investigations, the Commission received usable data from 39 firms.

U.S. Purchasers

Eight purchasers provided at least some of the requested information relating to CTL plate during these sunset reviews. During the 1997 investigations, 42 purchasers of CTL plate provided usable information, with 25 firms having bought from the subject countries.

APPARENT U.S. CONSUMPTION AND U.S. MARKET SHARES

Table I-6 presents data on apparent U.S. consumption of CTL plate for the period January 1997-March 2003, and table I-7 presents U.S. market shares for the review period.

Table I-6

CTL plate: U.S. producers' U.S. shipments, U.S. imports, by sources, and apparent U.S. consumption, 1997-2002, January-March 2002, and January-March 2003

| Firm | Calendar year | | | | | | January-March | |
|---|------------------------------|-----------|-----------|-----------|-----------|-----------|---------------|-----------|
| | 1997 | 1998 | 1999 | 2000 | 2001 | 2002 | 2002 | 2003 |
| | <i>Quantity (short tons)</i> | | | | | | | |
| U.S. producers' U.S. shipments | 6,101,180 | 7,117,118 | 5,809,179 | 5,646,453 | 5,394,589 | 5,184,488 | 1,276,946 | 1,147,929 |
| U.S. imports from-- China | 163,527 | 154,955 | 26,159 | 151,126 | 91,510 | 31,138 | 12,009 | 401 |
| Russia | 158,509 | 117,614 | 17,390 | 87,898 | 79,070 | 34,453 | 12,390 | 1,528 |
| South Africa | 7,945 | 21,177 | 10,561 | 5,771 | 10,992 | 11,889 | 5,971 | 1,708 |
| Ukraine | 184,615 | 148,349 | 3,814 | 28,627 | 31,316 | 5,650 | 0 | 1,537 |
| Subtotal, subject imports | 514,597 | 442,094 | 57,923 | 273,422 | 212,888 | 83,130 | 30,370 | 5,173 |
| All others | 732,631 | 1,379,685 | 671,426 | 529,085 | 515,870 | 546,414 | 182,998 | 130,252 |
| Total imports | 1,247,228 | 1,821,779 | 729,349 | 802,507 | 728,758 | 629,543 | 213,369 | 135,425 |
| Apparent U.S. consumption | 7,348,408 | 8,938,897 | 6,538,528 | 6,448,960 | 6,123,347 | 5,814,031 | 1,490,314 | 1,283,354 |
| | <i>Value (1,000 dollars)</i> | | | | | | | |
| U.S. producers' U.S. shipments | 2,600,586 | 2,984,705 | 2,023,100 | 1,968,559 | 1,811,052 | 1,798,858 | 421,799 | 415,293 |
| U.S. imports from-- China | 56,247 | 56,471 | 9,003 | 46,031 | 28,309 | 10,980 | 3,408 | 177 |
| Russia | 53,096 | 39,929 | 6,115 | 23,933 | 20,690 | 10,399 | 3,196 | 490 |
| South Africa | 3,059 | 8,625 | 3,449 | 1,983 | 3,665 | 3,484 | 1,788 | 605 |
| Ukraine | 63,018 | 59,955 | 1,904 | 8,884 | 9,899 | 2,184 | 0 | 593 |
| Subtotal, subject imports | 175,420 | 164,980 | 20,471 | 80,830 | 62,563 | 27,046 | 8,392 | 1,865 |
| All others | 333,633 | 588,526 | 269,054 | 227,994 | 213,188 | 230,775 | 69,950 | 55,823 |
| Total imports | 509,053 | 753,506 | 289,524 | 308,824 | 275,751 | 257,821 | 78,342 | 57,689 |
| Apparent U.S. consumption | 3,109,639 | 3,738,211 | 2,312,624 | 2,277,383 | 2,086,803 | 2,056,679 | 500,142 | 472,982 |
| Source: Compiled from data submitted in response to Commission questionnaires and official Commerce statistics. | | | | | | | | |

Table I-7

CTL plate: Apparent U.S. consumption and market shares, 1997-2002, January-March 2002, and January-March 2003

| Item | Calendar year | | | | | | January-March | |
|---|------------------------------------|-----------|-----------|-----------|-----------|-----------|------------------|------------------|
| | 1997 | 1998 | 1999 | 2000 | 2001 | 2002 | 2002 | 2003 |
| | Quantity (short tons) | | | | | | | |
| Apparent U.S. consumption | 7,348,408 | 8,938,897 | 6,538,528 | 6,448,960 | 6,123,347 | 5,814,031 | 1,490,314 | 1,283,354 |
| | Value (1,000 dollars) | | | | | | | |
| Apparent U.S. consumption | 3,198,639 | 3,887,182 | 2,467,720 | 2,440,993 | 2,176,496 | 2,104,804 | 511,642 | 484,482 |
| | Share of quantity (percent) | | | | | | | |
| U.S. producers' U.S. shipments | 83.0 | 79.6 | 88.8 | 87.6 | 88.1 | 89.2 | 85.7 | 89.4 |
| U.S. imports from-- China | 2.2 | 1.7 | 0.4 | 2.3 | 1.5 | 0.5 | 0.8 | (¹) |
| Russia | 2.2 | 1.3 | 0.3 | 1.4 | 1.3 | 0.6 | 0.8 | 0.1 |
| South Africa | 0.1 | 0.2 | 0.2 | 0.1 | 0.2 | 0.2 | 0.4 | 0.1 |
| Ukraine | 2.5 | 1.7 | 0.1 | 0.4 | 0.5 | 0.1 | (²) | 0.1 |
| Subtotal, subject imports | 7.0 | 4.9 | 0.9 | 4.2 | 3.5 | 1.4 | 2.0 | 0.4 |
| All others | 10.0 | 15.4 | 10.3 | 8.2 | 8.4 | 9.4 | 12.3 | 10.1 |
| Total imports | 17.0 | 20.4 | 11.2 | 12.4 | 11.9 | 10.8 | 14.3 | 10.6 |
| | Share of value (percent) | | | | | | | |
| U.S. producers' U.S. shipments | 84.1 | 80.6 | 88.3 | 87.3 | 87.3 | 87.8 | 84.7 | 88.1 |
| U.S. imports from-- China | 1.8 | 1.5 | 0.4 | 1.9 | 1.3 | 0.5 | 0.7 | (¹) |
| Russia | 1.7 | 1.0 | 0.2 | 1.0 | 1.0 | 0.5 | 0.6 | 0.1 |
| South Africa | 0.1 | 0.2 | 0.1 | 0.1 | 0.2 | 0.2 | 0.3 | 0.1 |
| Ukraine | 2.0 | 1.5 | 0.1 | 0.4 | 0.5 | 0.1 | (²) | 0.1 |
| Subtotal, subject imports | 5.5 | 4.2 | 0.8 | 3.3 | 2.9 | 1.3 | 1.6 | 0.4 |
| All others | 10.4 | 15.1 | 10.9 | 9.3 | 9.8 | 11.0 | 13.7 | 11.5 |
| Total imports | 15.9 | 19.4 | 11.7 | 12.7 | 12.7 | 12.2 | 15.3 | 11.9 |
| ¹ Less than 0.05 percent. ² Not applicable. | | | | | | | | |
| Source: Compiled from data submitted in response to Commission questionnaires and official Commerce statistics. | | | | | | | | |

PART II: CONDITIONS OF COMPETITION IN THE U.S. MARKET

INTRODUCTION

Supporters and opponents of continuation of the suspension agreements generally agree that the U.S. CTL plate industry follows the overall business cycle, and that demand has declined since 1999 with no clear evidence that the trough has been reached. The supporters have stated that the plate industry follows a cycle that is closely tied to the general economy, and, according to *** it is particularly dependent upon the level of capital investment in "construction, heavy machinery, rail car, and farm equipment sectors." They do not foresee a resurgence in demand until the growth in the U.S. and world economies strengthens.¹

MARKET STRUCTURE

Producers and importers ship plate to end users, distributors, and service centers/processors. U.S. producers and importers, as a whole, reported nationwide sales, though most individual firms reported that their sales were concentrated in particular regions. Producers and importers were asked to provide their total quantities of commercial shipments involving distances of within 100 miles, 101 to 1,000 miles, and distances more than 1,000 miles. For producer shipments, about 32 percent were distances within 100 miles, about 59 percent were between 101 and 1,000 miles, and about 8 percent were more than 1,000 miles. Whereas, for importer shipments about 59 percent were within 100 miles, about 31 percent were between 101 and 1,000 miles, and about 10 percent were more than 1,000 miles.

The export data indicate that U.S. producers have little flexibility in diverting shipments to or from export markets in response to changes in the price of plate. Exports have consistently accounted for only 3 to 4 percent of U.S. producers' total shipments of CTL plate during the period for which data were requested. Therefore, exports are not a factor that are likely to increase the sensitivity of supply to changes in price.

DOMESTIC PRODUCTION FOR THE U.S. MARKET

The sensitivity of the domestic supply of CTL plate to changes in price depends upon such factors as the existence of excess capacity, the levels of inventories in relation to sales, the ease of shifting facilities to the production of other products, and the existence of export markets. U.S. producers reported excess capacity throughout January 1997-March 2003 of 18 million tons, equivalent to 32 percent of their total CTL plate capacity. This suggests that the industry has the ability to expand output in response to changes in price. The availability of inventories also indicates some flexibility in adjusting output in response to price changes. The ratio of end-of-period inventories to total shipments ranged between 5 and 8 percent throughout January 1997-March 2003. In addition, the majority of the U.S. producers are able to shift their facilities from production of CTL plate to other products in response to changing market conditions. Five U.S. producers, accounting for 68 percent of U.S. producers' shipments of CTL plate in 2002, reported that machinery and equipment used in various stages of CTL plate production are also used to make other products, including hot-rolled sheet, alloy steel plate, clad plate, coiled plate, stainless plate and sheet, and pipe skelp.

¹ One U.S. industry representative noted at the hearing that he believed that the downturn in demand for plate has finally bottomed out, but that the restoration of demand will be a slow process, taking two or three years. (Hearing transcript (McFadden), p. 24).

The response of the domestic industry to increased competition resulting from the termination of the suspension agreement is likely to depend upon such factors as the level of industry capacity utilization, the level of inventories, costs of production, the availability of export markets, and the flexibility of shifting production equipment to other products.

Excess capacity has existed in the industry during the entire period of review, and the ratio of inventories to shipments was moderate during this period. The capacity utilization rate ranged between 55.5 percent (January-March 2003) and 74.1 percent (1998) during the period. These relatively low rates may indicate that domestic producers would suffer a loss in efficiency in their facilities if they were forced to cut back output significantly in the face of increased import competition. However, cutbacks in output could be needed to prevent the inventories that the industry currently holds from increasing. The ratio of inventories to U.S. shipments for producers ranged between 6 percent and 8 percent during January 1997-March 2003.

It is unlikely that U.S. producers would shift from domestic shipments of CTL plate to exports if faced with increased imports. Exports were consistently between 3 and 4 percent of U.S. producers' total shipments during January 1997-March 2003. When asked whether they could easily shift sales from the U.S. market to exports, none of the producers reported that this would be feasible. Some firms stated that the strong U.S. dollar and the state of the world economy are major barriers to exports. Others simply stated that they have never considered exports to be an option.

SUBJECT IMPORT SUPPLY²

The sensitivity of the supply of subject imported CTL plate to changes in price depends upon such factors as the existence of excess capacity, the levels of inventories in relation to sales, the ability to shift facilities to the production of other products, and the existence of export markets. Relevant information for each of the subject countries follows.

China

Based on data from five Chinese producers of CTL plate that responded to the Commission's foreign producer questionnaire, Chinese producers have some excess capacity with which they could increase production of CTL plate. Data reported by these Chinese producers indicate that inventories (as a percent of total shipments) have fluctuated since 1997 but have been at relatively low levels in the recent years; these data indicate that Chinese producers' ability to use inventories to increase shipments may be somewhat constrained. However, several Chinese producers reported that they do produce products other than CTL plate on the same equipment/machinery as they use to produce CTL plate; this ability provides the producers with some flexibility to shift production between different products in response to price changes.

Since 1997, exports to the United States have accounted for a relatively small portion of total shipments. The largest market for Chinese CTL plate since 1997 has been the Chinese home market, with shipments to the home market accounting for over *** percent of total shipments in that time. The existence of a strong home market indicates that Chinese producers have the ability to shift sales from the home market to the U.S. market. Information from foreign producers questionnaires indicates that this flexibility may be somewhat moderated. Chinese producers reported that they could not easily shift sales from their home market to the U.S. market within a 12-month period. Several firms noted that export sales are made based on purchase orders from foreign customers and that it is not easy to shift sales unless there is an existing purchase order. One additional Chinese producer reported that it would be

² Capacity, shipment, and inventory data for each of the subject countries are presented in part IV of this report.

very difficult to shift sales in a one year period due to production planning and some differences in product range. However, when asked if there were any significant differences in the product range or product mix of CTL plate in the Chinese home market, the U.S. market, and third-country markets, all of the responding firms reported no.

Chinese producers also commented on the demand for CTL plate in the Chinese home market. Several of the responding firms reported that the demand for CTL plate in China has increased substantially since 1997. This demand growth reportedly comes from growth in the Chinese economy and in China's development in the machinery, shipbuilding, and petroleum industries. All of the responding Chinese producers stated that they believe that the demand for CTL plate in China is likely to continue to increase.

Russia

Based on available data from Russian producers of CTL plate, these producers have excess capacity with which they could increase production of CTL plate. The supply responsiveness of Russian producers is constrained by the fact that they have had *** reported inventories of CTL plate since 1997. However, Russian producers reported that they do produce products other than CTL plate on the same equipment/machinery as they use to produce CTL plate; this ability enhances the supply responsiveness of Russian producers as it provides the flexibility to shift production between different products in response to price changes.

Since 1997, exports to the United States have accounted for a *** portion of total shipments of Russian CTL plate. The largest market for Russian CTL plate, during the period for which data were collected, has been the Russian home market, with shipments to the home market accounting for over *** percent of total shipments since 1997. Exports of Russian CTL plate to non-U.S. markets also accounted for a significant portion of Russian producers' shipments. The existence of a strong home market and third country markets indicates that Russian producers have the ability to shift sales to the U.S. market. Information from foreign producers' questionnaires supports this as two of the three responding firms noted that they are able to shift sales of CTL plate between the U.S. market and alternative markets within a 12-month period.

Russian producers of CTL plate also commented on the demand for CTL plate in the Russian home market. The three responding Russian producers all noted that the demand for CTL plate in the Russian home market has increased since 1997. One responding firm noted that demand for CTL plate has increased due to the increase of production in shipbuilding, pipe and tube, metal construction, and engineering industries in Russia.

South Africa

Available data from two South African producers of CTL plate indicate that these producers have excess capacity with which they could increase production of CTL plate. Data reported by these South African producers show that inventories have accounted for a *** amount of total shipments, thus indicating that South African producers may have some ability to use inventories to increase shipments but that ability may be somewhat constrained. The largest market for South African CTL plate has been the South African home market, with shipments to the home market accounting for over *** percent of total shipments since 1997 and reaching over *** percent in 2002. The existence of a strong home

market indicates that South African producers have the ability to shift sales from the home market to the U.S. market. However, while South African producers may have the ability to shift sales, ***, ***³***.

With regard to demand for CTL plate in the South African home market, the two responding producers had ***. Highveld testified that demand for plate in South Africa has been growing annually since 1998 and it expects that growth to continue over the next five years. Highveld also stated that continued growth in plate consumption is expected as there are future and current infrastructure projects in which Highveld is involved.⁴ ***.

Ukraine

Data from the one responding Ukrainian CTL plate producer (Azovstal) indicate that there is considerable unused capacity with which Azovstal could increase production of CTL plate. Data reported by this Ukrainian producer indicate that inventories (as a percent of total shipments) have fluctuated since 1997 but have been at *** levels; these data indicate that Azovstal's ability to use inventories to increase shipments is somewhat constrained. Azovstal reported that it ***.

Available data indicate that Ukrainian exports of CTL plate to the United States have fluctuated since 1997 but they have accounted for *** of total shipments for most of the period for which data were collected. Since 1997, *** of Ukrainian CTL plate has been shipped to non-U.S. export markets and to the Ukrainian home market. The existence of a strong home market and third country export markets indicates that Azovstal does have the ability to shift sales from the home market or alternative markets to the U.S. market. Azovstal did not provide any information on how easily it could shift sales of CTL plate from the home market to the U.S. market, stating that "****."

With regard to the Ukrainian home market, Azovstal reported that consumption of rolled steel, including CTL plate in Ukraine has increased steadily since 1997. According to Azovstal, home market consumption declined slightly in 2002 but increased again in 2003. Azovstal also stated that it expects Ukraine's home market for CTL plate to continue to grow in the next few years as a result of the continued growth in Ukraine's overall economy.

U.S. DEMAND

The overall demand for CTL plate depends greatly upon the demand for a variety of end-use applications. Producers, importers, and end-use purchasers were asked to list the end uses of the plate they buy, sell, or purchase. The most common reported uses were the production of ships and/or barges, storage tanks, heavy machinery, bridges, railcars, machine parts, pressure vessels, and offshore drilling platforms.

Demand for CTL plate in the United States decreased during January 1997-December 2002. Apparent U.S. consumption of CTL plate declined by 20.9 percent between 1997 and 2002 and declined by 13.9 percent during January-March 2003 over the same period in the previous year. U.S. producers (71 percent) said demand decreased, whereas roughly 50 percent of end-use purchasers and 42 percent of importers agreed that demand has decreased during (at least over the latter half of) this period. They

³ Iscor reported that during the 2002 fiscal year, it sold *** percent of its total sales of CTL plate in the South African domestic market.

⁴ Highveld provided a "Register of Projects since 2002 and Future ***" of *** infrastructure projects representing a total value of *** million R and utilizing *** "tons of steel - confirmed" and *** "tons of steel - estimated."

attributed the decrease to general economic conditions, with specific factors cited such as decreased spending on capital goods (e.g., railroad cars and barges), and decreased general construction spending.⁵

The sensitivity of the overall demand for CTL plate to changes in price depends upon the availability of substitute products and the cost of the plate as an input in final products. Since much of the CTL plate marketed in the United States faces no competition from close substitutes, increases in price are not likely to have a significant overall effect on the demand for this plate. Where plate accounts for a significant share of the cost of the end-use product, an increase in its price could result in a decline in demand for the product and the CTL plate used in its manufacture. However, the cost share varies depending on the application.

Substitute Products

While there are substitutes for CTL plate, the potential for substitution is often limited by differences in such factors as width, thickness, and strength, as well as in price. Concrete, aluminum, and fiberglass were listed as substitutes in certain applications. Sixty-four percent of domestic producers report that there are "No" substitutes as do 75 percent of importers. One domestic producer, ***, states a limitation to substitutability as "the combination of strength, weight, and cost effectiveness of steel products limit the potential for substitution in most applications."

Cost Share

CTL plate often accounts for a relatively large percentage of the total cost of end-use products, although the cost share varies widely. Based upon purchaser questionnaire responses, CTL plate accounts for between 16 and 50 percent of the total cost of the end products in which they are used. In shipbuilding CTL plate represents 43 percent of end product total cost, 40 percent for tool and die builders, for injection mold makers, and conveyor manufacturers, and 20-25 percent for railroad tank car builders.

SUBSTITUTABILITY ISSUES

U.S. Purchasers

Twelve purchasers of CTL steel plate provided questionnaire responses, although not all firms responded to all questions. Eight purchasers reported that they are either distributors or service centers, one is an end user, and another described itself as a broker. Among seven responding purchasers of CTL steel plate, four have knowledge of only U.S.-produced plate and two have knowledge of subject countries-produced plate and/or plate from nonsubject countries.

Purchasers of CTL plate tend to buy frequently, and rarely change suppliers. Five of eight purchasers of CTL plate reported that they purchase daily or weekly, and the majority of the others reported purchasing monthly or irregularly. Most reported little change in their purchasing pattern over the past 3 years. Five purchasers reported that they have not changed suppliers in the last 5 years. The remaining three reported reasons for changing as: *** stated that "Due to dumping + 201 some suppliers cannot export to the USA;" *** reported that it "Stopped using Geneva when IPSCO Mill - Axis, AL and NUCOR - Hertford opened. Additional domestic suppliers used due to pricing and quality issues;" and

⁵ In addition, at the Commission hearing for these review investigations, domestic industry representatives commented that demand for CTL plate in the U.S. market has declined (see hearing transcript at p. 15 (Schagrin), p. 29 (Ballou), and p. 43 (Insetta)).

*** noted that “Geneva Steel - closed, Huntco - closed, National Steel - discontinued product / Added: NUCOR, Robinson STL.”

Factors Affecting Purchasing Decisions

When asked to list the three most important factors considered in choosing a supplier of CTL plate, quality was ranked first more often than any other consideration. Four of eight purchasers consider quality to be most important, three ranked price first, and one ranked availability first. A summary of rankings is shown in the following tabulation:

| Factor | First place | Second place | Third place |
|---------------|--------------------|---------------------|--------------------|
| Price | 3 | 2 | 3 |
| Quality | 4 | 2 | 1 |
| Availability | 1 | 2 | 2 |
| Other | 0 | 2 | 2 |
| Total | 8 | 8 | 8 |

Before buying CTL plate from a supplier, the minority of purchasers require some form of certification of the product being sold. Most of the requirements consist of standards set by independent organizations. The specifications cited by purchasers were those by ASTM, ISO, and the American Society of Railroads ASME. Three of eight purchasers of CTL plate reported that they require certification before purchasing from a supplier. These purchasers reported that the requirements apply to between 99 and 100 percent of the CTL plate that they buy.

The reported lead times for delivery of U.S.-produced and imported CTL plate varies widely. In the case of producers they range from one day to four months. About 46 percent of producers give average delivery time from inventory as 3 days, and the same percentage of firms report the time from production to be in the range of 8-10 weeks. In general, importers report longer delivery times. Thirteen percent of importers say deliveries from stock take from 1-4 days, and about 80 percent report a range of delivery times from 3-6 months.

Comparisons of Domestic Products and Subject Imports

In general, U.S. producers and importers reported that CTL plate from various sources is used interchangeably (see table II-1). All responding producers that had knowledge of CTL plate from various sources reported that the products are “always” used interchangeably. While there was more variation in the responses of importers, they reported that the domestic and imported CTL plate products were either “always” or “sometimes” used interchangeably.

Producers and importers were also asked if price differences between U.S.-produced and imported CTL plate were a significant factor in their firms’ sales of the product (see table II-2). Producers consistently reported that price differences were “always” a significant factor while importers were more mixed in their responses.

Table II-1

CTL plate: Interchangeability of plate from different sources¹

| Country comparison | U.S. producers | | | | | U.S. importers | | | | |
|-----------------------------|----------------|---|---|---|---|----------------|---|---|---|---|
| | A | S | F | N | 0 | A | S | F | N | 0 |
| U.S. vs. China | 6 | - | - | - | 3 | 2 | 5 | - | - | 3 |
| U.S. vs. Russia | 6 | - | - | - | 3 | 2 | 5 | - | - | 3 |
| U.S. vs. South Africa | 6 | - | - | - | 3 | 2 | 4 | - | - | 4 |
| U.S. vs. Ukraine | 6 | - | - | - | 3 | 1 | 6 | - | - | 3 |
| U.S. vs. Nonsubject | 6 | - | - | - | 4 | - | 1 | - | - | 1 |
| China vs. Russia | 5 | - | - | - | 4 | 2 | 3 | - | - | 5 |
| China vs. South Africa | 5 | - | - | - | 4 | 1 | 4 | - | - | 5 |
| China vs. Ukraine | 5 | - | - | - | 4 | 2 | 3 | - | - | 5 |
| China vs. Nonsubject | 5 | - | - | - | 4 | - | 1 | - | - | 1 |
| Russia vs. South Africa | 5 | - | - | - | 4 | 1 | 4 | - | - | 5 |
| Russia vs. Ukraine | 5 | - | - | - | 4 | 2 | 3 | - | - | 5 |
| Russia vs. Nonsubject | 5 | - | - | - | 4 | - | 1 | - | - | 1 |
| South Africa vs. Ukraine | 5 | - | - | - | 4 | 1 | 4 | - | - | 5 |
| South Africa vs. Nonsubject | 5 | - | - | - | 4 | - | 1 | - | - | 1 |
| Ukraine vs. Nonsubject | 5 | - | - | - | 4 | - | 1 | - | - | 1 |

¹ Producers and importers were asked if CTL plate produced in the United States and in other countries is used interchangeably.

Note: "A" = Always, "F" = Frequently, "S" = Sometimes, "N" = Never, and "0" = No familiarity.

Source: Compiled from data submitted in response to Commission questionnaires.

Table II-2

CTL plate: Price differences between plate from different sources¹

| Country comparison | U.S. producers | | | | | U.S. importers | | | | |
|-----------------------------|----------------|---|---|---|---|----------------|---|---|---|---|
| | A | F | S | N | 0 | A | F | S | N | 0 |
| U.S. vs. China | 6 | - | - | - | 3 | 1 | 2 | 4 | - | 3 |
| U.S. vs. Russia | 6 | - | - | - | 3 | 2 | 3 | 2 | - | 3 |
| U.S. vs. South Africa | 6 | - | - | - | 3 | 1 | 2 | 2 | - | 3 |
| U.S. vs. Ukraine | 6 | - | - | - | 3 | 3 | 2 | 2 | - | 3 |
| U.S. vs. Nonsubject | 6 | 1 | - | - | 2 | - | - | - | - | - |
| China vs. Russia | 5 | - | - | - | 4 | 2 | 2 | 1 | - | 5 |
| China vs. South Africa | 5 | - | - | - | 4 | 1 | 2 | 1 | 1 | 4 |
| China vs. Ukraine | 5 | - | - | - | 4 | 2 | 2 | 1 | - | 5 |
| China vs. Nonsubject | 5 | - | - | - | 4 | - | - | - | - | - |
| Russia vs. South Africa | 5 | - | - | - | 4 | 1 | 2 | 1 | 1 | 4 |
| Russia vs. Ukraine | 5 | - | - | - | 4 | 1 | 2 | 1 | 1 | 4 |
| Russia vs. Nonsubject | 5 | - | - | - | 4 | - | - | - | - | - |
| South Africa vs. Ukraine | 5 | - | - | - | 4 | 2 | 2 | 1 | - | 5 |
| South Africa vs. Nonsubject | 5 | - | - | - | 4 | - | - | - | - | - |
| Ukraine vs. Nonsubject | 5 | - | - | - | 4 | - | - | - | - | - |

¹ Producers and importers were asked if the price difference between CTL plate produced in the United States and in other countries is a significant factor in their firms' sales of CTL plate.

Note: "A" = Always, "F" = Frequently, "S" = Sometimes, "N" = Never, and "0" = No familiarity.

Source: Compiled from data submitted in response to Commission questionnaires.

With regard to differences (other than price) in the products, most of the responding producers reported that differences between the domestic and imported CTL plate products were "never" a significant factor in their sales of the product (see table II-3). Responses from importers were mixed, with an equal number of firms reporting that non-price differences between U.S.-produced and subject imports were "sometimes", "frequently", and "never" a factor in their sales.

Table II-3

CTL plate: Differences (other than price) between plate from different sources¹

| Country comparison | U.S. producers | | | | | U.S. importers | | | | |
|--------------------------|----------------|---|---|---|---|----------------|---|---|---|---|
| | A | S | F | N | 0 | A | S | F | N | 0 |
| U.S. vs. China | - | - | 1 | 5 | 2 | 1 | 2 | 2 | 2 | 3 |
| U.S. vs. Russia | - | - | 1 | 5 | 2 | 1 | 2 | 2 | 2 | 3 |
| U.S. vs. South Africa | - | - | 1 | 5 | 2 | 1 | 2 | 2 | 2 | 3 |
| U.S. vs. Ukraine | - | - | 1 | 5 | 2 | 1 | 2 | 1 | 3 | 3 |
| China vs. Russia | - | - | - | 5 | 3 | - | 2 | - | 2 | 6 |
| China vs. South Africa | - | - | - | 5 | 3 | - | 2 | - | 2 | 6 |
| China vs. Ukraine | - | - | - | 5 | 3 | - | 2 | - | 2 | 6 |
| Russia vs. South Africa | - | - | - | 5 | 3 | - | 2 | - | 2 | 6 |
| Russia vs. Ukraine | - | - | - | 5 | 3 | - | 2 | - | 2 | 6 |
| South Africa vs. Ukraine | - | - | - | 5 | 3 | - | 2 | - | 2 | 6 |

¹ Producers and importers were asked if differences other than price between CTL plate produced in the United States and in other countries are a significant factor in their firms' sales of CTL plate.

Note: "A" = Always, "F" = Frequently, "S" = Sometimes, "N" = Never, and "0" = No familiarity.

Source: Compiled from data submitted in response to Commission questionnaires.

Comparisons of Products Imported from Subject Countries

U.S. producers and importers reported that CTL plate from the various subject countries are used interchangeably (see table II-1). All responding producers that had knowledge of CTL plate from the subject countries reported that the products are "always" used interchangeably. While there was more variation in the responses of importers, they reported that CTL plate products from the different subject countries were either "always" or "sometimes" used interchangeably.

Producers and importers were also asked if price differences between imported CTL plate were a significant factor in their firms' sales of the product (see table II-2). Producers consistently reported that price differences were "always" a significant factor while importers were varied in their responses. For importers, there was a fairly even split between the number of firms that reported "always", "frequently", "sometimes", and "never".

With regard to differences (other than price) in the products, most of the responding producers reported that differences between imported CTL plate products from the different subject countries were "never" a significant factor in their sales of the product (see table II-3). Responses from importers were evenly split with two firms reporting that differences between imported CTL plate products from the different subject countries were "never" a significant factor in their sales of the product and two reporting that differences were "sometimes" a factor.

Comparisons of Domestic and Subject Imports to Nonsubject Product

U.S. producers and importers reported that CTL plate from domestic and subject country sources are used interchangeably with CTL products from nonsubject countries (see table II-1). All responding producers that had knowledge of CTL plate from the various countries reported that domestic and subject country products are "always" used interchangeably with nonsubject country CTL plate products. Only one importer provided information on the degree of interchangeability between domestic and subject imports with nonsubject imports; this firm reported that the products are "sometimes" used interchangeably.

Producers and importers were also asked if price differences between domestic and subject imported CTL plate vis-a-vis nonsubject imports were a significant factor in their firms' sales of the product (see table II-2). Producers reported that price differences were "always" a significant factor while no importers responded.

ELASTICITY ESTIMATES

U.S. Supply Elasticity

The domestic supply elasticity for CTL plate measures the sensitivity of the quantity supplied by the U.S. producers to changes in the U.S. market price for CTL plate. The elasticity of domestic supply depends on several factors, including the level of excess capacity, the existence of inventories, and the availability of alternate markets for U.S.-produced CTL plate. Previous analysis of these factors indicates that the U.S. industry is likely to have some ability to increase or decrease shipments to the U.S. market based on unused capacity and production flexibilities, yet may be somewhat constrained by a lack of alternative markets and relatively low inventory levels. An estimate in the range of 2 to 5 is suggested.

U.S. Demand Elasticity

The U.S. demand elasticity for CTL plate measures the sensitivity of the overall quantity demanded to a change in the U.S. market price of plate. This estimate depends on factors discussed earlier such as the existence, availability, and commercial viability of substitute products, as well as the component share of plate in the final cost of end-use products in which it is used. Because of a lack of close, broadly accepted substitutes, it is likely that the aggregate demand for plate is moderately inelastic, with values ranging between -0.25 to -0.75.

Substitution Elasticity

The elasticity of substitution depends upon the extent of product differentiation between the domestic and imported CTL plate. Product differentiation, in turn, depends upon such factors as quality and condition of sale (availability, delivery, etc.). Based on available information indicating that the domestic and imported products can frequently be used interchangeably, the elasticity of substitution between U.S.-produced plate and imported plate is likely to be in the range of 3 to 5.

PART III: U.S. PRODUCERS' OPERATIONS

Information on capacity, production, shipments, inventories, and employment of U.S. CTL plate producers is presented in this section of the report, and is based on questionnaire responses of 21 firms that accounted for approximately 90 percent of production of CTL plate for the period 1997 through March 2003. Table III-1 presents a list of U.S. producers, U.S. production locations, and shares of reported 2002 U.S. production.

U.S. PRODUCERS' CAPACITY, PRODUCTION, AND CAPACITY UTILIZATION

Data on U.S. producers' capacity, production, and capacity utilization for CTL plate are presented in table III-2.

U.S. PRODUCERS' SHIPMENTS

Data on U.S. producers' shipments of CTL plate are presented in table III-3.

U.S. PRODUCERS' INVENTORIES

Data on U.S. producers' inventories of CTL plate are presented in table III-4.

U.S. PRODUCERS' EMPLOYMENT, WAGES, AND PRODUCTIVITY

U.S. producers' employment data for CTL plate are presented in table III-5.

Table III-1

CTL plate: U.S. producers, U.S. production locations, and shares of 2002 production

| Firm | Plant locations | Share of 2002 production (percent) |
|--|---|------------------------------------|
| U.S. mills: | | |
| Citisteel | Claymont, DE | *** |
| IPSCO | Montpelier, IA Axis, AL St. Paul, MN Houston, TX | *** |
| ISG | Burns Harbor, IN Coatesville, PA Conshohocken, PA | *** |
| LeTourneau | Longview, TX | *** |
| North Star | Calvert City, KY | *** |
| Nucor | Cofield, NC | *** |
| Oregon | Portland, OR | *** |
| Tuscaloosa | Tuscaloosa, AL | *** |
| US Denro | Baytown, TX | *** |
| US Steel | Gary, IN | *** |
| Subtotal mills | | *** |
| U.S. processors: | | |
| American | Kent, WA | *** |
| Cargill | Nashville, TN | *** |
| Crest | Carson, CA | *** |
| Feralloy | Chicago, IL | *** |
| Friedman | Houston, TX Lone Star, TX Armored, AR | *** |
| JIT | Tulare, CA | *** |
| PDM | Fresno, CA | *** |
| Robinson | East Chicago, IN Granite City, IL | *** |
| Subtotal processors | | *** |
| Total U.S. producers | | 100.0 |
| Source: Compiled from data submitted in response to Commission questionnaires. | | |

Table III-2

CTL plate: U.S. production capacity, production, and capacity utilization, 1997-2002, January-March 2002, and January-March 2003

| Item | Calendar year | | | | | | January-March | |
|-----------------------------------|---------------|------------|-----------|-----------|-----------|-----------|---------------|-----------|
| | 1997 | 1998 | 1999 | 2000 | 2001 | 2002 | 2002 | 2003 |
| Capacity (1,000 short tons) | 8,667,033 | 10,010,548 | 9,431,014 | 9,258,670 | 8,340,306 | 8,181,782 | 2,183,859 | 2,170,908 |
| Production (1,000 short tons) | 6,330,510 | 7,419,073 | 6,088,967 | 5,861,042 | 5,669,296 | 5,625,598 | 1,308,483 | 1,204,259 |
| Capacity utilization (percent) | 73.0 | 74.1 | 64.6 | 63.3 | 67.6 | 68.4 | 59.9 | 55.5 |

Source: Compiled from data submitted in response to Commission questionnaires.

Table III-3

CTL plate: U.S. producers' shipments, by types, 1997-2002, January-March 2002, and January-March 2003

| Item | Calendar year | | | | | | January-March | |
|----------------------------|--|-----------|-----------|-----------|-----------|-----------|---------------|-----------|
| | 1997 | 1998 | 1999 | 2000 | 2001 | 2002 | 2002 | 2003 |
| | Quantity (short tons) | | | | | | | |
| U.S. commercial shipments | *** | *** | *** | *** | *** | *** | *** | *** |
| Internal consumption | *** | *** | *** | *** | *** | *** | *** | *** |
| Transfers to related firms | *** | *** | *** | *** | *** | *** | *** | *** |
| Total U.S. shipments | 6,101,180 | 7,117,118 | 5,809,179 | 5,646,453 | 5,394,589 | 5,184,488 | 1,276,946 | 1,147,929 |
| Export shipments | 170,955 | 226,837 | 194,051 | 217,225 | 177,518 | 227,124 | 35,157 | 54,549 |
| Total shipments | 6,272,135 | 7,343,955 | 6,003,230 | 5,863,678 | 5,572,107 | 5,411,612 | 1,312,103 | 1,202,478 |
| | Value (1,000 dollars) | | | | | | | |
| U.S. commercial shipments | *** | *** | *** | *** | *** | *** | *** | *** |
| Internal consumption | *** | *** | *** | *** | *** | *** | *** | *** |
| Transfers to related firms | *** | *** | *** | *** | *** | *** | *** | *** |
| Total U.S. shipments | 2,689,586 | 3,133,676 | 2,178,196 | 2,132,169 | 1,900,745 | 1,846,983 | 433,299 | 426,793 |
| Export shipments | 77,713 | 102,976 | 72,252 | 79,492 | 63,468 | 78,244 | 13,262 | 19,041 |
| Total shipments | 2,767,299 | 3,236,652 | 2,250,448 | 2,211,661 | 1,964,213 | 1,925,227 | 446,561 | 445,834 |
| | Unit value (per short ton) | | | | | | | |
| U.S. commercial shipments | *** | *** | *** | *** | *** | *** | *** | *** |
| Internal consumption | *** | *** | *** | *** | *** | *** | *** | *** |
| Transfers to related firms | *** | *** | *** | *** | *** | *** | *** | *** |
| Total U.S. shipments | \$441 | \$440 | \$375 | \$378 | \$352 | \$356 | \$339 | \$372 |
| Export shipments | 455 | 454 | 372 | 366 | 358 | 344 | 377 | 349 |
| Total shipments | 441 | 441 | 375 | 377 | 353 | 356 | 340 | 371 |
| | Share of total quantity (percent) | | | | | | | |
| U.S. commercial shipments | *** | *** | *** | *** | *** | *** | *** | *** |
| Internal consumption | *** | *** | *** | *** | *** | *** | *** | *** |
| Transfers to related firms | *** | *** | *** | *** | *** | *** | *** | *** |
| Total U.S. shipments | 97.3 | 96.9 | 96.8 | 96.3 | 96.8 | 95.8 | 97.3 | 95.5 |
| Export shipments | 2.7 | 3.1 | 3.2 | 3.7 | 3.2 | 4.2 | 2.7 | 4.5 |
| Total shipments | 100.0 | 100.0 | 100.0 | 100.0 | 100.0 | 100.0 | 100.0 | 100.0 |

¹ Less than 0.05 percent.

Source: Compiled from data submitted in response to Commission questionnaires.

Table III-4

CTL plate: U.S. producers' end-of-period inventories, 1997-2002, January-March 2002, and January-March 2003

| Item | Calendar year | | | | | | January-March | |
|--|---------------|---------|---------|---------|---------|---------|---------------|---------|
| | 1997 | 1998 | 1999 | 2000 | 2001 | 2002 | 2002 | 2003 |
| Inventories (<i>short tons</i>) | 428,270 | 500,751 | 446,738 | 447,226 | 442,041 | 334,473 | 300,135 | 260,882 |
| Ratio of inventories to production (<i>percent</i>) | 6.8 | 6.7 | 7.3 | 7.6 | 7.8 | 5.9 | 5.7 | 5.4 |
| Ratio of inventories to U.S. shipments (<i>percent</i>) | 7.0 | 7.0 | 7.7 | 7.9 | 8.2 | 6.5 | 5.9 | 5.7 |
| Ratio of inventories to total shipments (<i>percent</i>) | 6.8 | 6.8 | 7.4 | 7.6 | 7.9 | 6.2 | 5.7 | 5.4 |

Source: Compiled from data submitted in response to Commission questionnaires.

Table III-5

CTL plate: U.S. producers' employment-related indicators, 1997-2002, January-March 2002, and January-March 2003

| Item | Calendar year | | | | | | January-March | |
|--|---------------|---------|---------|---------|---------|---------|---------------|---------|
| | 1997 | 1998 | 1999 | 2000 | 2001 | 2002 | 2002 | 2003 |
| Production and related workers (PRWs) | 7,577 | 7,979 | 6,522 | 6,641 | 6,082 | 4,862 | 4,899 | 4,311 |
| Hours worked by PRWs (<i>1,000 hours</i>) | 17,212 | 18,087 | 14,277 | 14,384 | 12,962 | 10,908 | 2,612 | 2,371 |
| Wages paid to PRWs (<i>1,000 dollars</i>) | 375,409 | 402,019 | 318,065 | 321,268 | 300,089 | 258,415 | 62,893 | 59,333 |
| Hourly wages | \$21.81 | \$22.23 | \$22.28 | \$22.34 | \$23.15 | \$23.69 | \$24.08 | \$25.02 |
| Productivity (<i>short tons produced per hour</i>) | 364.0 | 406.8 | 422.6 | 405.5 | 435.6 | 513.8 | 519.6 | 523.5 |
| Unit labor costs (<i>per short ton</i>) | \$59.92 | \$54.64 | \$52.72 | \$55.08 | \$53.15 | \$46.11 | \$46.92 | \$48.28 |

Source: Compiled from data submitted in response to Commission questionnaires.

FINANCIAL EXPERIENCE OF U.S. PRODUCERS

Background

The financial data of the U.S. CTL plate operations of *** U.S. producers are reflected in this section of the report.¹ The majority of producers reported their financial results on a calendar-year basis² using U.S. GAAP.

With the exception of ***, firms reporting information as CTL plate processors provided limited or no financial data.³ Processor information, as presented in this section of the report, is therefore limited to the data submitted by ***.^{4 5}

Operations on CTL Plate

Income-and-loss data for U.S. producers are presented in table III-6. Table III-7 and table III-8 present financial results on a per-short-ton basis for mills and processors, respectively. Table III-9 presents selected company-specific data referenced in this section of the report.

Collectively, CTL plate operating income was generated in 1997 and 1998 with operating losses of varying amounts reported for the rest of the period. The period of the original investigation (1994 through 1996), when the industry was collectively profitable, reflected sales volume somewhat lower than in 1998. The shift to consistent losses during the period examined generally corresponds to the apparent decline in overall CTL plate sales volume after 1998. During this period several new entrants also increased their CTL plate sales.⁶

*** generally reported somewhat higher average unit sales values and cost of goods sold (COGS) compared to the majority of other producers. Their unit gross *** were also generally larger.⁷

1 ***.

2 ***.

3 ***.

4 ***.

5 ***.

6 ***.

⁷ All of the producers (except for *** in 2000) appear to have covered their primary variable costs such as raw material and direct labor. As such, the element of COGS not covered by reported revenue was other factory costs. In addition to variations in product mix (e.g., micro alloy versus non-micro alloy), differences in production and levels of integration should be kept in mind when reviewing company-specific average unit COGS in table III-9.

Table III-6

Results of U.S. producers' CTL plate operations, fiscal years 1997-2002, January-March 2002, and January-March 2003

| Item | Fiscal year | | | | | | January-March | |
|--|-----------------------|-----------|-----------|-----------|-----------|-----------|---------------|-----------|
| | 1997 | 1998 | 1999 | 2000 | 2001 | 2002 | 2002 | 2003 |
| | Quantity (short tons) | | | | | | | |
| Total net sales | 5,586,050 | 6,690,581 | 5,153,254 | 4,926,278 | 4,960,783 | 4,981,996 | 1,205,715 | 1,107,343 |
| Value (\$1,000) | | | | | | | | |
| Total net sales | 2,514,284 | 3,005,441 | 1,964,899 | 1,875,286 | 1,771,524 | 1,752,442 | 406,445 | 410,382 |
| COGS | 2,328,842 | 2,742,965 | 1,955,117 | 1,901,588 | 1,875,510 | 1,769,708 | 419,848 | 428,661 |
| Gross profit or (loss) | 185,442 | 262,476 | 9,782 | (26,302) | (103,986) | (17,266) | (13,403) | (18,279) |
| SG&A expenses | 106,177 | 123,630 | 140,283 | 127,459 | 113,716 | 105,644 | 25,487 | 23,603 |
| Operating income or (loss) | 79,265 | 138,846 | (130,501) | (153,761) | (217,702) | (122,910) | (38,890) | (41,882) |
| Interest expense | 48,135 | 101,723 | 72,691 | 51,987 | 60,540 | 48,468 | 13,797 | 10,941 |
| Other expenses | 14,094 | 16,028 | 23,576 | 9,543 | 18,383 | 5,761 | 1,360 | 790 |
| Other income items | 6,911 | 5,939 | 3,226 | 5,511 | 21,473 | 20,900 | 753 | 3,330 |
| Net income or (loss) | 23,947 | 27,034 | (223,542) | (209,780) | (275,152) | (156,239) | (53,294) | (50,283) |
| Estimated cash flow | 130,349 | 169,133 | (81,307) | (104,971) | (163,635) | (33,747) | (23,860) | (18,959) |
| Ratio to net sales (percent) | | | | | | | | |
| Cost of goods sold | 92.6 | 91.3 | 99.5 | 101.4 | 105.9 | 101.0 | 103.3 | 104.5 |
| Gross profit | 7.4 | 8.7 | 0.5 | (1.4) | (5.9) | (1.0) | (3.3) | (4.5) |
| SG&A expenses | 4.2 | 4.1 | 7.1 | 6.8 | 6.4 | 6.0 | 6.3 | 5.8 |
| Operating income or (loss) | 3.2 | 4.6 | (6.6) | (8.2) | (12.3) | (7.0) | (9.6) | (10.2) |
| Net income or (loss) | 1.0 | 0.9 | (11.4) | (11.2) | (15.5) | (8.9) | (13.1) | (12.3) |
| Number of producers reporting | | | | | | | | |
| Operating losses | *** | *** | *** | *** | *** | *** | *** | *** |
| Data | *** | *** | *** | *** | *** | *** | *** | *** |
| Source: Compiled from data submitted in response to Commission questionnaires. | | | | | | | | |

Table III-7

Mills: Results of U.S. producers' CTL plate operations (per short ton), fiscal years 1997-2002, January-March 2002, and January-March 2003

| Item | Fiscal year | | | | | | January-March | |
|--|---|-------|-------|-------|-------|-------|---------------|-------|
| | 1997 | 1998 | 1999 | 2000 | 2001 | 2002 | 2002 | 2003 |
| | Unit value (per short ton) | | | | | | | |
| Net sales | \$454 | \$453 | \$384 | \$384 | \$360 | \$355 | \$340 | \$372 |
| Cost of goods sold | 422 | 415 | 387 | 394 | 386 | 362 | 357 | 392 |
| Gross profit | 32 | 38 | (2) | (10) | (25) | (7) | (17) | (20) |
| SG&A expenses | 19 | 19 | 28 | 27 | 24 | 22 | 22 | 22 |
| Operating income or (loss) | 13 | 20 | (31) | (37) | (49) | (29) | (38) | (42) |
| | Unit value (per short ton) ¹ | | | | | | | |
| Raw materials | 171 | 163 | 187 | 190 | 183 | 186 | 170 | 187 |
| Direct labor | 101 | 100 | 56 | 61 | 53 | 37 | 41 | 42 |
| Other factory | 115 | 117 | 125 | 118 | 133 | 116 | 121 | 146 |
| ¹ *** are not presented in this part of the table. *** did not report break outs for its COGS. *** reported non-micro alloy raw material, direct labor, and other factory costs for 1999 and subsequent periods only. | | | | | | | | |
| Source: Compiled from data submitted in response to Commission questionnaires. | | | | | | | | |

Table III-8

Processors: Results of U.S. producers' CTL plate operations (per short ton), fiscal years 1997-2002, January-March 2002, and January-March 2003

* * * * *

Table III-9

Selected financial information of U.S. producers' CTL plate operations, fiscal years 1997-2002, January-March 2002, and January-March 2003

* * * * *

Capital Expenditures and Investment in Productive Facilities

The responding producers' combined data on capital expenditures related to their CTL plate operations are shown in table III-10. Only capital expenditures are presented because information on *property, plant, and equipment was not available for firms whose information is based solely on data submitted in the 201 Steel investigation*. The only companies reporting R&D expenses were ***. Total R&D expenses declined over the period from approximately ***.

Table III-10

CTL plate operations: Capital expenditures for fiscal years 1997-2002, January-March 2002, and January-March 2003

| Item | Fiscal year | | | | | | January-March | |
|-----------------------------------|-----------------|---------|---------|---------|--------|--------|---------------|-------|
| | 1997 | 1998 | 1999 | 2000 | 2001 | 2002 | 2002 | 2003 |
| | Value (\$1,000) | | | | | | | |
| Total capital expenditures | 175,128 | 140,766 | 329,004 | 291,794 | 69,188 | 30,441 | 6,212 | 3,328 |

Source: Compiled from data submitted in response to Commission questionnaires.

First quarter 2002 and 2003 R&D expenses were each approximately ***. *** accounted for the majority of reported R&D expenses.

While capital expenditures during the first part of the period were divided among several of the responding firms, capital expenditures in 1999 and 2000 were dominated by the construction of Nucor's new mill.⁸

⁸ ***.

PART IV: U.S. IMPORTS AND THE FOREIGN INDUSTRIES

U.S. IMPORTS

Table IV-1 presents data on U.S. imports of CTL plate for the period 1997-2002, January-March 2002, and January-March 2003¹. U.S. import data were compiled from official Commerce statistics. Available information from questionnaire responses and U.S. Customs indicates that one U.S. producer imported nonsubject CTL plate from *** during the period of these reviews.

U.S. IMPORTERS' INVENTORIES

Data regarding U.S. importers' inventories of imports of CTL plate during the period of these reviews are presented in table IV-2.

¹ See Appendix G for additional tables of import statistics, containing information on imports from 17 countries currently subject to antidumping and countervailing duty orders. Differences in apparent consumption when compared to the prehearing staff report tables are due to recently revised data from U.S. producers.

Table IV-1

CTL plate: U.S. imports, by sources, 1997-2002, January-March 2002, and January-March 2003

| Source | Calendar year | | | | | | January-March | |
|--------------------------|--|-----------|---------|---------|---------|---------|------------------|---------|
| | 1997 | 1998 | 1999 | 2000 | 2001 | 2002 | 2002 | 2003 |
| | Quantity (short tons) | | | | | | | |
| China | 163,527 | 154,955 | 26,159 | 151,126 | 91,510 | 31,138 | 12,009 | 401 |
| Russia | 158,509 | 117,614 | 17,390 | 87,898 | 79,070 | 34,453 | 12,390 | 1,528 |
| South Africa | 7,945 | 21,177 | 10,561 | 5,771 | 10,992 | 11,889 | 5,971 | 1,708 |
| Ukraine | 184,615 | 148,349 | 3,814 | 28,627 | 31,316 | 5,650 | 0 | 1,537 |
| Subtotal subject imports | 514,597 | 442,094 | 57,923 | 273,422 | 212,888 | 83,130 | 30,370 | 5,173 |
| All other sources | 732,631 | 1,379,685 | 671,426 | 529,085 | 515,870 | 546,414 | 182,998 | 130,252 |
| Total imports | 1,247,228 | 1,821,779 | 729,349 | 802,507 | 728,758 | 629,543 | 213,369 | 135,425 |
| | Landed, duty-paid value (1,000 dollars)¹ | | | | | | | |
| China | 56,247 | 56,471 | 9,003 | 46,031 | 28,309 | 10,980 | 3,408 | 177 |
| Russia | 53,096 | 39,929 | 6,115 | 23,933 | 20,690 | 10,399 | 3,196 | 490 |
| South Africa | 3,059 | 8,625 | 3,449 | 1,983 | 3,665 | 3,484 | 1,788 | 605 |
| Ukraine | 63,018 | 59,955 | 1,904 | 8,884 | 9,899 | 2,184 | 0 | 593 |
| Subtotal subject imports | 175,420 | 164,980 | 20,471 | 80,830 | 62,563 | 27,046 | 8,392 | 1,865 |
| All other sources | 333,633 | 588,526 | 269,054 | 227,994 | 213,188 | 230,775 | 69,950 | 55,823 |
| Total imports | 509,053 | 753,506 | 289,524 | 308,824 | 275,751 | 257,821 | 78,342 | 57,689 |
| | Unit value | | | | | | | |
| China | \$344 | \$364 | \$344 | \$305 | \$309 | \$353 | \$284 | \$443 |
| Russia | 335 | 339 | 352 | 272 | 262 | 302 | 258 | 321 |
| South Africa | 385 | 407 | 327 | 344 | 333 | 293 | 300 | 354 |
| Ukraine | 341 | 404 | 499 | 310 | 316 | 387 | (¹) | 386 |
| Subtotal subject imports | 341 | 373 | 353 | 296 | 294 | 325 | 276 | 361 |
| All other sources | 455 | 427 | 401 | 431 | 413 | 422 | 382 | 429 |
| Total imports | 408 | 414 | 397 | 385 | 378 | 410 | 367 | 426 |

--Table continued on next page.

Table IV-1--Continued

CTL plate: U.S. imports, by sources, 1997-2002, January-March 2002, and January-March 2003

| Source | Calendar year | | | | | | January-March | |
|--------------------------|------------------------------------|-------|-------|-------|-------|-------|------------------|------|
| | 1997 | 1998 | 1999 | 2000 | 2001 | 2002 | 2002 | 2003 |
| | Share of quantity (percent) | | | | | | | |
| China | 13.1 | 8.5 | 3.6 | 18.8 | 12.6 | 4.9 | 5.6 | 0.3 |
| Russia | 12.7 | 6.5 | 2.4 | 11.0 | 10.8 | 5.5 | 5.8 | 1.1 |
| South Africa | 0.6 | 1.2 | 1.4 | 0.7 | 1.5 | 1.9 | 2.8 | 1.3 |
| Ukraine | 14.8 | 8.1 | 0.5 | 3.6 | 4.3 | 0.9 | (¹) | 1.1 |
| Subtotal subject imports | 41.3 | 24.3 | 7.9 | 34.1 | 29.2 | 13.2 | 14.2 | 3.8 |
| All other sources | 58.7 | 75.7 | 92.1 | 65.9 | 70.8 | 86.8 | 85.8 | 96.2 |
| Total imports | 100.0 | 100.0 | 100.0 | 100.0 | 100.0 | 100.0 | 100.0 | 100 |
| | Share of value (percent) | | | | | | | |
| China | 11.0 | 7.5 | 3.1 | 14.9 | 10.3 | 4.3 | 4.3 | 0.3 |
| Russia | 10.4 | 5.3 | 2.1 | 7.7 | 7.5 | 4.0 | 4.1 | 0.8 |
| South Africa | 0.6 | 1.1 | 1.2 | 0.6 | 1.3 | 1.4 | 2.3 | 1.0 |
| Ukraine | 12.4 | 8.0 | 0.7 | 2.9 | 3.6 | 0.8 | (¹) | 1.0 |
| Subtotal subject imports | 34.5 | 21.9 | 7.1 | 26.2 | 22.7 | 10.5 | 10.7 | 3.2 |
| All other sources | 65.5 | 78.1 | 92.9 | 73.8 | 77.3 | 89.5 | 89.3 | 96.8 |
| Total imports | 100.0 | 100.0 | 100.0 | 100.0 | 100.0 | 100.0 | 100.0 | 100 |

¹ Not applicable.

Source: Compiled from official Commerce statistics.

Table IV-2

CTL plate: U.S. importers' inventories, by sources, 1997-2002, January-March 2002, and January-March 2003

* * * * *

**SUBJECT COUNTRY CAPACITY, PRODUCTION, CAPACITY UTILIZATION,
HOME MARKET AND EXPORT SHIPMENTS, AND INVENTORIES**

Available comparative data from the original investigations and the current sunset reviews relating to subject country operations are presented in table IV-3.

The Industry in China

During the original investigations, counsel on behalf of the Chinese respondents provided complete data for 12 mills, believed to account for approximately two-thirds of Chinese CTL plate production and about 90 percent of such exports to the United States. During these review investigations, counsel for five producers/exporters in China provided information regarding their CTL plate operations: Anshan Iron & Steel Group Corporation; Baoshan Iron & Steel Co. Ltd.; Shanghai Sangang Steel Co., Ltd.; Wuhan Iron & Steel Co.; and Wuyang Iron and Steel Co., Ltd. The five firms accounted for *** percent of U.S. imports of CTL plate from China during 1997, and *** percent of imports during 2002.

CTL plate accounted for between *** and *** percent of total sales for reporting Chinese mills in their most recent fiscal years. Several mills reported producing plate products "other than CTL plate" on the same equipment used to produce CTL plate, including alloy, low-alloy, shipbuilding, high-grade structural, and pressure vessel plate. Current primary Chinese CTL plate export markets include ***.

Data on capacity, production, shipments, and inventories of CTL plate in China were provided by counsel for five firms in response to the Commission's foreign producer's questionnaires and are presented in table IV-4. Data on principal export markets for CTL plate produced in China are presented in table IV-5.

Table IV-3

CTL plate: Comparative data of subject country operations from the original investigations and the current reviews, 1994-2002

(Quantity in short tons, value in 1,000 dollars, shares/ratios in percent)

| Item | 1994 | 1995 | 1996 | 1997 | 1998 | 1999 | 2000 | 2001 | 2002 |
|------------------------------------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|
| China-- | | | | | | | | | |
| Capacity | 6,103,702 | 6,342,537 | 6,660,000 | 4,409,352 | 4,484,857 | 4,347,472 | 4,283,230 | 4,485,989 | 4,845,428 |
| Production | 4,814,801 | 5,109,650 | 5,335,480 | 3,172,465 | 3,232,630 | 2,866,276 | 2,977,691 | 3,698,504 | 4,273,556 |
| Capacity utilization | 78.9 | 80.6 | 80.1 | 71.9 | 72.1 | 65.9 | 69.5 | 82.4 | 88.2 |
| Ending inventories | *** | *** | *** | *** | *** | *** | *** | *** | *** |
| Shipments: Home market | 4,435,403 | 3,876,514 | 4,538,664 | 2,731,670 | 2,660,337 | 2,897,059 | 2,606,962 | 3,493,733 | 4,216,265 |
| Exports to U.S. | *** | *** | *** | *** | *** | *** | *** | *** | *** |
| All other exports | *** | *** | *** | *** | *** | *** | *** | *** | *** |
| Total shipments | *** | *** | *** | *** | *** | *** | *** | *** | *** |
| Share of shipments: Home market | *** | *** | *** | *** | *** | *** | *** | *** | *** |
| Exports to U.S. | *** | *** | *** | *** | *** | *** | *** | *** | *** |
| All other exports | *** | *** | *** | *** | *** | *** | *** | *** | *** |
| Russia-- | | | | | | | | | |
| Capacity | 3,913,165 | 3,946,234 | 4,001,349 | 4,189,375 | 4,209,635 | 4,175,865 | 4,544,485 | 4,376,896 | 4,261,392 |
| Production | 3,145,218 | 3,007,446 | 2,796,910 | 1,828,767 | 1,795,047 | 1,669,518 | 2,201,321 | 2,448,496 | 2,293,373 |
| Capacity utilization | 80.4 | 76.2 | 69.9 | 43.7 | 42.6 | 40.0 | 48.4 | 55.9 | 53.8 |
| Ending inventories | *** | *** | *** | *** | *** | *** | *** | *** | *** |
| Shipments: Home market | 2,013,751 | 1,737,266 | 1,573,928 | 976,593 | 1,104,624 | 932,398 | 1,427,462 | 1,732,128 | 1,532,070 |
| Exports to U.S. | *** | *** | *** | *** | *** | *** | *** | *** | *** |
| All other exports | *** | *** | *** | *** | *** | *** | *** | *** | *** |
| Total shipments | *** | *** | *** | *** | *** | *** | *** | *** | *** |
| Share of shipments: Home market | *** | *** | *** | *** | *** | *** | *** | *** | *** |
| Exports to U.S. | *** | *** | *** | *** | *** | *** | *** | *** | *** |
| All other exports | *** | *** | *** | *** | *** | *** | *** | *** | *** |

-Table continued on next page.

Table IV-3—Continued

CTL plate: Comparative data of subject country operations from the original investigations and the current reviews, 1994-2002

(Quantity in short tons, value in 1,000 dollars, shares/ratios in percent)

| Item | 1994 | 1995 | 1996 | 1997 | 1998 | 1999 | 2000 | 2001 | 2002 |
|---|------|------|------|------|------|------|------|------|------|
| South Africa-- | | | | | | | | | |
| | * | * | * | * | * | * | * | * | * |
| Ukraine-- | | | | | | | | | |
| | * | * | * | * | * | * | * | * | * |
| Source: Data for 1994-96 are compiled from the Commission's Nov. 14, 1997 staff report (INV-U-081) in the original investigations. Data for 1997-2002 are compiled from responses to the Commission questionnaires in the current reviews, and from official Commerce statistics. | | | | | | | | | |

Table IV-4

CTL plate: Data on the industry in China, 1997-2002, January-March 2002, January-March 2003, and projected 2003-2004

| Item | Calendar year | | | | | | January-March | | Projected | |
|---------------------------|------------------------------------|-----------|-----------|-----------|-----------|-----------|---------------|-----------|-----------|-----------|
| | 1997 | 1998 | 1999 | 2000 | 2001 | 2002 | 2002 | 2003 | 2003 | 2004 |
| | Quantity (short tons) | | | | | | | | | |
| Capacity | 4,409,352 | 4,484,857 | 4,347,472 | 4,283,230 | 4,485,989 | 4,845,428 | 1,193,962 | 1,337,434 | 5,366,197 | 5,373,899 |
| Production | 3,172,465 | 3,232,630 | 2,866,276 | 2,977,691 | 3,698,504 | 4,273,556 | 1,078,047 | 1,169,745 | 4,003,040 | 4,066,202 |
| E-O-P inventories | 163,302 | 353,875 | 181,064 | 132,746 | 145,431 | 93,812 | 136,625 | 95,259 | 59,006 | 58,992 |
| Shipments: | | | | | | | | | | |
| Internal consumption | *** | *** | *** | *** | *** | *** | *** | *** | *** | *** |
| Home market | 2,731,670 | 2,660,337 | 2,897,059 | 2,606,962 | 3,493,733 | 4,216,265 | 1,062,632 | 1,158,849 | 4,620,223 | 4,658,194 |
| Exports to: | | | | | | | | | | |
| United States | *** | *** | *** | *** | *** | *** | *** | *** | *** | *** |
| EU | *** | *** | *** | *** | *** | *** | *** | *** | *** | *** |
| Asia | *** | *** | *** | *** | *** | *** | *** | *** | *** | *** |
| Other | *** | *** | *** | *** | *** | *** | *** | *** | *** | *** |
| Total exports | 367,393 | 359,280 | 128,381 | 399,774 | 192,085 | 90,231 | 24,221 | 8,976 | 61,867 | 69,404 |
| Total shipments | *** | *** | *** | *** | *** | *** | *** | *** | *** | *** |
| | Ratios and shares (percent) | | | | | | | | | |
| Capacity utilization | 71.9 | 72.1 | 65.9 | 69.5 | 82.4 | 88.2 | 90.3 | 87.5 | 74.6 | 75.7 |
| Inventories/production | 5.1 | 10.9 | 6.3 | 4.5 | 3.9 | 2.2 | 3.2 | 2.0 | 1.5 | 1.5 |
| Inventories/shipments | *** | *** | *** | *** | *** | *** | *** | *** | *** | *** |
| Share of total shipments: | | | | | | | | | | |
| Internal consumption | *** | *** | *** | *** | *** | *** | *** | *** | *** | *** |
| Home market | *** | *** | *** | *** | *** | *** | *** | *** | *** | *** |
| Exports to: | | | | | | | | | | |
| United States | *** | *** | *** | *** | *** | *** | *** | *** | *** | *** |
| EU | *** | *** | *** | *** | *** | *** | *** | *** | *** | *** |
| Asia | *** | *** | *** | *** | *** | *** | *** | *** | *** | *** |
| Other | *** | *** | *** | *** | *** | *** | *** | *** | *** | *** |
| Total exports | *** | *** | *** | *** | *** | *** | *** | *** | *** | *** |

-Table continued on next page.

Table IV-4--Continued

CTL plate: Data on the industry in China, 1997-2002, January-March 2002, January-March 2003, and projected 2003-2004

| Firm | Calendar year | | | | | | January-March | | Projected | |
|---|---------------|---------|---------|---------|---------|-----------|---------------|---------|-----------|-----------|
| | 1997 | 1998 | 1999 | 2000 | 2001 | 2002 | 2002 | 2003 | 2003 | 2004 |
| Value (1,000 dollars) ¹ | | | | | | | | | | |
| Shipments: | | | | | | | | | | |
| Home market | 824,442 | 757,816 | 775,348 | 741,623 | 969,617 | 1,155,104 | 262,933 | 358,511 | 1,555,192 | 1,525,837 |
| Exports to: | | | | | | | | | | |
| United States | *** | *** | *** | *** | *** | *** | *** | *** | *** | *** |
| EU | *** | *** | *** | *** | *** | *** | *** | *** | *** | *** |
| Asia | *** | *** | *** | *** | *** | *** | *** | *** | *** | *** |
| Other | *** | *** | *** | *** | *** | *** | *** | *** | *** | *** |
| Total exports | 105,324 | 166,275 | 27,360 | 98,313 | 51,617 | 27,224 | 6,705 | 2,989 | 11,072 | 15,116 |
| Total shipments | *** | *** | *** | *** | *** | *** | *** | *** | *** | *** |
| Unit value (per short ton) | | | | | | | | | | |
| Shipments: | | | | | | | | | | |
| Home market | \$302 | \$285 | \$268 | \$284 | \$278 | \$274 | \$247 | \$309 | \$337 | \$328 |
| Exports to: | | | | | | | | | | |
| United States | *** | *** | *** | *** | *** | *** | *** | *** | *** | *** |
| EU | *** | *** | *** | *** | *** | *** | *** | *** | *** | *** |
| Asia | *** | *** | *** | *** | *** | *** | *** | *** | *** | *** |
| Other | *** | *** | *** | *** | *** | *** | *** | *** | *** | *** |
| Total exports | \$287 | \$449 | \$248 | \$246 | \$269 | \$302 | \$277 | \$333 | \$313 | \$319 |
| Total shipments | *** | *** | *** | *** | *** | *** | *** | *** | *** | *** |
| ¹ Not applicable. ² Less than 0.05 percent. ³ Values reported are net values (i.e., gross sales values less all discounts, allowances, rebates, prepaid freight, and the value of returned goods), f.o.b. the subject country point of shipment (per instructions booklet for the foreign producer questionnaire). | | | | | | | | | | |
| Source: Compiled from data submitted in response to Commission questionnaires. | | | | | | | | | | |

Table IV-5

CTL plate: Exports by producers/exporters in China, to the United States and other principal export markets, 1995-2002

* * * * *

Russia

During the original investigations, the Commission received information on CTL plate operations in Russia from counsel on behalf of four Russian producers/exporters. During these review investigations, counsel for three producers/exporters in Russia provided information regarding their CTL plate operations: JSC Severstal, JSC Nosta, and JSC Magnitogorsk Iron and Steel Works. The three firms accounted for *** percent of U.S. imports of CTL plate from Russia during 1997 and *** percent of imports during 2002.

CTL plate accounted for *** percent, respectively, of these firms' total sales in their most recent fiscal year. In addition to CTL plate, the firms produce *** on the same equipment used to produce CTL plate. The firms reported that they did not have any plans to expand or curtail capacity. The Russian mills reportedly market plate exports to the United States through trading companies. Current primary export markets include ***.

Data on capacity, production, shipments, and inventories of CTL plate in Russia for the three firms are presented in table IV-6. Data on principal export markets for CTL plate produced in Russia are presented in table IV-7.

Table IV-6

CTL plate: Data on the industry in Russia, 1997-2002, January-March 2002, and January-March 2003 ¹

| Item | Calendar year | | | | | | January-March | |
|---------------------------|------------------------------------|-----------|-----------|-----------|-----------|-----------|---------------|-----------|
| | 1997 | 1998 | 1999 | 2000 | 2001 | 2002 | 2002 | 2003 |
| | Quantity (short tons) | | | | | | | |
| Capacity | 4,189,375 | 4,209,635 | 4,175,865 | 4,544,485 | 4,376,896 | 4,261,392 | 1,030,901 | 1,109,145 |
| Production | 1,828,767 | 1,795,047 | 1,669,518 | 2,201,321 | 2,448,496 | 2,293,373 | 587,461 | 649,645 |
| E-O-P inventories | *** | *** | *** | *** | *** | *** | *** | *** |
| Shipments: | | | | | | | | |
| Internal consumption | *** | *** | *** | *** | *** | *** | *** | *** |
| Home market | 976,593 | 1,104,624 | 932,398 | 1,427,462 | 1,732,128 | 1,532,070 | 382,575 | 431,202 |
| Exports to: | | | | | | | | |
| United States | *** | *** | *** | *** | *** | *** | *** | *** |
| EU | *** | *** | *** | *** | *** | *** | *** | *** |
| Asia | *** | *** | *** | *** | *** | *** | *** | *** |
| Other | *** | *** | *** | *** | *** | *** | *** | *** |
| Total exports | 790,468 | 655,663 | 594,097 | 716,518 | 684,057 | 689,853 | 198,544 | 194,984 |
| Total shipments | *** | *** | *** | *** | *** | *** | *** | *** |
| | Ratios and shares (percent) | | | | | | | |
| Capacity utilization | 43.7 | 42.6 | 40.0 | 48.4 | 55.9 | 53.8 | 57.0 | 58.6 |
| Inventories/production | *** | *** | *** | *** | *** | *** | *** | *** |
| Inventories/shipments | *** | *** | *** | *** | *** | *** | *** | *** |
| Share of total shipments: | | | | | | | | |
| Internal consumption | *** | *** | *** | *** | *** | *** | *** | *** |
| Home market | *** | *** | *** | *** | *** | *** | *** | *** |
| Exports to: | | | | | | | | |
| United States | *** | *** | *** | *** | *** | *** | *** | *** |
| EU | *** | *** | *** | *** | *** | *** | *** | *** |
| Asia | *** | *** | *** | *** | *** | *** | *** | *** |
| Other | *** | *** | *** | *** | *** | *** | *** | *** |
| Total exports | *** | *** | *** | *** | *** | *** | *** | *** |

-Table continued on next page.

Table IV-6--Continued

CTL plate: Data on the industry in Russia, 1997-2002, January-March 2002, January-March 2003, and projected 2003-2004

| Item | Calendar year | | | | | | January-March | |
|---|---------------|---------|---------|---------|---------|---------|---------------|---------|
| | 1997 | 1998 | 1999 | 2000 | 2001 | 2002 | 2002 | 2003 |
| Value (1,000 dollars) ³ | | | | | | | | |
| Shipments: | | | | | | | | |
| Home market | 301,851 | 236,172 | 126,532 | 280,128 | 341,723 | 297,398 | 70,376 | 102,037 |
| Exports to: | | | | | | | | |
| United States | *** | *** | *** | *** | *** | *** | *** | *** |
| EU | *** | *** | *** | *** | *** | *** | *** | *** |
| Asia | *** | *** | *** | *** | *** | *** | *** | *** |
| Other | *** | *** | *** | *** | *** | *** | *** | *** |
| Total exports | 150,249 | 123,119 | 82,647 | 109,083 | 93,115 | 105,807 | 23,610 | 39,301 |
| Total shipments | *** | *** | *** | *** | *** | *** | *** | *** |
| Unit value (per short ton) | | | | | | | | |
| Shipments: | | | | | | | | |
| Home market | \$309 | \$214 | \$136 | \$196 | \$197 | \$194 | \$184 | \$237 |
| Exports to: | | | | | | | | |
| United States | *** | *** | *** | *** | *** | *** | *** | *** |
| EU | *** | *** | *** | *** | *** | *** | *** | *** |
| Asia | *** | *** | *** | *** | *** | *** | *** | *** |
| Other | *** | *** | *** | *** | *** | *** | *** | *** |
| Total exports | 190 | 188 | 139 | 152 | 136 | 153 | 119 | 187 |
| Total shipments | *** | *** | *** | *** | *** | *** | *** | *** |
| ¹ Foreign producers/exporters in Russia have not responded to the Commission's request for projections for 2003 and 2004. ² Not applicable. ³ Values reported are net values (i.e., gross sales values less all discounts, allowances, rebates, prepaid freight, and the value of returned goods), f.o.b. the subject country point of shipment (per instructions booklet for the foreign producer questionnaire). | | | | | | | | |
| Source: Compiled from data submitted in response to Commission questionnaires. | | | | | | | | |

Table IV-7

CTL plate: Exports by producers/exporters in Russia, to the United States and other principal export markets, 1995-2002

* * * * *

South Africa

As in the original investigations, two South African firms reported production and exports to the United States of CTL plate: Highveld Steel and Vanadium Corporation, Ltd., and ISCOR Ltd. Highveld and ISCOR account for all South African CTL plate production and exports to the United States. CTL plate accounted for *** and *** percent of the firms' sales, respectively, in their most recent fiscal year. The firms reported *** plans to expand or curtail capacity. The firms reported that the domestic market in South Africa is their priority, and that home market demand for CTL plate has increased significantly because of large infrastructure projects.² Current primary export markets for the two South African mills include ***.

Data on capacity, production, shipments, and inventories of CTL plate in South Africa for the two firms are presented in table IV-8. Data on principal export markets for CTL plate produced in South Africa are presented in table IV-9.

Table IV-8

CTL plate: Data on the industry in South Africa, 1997-2002, January-March 2002, January-March 2003, and projected 2003-2004

* * * * *

Table IV-9

CTL plate: Exports by producers/exporters in South Africa, to the United States and other principal export markets, 1995-2002

* * * * *

Ukraine

During the original investigations, the Commission received information on CTL plate operations in Ukraine from counsel on behalf of two Ukrainian producers/exporters. During these review investigations, counsel for one producer/exporter in Ukraine provided information regarding its CTL plate operations: JSC Azovstal Iron and Steel Works. Azovstal accounted for *** percent of U.S. imports of CTL plate from Ukraine during 1997 and *** imports during 2002.

CTL plate accounted for *** percent of the mill's total sales in its most recent fiscal year. In addition to CTL plate, *** also produces *** on the same equipment used to produce CTL plate. Current primary export markets for Azovstal include ***.

Data on capacity, production, shipments, and inventories of CTL plate in Ukraine as provided by counsel for Azovstal are presented in table IV-10. Data on principal export markets for CTL plate produced in Ukraine are presented in table IV-11.

Table IV-10

CTL plate: Data on the industry in Ukraine, 1997-2002, January-March 2002, January-March 2003, and projected 2003-2004

* * * * *

² In its questionnaire response, Highveld submitted a listing of *** infrastructure projects since 2002 involving *** tons of confirmed steel and an additional *** tons of estimated steel. The reported steel quantities included *** (July 21, 2003, telephone interview with P. Bruno, counsel for Highveld).

Table IV-11

CTL plate: Exports by producers/exporters in Ukraine, to the United States and other principal export markets, 1995-2002

* * * * *

TARIFF AND NON-TARIFF BARRIERS

Information gathered during these investigations on foreign producers' subject exports regarding tariff or non-tariff barriers to trade in any countries other than the United States is presented in table IV-12.

Table IV-12

Tariff and non-tariff barriers to foreign producers' subject exports

| Subject country | Market | Product | Effective date | Barrier |
|----------------------|----------|-------------------------------|----------------|--|
| China | EU | HR nonalloy plate | Feb. 2, 2001 | AD duty: 8.1% |
| | Canada | HR carbon plate | 1997 | AD duty: 27.3 - 35.0% |
| Russia | EU | CTL carbon steel plate | July 24, 2002 | Agreement: Quotas |
| | Mexico | CTL plate (thickness >=4.75) | Nov. 13, 1998 | Minimal prices |
| | Colombia | HR products (width > 600 mm) | Nov. 21, 2000 | AD duty |
| | China | Steel products | Nov. 20, 2003 | Safeguard: Tariff quotas |
| | Egypt | HR products | Feb. 2, 2002 | AD duty: 40% |
| | Poland | Steel products | Mar. 8, 2003 | Tariff quotas |
| South Africa | Canada | Discrete plate (CTL) | 2002 | Available quota 124 tons, above quota, surtax of 18% |
| | Canada | CTL plate | 1997 | Price undertaking |
| Ukraine ¹ | Canada | Flat-rolled steel products | 2002 | Normal values (USD/MT): carbon steel plate - 293 HSLA - 361 pressure vessel - 309 Other: NV = export price + 80.2% |
| | Czechia | HR and non-alloy steel plates | 2002 | Quota: 80,000 tons |
| | Turkey | HR plates | 2003 | Tariff rate quota: 800,000, duties above quota - 22.5% |
| | Hungary | HR and non-alloy steel plates | 2003 | Quota: 2,604 tons, additional duties above quota - 20%; every 6 months the quota increases by 2.5%, additional duties decrease by 5% |

¹CTL plate exports to Russia from Ukraine are also subject to a 116,000-ton quota for heavy plate (August 12, 2002, *Metal Bulletin*, p. 13).

Source: Compiled from data submitted in response to Commission questionnaires.

Additional information regarding current investigations of CTL plate from the subject countries in any countries other than the United States that might result in tariff or non-tariff barriers to trade is presented in table IV-13.

Table IV-13
Current investigations of CTL plate in other countries

| Subject country | Market | Product | Type of investigation |
|--|---------------|----------------------------|------------------------------|
| China | Canada | HR carbon plate | Sunset review |
| | Canada | Steel products | Safeguard |
| Russia | Canada | HR plates | Antidumping |
| | Thailand | HR products | Antidumping |
| Ukraine | Bulgaria | HR non-alloy plates | Safeguard |
| | Thailand | Flat HR steel not in coils | Antidumping |
| | Poland | HR non-alloy plates | Safeguard |
| Source: Compiled from data submitted in response to Commission questionnaires. | | | |

PART V: PRICING AND RELATED INFORMATION

FACTORS AFFECTING PRICES

Introduction

Raw material costs are a major part of the final cost of CTL carbon steel plate. When asked to discuss the effects of changes in raw material costs on pricing during January 1997-March 2003, most responding firms indicated that fluctuations in these costs have not affected prices during this period. These costs generally account for about 43-55 percent for mills and *** percent for processors of the cost of goods (see Part III).

U.S.-Inland Transportation Costs

Inland transportation costs for delivery of CTL plate within the United States vary widely. U.S. producers' reported costs ranged from zero to 15 percent of the delivered price, with values of 5 to 10 percent most typical. Four importers reported values ranged from zero to 15 percent, with three of 10 importers reporting costs of 15 percent and another three reporting 10 percent.

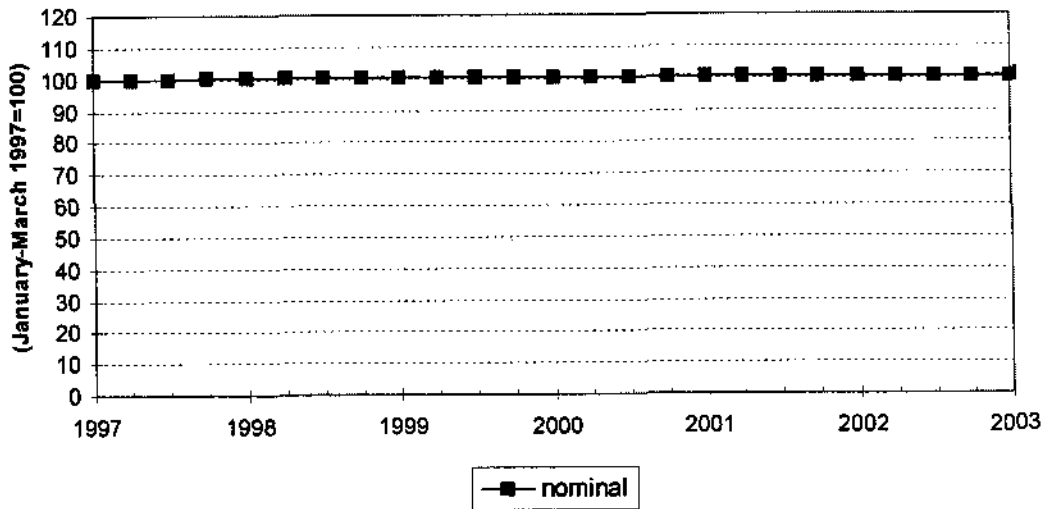
Producers and importers were also asked to estimate the percentage of total shipments that were made within specified distances. About 28 percent of U.S. producers' shipments were within 100 miles from their facilities, 61 percent were between 100 and 1,000 miles, and 10 percent were more than 1,000 miles. Importers reported that about 59 percent of their shipments were within 100 miles of their storage facility or the port of entry, about 31 percent were between 100 and 1,000 miles, and only 10 percent exceeded 1,000 miles.

Exchange Rates

Nominal exchange rate data for China, Russia, and Ukraine, and nominal and real exchange rate data for Russia and South Africa, are presented in figure V-1 on a quarterly basis for January-March 1997 through January-March 2003. The data show that the nominal rates for the Chinese yuan were unchanged relative to the dollar during most of the period while the nominal exchange rates of the Russian ruble, the Ukrainian hrynia, and the South African rand each depreciated relative to the dollar.

Figure V-1
Exchange rates: Indices of the nominal and real exchange rates of the currencies of China, Russia, South Africa, and Ukraine in relation to the U.S. dollar, by quarters, January 1997-March 2003

China



Russia

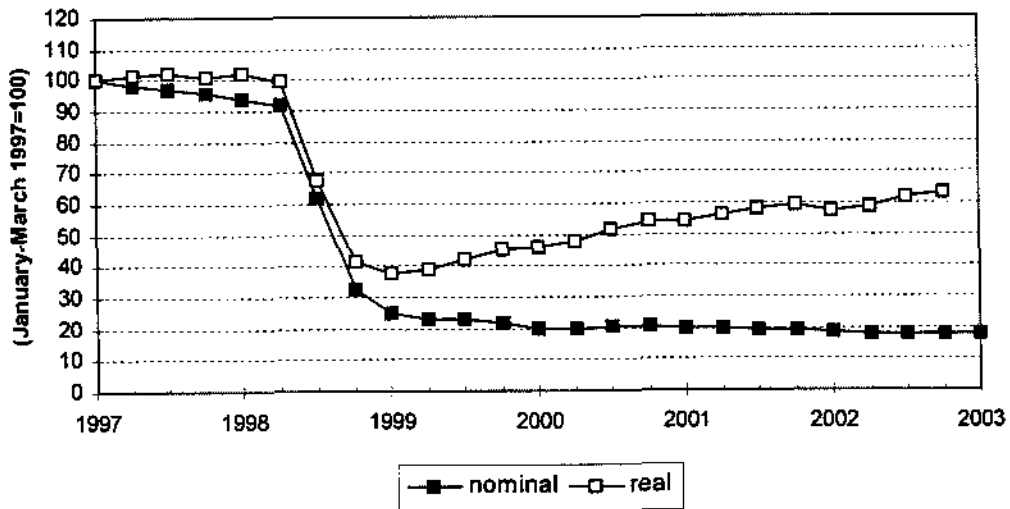
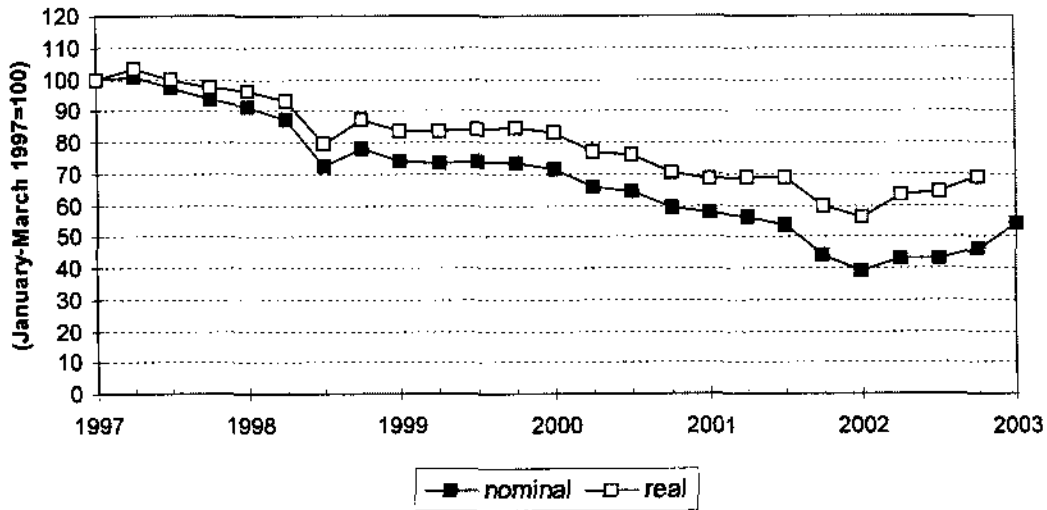


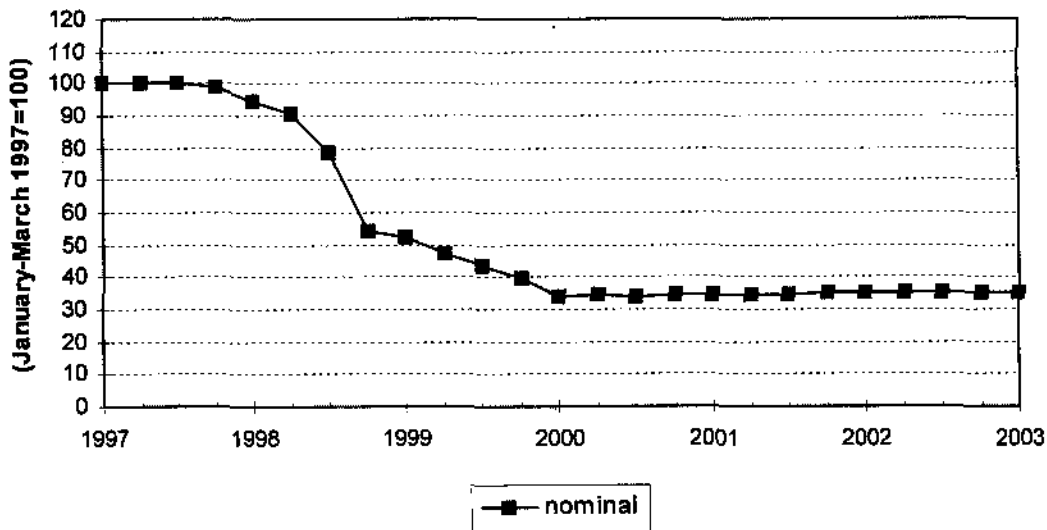
Figure V-1—Continued

Exchange rates: Indices of the nominal and real exchange rates of the currencies of China, Russia, South Africa, and Ukraine in relation to the U.S. dollar, by quarters, January 1997-March 2003

South Africa



Ukraine



Source: IMF, *International Financial Statistics*, March, 2003.

PRICING PRACTICES

Prices of CTL plate are generally determined through negotiations between buyers and sellers. U.S. producers publish price lists, but generally use the list prices only as a starting point for negotiating a final price. They commonly give discounts from list prices in order to be competitive. Most importers also stated that prices are determined through negotiations. However, unlike U.S. producers, most importers do not use price lists. When asked whether prices are set by suppliers or determined through negotiations, purchasers reported that they arrive at prices through negotiations while only two reported that they are set by suppliers. Most purchasers stated that they contact from two to three suppliers before buying CTL plate.

Four U.S. producers reported that they normally quote f.o.b. prices and the seven other U.S. producers commonly quote on a delivered basis. CTL plate is sometimes sold on a freight-equalization basis. Under this arrangement, a supplier quotes a delivered price from the mill nearest to the customer that is capable of producing the same product. As a result, the supplier ends up absorbing part of the freight costs in the transaction. U.S. producers are more likely to freight equalize than importers. One mill reported equalizing freight costs on their sales. None of the importers reported using a freight equalization basis.

A majority of U.S. producers (7 of 11), but none of the importers reported giving discounts based upon such factors as the quantity involved in an individual sale, the total purchase volume by a particular customer over a monthly, quarterly, or annual period, and the prices offered by competitors (both domestic and foreign). Most U.S. producers provide discounts based upon quantity, annual total volume, or market conditions. None of the importers reported offering discounts.

CTL plate is commonly sold on either a contract or spot basis by both U.S. producers and importers. Ten U.S. producers reported that part of their transactions are on a contract basis, and three *** sold exclusively on a spot basis. One producer, ***, reported that contract sales accounted for 70 percent of its total sales, another, ***, reported 60 percent, and two others, ***, reported 40 percent. Seven producers reported 15 to 25 percent of their transactions were contract sales. Among importers, two firms, ***, reported that contract sales accounted for 90-100 percent of total sales, whereas the remaining importers reported all sales on a spot basis.

Contract terms are fairly similar for those domestic producers and importers that sell on that basis. Most contracts are for periods of 3 to 6 months. Price is fixed by six producers; prices and quantities are fixed by the five others. Only two importers report contract sales. Two of the U.S. producers, ***, reported that their contracts contain meet-or-release clauses, which allow for changes in the agreed upon prices while the contract is in force. None of the importers reported having meet-or-release clauses. Six of 11 producers reported that their contracts contained standard quantity requirements, but none of the importers reported the use of this provision.

PRICE DATA

U.S. producers and importers of CTL plate were asked to provide quarterly quantity and value data on a f.o.b. basis for January 1997-March 2003 on their shipments of each of three common product categories for use in determining average quarterly prices. Data were requested separately for shipments to distributors/processors/service centers and to end users. The product categories are as follows:

Product 1: Hot-rolled carbon steel plate, ASTM A-36 or equivalent as rolled, sheared edge, not heat-treated, not cleaned or oiled, in cut lengths, over 72" through 96" (1,828.8 through 2,438.4 mm) in width, 0.50" through 0.99" in thickness

- Product 2:** Hot-rolled carbon steel plate, ASTM A-36 or equivalent as rolled, sheared edge, not heat-treated, not cleaned or oiled, in cut lengths, over 72" through 96" (1,828.8 through 2,438.4 mm) in width, 1.00" through 2.00" in thickness
- Product 3:** Hot-rolled carbon steel plate, ASTM A-36 or equivalent as rolled, sheared edge, not heat-treated, not cleaned or oiled, in cut lengths, over 72" through 96" (1,828.8 through 2,438.4 mm) in width, 0.1875" through 0.2500" in thickness.

Eight U.S. producers and seven importers provided pricing data for sales of the requested products, although most firms did not report sales of all three products in all quarters. Pricing data reported by U.S. producers accounted for 85.1 percent of total U.S. producers' shipments of plate in 2002. The import pricing data accounted for 0.6 percent of imports from China, 0.6 percent from Russia, 0.2 percent from South Africa, and 0.1 percent from Ukraine in 2002. While U.S. producers reported large sales quantities of CTL plate to both specified customer categories, importers sold only to service centers/distributors/processors.

Table V-1

CTL plate: Weighted-average f.o.b., prices and quantities of domestic and imported product 1 sold to service centers/distributors/processors, by sources and by quarters, January 1997-March 2003

| Period | United States | | China | Russia | South Africa | Ukraine |
|--------------|--------------------|--------------------|-------|--------|--------------|---------|
| | Price (Per ton) | Quantity (Tons) | | | | |
| 1997: | | | | | | |
| Jan.-Mar. | \$446.44 | *** | *** | *** | *** | *** |
| Apr.-June | 393.18 | *** | *** | *** | *** | *** |
| July-Sept. | 410.39 | *** | *** | *** | *** | *** |
| Oct.-Dec. | 405.69 | *** | *** | *** | *** | *** |
| 1998: | | | | | | |
| Jan.-Mar. | 415.69 | *** | *** | *** | *** | *** |
| Apr.-June | 421.24 | *** | *** | *** | *** | *** |
| July-Sept. | 433.32 | *** | *** | *** | *** | *** |
| Oct.-Dec. | 401.95 | *** | *** | *** | *** | *** |
| 1999: | | | | | | |
| Jan.-Mar. | 341.71 | *** | *** | *** | *** | *** |
| Apr.-June | 316.04 | *** | *** | *** | *** | *** |
| July-Sept. | 305.07 | *** | *** | *** | *** | *** |
| Oct.-Dec. | 310.60 | *** | *** | *** | *** | *** |
| 2000: | | | | | | |
| Jan.-Mar. | 318.37 | *** | *** | *** | *** | *** |
| Apr.-June | 332.55 | *** | *** | *** | *** | *** |
| July-Sept. | 337.83 | *** | *** | *** | *** | *** |
| Oct.-Dec. | 331.27 | *** | *** | *** | *** | *** |

-Table continued on next page.

Table V-1--Continued

CTL plate: Weighted-average f.o.b., prices and quantities of domestic and imported product 1 sold to service centers/distributors/processors, by sources and by quarters, January 1997-March 2003

| Period | United States | | China | Russia | South Africa | Ukraine |
|--------------|--------------------|--------------------|-------|--------|--------------|---------|
| | Price (Per ton) | Quantity (Tons) | | | | |
| 2001: | | | | | | |
| Jan.-Mar. | \$309.09 | *** | *** | *** | *** | *** |
| Apr.-June | 308.80 | *** | *** | *** | *** | *** |
| July-Sept. | 312.19 | *** | *** | *** | *** | *** |
| Oct.-Dec. | 275.22 | *** | *** | *** | *** | *** |
| 2002: | | | | | | |
| Jan.-Mar. | 290.01 | *** | *** | *** | *** | *** |
| Apr.-June | 312.22 | *** | *** | *** | *** | *** |
| July-Sept. | 323.18 | *** | *** | *** | *** | *** |
| Oct.-Dec. | 316.83 | *** | *** | *** | *** | *** |
| 2003: | | | | | | |
| Jan.-Mar. | 314.17 | *** | *** | *** | *** | *** |

Source: Compiled from data submitted in response to Commission questionnaires.

Table V-2

CTL Plate: Weighted-average f.o.b. prices and quantities of domestic and imported product 2 sold to service centers/distributors/processors, by sources and by quarters, January 1997-March 2003

| Period | United States | | China | Russia | South Africa | Ukraine |
|--------------|--------------------|--------------------|-------|--------|--------------|---------|
| | Price (Per ton) | Quantity (Tons) | | | | |
| 1997: | | | | | | |
| Jan.-Mar. | \$433.02 | *** | *** | *** | *** | *** |
| Apr.-June | 423.26 | *** | *** | *** | *** | *** |
| July-Sept. | 414.14 | *** | *** | *** | *** | *** |
| Oct.-Dec. | 410.75 | *** | *** | *** | *** | *** |
| 1998: | | | | | | |
| Jan.-Mar. | 407.52 | *** | *** | *** | *** | *** |
| Apr.-June | 424.60 | *** | *** | *** | *** | *** |
| July-Sept. | 445.06 | *** | *** | *** | *** | *** |
| Oct.-Dec. | 426.96 | *** | *** | *** | *** | *** |
| 1999: | | | | | | |
| Jan.-Mar. | 358.36 | *** | *** | *** | *** | *** |
| Apr.-June | 328.97 | *** | *** | *** | *** | *** |
| July-Sept. | 308.92 | *** | *** | *** | *** | *** |
| Oct.-Dec. | 310.94 | *** | *** | *** | *** | *** |
| 2000: | | | | | | |
| Jan.-Mar. | 319.17 | *** | *** | *** | *** | *** |
| Apr.-June | 331.52 | *** | *** | *** | *** | *** |
| July-Sept. | 338.95 | *** | *** | *** | *** | *** |
| Oct.-Dec. | 335.40 | *** | *** | *** | *** | *** |

-Table continued on next page.

Table V-2—Continued

CTL Plate: Weighted-average f.o.b. prices and quantities of domestic and imported product 2 sold to service centers/distributors/processors, by sources and by quarters, January 1997-March 2003

| Period | United States | | China | Russia | South Africa | Ukraine |
|--------------------|--------------------|--------------------|-------|--------|--------------|---------|
| | Price (Per ton) | Quantity (Tons) | | | | |
| 2001: Jan.-Mar. | \$315.31 | *** | *** | *** | *** | *** |
| Apr.-June | 309.77 | *** | *** | *** | *** | *** |
| July-Sept. | 315.67 | *** | *** | *** | *** | *** |
| Oct.-Dec. | 292.53 | *** | *** | *** | *** | *** |
| 2002: Jan.-Mar. | 293.60 | *** | *** | *** | *** | *** |
| Apr.-June | 316.49 | *** | *** | *** | *** | *** |
| July-Sept. | 328.94 | *** | *** | *** | *** | *** |
| Oct.-Dec. | 325.00 | *** | *** | *** | *** | *** |
| 2003: Jan.-Mar. | 324.54 | *** | *** | *** | *** | *** |

Source: Compiled from data submitted in response to Commission questionnaires.

Table V-3

CTL plate: Weighed-average f.o.b. prices and quantities of domestic and imported product 3 sold to service centers/distributors/processors, by sources and by quarters, January 1997-March 2003

* * * * *

Figure V-2

CTL plate: Weighted-average f.o.b. prices of domestic and imported product 1 sold to service centers/distributors/processors, by source and by quarters, January 1997-March 2003

* * * * *

Figure V-3

CTL plate: Weighted-average f.o.b. prices of domestic and imported product 2 sold to service centers/distributors/processors, by sources and by quarters, January 1997-March 2003

* * * * *

Figure V-4

CTL plate: Weighted-average f.o.b. prices of domestic and imported product 3 sold to service centers/distributors/processors, by source and by quarters, January 1997-March 2003

* * * * *

Table V-4

CTL plate: Weighted-average f.o.b. prices and quantities of domestic and imported product 1 sold to end users, by sources and by quarters, January 1997-March 2003

* * * * *

Table V-5

CTL plate: Weighted-average f.o.b. prices and quantities of domestic and imported product 2 sold to end users, by sources and by quarters, January 1997-March 2003

* * * * *

Table V-6

CTL plate: Weighted-average f.o.b. prices and quantities of domestic and imported product 3 sold to end users, by sources and by quarters, January 1997-March 2003

* * * * *

Figure V-5

CTL plate: Weighted-average f.o.b. prices of domestic and imported product 1 sold to end users, by sources and by quarters, January 1997-March 2003

* * * * *

Figure V-6

CTL plate: Weighted-average f.o.b. prices of domestic and imported product 2 sold to end users, by sources and by quarters, January 1997-March 2003

* * * * *

Figure V-7

CTL plate: Weighted-average f.o.b. prices of domestic and imported product 3 sold to end users, by sources and by quarters, January 1997-March 2003

* * * * *

Price Comparisons

Price comparisons between domestic and imported products for the three product categories on sales to both service centers/distributors/processors and to end users are presented in tables V-7 through V-9. For product 1, Chinese imports were priced lower than the domestic product in 14 of 21 quarters by margins ranging from 0.7 percent to 20.3 percent. Russian prices were lower than domestic prices in 16 of 18 quarters where comparisons could be made, by margins ranging from 0.7 percent to 41.4 percent, and Ukrainian prices were lower in 12 of 20 quarters where comparisons were possible, by margins ranging from 0.9 percent to 40.9 percent. There were no possible comparisons for price for product 1 for South Africa.

Table V-7

CTL Plate: Margins of under/(over) selling for product 1 sold to service centers/distributors/processors and to end users, by sources and by quarters, January 1997-March 2003

* * * * *

Table V-8

CTL Plate: Margins of under/(over) selling for product 2 sold to service centers/distributors/processors and to end users, by sources and by quarters, January 1997-March 2003

* * * * *

Table V-9

CTL Plate: Margins of under/(over) selling for product 3 sold to service centers/distributors/processors and to end users, by sources and by quarters, January 1997-March 2003

* * * * *

Prices of product 2 sold to service centers/distributors/processors, from Chinese imports were lower for 14 of 22 quarters for which comparisons could be made. These Chinese margins ranged from 1.4 percent to 37.4 percent. The Russian prices were lower in 15 of 16 quarters for which comparisons were available. The range was 8.8 percent to 38.4 percent. The South African prices for product 2 in each of the 4 quarters (2002) for which data were available were lower by 14.2 percent to 23.5 percent. For Ukraine, in 7 of 17 quarters the prices were lower by 7.9 percent to 32.3 percent.

Finally, in 5 of 16 quarters for which price comparisons could be made for product 3 with Chinese imports, the lower prices ranged from 9.6 percent to 21.4 percent. Russian imports were priced lower in 8 of 13 quarters; the range was 5.5 percent to 47.1 percent. The South African prices for product 3 were lower in each of 4 quarters (1999) for which data are available by 8.8 percent to 19.3 percent, and for the Ukraine in 1 of the 2 quarters reported, the prices were lower by 22.1 percent.

APPENDIX A

***FEDERAL REGISTER* NOTICES
AND COMMISSION ADEQUACY STATEMENT**

importer. We will direct Customs to assess the resulting percentage margin against the entered customs values for the subject merchandise on each of that importer's entries under the relevant order during the review period. See 19 CFR 351.212(b)(1).

Cash-Deposit Requirements

To calculate the cash-deposit rate for each respondent (*i.e.*, each exporter and/or manufacturer included in these reviews), we divided the total dumping margins for each company by the total net value of that company's sales of merchandise during the review period subject to each order.

To derive a single deposit rate for each respondent, we weight-averaged the EP and CEP deposit rates (using the EP and CEP, respectively, as the weighting factors). To accomplish this when we sampled CEP sales, we first calculated the total dumping margins for all CEP sales during the review period by multiplying the sample CEP margins by the ratio of total days in the review period to days in the sample weeks. We then calculated a total net value for all CEP sales during the review period by multiplying the sample CEP total net value by the same ratio. Finally, we divided the combined total dumping margins for both EP and CEP sales by the combined total value for both EP and CEP sales to obtain the deposit rate.

We will direct Customs to collect the resulting percentage deposit rate against the entered customs value of each of the exporter's entries of subject merchandise entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice. Entries of parts incorporated into finished bearings before sales to an unaffiliated customer in the United States will receive the respondent's deposit rate applicable to the order.

Furthermore, the following deposit requirements will be effective upon publication of this notice of final results of administrative reviews for all shipments of ball bearings 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 rates for the reviewed companies will be the rates shown above except that, for firms whose weighted-average margins are less than 0.5 percent and, therefore, *de minimis*, the Department will not require a deposit of estimated antidumping duties; (2) for previously reviewed or investigated companies not listed 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 original less-than-fair-value (LTFV) investigation but the manufacturer is, the cash-deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and (4) the cash-deposit rate for all other manufacturers or exporters will continue to be the "All Others" rate for the relevant order made effective by the final results of review published on July 26, 1993. See *Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof from France*, et al: *Final Results of Antidumping Duty Administrative Reviews and Revocation in Part of an Antidumping Duty Order*, 58 FR 39729 (July 26, 1993). These "All Others" rates are the "All Others" rates from the relevant LTFV investigation.

These deposits requirements shall remain in effect until publication of the final results of the next administrative reviews.

This notice serves as a reminder to importers of their responsibility under 19 CFR 351.402(f) 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 Department's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of doubled antidumping duties.

This notice also serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely notification of the return of destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO are sanctionable violations.

We are issuing and publishing these determinations in accordance with sections 751(a)(1) and 777(i) of the Act.

Dated: June 9, 2003.

Jeffrey May,
Acting Assistant Secretary for Import Administration.

Appendix

Comments and Responses

1. Model Matching
2. Margin-Calculation Methodology
3. CV Profit
4. Price Adjustments
 - A. Direct and Indirect Selling Expenses
 - B. Discounts and Rebates
 - C. CEP Profit
5. Level of Trade

6. Sample Sales, Prototype Sales, and Sales Outside the Ordinary Course of Trade
7. Movement Expenses
8. Cost Issues
9. Miscellaneous
 - A. Facts Available
 - B. Separate Assessment Rates
 - C. Revocation
 - D. Arm's-Length Test
 - E. Resellers

[FR Doc. 03-15148 Filed 6-13-03; 8:45 am]

BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE

International Trade Administration

[A-823-808]

Certain Cut-to-Length Carbon Steel Plate From Ukraine; Final Results of Administrative Review of the Suspension Agreement and Determination Not To Terminate

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

ACTION: Notice of Final Results of the Administrative Review of the Suspension Agreement on Certain Cut-to-Length Carbon Steel Plate from Ukraine and Determination Not to Terminate.

SUMMARY: On December 9, 2002, the Department of Commerce (the Department) published the preliminary results of administrative review of the suspension agreement on certain cut-to-length carbon steel plate from Ukraine (the Agreement). See *Notice of Preliminary Results of the Administrative Review of the Suspension Agreement on Certain Cut-to-Length Carbon Steel Plate from Ukraine*, 67 FR 72916 (December 9, 2002) (*Preliminary Results*). The merchandise covered by this administrative review is certain cut-to-length carbon steel plate as described in the "Scope of the Review" section of this *Federal Register* notice. The period of review (POR) is November 1, 2000 through October 31, 2001. In these final results, we have determined that Azovstal Iron and Steel Works (Azovstal), Ilyich Iron and Steel Works (Ilyich), and the Government of Ukraine (collectively, respondents) have complied with the terms of the Agreement. However, we are not terminating the Agreement or the underlying investigation, pursuant to section 351.222(b)(1)(i)(B) of the Department's regulations, because the continued maintenance of the Agreement is necessary to offset dumping.

EFFECTIVE DATE: June 16, 2003.

FOR FURTHER INFORMATION CONTACT: Patricia Tran or Robert James, AD/CVD Enforcement Group III, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230, telephone: (202) 482-1121 or (202) 482-0649, respectively.

SUPPLEMENTARY INFORMATION:

Background

The Department conducted verification on March 13, 2003, through March 26, 2003. We verified the GOU's responses at the offices of the Ministry of Economy in Kiev, Ukraine on March 13 and 14, 2003; the Department's verifiers then traveled to Mariupol and Donetsk, Ukraine to verify the information submitted by Ilyich and Azovstal from March 17 through 20, 2003. Finally, the Department verified relevant information pertaining to sales made by Azovstal through an affiliated trading company, Leman Commodities. This last portion of the verification took place at Leman's sales offices in Donetsk, Ukraine on March 21, 2003, and at Leman's corporate headquarters in Geneva, Switzerland on March 24 and 25, 2003. We issued the verification report on May 2, 2003.

We invited parties to comment on our *Preliminary Results*. We received a case brief from Azovstal and Ilyich on May 13, 2003. Petitioners, Bethlehem Steel Corporation and United States Steel Corporation, filed their rebuttal brief on May 19, 2003.

Scope of Review

The products covered by this agreement include hot-rolled iron and non-alloy steel universal mill plates (*i.e.*, flat-rolled products rolled on four faces or in a closed box pass, of a width exceeding 150 mm but not exceeding 1250 mm and of a thickness of not less than 4 mm, 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 iron and non-alloy steel flat-rolled products not in coils, 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 mm or more in thickness and of a width which exceeds 150 mm and measures at least twice the thickness. Included as subject merchandise in this Agreement 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. This merchandise is currently classified in the Harmonized Tariff Schedule of the United States (HTS) under item numbers 7208.40.3030, 7208.40.3060, 7208.51.0030, 7208.51.0045, 7208.51.0060, 7208.52.0000, 7208.53.0000, 7208.90.0000, 7210.70.3000, 7210.90.9000, 7211.13.0000, 7211.14.0030, 7211.14.0045, 7211.90.0000, 7212.40.1000, 7212.40.5000, 7212.50.0000. Although the HTS subheadings are provided for convenience and customs purposes, the written description of the scope of this Agreement is dispositive. Specifically excluded from subject merchandise within the scope of this Agreement is grade X-70 steel plate.

Analysis of Comments Received

All issues raised in the case and rebuttals briefs by parties to this administrative review are addressed in the "Issues and Decision Memorandum" (Decision Memorandum) from Barbara Tillman, Acting Deputy Assistant Secretary for Import Administration to Joseph A. Spetrini, Acting Assistant Secretary for Import Administration, dated June 6, 2003, which is hereby adopted by this notice. Azovstal and Ilyich submitted a single comment requesting termination of the Agreement and the suspended antidumping investigation. Parties can find a complete discussion of termination of the Agreement and the underlying investigation and the corresponding recommendations in the public Decision Memorandum which is on file in room B-099 of the main Department of Commerce building. In addition, a complete version of the Decision Memorandum can be accessed directly on the Internet at <http://www.ia.ita.doc.gov>. The paper copy and electronic version of the Decision Memorandum are identical in content.

Final Results of Review

For the reasons described in the Decision Memorandum, the Department has determined not to terminate the Agreement or underlying investigation.

We are issuing and publishing this notice in accordance with sections 751(a)(1) and 777(i)(1) of the Tariff Act.

Dated: June 6, 2003.

Joseph A. Spetrini,
Acting Assistant Secretary for Import Administration.

[FR Doc. 03-15150 Filed 6-13-03; 8:45 am]

BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE

International Trade Administration

[A-588-862]

Notice of Preliminary Determination of Sales at Less Than Fair Value: High and Ultra-High Voltage Ceramic Station Post Insulators from Japan

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

EFFECTIVE DATE: June 16, 2003.

FOR FURTHER INFORMATION CONTACT: Timothy Finn at (202) 482-0065 or Michele Mire at (202) 482-4711, AD/CVD Enforcement Office 4, Group II, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

Preliminary Determination

We preliminarily determine that high and ultra-high voltage ceramic station post insulators (HVSPs) from Japan are being sold, or are likely to be sold, in the United States at less than fair value (LTFV), as provided in section 733 of the Tariff Act of 1930, as amended (the Act). The estimated margin of sales at LTFV is shown in the *Suspension of Liquidation* section of this notice.

Case History

This investigation was initiated on January 21, 2003.¹ See *Notice of Initiation of Antidumping Duty Investigation: High and Ultra-High Voltage Ceramic Station Post Insulators from Japan*, 68 FR 4169 (January 28, 2003) (*Initiation Notice*). Since the initiation of the investigation, the following events have occurred.

On February 13, 2003, the United States International Trade Commission (ITC) preliminarily determined that there is a reasonable indication that an industry in the United States is materially injured by reason of imports from Japan of HVSPs. See *Certain*

¹ The petitioners in this investigation are Lapp Insulator Company LLC (Lapp), Newell Porcelain Co., Inc. (Newell), Victor Insulators, Inc. (Victor), and the IUE Industrial Division of the Communications Workers of America, the union representing employees of Lapp (collectively, the petitioners).

burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: May 1, 2003.

Madeleine Clayton,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 03-11238 Filed 5-6-03; 8:45 am]

BILLING CODE 3510-07-P

DEPARTMENT OF COMMERCE

International Trade Administration

[A-570-827]

Certain Cased Pencils from the People's Republic of China: Extension of Time Limit for Final Results of Antidumping Duty Administrative Review

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

EFFECTIVE DATE: May 7, 2003.

FOR FURTHER INFORMATION CONTACT: Paul Stolz or Crystal Crittenden, AD/CVD Enforcement, Office 4, Group II, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone (202) 482-4474 or (202) 482-0989, respectively.

Time Limits

Statutory Time Limits

Section 751(a)(3)(A) of the Tariff Act of 1930, as amended (the Act), requires the Department of Commerce (the Department) to make a preliminary determination within 245 days after the last day of the anniversary month of an order or finding for which a review is requested and a final determination within 120 days after the date on which the preliminary determination is published. However, if it is not practicable to complete the review within these time periods, section 751(a)(3)(A) of the Act allows the Department to extend the 245-day time limit for the preliminary determination to a maximum of 365 days and the time limit for the final determination to 180 days (or 300 days if the Department does not extend the time limit for the preliminary determination) from the

date of publication of the preliminary determination.

Background

On January 29, 2002, the Department published a notice of initiation of administrative review of the antidumping duty order on certain cased pencils from the People's Republic of China, covering the period December 1, 2000, through November 30, 2001. See *Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 67 FR 4236. On January 13, 2003, we published the preliminary results of review (68 FR 1591). In our notice of preliminary results, we stated our intention to issue the final results of this review no later than 120 days from the date of publication of the preliminary results.

Extension of Time Limit for Final Results of Review

We determine that it is not practicable to complete the final results of this review within the original time limit. Therefore, the Department is extending the time limit for completion of the final results until no later than July 12, 2003. See Decision Memorandum from Thomas Futtner to Holly A. Kuga, dated concurrently with this notice, which is on file in the Central Records Unit, Room B-099 of the Department's main building. This extension is in accordance with section 751(a)(3)(A) of the Act.

May 1, 2003.

Holly A. Kuga,

Acting Deputy Assistant Secretary for Import Administration, Group II.

[FR Doc. 03-11356 Filed 5-6-03; 8:45 am]

BILLING CODE 3510-DS-S

DEPARTMENT OF COMMERCE

International Trade Administration

[A-823-808]

Final Results of Five-Year Sunset Review of Suspended Antidumping Duty Investigation on Certain Cut-to-Length Carbon Steel Plate from Ukraine

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

ACTION: Notice of Final Results of Full Sunset Review: Certain Cut-to-Length Carbon Steel Plate from Ukraine.

SUMMARY: On December 31, 2002, the Department of Commerce ("the Department") published a notice of preliminary results of the full sunset review of the suspended antidumping

duty investigation on certain cut-to-length carbon plate steel ("CTL plate") from Ukraine (67 FR 79901), in accordance with section 751(c) of the Tariff Act of 1930, as amended ("the Act"). We provided interested parties an opportunity to comment on our preliminary results. We received a case brief from the Embassy of Ukraine ("the Embassy"). In addition, we received a rebuttal brief from domestic interested parties Bethlehem Steel Corporation and United States Steel Corporation. As a result of this review, the Department finds that termination of the suspended antidumping duty investigation on CTL plate from Ukraine would likely lead to continuation or recurrence of dumping at the levels indicated in the Final Results of Review section of this notice.

EFFECTIVE DATE: May 7, 2003.

FOR FURTHER INFORMATION CONTACT:

Shannon M. McCormack or James P. Maeder, Jr., Office of Policy for Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-2539 or (202) 482-3330, respectively.

SUPPLEMENTARY INFORMATION:

Statute and Regulations:

This review is being conducted pursuant to sections 751(c) and 752 of the Act. The Department's procedures for the conduct of sunset reviews are set forth in *Procedures for Conducting Five-year ("Sunset") Reviews of Antidumping and Countervailing Duty Orders*, 63 FR 13516 (March 20, 1998) ("Sunset Regulations") and in 19 CFR Part 351 (2000) in general. Guidance on methodological or analytical issues relevant to the Department's conduct of sunset reviews is set forth in the Department's Policy Bulletin 98.3 *Policies Regarding the Conduct of Five-year ("Sunset") Reviews of Antidumping and Countervailing Duty Orders; Policy Bulletin*, 63 FR 18871 (April 16, 1998) ("Sunset Policy Bulletin").

Background:

In our preliminary results, published on December 31, 2002 (67 FR 79901), we found that the termination of the suspended antidumping duty investigation on CTL plate from Ukraine would be likely to lead to continuation or recurrence of dumping, at margins determined in the final determination of the original investigation.

On February 10, 2003, the Department received a case brief from the Embassy of Ukraine. See Case Brief from the Embassy of Ukraine, Trade and

Economic Mission (February 10, 2003). On February 14, 2003, we received a rebuttal brief from domestic interested parties Bethlehem Steel Corporation and United States Steel Corporation. See *Rebuttal Brief from Bethlehem Steel Corporation and United States Steel Corporation* (February 14, 2003).

Scope of Review:

The products covered by the sunset review of the suspended antidumping duty investigation on certain cut-to-length carbon steel plate from Ukraine include hot-rolled iron and non-alloy steel universal mill plates (i.e., flat-rolled products rolled on four faces or in a closed box pass, of a width exceeding 150 mm but not exceeding 1250 mm and of a thickness of not less than 4 mm, 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 iron and non-alloy steel flat-rolled products not in coils, 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 mm or more in thickness and of a width which

exceeds 150 mm and measures at least twice the thickness. Included as subject merchandise in this review 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. This merchandise is currently classified in the Harmonized Tariff Schedule of the United States ("HTS") under item numbers 7208.40.3030, 7208.40.3060, 7208.51.0030, 7208.51.0045, 7208.51.0060, 7208.52.0000, 7208.53.0000, 7208.90.0000, 7210.70.3000, 7210.90.9000, 7211.13.0000, 7211.14.0030, 7211.14.0045, 7211.90.0000, 7212.40.1000, 7212.40.5000, 7212.50.0000. Although the HTS subheadings are provided for convenience and customs purposes, the written description of the scope of this sunset review is dispositive. Specifically excluded from subject merchandise within the scope of this sunset review is grade X-70 steel plate.

Analysis of Comments Received:

All issues raised by parties to this sunset review are addressed in the Issues and Decision Memorandum

("Decision Memorandum") from Jeffrey A. May, Director, Office of Policy, Import Administration, to Joseph A. Spetrini, Acting Assistant Secretary, Import Administration, dated May 1, 2003, which is hereby adopted by this notice. The issues discussed in the Decision Memorandum include the likelihood of continuation or recurrence of dumping and the magnitude of the margins likely to prevail were the suspended antidumping duty investigation to be terminated. Parties may find a complete discussion of all issues raised in this review and the corresponding recommendations in this public memorandum which is on file in the Central Records Unit, room B-099, of the main Commerce building. In addition, a complete version of the Decision Memorandum can be accessed directly on the Web at <http://ia.ita.doc.gov/frn>, under the heading "May 2003." The paper copy and electronic version of the Decision Memorandum are identical in content.

Final Results of Review:

We determine that termination of the suspended antidumping duty investigation on CTL plate from Ukraine would likely lead to a continuation or recurrence of dumping at the following percentage weighted-average margins:

| Manufacturer/producer/exporter | Weighted-average margin percentage |
|--------------------------------|------------------------------------|
| Azovstal | 81.43 |
| Ilyich | 155.00 |
| Ukraine-wide | 237.91 |

This sunset review and notice are in accordance with sections 751(c), 752, and 777(i)(1) of the Act.

Dated: May 1, 2003.

Joseph A. Spetrini,
Acting Assistant Secretary for Import Administration.

[FR Doc. 03-11355 Filed 5-6-03; 8:45 am]

BILLING CODE 3510-08-S

DEPARTMENT OF COMMERCE

International Trade Administration

[A-201-827]

Certain Large Diameter Carbon and Alloy Seamless Standard, Line and Pressure Pipe from Mexico: Extension of Preliminary Results of Antidumping Duty Administrative Review

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

EFFECTIVE DATE: May 7, 2003.

FOR FURTHER INFORMATION CONTACT: FOR FURTHER INFORMATION CONTACT: Mark Young or George McMahon at (202) 482-6397 or (202) 482-1167, respectively, Office of AD/CVD Enforcement VI, Group II, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Ave, NW, Washington, DC 20230.

TIME LIMITS:

Statutory Time Limits

Section 751(a)(3)(A) of the Tariff Act of 1930, as amended ("the Act"), requires the Department of Commerce (the Department) to issue the preliminary results of a review within 245 days after the last day of the anniversary month of an order or finding for which a review is requested, and the final results within 120 days after the date on which the preliminary results are published. However, if it is

not practicable to complete the review within that time period, section 751(a)(3)(A) of the Act allows the Department to extend the time limit for the preliminary results to a maximum of 365 days and for the final results to 180 days (or 300 days if the Department does not extend the time limit for the preliminary results) from the date of the publication of the preliminary results.

Background

On August 6, 2002, the Department of Commerce ("the Department") published in the *Federal Register* the notice of "Opportunity to Request Administrative Review" of the antidumping duty order on certain large diameter carbon and alloy seamless standard, line, and pressure pipe ("SLP") from Mexico, for the period August 1, 2001 through July 31, 2002 (67 FR 50856). On August 30, 2002, we

while providing a streamlined program for compliance with the California and federal endangered species acts. The West Mojave Off-Road Vehicle Designations have been closely coordinated with the preparation of the West Mojave Plan, to ensure that they are mutually compatible. An Environmental Impact Statement for the West Mojave Plan will be available for a 90-day public review during the spring of 2003. The West Mojave Plan EIS will review the impacts of the West Mojave Off-Road Vehicle Designations to ensure that any additional cumulative impacts resulting from the West Mojave Plan are addressed. A final decision regarding the West Mojave Off-Road Vehicle Designations will be made by the end of June 2003.

FOR FURTHER INFORMATION CONTACT: For further information and/or to have your name added to our mailing list, contact William Haigh, Project Manager, at (760) 252-6080 (Phone), e-mail at whaigh@ca.blm.gov.

Dated: February 20, 2003.

Linda Hansen,

District Manager, California Desert District.
[FR Doc. 03-6779 Filed 3-20-03; 8:45 am]
BILLING CODE 4310-40-P

INTERNATIONAL TRADE COMMISSION

[Investigations Nos. 731-TA-753-756 (Review)]

Cut-to-Length Carbon Steel Plate From China, Russia, South Africa, and Ukraine

AGENCY: International Trade Commission.

ACTION: Scheduling of full five-year reviews concerning the suspended investigations on carbon steel plate from China, Russia, South Africa, and Ukraine.

SUMMARY: The Commission hereby gives notice of the scheduling of full reviews pursuant to section 751(c)(5) of the Tariff Act of 1930 (19 U.S.C. 1675(c)(5)) (the Act) to determine whether termination of the suspension agreements on cut-to-length (CTL) carbon steel plate¹ from China, Russia,

South Africa, and Ukraine would be likely to lead to continuation or recurrence of material injury within a reasonably foreseeable time. For further information concerning the conduct of these reviews and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A, D, E, and F (19 CFR part 207).

EFFECTIVE DATE: March 14, 2003.

FOR FURTHER INFORMATION CONTACT: Diane J. Mazur (202-205-3184), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired persons can obtain information on these matters by contacting the Commission's TDD terminal on 202-205-1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202-205-2000. General information concerning the Commission may also be obtained by accessing its internet server (<http://www.usitc.gov>). The public record for these reviews may be viewed on the Commission's electronic docket (EDIS) at <http://edis.usitc.gov>.

SUPPLEMENTARY INFORMATION:

Background.—On December 13, 2002, the Commission determined that responses to its notice of institution of the subject five-year reviews were such that full reviews pursuant to section 751(c)(5) of the Act should proceed (67 FR 77803, December 19, 2002). A record of the Commissioners' votes, the Commission's statement on adequacy, and any individual Commissioner's statements are available from the Office of the Secretary and at the Commission's web site.

Participation in the reviews and public service list.—Persons, including industrial users of the subject merchandise and, if the merchandise is

neither clad, plated, nor coated with metal, and whether or not painted, varnished, or coated with plastics or other nonmetallic substances, 4.75 mm or more in thickness and of a width which exceeds 150 mm and measures at least twice the thickness. Included in this definition 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")—e.g., products which have been bevelled or rounded at the edges. Carbon steel plate is covered by the following statistical reporting numbers of the Harmonized Tariff Schedule of the United States (HTS): 7208.40.3030, 7208.40.3060, 7208.51.0030, 7208.51.0045, 7208.51.0060, 7208.52.0000, 7208.53.0000, 7208.90.0000, 7210.70.3000, 7210.90.9800, 7211.13.0000, 7211.14.0030 (not in coil form), 7211.24.0045, 7211.90.0000, 7212.40.1000, 7212.40.5000, and 7212.50.0000. Excluded from this definition is grade X-70 plate.

sold at the retail level, representative consumer organizations, wishing to participate in these reviews as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11 of the Commission's rules, by 45 days after publication of this notice. A party that filed a notice of appearance following publication of the Commission's notice of institution of the reviews need not file an additional notice of appearance. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the reviews.

Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and BPI service list.—Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI gathered in these reviews available to authorized applicants under the APO issued in the reviews, provided that the application is made by 45 days after publication of this notice. Authorized applicants must represent interested parties, as defined by 19 U.S.C. 1677(9), who are parties to the reviews. A party granted access to BPI following publication of the Commission's notice of institution of the reviews need not reapply for such access. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Staff report.—The prehearing staff report in the reviews will be placed in the nonpublic record on June 17, 2003, and a public version will be issued thereafter, pursuant to section 207.64 of the Commission's rules.

Hearing.—The Commission will hold a hearing in connection with the reviews beginning at 9:30 a.m. on July 8, 2003, at the U.S. International Trade Commission Building. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission on or before June 30, 2003. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the hearing. All parties and nonparties desiring to appear at the hearing and make oral presentations should attend a prehearing conference to be held at 9:30 a.m. on July 2, 2003, at the U.S. International Trade Commission Building. Oral testimony and written materials to be submitted at the public hearing are governed by sections 201.6(b)(2), 201.13(f), 207.24, and 207.66 of the Commission's rules. Parties must submit any request to present a portion of their hearing

¹ The products covered under the suspension agreements are hot-rolled iron and non-alloy steel universal mill plates (i.e., flat-rolled products rolled on four faces or in a closed box pass, of a width exceeding 150 mm but not exceeding 1,250 mm and of a thickness of not less than 4 mm, without patterns in relief), of rectangular shape, neither clad, plated nor coated with metal, and whether or not painted, varnished, or coated with plastics or other nonmetallic substances; and certain iron and nonalloy steel flat-rolled products, hot-rolled,

testimony *in camera* no later than 7 days prior to the date of the hearing.

Written submissions.—Each party to the reviews may submit a prehearing brief to the Commission. Prehearing briefs must conform with the provisions of section 207.65 of the Commission's rules; the deadline for filing is June 26, 2003. Parties may also file written testimony in connection with their presentation at the hearing, as provided in section 207.24 of the Commission's rules, and posthearing briefs, which must conform with the provisions of section 207.67 of the Commission's rules. The deadline for filing posthearing briefs is July 17, 2003; witness testimony must be filed no later than three days before the hearing. In addition, any person who has not entered an appearance as a party to the reviews may submit a written statement of information pertinent to the subject of the reviews on or before July 17, 2003. On August 7, 2003, the Commission will make available to parties all information on which they have not had an opportunity to comment. Parties may submit final comments on this information on or before August 11, 2003, but such final comments must not contain new factual information and must otherwise comply with section 207.68 of the Commission's rules. All written submissions must conform with the provisions of section 201.8 of the Commission's rules; any submissions that contain BPI must also conform with the requirements of sections 201.6, 207.9, and 207.7 of the Commission's rules. The Commission's rules do not authorize filing of submissions with the Secretary by facsimile or electronic means, except to the extent permitted by section 201.8 of the Commission's rules, as amended, 67 FR 68036 (November 8, 2002).

In accordance with sections 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the reviews must be served on all other parties to the reviews (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Authority: These reviews are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.62 of the Commission's rules.

Issued: March 17, 2003.

By order of the Commission.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. 03-6740 Filed 3-20-03; 8:45 am]

BILLING CODE 7020-02-U

INTERNATIONAL TRADE COMMISSION

[Inv. No. 337-TA-468]

Certain Microlithographic Machines and Components Thereof; Notice of Commission Determination Not To Review a Final Initial Determination Finding No Violation of Section 337 Termination of the Investigation

AGENCY: International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined not to review the final initial determination ("ID") issued by the presiding administrative law judge ("ALJ") on January 29, 2003, finding no violation of section 337 of the Tariff Act of 1930, 19 U.S.C. 1337, in the above-captioned investigation. Accordingly, the Commission has terminated the investigation with a finding of no violation of section 337.

FOR FURTHER INFORMATION CONTACT: Timothy P. Monaghan, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone 202-205-3152. Copies of the public version of the ID and all other nonconfidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone 202-205-2000. Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202-205-1810. General information concerning the Commission may also be obtained by accessing its Internet server (<http://www.usitc.gov>). The public record for this investigation may be viewed on the Commission's electronic docket (EDIS-ON-LINE) at <http://dockets.usitc.gov/eol/public>.

SUPPLEMENTARY INFORMATION: The Commission instituted this patent-based section 337 investigation on January 24, 2002, based on a complaint filed by the Nikon Corporation of Tokyo, Japan, and Nikon Precision Inc. and Nikon Research Corporation of America of Belmont, California (collectively, "Nikon"). The respondents named in the investigation were ASM Lithography Holding N.V. and ASM Lithography B.V. of the Netherlands and ASM Lithography, Inc. of Tempe, Arizona

(collectively, "ASML"). The complaint alleged that ASML has violated section 337 of the Tariff Act of 1930 by importing into the United States, selling for importation, and/or selling within the United States after importation certain microlithographic machines and components thereof by reason of infringement of certain claims of seven U.S. patents: U.S. Patents Nos. 6,008,500 (the '500 patent), 6,271,640 (the '640 patent), 6,255,796 ("the '796 patent"), 6,323,935 ("the '935 patent"), 5,473,410 ("the '410 patent"), 5,638,211 ("the '211 patent"), and 6,233,041 ("the '041 patent").

On January 29, 2003, the ALJ issued his final ID finding no violation of section 337 based on his finding that claims 1 and 7 of the '500 patent and claim 1 of the '640 patent are anticipated by the Micrascan machine; claim 30 of the '640 is anticipated by the Doran '242 patent and is not enabled; ASML's Twinscan machine does not infringe claims 1 and 16 of the '796 patent or claims 1, 78, and 84 of the '935 patent, nor do Nikon's domestic machines practice claims 1 of the '796 patent or claim 1 of the '935 patent; claim 1 of the '935 patent is invalid for failure to satisfy the written description requirement and is not enabled under 35 U.S.C. 112, ¶ 1, and is invalid for indefiniteness under 35 U.S.C. 112, ¶ 2; claim 19 of the '410 patent is invalid as obvious and is unenforceable by reason of inequitable conduct; and ASML's Twinscan machine does not infringe any claim at issue of the '211 and '041 patents, nor do Nikon's domestic machines practice any claim of the '211 or '041 patents.

On February 10, 2003, Nikon, ASML, and the Commission investigative attorneys filed petitions for review of the final ID. On February 19, 2003, the parties filed responses to each other's petitions for review.

Having reviewed the record in this investigation, including the parties' written submissions, the Commission determined not to review (i.e., to adopt) the ID in its entirety, except that it determined to take no position on the ALJ's finding that claim 30 of the '640 patent is anticipated by the Doran '242 patent and his findings on criteria (A) and (B) of the economic prong of the domestic industry requirement under section 337(a)(3) when a domestic product is made partly or wholly abroad.

This action is taken under the authority of section 337 of the Tariff Act of 1930, 19 U.S.C. 1337, and section 210.42 of the Commission's rules of practice and procedure, 19 CFR 210.42.

DEPARTMENT OF AGRICULTURE

Forest Service

Notice of Settlement Pursuant to CERCLA; Jordan Road Shooting Range, Coconino County, AZ**AGENCY:** Forest Service, USDA.**ACTION:** Notice of settlement.

SUMMARY: In accordance with section 122(i) of the Comprehensive Environmental Response, Compensation, and Liability Act, as amended (CERCLA), 42 U.S.C. 9622(i), notice is hereby given of an administrative settlement for recovery of past response costs with the City of Sedona (the Settling Party) concerning the Jordan Road Shooting Range, Coconino County, Arizona. The settlement requires the Settling Party to pay \$17,000 to the USDA Forest Service, Southwestern Region, pursuant to section 122(h)(1) of CERCLA, 42 U.S.C. 9622(h)(1). The settlement includes a covenant not to sue the Settling Party pursuant to sections 106 and 107(a) of CERCLA, 42 U.S.C. 9606 and 9607(a), with regard to the Site.

For thirty (30) days following the date of publication of this notice, the United States will receive written comments relating to the settlement. The United States will consider all comments received and may modify or withdraw its consent to the settlement if comments received disclose facts or considerations which indicate that the settlement is inappropriate, improper, or inadequate. The United States' response to any comments received will be available for public inspection at the Red Rock Ranger District, PO Box 300, 250 Brewer Road, Sedona, AZ 86339-0330, and at the offices of the USDA Forest Service Southwestern Region, 333 Broadway SE, Albuquerque, NM 87102.

DATES: Comments must be submitted on or before February 26, 2003.

ADDRESSES: The proposed settlement is available for public inspection at the Red Rock Ranger District, PO Box 300, 250 Brewer Road, Sedona, AZ 86339-0330 and at the offices of the USDA Forest Service Southwestern Region, 333 Broadway SE, Albuquerque, NM 87102. A copy of the proposed settlement may be obtained from Ken Anderson on the Red Rock Ranger District at 928-203-7501 (direct) or 928-282-4119 (backup), or from Kirk M. Minckler with USDA's Office of the General Counsel, (303) 275-5549. Comments should reference the Jordan Road Shooting Range, Coconino County, Arizona, and should be addressed to

Kirk M. Minckler, USDA Office of the General Counsel, PO Box 25005, Denver, CO 80225-0005.

FOR FURTHER INFORMATION CONTACT: For technical information, contact Maria McGaha, USDA Forest Service Southwestern Region, 333 Broadway SE, Albuquerque, NM 87102, phone (505) 842-3837. For legal information, contact Kirk M. Minckler, USDA Office of the General Counsel, PO Box 25005, Denver, CO 80225-0005; phone (303) 275-5549.

Dated: January 17, 2003.

Harv Forsgren,

Regional Forester, USDA Forest Service, Southwestern Region.

[FR Doc. 03-1692 Filed 1-24-03; 8:45 am]

BILLING CODE 3410-11-M

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

The Department of Commerce has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: National Oceanic and Atmospheric Administration.

Title: Application for Commission in the NOAA Officer Corps.

Form Number(s): NOAA Form 56-42, 56-42A, 56-42C, and 56-42D.

OMB Approval Number: 0648-0047.

Type of Request: Regular submission.

Burden Hours: 184.

Number of Respondents: 600.

Average Hours Per Response: 1 hour for an application; and 10 minutes for a reference.

Needs and Uses: The NOAA Corps is the smallest of the seven uniformed services of the United States and is an integral part of NOAA. The NOAA Corps provides a cadre of professionals trained in engineering, earth sciences, oceanography, meteorology, fisheries science, and other related disciplines who serve in assignments within the five major Line Offices of NOAA. Persons wishing to obtain a NOAA Corps Commission must submit an application package, including an eye test and five references.

Affected Public: Individuals or households.

Frequency: On occasion.

Respondent's Obligation: Required to obtain or retain a benefit.

OMB Desk Officer: David Rostker, (202) 395-3897. Copies of the above information collection proposal can be

obtained by calling or writing Diana Hynek, Departmental Paperwork Clearance Officer, (202) 482-0266, Department of Commerce, Room 6625, 14th and Constitution Avenue, NW, Washington, DC 20230 (or via the Internet at dHynek@doc.gov).

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to David Rostker, OMB Desk Officer, Room 10202, New Executive Office Building, Washington, DC 20503.

Dated: January 17, 2003.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 03-1788 Filed 1-24-03; 8:45 am]

BILLING CODE 3510-12-S

DEPARTMENT OF COMMERCE

International Trade Administration

[A-821-808]

Suspension of Antidumping Duty Investigation of Certain Cut-to-Length Carbon Steel Plate from the Russian Federation

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

SUMMARY: The Department of Commerce ("the Department") has revised the agreement suspending the antidumping duty investigation involving certain cut-to-length carbon steel plate ("CTL steel plate") from the Russian Federation ("Russia"). The basis for this action is an agreement between the Department and the Russian CTL steel plate producers accounting for substantially all imports of CTL steel plate from Russia, wherein each signatory producer/exporter individually agrees to make any necessary price revisions to eliminate completely any amount by which the normal value (NV) of this merchandise exceeds the U.S. price of its merchandise subject to the Agreement.

EFFECTIVE DATE: January 23, 2003.

FOR FURTHER INFORMATION CONTACT: Jean Kemp, Stephen Bailey or Lilit Astvatsatrian, at (202) 482-4037, (202) 482-1102, and (202) 482-6412, respectively, Antidumping and Countervailing Duty Enforcement Group III, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

Background

On October 24, 1997, the Department and the Ministry of Foreign Economic Relations and Trade of the Russian Federation entered into an agreement (62 FR 61780, November 19, 1997) suspending the antidumping investigation on CTL steel plate from the Russian Federation. Upon request of petitioners, the investigation was continued and the Department made an affirmative final determination of sales at less than fair value.¹ Likewise, the International Trade Commission continued its investigation and made an affirmative determination as to material injury to an industry in the United States.² On June 6, 2002, based on the evidence on Russian economic reforms to that date, the Department revoked Russia's status as a non-market economy country under section 771(18)(B) of the Act. On November 21, 2002, representatives from JSC Severstal, JSC Magnitogorsk Iron and Steel Works and JSC NOSTA (OKIW) Integrated Iron-Steel Works (collectively the "Russian CTL steel plate producers") initialed a proposed, revised suspension agreement. We invited comments on the proposed agreement. On December 11, 2002, we received comments from petitioners, Bethlehem Steel Corporation and United States Steel Corporation.

On December 20, 2002, the final suspension agreement was signed by the Russian CTL steel plate producers and the Department, the effective date being January 23, 2003.

Scope of Investigation

For a complete description of the scope of the investigation, see *Agreement Suspending the Antidumping Investigation on Certain Cut-to-Length Carbon Steel Plate from the Russian Federation*, Appendix B, signed December 20, 2002, attached hereto.

Suspension of Investigation

The Department consulted with the parties to the proceeding and has considered the comments submitted with respect to the proposed suspension agreement. Based on our review of these comments, we have made one change to the proposed agreement which was correcting the effective date of the agreement from January 23, 2002 to January 23, 2003. In accordance with

section 734(b) of the Act, we have determined that the agreement will eliminate completely sales at less than fair value of imported subject merchandise. Moreover, in accordance with section 734(d) of the Act, we have determined that the agreement is in the public interest, and that the agreement can be monitored effectively. We find, therefore, that the criteria for suspension of an investigation pursuant to sections 734(b) and (d) of the Act have been met. The terms and conditions of this agreement, signed December 20, 2002, are set forth in Appendix I to this notice.

This notice is published pursuant to section 734(f)(1)(A) of the Act.

Dated: January 17, 2003.

Faryar Shirzad,

Assistant Secretary for Import Administration.

Appendix I—Agreement Suspending the Antidumping Investigation of Certain Cut-to-Length Carbon Steel Plate From the Russian Federation (A-821-808)

Pursuant to section 734(b) of the Tariff Act of 1930, as amended (19 U.S.C. 1673(c)(b)) (the "Act"), and 19 CFR 351.208 (the "Regulations"), the U.S. Department of Commerce (the "Department") and the signatory producers/exporters of Certain Cut-to-Length Carbon Steel Plate from the Russian Federation (the "Signatories") enter into this suspension agreement (the "Agreement"). As of the Effective Date, this Agreement supercedes the suspension agreement entered into by the Department and the Ministry of Foreign Economic Relations and Trade of the Russian Federation on October 24, 1997. By agreement of the Parties, the October 24, 1997 suspension agreement shall cease to have force or effect as of the Effective Date of this Agreement. On the basis of this Agreement, the Department shall continue to suspend its antidumping investigation which it completed on November 19, 1997 (62 FR 61787), with respect to certain cut-to-length carbon steel plate from the Russian Federation, subject to the terms and provisions set forth below.

(A) Product Coverage

For purposes of this Agreement, the products covered are certain cut-to-length carbon steel plate, as described in Appendix B.

(B) U.S. Import Coverage

The signatory producers/exporters collectively are the producers and exporters in the Russian Federation that, during the most recently completed

calendar year, accounted for substantially all (not less than 85 percent) of the subject merchandise imported into the United States, as provided in the Department's regulations. The Department may at anytime during the period of the Agreement require additional producers/exporters in the Russian Federation to sign the Agreement in order to ensure that not less than substantially all imports into the United States are covered by the Agreement.

In reviewing the operation of the Agreement for the purpose of determining whether this Agreement has been violated or is no longer in the public interest, the Department will consider imports into the United States from all sources of the merchandise described in Section A of the Agreement. For this purpose, the Department will consider factors including, but not limited to, the following: volume of trade, pattern of trade, whether or not the reseller is an original equipment manufacturer, and the reseller's export price (EP).

(C) Basis of the Agreement

On and after the effective date of the Agreement, each signatory producer/exporter individually agrees to make any necessary price revisions to eliminate completely any amount by which the normal value (NV) of this merchandise exceeds the U.S. price of its merchandise subject to the Agreement. For this purpose, the Department will determine the NV in accordance with section 773(e) of the Act and U.S. price in accordance with section 772 of the Act.

(1) For the period from January 23, 2003, the effective date of this agreement, through September 30, 2003 (the interim period), each signatory producer/exporter agrees not to sell its merchandise subject to this Agreement in the United States.

(2) For the first sales period only, October 1, 2003 through December 31, 2003, each signatory producer/exporter agrees not to sell its merchandise subject to this Agreement to any unaffiliated purchaser in the United States at prices that are less than the NV of the merchandise, as determined by the Department on the basis of information submitted to the Department not later than the dates specified in section D of this Agreement and provided to the parties not later than September 20, 2003.

(3) For all sales occurring on and after January 1, 2004, each signatory producer/exporter agrees not to sell its merchandise subject to this Agreement to any unaffiliated purchaser in the

¹ See Notice of Final Determination of Sales at Less Than Fair Value: Certain Cut-to-Length Carbon Steel Plate from the Russian Federation, 62 FR 61787, 61794, Nov. 19, 1997.

² See Certain Carbon Steel Plate From China, Russia, South Africa, and Ukraine, 62 FR 66128, Dec. 17, 1997.

United States at prices that are less than the NV of the merchandise, as determined by the Department on the basis of information submitted to the Department not later than the dates specified in section D of this Agreement and provided to the parties not later than December 20 and June 20 of each year.³ This NV shall apply to sales occurring during the semiannual period beginning on the first day of the month following the date the Department provides the NV, as stated in this paragraph.

(D) Monitoring

Each signatory producer/exporter will supply to the Department all information that the Department decides is necessary to ensure that the producer/exporter is in full compliance with the terms of the Agreement. As explained below, the Department will provide each signatory producer/exporter a detailed request for information and prescribe a required format and method of data compilation, not later than the beginning of each reporting period.

(1) Sales Information

The Department will require each producer/exporter to report, on computer tape in the prescribed format and using the prescribed method of data compilation, each sale of the merchandise subject to the Agreement, either directly or indirectly to unaffiliated purchasers in the United States, including each adjustment applicable to each sale, as specified by the Department.

The first report of sales data shall be submitted to the Department, on computer tape in the prescribed format and using the prescribed method of data compilation, not later than January 31, 2004, and shall contain the specified sales information covering the period

³ For the first sales period only, October 1, 2003 through December 31, 2003, the issuance of the normal value may be delayed in order to resolve issues raised in comments from interested parties or by the Department and for the purpose of allowing sufficient time for signatories to respond to the Department's request for cost data. Some of these issues may arise due to Russia's new status as a market economy with respect to the Department's proceedings. In accordance with section 773(f) of the Act, the Department will examine prices and costs within Russia and, for any sales period, may disregard particular prices or costs when the prices are not in the ordinary course of trade, the costs are not in accordance with the generally accepted accounting principles, the costs do not reasonably reflect the costs associated with the production and sale of the merchandise, or in other situations provided for in the Act or the Department's regulations. Examples of possible areas in which adjustments may be necessary include, but are not limited to, costs related to energy, depreciation, transactions among affiliates, barbers, as well as items that are not recognized by the Russian Accounting System.

October 1, 2003 to December 31, 2003. Subsequent reports of sales data shall be submitted to the Department not later than July 31 and January 31 of each year, and each report shall contain the specified sales information for the semiannual period ending one month prior to the due date, except that if the Department receives information that a possible violation of the Agreement may have occurred, the Department may request sales data on a monthly, rather than a semiannual basis.

(2) Cost Information

Producer/exporters must request NVs for all subject merchandise that will be sold in the United States. For those products which the producer/exporter is requesting NVs, the Department will require each producer/exporter to report: their actual cost of manufacturing; selling, general and administrative (SG&A) expenses; and profit data on a semiannual basis, in the prescribed format and using the prescribed method of data compilation. As indicated in Appendix A, profit will be reported by the producers/exporters on a semiannual basis. Each such producer/exporter also must report anticipated increases in production costs in the semiannual period in which the information is submitted resulting from factors such as anticipated changes in production yield, changes in production process, changes in production quantities or changes in production facilities.

The first report of cost data shall be submitted to the Department not later than May 15, 2003, and shall contain the specified cost data covering the period January 1, 2003 through March 31, 2003. The second report of cost data shall be submitted to the Department not later than August 14, 2003, and shall contain the specified cost data covering the period January 1, 2003 through June 30, 2003. Each subsequent report shall be submitted to the Department not later than February 14 and August 14 of each year, and each report shall contain the specified information for the semiannual period ending 45 days prior to the due date.

(3) Special Adjustment of Normal Value

If the Department determines that the NV it determined for a previous semiannual period was erroneous because the reported costs for that period were inaccurate or incomplete, or for any other reason, the Department may adjust NV in a subsequent period or periods, unless the Department determines that Section F of the Agreement applies.

(4) Verification

Each producer/exporter agrees to permit full verification of all cost and sales information annually, or more frequently, as the Department deems necessary.

(5) Bundling or Other Arrangements

Producers/exporters agree not to circumvent the Agreement. In accordance with the dates set forth in section D(1) of this Agreement, producers/exporters will submit a written statement to the Department certifying that the sales reported herein were not, or are not part of or related to, any bundling arrangement, on-site processing arrangement, discounts/free goods/financing package, swap or other exchange where such arrangement is designed to circumvent the basis of the Agreement.

Where there is reason to believe that such an arrangement does circumvent the basis of the Agreement, the Department will request producers/exporters to provide within 15 days all particulars regarding any such arrangement, including, but not limited to, sales information pertaining to covered and non-covered merchandise that is manufactured or sold by producers/exporters. The Department will accept written comments, not to exceed 30 pages, from all parties no later than 15 days after the date of receipt of such producer/exporter information.

If the Department, after reviewing all submissions, determines that such arrangement circumvents the basis of the Agreement, it may, as it deems most appropriate, utilize one of two options: (1) The amount of the effective price discount resulting from such arrangement shall be reflected in the NV in accordance with section D(3) of this Agreement, or (2) the Department shall determine that the Agreement has been violated and take action according to the provisions under section F of this Agreement.

(6) Rejection of Submissions

The Department may reject any information submitted after the deadlines set forth in this section or any information which it is unable to verify to its satisfaction. If information is not submitted in a complete and timely fashion or is not fully verifiable, the Department may calculate NV, and/or U.S. price based on facts otherwise available, as it determines appropriate, unless the Department determines that section F of this Agreement applies.

(E) Disclosure and Comment

(1) The Department may make available to representatives of each domestic party to the proceeding, under appropriately drawn administrative protective orders, business proprietary information submitted to the Department during the reporting period as well as results of its analysis under section 777 of the Act.

(2) For the first sales period, beginning October 1, 2003, the Department will disclose to each producer/exporter the preliminary results and methodology of the Department's calculations of its NV no later than August 20, 2003. At that time, the Department may also make available such information to the domestic parties to the proceeding in accordance with this section.

(3) Not later than November 20 and May 20 of each ensuing sales period, the Department will disclose to each producer/exporter the preliminary results and methodology of the Department's calculations of its NV. At that time, the Department may also make available such information to the domestic parties to the proceeding, in accordance with this section.

(4) Not later than 7 days after the date of disclosure under section E(2) and E(3) of this Agreement, the parties to the proceeding may submit written comments to the Department, not to exceed 15 pages. After reviewing these submissions, the Department will provide to each producer/exporter its NV as provided in section C(2) of this Agreement. In addition, the Department may provide such information to domestic interested parties as specified in this section.

(F) Violations of the Agreement

If the Department determines that the Agreement is being or has been violated or no longer meets the requirements of section 734(b) or (d) of the Act, the Department shall take action it determines appropriate under section 734(i) of the Act and the regulations.

(G) Other Provisions

In entering into the Agreement, the signatory producers/exporters do not admit that any sales of merchandise subject to the Agreement have been made at less than fair value.

(H) Termination or Withdrawal

The Department will not consider requests for termination of this suspended investigation prior to January 2008. Termination of the suspended investigation will be considered in accordance with the five-year review

provisions of section 351.222 of the Department's regulations.

Any producer/exporter may withdraw from the Agreement at any time upon notice to the Department. Withdrawal shall be effective 60 days after such notice is given to the Department. Upon withdrawal, the Department shall follow the procedures outlined in section 734(i)(1) of the Act.

(I) Definitions

For purposes of the Agreement, the following definitions apply:

(1) U.S. price means the export price or constructed export price at which merchandise is sold by the producer or exporter to the first unaffiliated person in the United States, including the amount of any discounts, rebates, price protection or ship and debit adjustments, and other adjustments affecting the net amount paid or to be paid by the unaffiliated purchaser, as determined by the Department under section 772 of the Act.

(2) Normal Value means the constructed value (CV) of the merchandise, as determined by the Department under section 773 of the Act and the corresponding sections of the Department's regulations, and as adjusted in accordance with Appendix A to this Agreement.

(3) Producer/Exporter means (1) the foreign manufacturer or producer, (2) the foreign producer or reseller which also exports, and (3) the affiliated person by whom or for whose account the merchandise is imported into the United States, as defined in section 771(28) of the Act.

(4) Date of sale means the date of the invoice as recorded in the exporter or producer's records kept in the ordinary course of business, unless the Department determines that a different date better reflects the date on which the exporter or producer establishes the material terms of sale, as determined by the Department under its regulations.

The effective date of this Agreement is January 23, 2003.

For the Russian Federation Producers/Exporters: Andrey V. Shikhanovich for JSC Severstal; Date: December 20, 2002. Andrey V. Shikhanovich for JSC Magnitogorsk, Iron and Steel Works (MMK); Date: December 20, 2002. Dmitry V. Tarasov for JSC NOSTA (OKIW), Integrated Iron-Steel Works; Date: December 20, 2002.

For U.S. Department of Commerce: Faryar Shirzad, Assistant Secretary for Import Administration; Date: December 20, 2002.

Appendix A—Principles of Cost**General Framework**

The cost information reported to the Department that will form the basis of the NV calculations for purposes of the Agreement must be ⁴:

- Comprehensive in nature and based on a reliable accounting system (i.e., a system based on well-established standards that can be tied to the audited financial statements);
- Representative of the company's costs incurred for the general class of merchandise;
- Calculated on a semiannual weighted-average basis of the plants or cost centers manufacturing the product;
- Based on fully-absorbed costs of production, including any downtime;
- Valued in accordance with generally accepted accounting principles;
- Reflective of appropriately allocated common costs so that the costs necessary for the manufacturing of the product are not absorbed by other products; and
- Reflective of the actual cost of producing the product.

Additionally, a single figure should be reported for each cost component.

Cost of Manufacturing (COM)

Costs of manufacturing are reported by major cost category and for major stages of production. Weighted-average costs are used for a product that is produced at more than one facility, based on the cost at each facility.

Direct materials is the cost of those materials which are input into the production process and physically become part of the final product.

Direct labor are the costs identified with a specific product. These costs are not allocated among products except when two or more products are produced at the same cost center. Direct labor costs should include salary, bonus and overtime pay, training expenses, and all fringe benefits. Any contracted-labor expense should reflect the actual billed cost or the actual costs incurred by the subcontractor when the corporation has influence over the contractor.

Factory overhead is the overhead costs including indirect materials, indirect labor, depreciation, and other fixed and variable expenses attributable to a production line or factory. Because overhead costs are typically incurred for an entire production line. Acceptable cost allocation can be based on labor hours or machine hours. Overhead costs should reflect any idle or downtime and be fully absorbed by the products.

Cost of Production (COP)

COP is equal to the sum of materials, labor, and overhead (COM) plus SG&A expense in the home market (HM).

SG&A expense are those expenses incurred for the operation of the corporation as a whole and not directly related to the manufacture of a particular product. They include corporate general and administrative expenses, financing expenses, and general research and development expenses. Additionally, direct and indirect selling expenses incurred in the HM for sales of the

⁴ See footnote 1 in Section C(2) of the Agreement.

product under investigation are included. Such expenses are allocated over cost of goods sold.

Constructed Value

Is equal to the sum of materials, labor and overhead (COM) and SG&A expenses plus profit in the comparison market and the cost of packing for exportation to the United States.

Calculation of Suspension Agreement NVs

NVs (for purposes of the Agreement) are calculated by adjusting the CV and are provided for both EP and CEP transactions. In effect, any expenses uniquely associated with the covered products sold in the HM are subtracted from the CV, and any such expenses which are uniquely associated with the covered products sold in the United States are added to the CV to calculate the NV.

Export Price—Generally, a U.S. sale is classified as an export price sale when the first sale to an unaffiliated person occurs before the goods are imported into the United States. In cases where the foreign manufacturer knows or has reason to believe that the merchandise is ultimately destined for the United States, the manufacturer's sales is the sale subject to review. If, on the other hand, the manufacturer sold the merchandise to a foreign trader without knowledge of the trader's intention to export the merchandise to the United States, then the trader's first sale to an unaffiliated person is the sale subject to review. For EP NVs, the CV is adjusted for movement costs and differences in direct selling expenses such as commissions, credit, warranties, technical expenses such as commissions, credit, warranties, technical services, advertising, and sales promotion.

Constructed Export Price—Generally, a U.S. sale is classified as a constructed export price sale when the first sale to an unaffiliated person occurs after importation. However, if the first sale to an unaffiliated person is made by a person in the United States affiliated with the foreign exporter, constructed export price applies even if the sale occurs prior to importation, unless the U.S. affiliate performs only clerical functions in connection with the sale. For CEP NVs, the CV is adjusted similar to EP sales, with differences for adjustment to U.S. and HM indirect-selling expenses.

Home market direct-selling expenses are expenses that are incurred as a direct result of a sale. These include such expenses as commissions, advertising, discounts and rebates, credit, warranty expenses, freight costs, etc. Certain direct-selling expenses are treated individually. They include:

Commission expenses are payments to unaffiliated parties for sales in the HM. Credit expenses are expenses incurred for the extension of credit to HM customers.

Movement expenses are freight, brokerage and handling, and insurance expenses.

U.S. direct-selling expenses are the same as HM direct-selling expenses except that they are incurred for sales in the United States.

Movement expenses are additional expenses incidental to importation into the United States. These typically include U.S.

inland freight, insurance, brokerage and handling expenses, U.S. Customs duties, and international freight.

U.S. indirect-selling expenses include general fixed expenses incurred by the U.S. sales subsidiary or affiliated exporter for sales to the United States. They may also include a portion of indirect expenses incurred in the HM for export sales.

FOR EP TRANSACTIONS

+ Direct Materials
 + Direct Labor
 + Factory Overhead
 = Cost of Manufacturing (COM)
 + Home Market SG&A
 = Cost of Production (COP)
 + U.S. Packing
 + Profit
 = Constructed Value
 + U.S. Direct-Selling Expense
 + U.S. Commission Expense
 + U.S. Movement Expense
 + U.S. Credit Expense
 - HM Direct-Selling Expense
 - HM Commission Expense¹
 - HM Credit Expense
 = NV for EP Sales

¹ If the company does not have HM commissions, HM indirect expenses are subtracted only up to the amount of the U.S. Commissions.

FOR CEP TRANSACTIONS

+ Direct Materials
 + Direct Labor
 + Factory Overhead
 = Cost of Manufacturing (COM)
 + Home Market SG&A
 = Cost of Production (COP)
 + U.S. Packing
 + Profit
 = Constructed Value
 + U.S. Direct-Selling Expense
 + U.S. Indirect-selling Expense
 + U.S. Commission Expense
 + U.S. Movement Expense
 + U.S. Credit Expense
 + U.S. Further Manufacturing Expenses (if any)
 + CEP Profit
 - HM Direct-Selling Expense
 - HM Commission Expense¹
 - HM Credit Expense
 = NV for CEP Sales

¹ If the company does not have HM commissions, HM indirect expenses are subtracted only up to the amount of the U.S. Commissions.

Appendix B

For purposes of this Agreement, the products covered are hot-rolled iron and non-alloy steel universal mill plates (i.e., flat-rolled products rolled on four faces or in a closed box pass, of a width exceeding 150 mm but not exceeding 1250 mm and of a thickness of not less than 4 mm, 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 iron and non-alloy

steel flat-rolled products not in coils, 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 mm or more in thickness and of a width which exceeds 150 mm and measures at least twice the thickness. Included as subject merchandise in this petition 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. This merchandise is currently classified in the Harmonized Tariff Schedule of the United States (HTS) under item numbers 7208.40.3030, 7208.40.3060, 7208.51.0030, 7208.51.0045, 7208.51.0060, 7208.52.0000, 7208.53.0000, 7208.90.0000, 7210.70.3000, 7210.90.9000, 7211.13.0000, 7211.14.0030, 7211.14.0045, 7211.90.0000, 7212.40.1000, 7212.40.5000, 7212.50.0000. Excluded from the subject merchandise within the scope of this Agreement is grade X-70 plate. Although the HTS subheadings are provided for convenience and customs purposes, our written description of the scope of this investigation is dispositive.

[FR Doc. 03-1782 Filed 1-24-03; 8:45 am]
 BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 012203A]

Proposed Information Collection; Comment Request; Northeast Region Vessel Monitoring and Communications

AGENCY: National Oceanic and Atmospheric Administration (NOAA).
ACTION: Notice.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104-13 (44 U.S.C. 3506(c)(2)(A)).

DATES: Written comments must be submitted on or before March 28, 2003.

ADDRESSES: Direct all written comments to Diana Hynek, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6625, 14th and Constitution Avenue, NW, Washington, DC 20230 (or via the Internet at dHynek@doc.gov).

FOR FURTHER INFORMATION CONTACT: Requests for additional information or

regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. 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.

These administrative and new shipper reviews and notice are in accordance with sections 751(a)(1) and (2)(B) of the Act.

Dated: December 31, 2002.

Susan Kuhbach,

Acting Assistant Secretary for Import Administration.

[FR Doc. 03-346 Filed 1-7-03; 8:45 am]

BILLING CODE 3510-DS-S

DEPARTMENT OF COMMERCE

International Trade Administration

[A-570-849; A-821-808; A-791-804]

Cut-to-Length Carbon Steel Plate From the People's Republic of China, the Russian Federation, and South Africa; Final Results of Expedited Sunset Review of Suspended Antidumping Duty Investigations

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

ACTION: Notice of final results of expedited sunset review: cut-to-length carbon steel plate from the People's Republic of China, the Russian Federation, and South Africa.

SUMMARY: On September 3, 2002, the Department of Commerce ("the Department") published the notice of initiation of sunset reviews of the suspended antidumping duty investigations on cut-to-length carbon steel plate from the People's Republic of China (the "PRC"), the Russian Federation ("Russia"), and South Africa ("Africa"). On the basis of notices of intent to participate and adequate substantive comments filed on behalf of domestic interested parties and inadequate response (in these cases, no response) from respondent interested parties, we determined to conduct expedited (120-day) reviews. As a result of these reviews, we find that termination of the suspended antidumping duty investigations would be likely to lead to continuation or recurrence of dumping at the levels listed below in the section entitled "Final Results of Reviews."

EFFECTIVE DATE: January 8, 2003.

FOR FURTHER INFORMATION CONTACT:

Martha V. Douthit or James P. Maeder, Jr., Office of Policy for Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC, 20230; telephone: (202) 482-5050 or (202) 482-3330, respectively.

SUPPLEMENTARY INFORMATION:

Background

On September 3, 2002, the Department published the notice of initiation of the sunset reviews of the suspended antidumping duty investigations on cut-to-length carbon steel plate ("CTL Steel Plate") from the PRC, Russia, and South Africa (67 FR 56268). The Department received Notices of Intent to Participate on behalf of Bethlehem Steel Corporation, United States Steel Corporation, IPSCO Steel Inc., and Nucor Corporation (collectively "domestic interested parties"), within the deadline specified in section 351.218(d)(1)(i) of the Sunset Regulations. The domestic interested parties claimed interested party status under Section 771(9)(C) of the Tariff Act of 1930 (the "Act"), as U.S. manufacturers and producers of a domestic like product. We received complete substantive responses, in the Chinese, Russian, and South African reviews, from the domestic interested parties, within the 30-day deadline specified in the Sunset Regulations under section 351.218(d)(3)(i). Bethlehem Steel Corporation and the United States Steel Corporation have been active participants in the Russian and South African proceedings since the petition was filed. IPSCO participated in the original investigation through questionnaire responses to the International Trade Commission. Nucor did not participate in the initial investigation. The domestic interested parties are committed to full participation in this five-year review.

We did not receive a substantive response from any respondent interested party to these proceedings. As a result, pursuant to Section 751(c)(3)(B) of the Tariff Act of 1930, as amended ("the Act") and 19 CFR 351.218(e)(1)(ii)(C) of the Department's Regulations, the Department conducted expedited, 120-day, reviews of these suspended investigations.

Scope of Reviews

The products covered under the suspension agreements are hot-rolled iron and non-alloy steel universal mill plates (*i.e.*, flat-rolled products rolled on four faces or in a closed box pass, of a width exceeding 150 mm but not

exceeding 1250 mm and of a thickness of not less than 4 mm, 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 iron and non-alloy steel flat-rolled products not in coils, 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 mm or more in thickness and of a width which exceeds 150 mm and measures at least twice the thickness. Included as subject merchandise in this petition 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. This merchandise is currently classified in the Harmonized Tariff Schedule of the United States (HTS) under item numbers 7208.40.3030, 7208.40.3060, 7208.51.0030, 7208.51.0045, 7208.51.0060, 7208.52.0000, 7208.53.0000, 7208.90.0000, 7210.70.3000, 7210.90.9000, 7211.13.0000, 7211.14.0030, 7211.14.0045, 7211.90.0000, 7212.40.1000, 7212.40.5000, 7212.50.0000. Excluded from the subject merchandise within the scope of the petition is grade X-70 plate. Although the HTS subheadings are provided for convenience and Customs purposes, our written description of the scope of this investigation is dispositive.

These reviews cover all imports from all manufacturers, producers, and exporters of CTL Steel Plate from the PRC, Russia, and South Africa.

Analysis of Comments Received

All issues raised in these cases by parties to these sunset reviews are addressed in the "Issues and Decision Memorandum" ("Decision Memo") from Jeffrey A. May, Director, Office of Policy, Import Administration, to Faryar Shirzad, Assistant Secretary for Import Administration, dated January 2, 2003, which is hereby adopted by this notice. The issues discussed in the Decision Memo include the likelihood of continuation or recurrence of dumping and the magnitude of the margin likely to prevail were the suspended investigation be terminated. Parties can find a complete discussion of all issues raised in these reviews and the corresponding recommendations in this public memorandum, which is on file in

room B-099 of the main Commerce Building.

In addition, a complete version of the Decision Memo can be accessed directly on the Web at <http://ia.ita.doc.gov/frn>, under the heading "January 2003." The

paper copy and electronic version of the Decision Memorandum are identical in content.

Final Results of Reviews

We determine that termination of the antidumping duty suspension

agreement on CTL Steel Plate from the PRC, Russia, and South Africa would be likely to lead to continuation or recurrence of dumping at the following percentage weighted-average margins:

| | Margin (percent) |
|--|---------------------|
| Chinese Manufacturers/Producers/Exporters | |
| Anshan (AISCO/Anshan International/Sincerely Asia Ltd.) | 30.68 |
| Baoshan (Bao/Baoshan International Trade Corp./Bao Steel Metals Trading Corp.) | 30.51 |
| Liaoning | 17.33 |
| Shanghai Pudong | 38.16 |
| WISCO (Wuhan/International Economic and Trading Corp./Cheerwu Trader Ltd.) | 128.59 |
| China-Wide | 128.59 |
| Russian Manufacturers/Producers/Exporters | |
| Severstal | 53.81 |
| Russia-Wide | 185.00 |
| South African Manufacturers/Producers/Exporters | |
| Highveld | 26.01 |
| Iscor | 50.87 |
| All Others | 38.36 |

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

We are issuing and publishing these results and notice in accordance with sections 751(c), 752, and 777(i)(1) of the Act.

Dated: January 2, 2003.

Faryar Shirzad,

Assistant Secretary for Import Administration.

[FR Doc. 03-350 Filed 1-7-03; 8:45 am]

BILLING CODE 3510-DS-P

SUMMARY: In accordance with 19 CFR 351.213(b)(1), the Department of Commerce (the Department) received a timely request from petitioners, Bethlehem Steel Corporation and United States Steel Corporation, to conduct an administrative review of the sales of subject merchandise made by producers Sumitomo Metal Industries, Ltd. (Sumitomo), and Kawasaki Steel Corporation (Kawasaki). On July 24, 2002, the Department initiated an administrative review of the antidumping duty order on certain hot-rolled flat-rolled carbon-quality steel products from Japan for the period of review (POR) from June 1, 2001 to May 31, 2002. Because petitioners have withdrawn their request for review within 90 days of the notice of initiation's publication date, and because no other parties requested a review, the Department is rescinding this review in accordance with 19 CFR 351.213(d)(1).

EFFECTIVE DATE: January 8, 2003.

FOR FURTHER INFORMATION CONTACT: Mark Hoadley, AD/CVD Enforcement Group III, Office 7, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone (202) 482-3148.

SUPPLEMENTARY INFORMATION:

Background

On June 29, 1999, the Department published in the *Federal Register* the

antidumping duty order on certain hot-rolled flat-rolled carbon-quality steel flat products from Japan. See *Antidumping Duty Order; Certain Hot-Rolled Flat-Rolled Carbon-Quality Steel Products From Japan*, 64 FR 34778. In response to a timely request from petitioners, Bethlehem Steel Corporation and United States Steel Corporation, filed in accordance with 19 CFR 351.213(b), the Department initiated an administrative review of this antidumping duty order, covering the period of June 1, 2001 through May 31, 2002. See *Initiation of Antidumping and Countervailing Duty Administrative Reviews and Requests for Revocation in Part*, 67 FR 48435 (July 24, 2002). The request covered two manufacturers/exporters of the subject merchandise, Kawasaki and Sumitomo. Kawasaki submitted a letter to the Department on September 10, 2002 stating that it did not have any reviewable or reportable U.S. sales, entries, or shipments of subject merchandise during the POR. On October 22, 2002, petitioners withdrew their request for an administrative review with respect to both Kawasaki and Sumitomo.

Rescission of Review

Pursuant to our regulations, the Department will rescind an administrative review, "if a party that requested the review withdraws the request within 90 days of the date of publication of notice of initiation of the requested review." See 19 CFR 351.213(d)(1). This section further

DEPARTMENT OF COMMERCE

International Trade Administration

[A-588-846]

Certain Hot-Rolled Flat-Rolled Carbon-Quality Steel Products From Japan: Rescission of Antidumping Duty Administrative Review

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

current options of "Sprinkler" and "Drip".

- In Section II-g on both forms, "Acres not irrigated", we are adjusting the format of the box to allow checkmark indications for the options of "dry cropped", "fallow", and "idle", in addition to the number of acres.

- Within each subsection (*i.e.*, Cereals, Forage, Vegetables, etc.) in Section III on both forms, "Crop Production", we are placing the items in alphabetical order.

- In Section III on both forms, we are moving "Cantaloupe", "Watermelon", and "Honey Ball, Honeydew, etc." from the "Vegetables" subsection to the "Fruits" subsection.

- In Section I on Form 7-332, "Irrigator Information", we are including a box that asks for the respondent's telephone number so any potential questions may be directed to that person.

- We are removing the footnotes to both forms and incorporating the footnotes within the body of the instructions that accompany each form.

There have been editorial changes to the current Form 7-332 and Form 7-2045, and to the instructions that accompany these forms. These changes have been made to increase the respondents' understanding of the forms and understanding of the instructions to the forms. The proposed changes will be included starting with the 2003 Crop Acreage and Yields and Water Distribution information collection.

Title: Crop Acreage and Yields and Water Distribution.

Forms: Form 7-332, Water User Crop Census Report; and Form 7-2045, Crop and Water Data.

Abstract: The annual crop census is taken on all Bureau of Reclamation projects, along with collection of related statistics, primarily for use as a tool in administering, managing, and evaluating the Federal Reclamation program. The census is used to assist in the administration of repayment and water service contracts, which are used to repay the irrigators' obligation to the Federal Government. The census will provide data to facilitate the required 5-year review of ability-to-pay analysis, which is being incorporated into new repayment and water service contracts. The basis for these reviews is an audit by the Office of the Inspector General, Department of the Interior.

Data from the census are utilized to determine class 1 equivalency factors, *i.e.*, the number of acres of class 2 and class 3 land that are required to be equivalent in productivity to class 1 land.

In recent years, the census has provided data which are used to administer international trade agreements, such as the North American Free Trade Agreement. Data from the census are also used by the Office of the Inspector General, General Accounting Office, and the Congressional Research Service to independently evaluate our program and to estimate the impacts of proposed legislation. These data are supplied to other Federal and State agencies to evaluate the program and provide data for research.

Description of Respondents: Irrigators and water user entities in the 17 Western States who receive irrigation water service from Bureau of Reclamation facilities. Also included are entities who receive other water services, such as municipal and industrial water through Bureau of Reclamation facilities.

Frequency of Collection: Annually.
Estimated completion time: Form 7-332, 15 minutes; Form 7-2045, 480 minutes.

Annual responses: Form 7-332, 25,000 responses; Form 7-2045, 225 responses.

Annual burden hours per form: Form 7-332, 6,250; Form 7-2045, 1,800.

Total Annual burden hours: 8,050.
Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Bureau of Reclamation, including whether the information will have practical utility; (b) the accuracy of our burden estimate for the proposed collection of information, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information being collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including increased use of automated collection techniques or other forms of information technology.

Department of the Interior practice is to make comments, including names and home addresses of respondents, available for public review. Individual respondents may request that we withhold their home address from public disclosure, which we will honor to the extent allowable by law. There also may be circumstances in which we would withhold a respondent's identity from public disclosure, as allowable by law. If you wish us to withhold your name and/or address, you must state this prominently at the beginning of your comment. We will make all submissions from organizations or businesses, and from individuals identifying themselves as

representatives or officials of organizations or businesses, available for public disclosure in their entirety.

Dated: November 12, 2002.

Wayne Deason,

Associate Director, Office of Policy.

[FR Doc. 02-31925 Filed 12-18-02; 8:45 am]

BILLING CODE 4310-MN-P

INTERNATIONAL TRADE COMMISSION

[Investigations Nos. 731-TA-753-756 (Review)]

Cut-to-Length Carbon Steel Plate From China, Russia, South Africa, and Ukraine

AGENCY: International Trade Commission.

ACTION: Notice of Commission determinations to conduct full five-year reviews concerning the antidumping duty orders on cut-to-length carbon steel plate from China, Russia, South Africa, and Ukraine.

SUMMARY: The Commission hereby gives notice that it will proceed with full reviews pursuant to section 751(c)(5) of the Tariff Act of 1930 (19 U.S.C. 1675(c)(5)) to determine whether revocation of the antidumping duty orders on cut-to-length carbon steel plate from China, Russia, South Africa, and Ukraine would be likely to lead to continuation or recurrence of material injury within a reasonably foreseeable time. A schedule for the reviews will be established and announced at a later date. For further information concerning the conduct of these reviews and rules of general application, consult the Commission's rules of practice and procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A, D, E, and F (19 CFR part 207).

EFFECTIVE DATE: December 9, 2002.

FOR FURTHER INFORMATION CONTACT: Mary Messer (202-205-3193), Office of Investigations, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202-205-1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202-205-2000. General information concerning the Commission may also be obtained by accessing its Internet server (<http://www.usitc.gov>). The public record for

these reviews may be viewed on the Commission's electronic docket (EDIS-ON-LINE) at <http://dockets.usitc.gov/eol/public>.

SUPPLEMENTARY INFORMATION: On December 9, 2002, the Commission determined that it should proceed to full reviews in the subject five-year reviews pursuant to section 751(c)(5) of the Act. The Commission found that both the domestic and respondent interested party group responses to its notice of institution (67 FR 56311, September 3, 2002) were adequate. A record of the Commissioners' votes, the Commission's statement on adequacy, and any individual Commissioner's statements will be available from the Office of the Secretary and at the Commission's web site.

Authority: These reviews are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.62 of the Commission's rules.

Issued: December 16, 2002.

By order of the Commission.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. 02-31987 Filed 12-18-02; 8:45 am]

BILLING CODE 7020-02-P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 332-288]

Ethyl Alcohol for Fuel Use: Determination of the Base Quantity of Imports

AGENCY: International Trade Commission.

ACTION: Notice of determination.

EFFECTIVE DATE: December 13, 2002.

SUMMARY: Section 7 of the Steel Trade Liberalization Program Implementation Act, as amended (19 U.S.C. 2703 note), which concerns local feedstock requirements for fuel ethyl alcohol imported by the United States from CBI-beneficiary countries, requires the Commission to determine annually the U.S. domestic market for fuel ethyl alcohol during the 12-month period ending on the preceding September 30. The domestic market determination made by the Commission is to be used to establish the "base quantity" of imports that can be imported with a zero percent local feedstock requirement. The base quantity to be used by the U.S. Customs Service in the administration of the law is the greater of 60 million gallons or 7 percent of U.S. consumption as determined by the Commission. Beyond the base quantity

of imports, progressively higher local feedstock requirements are placed on imports of fuel ethyl alcohol and mixtures from the CBI-beneficiary countries.

For the 12-month period ending September 30, 2002, the Commission has determined the level of U.S. consumption of fuel ethyl alcohol to be 1.89 billion gallons. Seven percent of this amount is 132.5 million gallons (these figures have been rounded). Therefore, the base quantity for 2003 should be 132.5 million gallons.

FOR FURTHER INFORMATION CONTACT: Jonathan Coleman (202) 205-3465, jcoleman@usitc.gov, in the Commission's Office of Industries. For information on legal aspects of the investigation contact Mr. William Gearhart, wgearhart@usitc.gov, in the Commission's Office of the General Counsel at (202) 205-3091.

Hearing-impaired individuals are advised that information on this matter can be obtained by contacting our TDD terminal on (202) 205-1810.

Background: For purposes of making determinations of the U.S. market for fuel ethyl alcohol as required by section 7 of the Act, the Commission instituted Investigation No. 332-288, Ethyl Alcohol for Fuel Use: Determination of the Base Quantity of Imports, in March 1990. The Commission uses official statistics of the U.S. Department of Energy to make these determinations as well as the PIERS database of the Journal of Commerce, which is based on U.S. export declarations.

Section 225 of the Customs and Trade Act of 1990 (Public Law 101-382, August 20, 1990) amended the original language set forth in the Steel Trade Liberalization Program Implementation Act of 1989. The amendment requires the Commission to make a determination of the U.S. domestic market for fuel ethyl alcohol for each year after 1989.

By order of the Commission.

Issued: December 16, 2002.

Marilyn R. Abbott,

Secretary.

[FR Doc. 02-31986 Filed 12-18-02; 8:45 am]

BILLING CODE 7020-02-P

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Pursuant to the Oil Pollution Act (OPA)

In accordance with Departmental policy, 28 CFR 50.7, notice is hereby given that a proposed Consent Decree in *United States of America and the State of Maryland v. Potomac Electric Power*

Company, Support Terminals Operation Partnership, L.P. and Support Terminal Services, Inc., Civil Action No. AW 02-4013, was lodged with the United States District Court for the District of Maryland on December 11, 2002.

The Consent Decree resolves claims under the Oil Pollution Act of 1990, 33 U.S.C. 2701-2761 brought against Potomac Electric Power Company, Support Terminals Operating Partnership, L.P., and Support Terminal Services, Inc. collectively, ("Defendants"), for natural resource damages arising from the April 7, 2000 spill of oil from the rupture in an oil pipeline at Chalk Point Generating Station near Aquasco, Maryland.

The proposed Consent Decree requires the Defendants to pay approximately \$2,700,000 in natural resource damages and approximately \$318,000 for remaining unpaid damage assessment costs. The Consent Decree includes a covenant not to sue by the United States and State of Maryland under the Oil Pollution Act.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the proposed Consent Decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, PO Box 7611, U.S. Department of Justice, Washington, DC 20044-7611. Each communication should refer to *United States, et al. v. Potomac Electric Power Co., et al.*

The Consent Decree may be examined at the Office of the United States Attorney, District of Maryland, 101 W. Lombard Street, Suite 6625, Baltimore, Maryland, 21201. A copy of the proposed Consent Decree may be obtained by (1) mail from the Consent Decree Library, PO Box 7611, U.S. Department of Justice, Washington, DC 20044 7611; or by (2) faxing the request to Tonia Fleetwood, U.S. Department of Justice, fax number (202) 514-0097; phone confirmation (202) 514-1547. In requesting a copy, please forward the request and a check in the amount of \$7.00 (25 cents per page reproduction cost), made payable to the U.S. Treasury.

Robert Brook,

Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 02-31913 Filed 12-18-02; 8:45 am]

BILLING CODE 4410-15-M

Vermont Avenue, NW., Washington, DC 20005.

Dated: June 27, 2002.

Terry Carlstrom,
Regional Director, National Capital Region,
National Park Service.

[FR Doc. 02-22375 Filed 8-30-02; 8:45 am]

BILLING CODE 4310-70-M

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Availability of Draft Director's Order Concerning National Park Service Policies and Procedures for Resources Damage Assessment and Restoration

AGENCY: National Park Service, Interior.
ACTION: Notice of availability.

SUMMARY: The National Park Service (NPS) has prepared a Director's Order setting forth its policies and procedures governing the conduct of resource damage assessment and restoration activities under the civil damage provisions of the Park System Resources Protection Act (PSRPA), 16 U.S.C. 19jj, and other related laws. The Director's Order has a companion Handbook that specifies in more detail, implementing procedures. When adopted, the policies and procedures will apply to all units of the national park system.

DATES: Written comments will be accepted on or before 30 days from the date of publication in the *Federal Register*.

ADDRESSES: Draft Director's Order #14 is available on the Internet at <http://www.nps.gov/refdesk/DOrders/index.htm>. The Draft Damage Assessment Handbook is available on the Internet at <http://www.nature.nps.gov/do14handbook>. Requests for copies and written comments should be sent to Daniel Hamson, Chief, Environmental Response, Damage Assessment and Restoration Branch, Environmental Quality Division, 1849 C Street, NW., Washington, DC 20240, or to his Internet address: daniel_hamson@nps.gov.

FOR FURTHER INFORMATION CONTACT: Daniel Hamson at (202) 208-7504.

SUPPLEMENTARY INFORMATION: The National Park Service (NPS) is requesting comments from agencies and the public concerning new policy and internal procedural requirements for implementing the National Park System Resources Protection Act (PSRPA), and the civil natural resource damage provisions of the Oil Pollution Act

(OPA), the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), and the National Pollution Control Act or Clean Water Act (CWA), as amended. There are no previous policies or procedures in place governing the NPS activities under the PSRPA. Once final, these policies and procedures would apply to the activities of the National Park Service in administering units of the National Park System. The policies available for review consist of a draft Director's Order which broadly describes the authorizations, delegations, and responsibilities for the development of the policies and conducting actions under these statutes, and a draft procedures manual or handbook that describes how the NPS will carry out its responsibilities under PSRPA and related laws.

Dated: June 25, 2002.

Michael Soukup,
Associate Director, Natural Resource
Stewardship and Science.

[FR Doc. 02-22373 Filed 8-30-02; 8:45 am]

BILLING CODE 4310-70-P

INTERNATIONAL TRADE COMMISSION

[Investigations Nos. 731-TA-753-756 (Review)]

Carbon Steel Plate From China, Russia, South Africa, and Ukraine

AGENCY: United States International Trade Commission.

ACTION: Institution of five-year reviews concerning the suspended investigations on cut-to-length (CTL) carbon steel plate from China, Russia, South Africa, and Ukraine.

SUMMARY: The Commission hereby gives notice that it has instituted reviews pursuant to section 751(c) of the Tariff Act of 1930 (19 U.S.C. 1675(c)) (the Act) to determine whether termination of the suspended investigations on CTL carbon steel plate from China, Russia, South Africa, and Ukraine would be likely to lead to continuation or recurrence of material injury. Pursuant to section 751(c)(2) of the Act, interested parties are requested to respond to this notice by submitting the information specified below to the Commission;¹ to be assured

¹ No response to this request for information is required if currently valid Office of Management and Budget (OMB) number is not displayed; the OMB number is 3117-0016/USITC No. 02-5-073, expiration date June 30, 2005. Public reporting burden for the request is estimated to average 7 hours per response. Please send comments regarding the accuracy of this burden estimate to the Office of Investigations, U.S. International Trade

of consideration, the deadline for responses is October 23, 2002. Comments on the adequacy of responses may be filed with the Commission by November 18, 2002. For further information concerning the conduct of these reviews and rules of general application, consult the Commission's rules of practice and procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A, D, E, and F (19 CFR part 207).

EFFECTIVE DATE: September 3, 2002.

FOR FURTHER INFORMATION CONTACT: Mary Messer (202-205-3193), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202-205-1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202-205-2000. General information concerning the Commission may also be obtained by accessing its Internet server (<http://www.usitc.gov>). The public record for these investigations may be viewed on the Commission's electronic docket (EDIS-ON-LINE) at <http://dockets.usitc.gov/eol/public>.

SUPPLEMENTARY INFORMATION:

Background.—On October 24, 1997, the Department of Commerce suspended antidumping duty investigations on imports of carbon steel plate from China, Russia, South Africa, and Ukraine (62 FR 61751, 61766, 61773, and 61780, November 19, 1997). The Commission is conducting reviews to determine whether termination of the suspended investigations would be likely to lead to continuation or recurrence of material injury to the domestic industry within a reasonably foreseeable time. It will assess the adequacy of interested party responses to this notice of institution to determine whether to conduct full reviews or expedited reviews. The Commission's determinations in any expedited reviews will be based on the facts available, which may include information provided in response to this notice.

Definitions.—The following definitions apply to these reviews:

(1) Subject Merchandise is the class or kind of merchandise that is within the scope of the five-year reviews, as defined by the Department of Commerce.

(2) The Subject Countries in these reviews are China, Russia, South Africa, and Ukraine.

(3) The Domestic Like Product is the domestically produced product or products which are like, or in the absence of like, most similar in characteristics and uses with, the Subject Merchandise. In its original determinations, the Commission defined the Domestic Like Product as all CTL carbon steel plate, whether produced in a mill by an integrated producer or in a service center.

(4) The Domestic Industry is the U.S. producers as a whole of the Domestic Like Product, or those producers whose collective output of the Domestic Like Product constitutes a major preparation of the total domestic production of the product. In its original determinations, the Commission defined the Domestic Industry as all producers of CTL carbon steel plate, whether toll producers, integrated producers, or processors.

(5) The Order Date is the date that the investigations were suspended. In these reviews, the Order Date is October 24, 1997.

(6) An Importer is any person or firm engaged, either directly or through a parent company or subsidiary, in importing the Subject Merchandise into the United States from a foreign manufacturer or through its selling agent.

Participation in the reviews and public service list.—Persons, including industrial users of the Subject Merchandise and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in the reviews as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11(b)(4) of the Commission's rules, no later than 21 days after publication of this notice in the **Federal Register**. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the reviews.

Former Commission employees who are seeking to appear in Commission five-year reviews are reminded that they are required, pursuant to 19 CFR 201.15, to seek Commission approval if the matter in which they are seeking to appear was pending in any manner or form during their Commission employment. The Commission's designated agency ethics official has advised that a five-year review is the "same particular matter" as the underlying original investigation for purposes of 19 CFR 201.15 and 18 U.S.C. 207, the post employment statute for Federal employees. Former

employees may seek informal advice from Commission ethics officials with respect to this and the related issue of whether the employee's participation was "personal and substantial." However, any informal consultation will not relieve former employees of the obligation to seek approval to appear from the Commission under its rule 201.15. For ethics advice, contact Carol McCue Verratti, Deputy Agency Ethics Official, at 202-205-3088.

Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and APO service list.—Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI submitted in these reviews available to authorized applicants under the APO issued in the reviews, provided that the application is made no later than 21 days after publication of this notice in the **Federal Register**. Authorized applicants must represent interested parties, as defined in 19 U.S.C. 1677(9), who are parties to the reviews. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Certification.—Pursuant to section 207.3 of the Commission's rules, any person submitting information to the Commission in connection with these reviews must certify that the information is accurate and complete to the best of the submitter's knowledge. In making the certification, the submitter will be deemed to consent, unless otherwise specified, for the Commission, its employees, and contract personnel to use the information provided in any other reviews or investigations of the same or comparable products which the Commission conducts under Title VII of the Act, or in internal audits and investigations relating to the programs and operations of the Commission pursuant to 5 U.S.C. Appendix 3.

Written submissions.—Pursuant to section 207.61 of the Commission's rules, each interested party response to this notice must provide the information specified below. The deadline for filing such responses is October 23, 2002. Pursuant to section 207.62(b) of the Commission's rules, eligible parties (as specified in Commission rule 207.62(b)(1)) may also file comments concerning the adequacy of responses to the notice of institution and whether the Commission should conduct expedited or full reviews. The deadline for filing such comments is November 18, 2002. All written submissions must conform with the provisions of sections 201.8 and 207.3 of the Commission's rules and

any submissions that contain BPI must also conform with the requirements of sections 201.6 and 207.7 of the Commission's rules. The Commission's rules do not authorize filing of submissions with the Secretary by facsimile or electronic means. Also, in accordance with sections 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the reviews must be served on all other parties to the reviews (as identified by either the public or APO service list as appropriate), and a certificate of service must accompany the document (if you are not a party to the reviews you do not need to serve your response).

Inability to provide requested information.—Pursuant to section 207.61(c) of the Commission's rules, any interested party that cannot furnish the information requested by this notice in the requested form and manner shall notify the Commission at the earliest possible time, provide a full explanation of why it cannot provide the requested information, and indicate alternative forms in which it can provide equivalent information. If an interested party does not provide this notification (or the Commission finds the explanation provided in the notification inadequate) and fails to provide a complete response to this notice, the Commission may take an adverse inference against the party pursuant to section 776(b) of the Act in making its determinations in the reviews.

Information to Be Provided in Response to This Notice of Institution: If you are a domestic producer, union/worker group, or trade/business association; import/export Subject Merchandise from more than one Subject Country; or produce Subject Merchandise in more than one Subject Country, you may file a single response. If you do so, please ensure that your response to each question includes the information requested for each pertinent Subject Country. As used below, the term "firm" includes any related firms.

(1) The name and address of your firm or entity (including World Wide Web address if available) and name, telephone number, fax number, and E-mail address of the certifying official.

(2) A statement indicating whether your firm/entity is a U.S. producer of the Domestic Like Product, a U.S. union or worker group, a U.S. importer of the Subject Merchandise, a foreign producer or exporter of the Subject Merchandise, a U.S. or foreign trade or business association, or another interested party (including an explanation). If you are a union/worker group or trade/business association, identify the firms in which

your workers are employed or which are members of your association.

(3) A statement indicating whether your firm/entity is willing to participate in these reviews by providing information requested by the Commission.

(4) A statement of the likely effects of the termination of the suspended investigations on the Domestic Industry in general and/or your firm/entity specifically. In your response, please discuss the various factors specified in section 752(a) of the Act (19 U.S.C. 1675a(a)) including the likely volume of subject imports, likely price effects of subject imports, and likely impact of imports of Subject Merchandise on the Domestic Industry.

(5) A list of all known and currently operating U.S. producers of the Domestic Like Product. Identify any known related parties and the nature of the relationship as defined in section 771(4)(B) of the Act (19 U.S.C. 1677(4)(B)).

(6) A list of all known and currently operating U.S. importers of the Subject Merchandise and producers of the Subject Merchandise in each Subject Country that currently export or have exported Subject Merchandise to the United States or other countries since 1996.

(7) If you are a U.S. producer of the Domestic Like Product, provide the following information on your firm's operation on that product during calendar year 2001 (request quantity data in short tons and value data in U.S. dollars, f.o.b. plant). If you are a union/worker group or trade/business association, provide the information, on an aggregate basis, for the firms in which your workers are employed/which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total U.S. production of the Domestic Like Product accounted for by your firm's(s') production;

(b) the quantity and value of U.S. commercial shipments of the Domestic Like Product produced in your U.S. plant(s); and

(c) the quantity and value of U.S. internal consumption/company transfers of the Domestic Like Product produced in your U.S. plant(s).

(8) If you are a U.S. importer or a trade/business association of U.S. importers of the Subject Merchandise from the Subject Countries, provide the following information on your firm's(s') operations on that product during calendar year 2001 (report quantity data in short tons and value data in U.S. dollars). If you are a trade/business association, provide the information, on

an aggregate basis, for the firms which are members of your association.

(a) The quantity and value (landed, duty-paid but not including antidumping or countervailing duties) of U.S. imports and, if known, an estimate of the percentage of total U.S. imports of Subject Merchandise from each Subject Country accounted for by your firm's(s') imports;

(b) the quantity and value (f.o.b. U.S. port, including antidumping and/or countervailing duties) of U.S. commercial shipments of Subject Merchandise imported from each Subject Country; and

(c) the quantity and value (f.o.b. U.S. port, including antidumping and/or countervailing duties) of U.S. internal consumption/company transfers of Subject Merchandise imported from each Subject Country.

(9) If you are a producer, an exporter, or a trade/business association of producers or exporters of the Subject Merchandise in the Subject Countries, provide the following information on your firm's(s') operations on that product during calendar year 2001 (report quantity data in short tons and value data in U.S. dollars, landed and duty-paid at the U.S. port but not including antidumping or countervailing duties). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total production of Subject Merchandise in each Subject Country accounted for by your firm's(s') production; and

(b) the quantity and value of your firm's(s') exports to the United States of Subject Merchandise and, if known, an estimate of the percentage of total exports to the United States of Subject Merchandise from each Subject Country accounted for by your firm's(s') exports.

(10) Identify significant changes, if any, in the supply and demand conditions or business cycle for the Domestic Like Product that have occurred in the United States or in the market for the Subject Merchandise in the Subject Countries since the Order Date, and significant changes, if any, that are likely to occur within a reasonably foreseeable time. Supply conditions to consider include technology; production methods; development efforts; ability to increase production (including the shift of production facilities used for other products and the use, cost, or availability of major inputs into production); and factors related to the ability to shift supply among different

national markets (including barriers to importation in foreign markets or changes in market demand abroad). Demand conditions to consider include end uses and applications; the existence and availability of substitute products; and the level of competition among the Domestic Like Product produced in the United States, Subject Merchandise produced in the Subject Countries, and such merchandise from other countries.

(11) (Optional) A statement of whether you agree with the above definitions of the Domestic Like Product and Domestic Industry; if you disagree with either or both of these definitions, please explain why and provide alternative definitions.

Authority: These reviews are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.61 of the Commission's rules.

Issued: August 26, 2002.

By order of the Commission.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. 02-22356 Filed 8-30-02; 8:45 am]

BILLING CODE 7020-02-M

DEPARTMENT OF LABOR

Pension and Welfare Benefits Administration

[Application Number D-10786]

Amendment to Prohibited Transaction Exemption 92-6 (PTE 92-6) Involving the Transfer of Individual Life Insurance Contracts and Annuities from Employee Benefit Plans to Plan Participants, Certain Beneficiaries of Plan Participants, Personal Trusts, Employers and Other Employee Benefit Plans

AGENCY: Pension and Welfare Benefits Administration, U.S. Department of Labor.

ACTION: Adoption of Amendment to PTE 92-6.

SUMMARY: This document amends PTE 92-6, a class exemption that enables an employee benefit plan to sell individual life insurance contracts and annuities to: (1) A plan participant insured under such policies; (2) a relative of such insured participant who is the beneficiary under the contract; (3) an employer any of whose employees are covered by the plan; or (4) another employee benefit plan, for the cash surrender value of the contract, provided certain conditions are met. The amendment affects, among others, certain participants, beneficiaries and

some portion of these general expenses might be broadly attributable to U.S. sales, they would only relate to the sale by Highveld to Newco and are, therefore, not expenses attributable to the sale to the unaffiliated purchaser.

DOC Position

We agree with respondents. The Department only deducts indirect selling expenses incurred in the country of manufacture which are specifically related to commercial activity in the United States. (See Calcium Aluminate Flux From France: Preliminary Results of Antidumping Duty Administrative Review, 61 FR 40396, 40397 (August 2, 1996).) At verification, we found that the expenses at issue were general in nature and did not relate specifically to U.S. commercial activity. Therefore, consistent with our preliminary determination, we did not deduct these expenses from CEP for the final determination.

Suspension of Liquidation

On October 24, 1997, the Department signed a suspension agreement with Iscor and Highveld suspending this investigation. Pursuant to section 734(f)(2)(A) of the Act, we are instructing Customs to terminate the suspension of liquidation of all entries of cut-to-length carbon steel plate from South Africa. Any cash deposits of entries of cut-to-length carbon steel plate from South Africa shall be refunded and any bonds shall be released.

On October 14, 1997, we received a request from petitioners requesting that we continue the investigation. We received a separate request for continuation from the United Steelworkers of America, an interested party under section 771(9)(D) of the Act on October 15, 1997. Pursuant to these requests, we have continued and completed the investigation in accordance with section 734(g) of Act. We have found the following margins of dumping:

| Manufacturer/producer/exporter | Weight-average margin percentage |
|--------------------------------|----------------------------------|
| Highveld | 26.01 |
| Iscor | 50.87 |
| All Other | 38.36 |

ITC Notification

In accordance with section 735(d) of the Act, we have notified the ITC of our determination. As our determination is affirmative, the ITC will determine, within 45 days, whether these imports

are causing material injury, or threat of material injury, to an industry in the United States. If the ITC's injury determination is negative, the agreement will have no force or effect, and the investigation will be terminated (see section 734(f)(3)(A) of the Act). If the ITC's determination is affirmative, the Department will not issue an antidumping duty order as long as the suspension agreement remains in force (see section 734(f)(3)(B) of the Act).

This determination is published pursuant to section 735(d) of the Act.

Dated: October 24, 1997.

Robert S. LaRussa,
Assistant Secretary for Import Administration.
 [FR Doc. 97-30389 Filed 11-18-97; 8:45 am]
BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE

[A-791-804]

Suspension of Antidumping Duty Investigation: Certain Cut-to-Length Carbon Steel Plate From South Africa

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

SUMMARY: The Department of Commerce (the Department) has suspended the antidumping duty investigation involving certain cut-to-length carbon steel plate (CTL plate) from South Africa. The basis for this action is an agreement between the Department and Iscor Ltd. (Iscor) and Highveld Steel and Vanadium Corporation Ltd. (Highveld) to revise their prices to eliminate completely sales of this merchandise to the United States at less than fair value.

EFFECTIVE DATE: October 24, 1997.

FOR FURTHER INFORMATION CONTACT: Charles Rast, Nancy Decker, or Linda Ludwig, Office of AD/CVD Enforcement III, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th & Constitution Avenue N.W., Washington, D.C. 20230; telephone (202) 482-5811, (202) 482-0196, or (202) 482-3833, respectively.

SUPPLEMENTARY INFORMATION:

Background

On December 3, 1996, the Department initiated an antidumping investigation under section 732 of the Tariff Act of 1930, (the Act), as amended, to determine whether imports of CTL plate from South Africa are being or are likely to be sold in the United States at less than fair value (61 FR 64051 (December 3, 1996)). On December 19, 1996, the United States International Trade

Commission (ITC) notified the Department of its affirmative preliminary injury determination (see ITC Investigation Nos. 731-TA-753-756). On June 2, 1996, the Department preliminarily determined that CTL plate is being, or is likely to be, sold in the United States at less than fair value (LTFV), as provided in section 733 of the Tariff Act of 1930, as amended by the Uruguay Round Agreements Act (62 FR 31967 (June 11, 1997)).

The Department and Iscor and Highveld initiated a proposed agreement suspending this investigation on September 25, 1997. On September 26, 1997, we invited interested parties to provide written comments on the agreement and received comments from Geneva Steel, Gulf States Steel, Iscor and Highveld.

The Department and Iscor and Highveld signed the final suspension agreement on October 24, 1997.

Scope of Investigation

See Notice of Final Determination of Sales at Less Than Fair Value: Certain Cut-to-Length Carbon Steel Plate from South Africa, signed October 24, 1997.

Suspension of Investigation

The Department consulted with the parties to the proceeding and has considered the comments submitted with respect to the proposed suspension agreement. In accordance with Section 734(b) of the Act, we have determined that the agreement will completely eliminate sales at less than fair value, that the agreement is in the public interest, and that the agreement can be monitored effectively. See Public Interest Memorandum, October 24, 1997. We find, therefore, that the criteria for suspension of an investigation pursuant to section 734(b) of the Act have been met. The terms and conditions of this agreement, signed October 24, 1997, are set forth in Annex 1 to this notice.

Pursuant to section 734(f)(2)(A) of the Act, the suspension of liquidation of all entries of cut-to-length carbon steel plate from South Africa entered or withdrawn from warehouse, for consumption, as directed in our Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Certain Cut-to-Length Carbon Steel Plate From South Africa is hereby terminated. Any cash deposits on entries of cut-to-length carbon steel plate from South Africa pursuant to that suspension of liquidation shall be refunded and any bonds shall be released.

On October 14, 1997 we received a request from petitioners requesting that

we continue the investigation. We received separate requests from the United Steelworkers of America, Bethlehem Steel Corp., and U.S. Steel Corp. (a unit of USX Corporation), interested parties under section 771(9)(D) of the Act. Pursuant to these requests, we have completed the investigation in accordance with section 734(g) of the Act, and have notified the International Trade Commission (ITC) of our determination. If the ITC's injury determination is negative, the agreement will have no force or effect, and the investigation will be terminated (see section 734(f)(3)(A) of the Act). If the ITC's determination is affirmative, the Department will not issue an antidumping duty order as long as the suspension agreement remains in force (see section 734(f)(3)(B) of the Act).

This notice is published pursuant to section 734(f)(1)(A) of the Act.

Dated: November 7, 1997.

Robert S. LaRussa,
Assistant Secretary for Import
Administration.

Appendix 1—Suspension Agreement Cut-to-Length Carbon Steel Plate From the Republic South Africa

Under section 734(b) of the Tariff Act of 1930, as amended (19 U.S.C. 1673c(b)) (the Act), and 19 CFR 353.18, the U.S. Department of Commerce (the Department) and the signatory producers/exporters of cut-to-length carbon steel plate from the Republic of South Africa enter into this suspension agreement (the Agreement). On the basis of this suspension agreement, the Department shall suspend its antidumping investigation initiated on December 3, 1996 (61 FR 64051), with respect to cut-to-length carbon steel plate from the Republic of South Africa, subject to the terms and provisions forth below.

(A) Product Coverage

The merchandise subject to this Agreement is the following merchandise which has the Republic of South Africa as its origin:

(1) For purposes of the Agreement, cut-to-length carbon steel plate includes hot-rolled iron and non-alloy steel universal mill plates (i.e., flat-rolled products rolled on four faces or in a closed box pass, of a width exceeding 150 mm but not exceeding 1250 mm and of a thickness of not less than 4 mm, 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 iron and non-alloy steel flat-rolled products not in coils, 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 mm or more in thickness and of a width which exceeds 150 mm and measures at least twice the thickness.

(2) Included as subject merchandise in this Agreement 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. This merchandise is currently classified in the Harmonized Tariff Schedule of the United States (HTS) under item numbers 7208.40.3030, 7208.40.3060, 7208.51.0030, 7208.51.0045, 7208.51.0060, 7208.52.0000, 7208.53.0000, 7208.90.0000, 7210.70.3000, 7210.90.9000, 7211.13.0000, 7211.14.0030, 7211.14.0045, 7211.90.0000, 7212.40.1000, 7212.40.5000, 7212.50.0000. Excluded from subject merchandise within the scope of this agreement is grade X-70 plate. Although the HTS subheadings are provided for convenience and customs purposes, our written description of the scope of this Agreement is dispositive.

(B) U.S. Import Coverage

The signatory producers/exporters collectively are the producers and exporters in the Republic of South Africa that, during the antidumping investigation on the merchandise subject to the Agreement, accounted for substantially all (not less than 85 percent) of the subject merchandise imported into the United States, as provided in the Department's regulations. The Department may at any time during the period of the Agreement require additional producers/exporters in the Republic of South Africa to sign the Agreement in order to ensure that not less than substantially all imports into the United States are covered by the Agreement.

In reviewing the operation of the Agreement for the purpose of determining whether this Agreement has been violated or is no longer in the public interest, the Department will consider imports into the United States from all sources of the merchandise described in Section A of the Agreement. For this purpose, the Department will consider factors including, but not limited to, the following: volume of trade, pattern of trade, whether or not the reseller is an original equipment manufacturer, and the reseller's export price (EP).

(C) Basis of the Agreement

On and after the effective date of the Agreement, each signatory producer/exporter individually agrees to make any necessary price revisions to eliminate completely any amount by which the normal value (NV) of this merchandise exceeds the U.S. price of its merchandise subject to the Agreement. For this purpose, the Department will determine the NV in accordance with section 773(e) of the Act and U.S. price in accordance with section 772 of the Act.

(1) For all sales occurring on and after the effective date of the Agreement through March 31, 1998 (interim period), each signatory producer/exporter agrees not to sell its merchandise subject to the Agreement to unaffiliated purchasers in the United States at prices that are less than its NV, as determined by the Department, and provided to parties not later than November 7, 1997; and

(2) For all sales occurring on and after April 1, 1998, each producer/exporter agrees

not to sell its merchandise subject to the Agreement to any unaffiliated purchaser in the United States at prices that are less than the NV of the merchandise, as determined by the Department on the basis of information submitted to the Department not later than the dates specified in section D of the Agreement and provided to parties not later than December 10, March 10, June 10, and September 10 of each year. This NV shall apply to sales occurring during the fiscal quarter beginning on the first day of the month following the date the Department provides the NV, as stated in this paragraph.

(D) Monitoring

Each signatory producer/exporter will supply to the Department all information that the Department decides is necessary to ensure that the producer/exporter is in full compliance with the terms of the Agreement. As explained below, the Department will provide each signatory producer/exporter a detailed request for information and prescribe a required format and method of data compilation, not later than the beginning of each reporting period.

(1) Sales Information

The Department will require each producer/exporter to report, on computer tape in the prescribed format and using the prescribed method of data compilation, each sale of the merchandise subject to the Agreement, either directly or indirectly to unaffiliated purchasers in the United States, including each adjustment applicable to each sale, as specified by the Department.

The first report of sales data shall be submitted to the Department, on computer tape in the prescribed format and using the prescribed method of data compilation, not later than January 31, 1998, and shall contain the specified sales information covering the period October 24, 1997, to December 31, 1997. Subsequent reports of sales data shall be submitted to the Department not later than January 31, April 30, July 31, and October 31 of each year, and each report shall contain the specified sales information for the quarterly period ending one month prior to the due date, except that if the Department receives information that a possible violation of the Agreement may have occurred, the Department may request sales data on a monthly, rather than quarterly basis.

(2) Cost Information

Producer/exporters must request NVs for all subject merchandise that will be sold in the United States. For those products which the producer/exporter is requesting NVs, the Department will require each producer/exporter to report: their actual cost of manufacturing; selling, general and administrative (SG&A) expenses; and profit data on a quarterly basis, in the prescribed format and using the prescribed method of data compilation. As indicated in Appendix B, profit will be reported by the producers/exporters on a quarterly basis. Each such producer/exporter also must report anticipated increases in production costs and may report anticipated decreases in production costs in the quarter in which the information is submitted resulting from factors such as anticipated changes in

production yield, changes in production process, changes in production quantities or changes in production facilities.

The first report of cost data for the post-interim period shall be submitted to the Department not later than January 20, 1998, and shall contain the specified cost data covering the period October 1, 1997, through December 31, 1997. Each subsequent report shall be submitted to the Department not later than January 20, April 20, July 20, and October 20 of each year, and each report shall contain specified information for the quarter ending one month prior to the due date.

(3) Special Adjustment of Normal Value

If the Department determines that the NV it determined for a previous quarter was erroneous because the reported costs for that period were inaccurate or incomplete, or for any other reason, the Department may adjust NV in a subsequent period or periods, unless the Department determines that Section F of the Agreement applies.

(4) Verification

Each producer/exporter agrees to permit full verification of all cost and sales information semi-annually, or more frequently, as the Department deems necessary.

(5) Bundling or Other Arrangements

Producers/exporters agree not to circumvent the Agreement. In accordance with the date set forth in Section D(1) of the Agreement, producers/exporters will submit a written statement to the Department certifying that the sales reported herein were not, or are not part of or related to, any bundling arrangement, on-site processing arrangement, discounts/free goods/financing package, swap or other exchange where such arrangement is designed to circumvent the basis of the Agreement.

Where there is reason to believe that such an arrangement does circumvent the basis of the Agreement, the Department will request producers/exporters to provide within 15 days all particulars regarding any such arrangement, including, but not limited to, sales information pertaining to covered and non-covered merchandise that is manufactured or sold by producers/exporters. The Department will accept written comments, not to exceed 30 pages, from all parties no later than 15 days after the date of receipt of such producer/exporter information.

If the Department, after reviewing all submissions, determines that such arrangement circumvents the basis of the Agreement, it may, as it deems most appropriate, utilize one of two options: (1) the amount of the effective price discount resulting from such arrangement shall be reflected in the NV in accordance with Section D(3), or (2) the Department shall determine that the Agreement has been violated and take action according to the provisions under Section F.

(6) Rejection of Submissions

The Department may reject any information submitted after the deadlines set forth in this section or any information which it is unable to verify to its satisfaction. If information is not submitted in a complete

and timely fashion or is not fully verifiable, the Department may calculate normal value, NV, and/or U.S. price based on facts otherwise available, as it determines appropriate, unless the Department determines that Section F applies.

(E) Disclosure and Comment

(1) The Department may make available to representatives of each domestic party to the proceeding, under appropriately drawn administrative protective orders, business proprietary information submitted to the Department during reporting period as well as the results of its analysis under section 773 of the Act.

(2) Not later than February 20, May 20, August 20, and November 20 of each year, the Department will disclose to each producer/exporter the results and the methodology of the Department's calculations of its NV. At that time, the Department may also make available such information to the domestic parties to the proceeding, in accordance with this section.

(3) Not later than 7 days after the date of disclosure under paragraph E(2), the parties to the proceeding may submit written comments to the Department, not to exceed 15 pages. After reviewing these submissions, the Department will provide to each producer/exporter its NV as provided in paragraph C(2). In addition, the Department may provide such information to domestic interested parties as specified in this section.

(F) Violations of the Agreement

If the Department determines that the Agreement is being or has been violated or no longer meets the requirements of section 734(b) or (d) of the Act, the Department shall take action it determines appropriate under section 734(i) of the Act and the regulations. In the event that the Department determines that the investigation shall be resumed, it will be resumed on the basis of the original administrative record, and the statutes, regulations, policies, and practices in effect on the effective date of the Agreement.

(G) Other Provision

In entering into the Agreement, the signatory producers/exporters do not admit that any sales of the merchandise subject to the Agreement have been made at less than fair value.

(H) Termination

The Department will not consider requests for termination of this suspended investigation prior to October 2002. Termination will be conducted in accordance with section 351.222 of the Department's regulations.

Any producer/exporter may terminate the Agreement at any time upon notice to the Department. Termination shall be effective 60 days after such notice is given to the Department. Upon termination, the Department shall follow the procedures outlined in section 734(i)(1) of the Act.

(I) Definitions

For purposes of the Agreement, the following definitions apply:

(1) U.S. PRICE—means the export price or constructed export price at which

merchandise is sold by the producer or exporter to the first unaffiliated person in the United States, including the amount of any discounts, rebates, price protection or ship and debit adjustments, and other adjustments affecting the net amount paid or to be paid by the unaffiliated purchaser, as determined by the Department under section 772 of the Act.

(2) NORMAL VALUE—means the constructed value (CV) of the merchandise, as determined by the Department under section 773 of the Act and the corresponding sections of the Department's regulations, and as adjusted in accordance with Appendix A to this Agreement.

(3) PRODUCER/EXPORTER—means (1) the foreign manufacturer or producer, (2) the foreign producer or reseller which also exports, and (3) the affiliated person by whom or for whose account the merchandise is imported into the United States, as defined in section 771(28) of the Act.

(4) DATE OF SALE—means normally the date of the invoice as recorded in the exporter or producer's records kept in the ordinary course of business, unless the Department determines that a different date better reflects the date on which the exporter or producer establishes the material terms of sale, as determined by the Department under its regulations.

The effective date of the Agreement is October 24, 1997.

For the Republic of South African Producers/Exporters
Iscor Ltd.

Marcela B. Stras, Esq., Adduci, Mastriani & Schaumberg, LLP

Date
Highveld Steel and Vanadium Corp. Ltd.

Jeff Chegwiddden, Director & General Manager
Marketing

Date
For U.S. Department of Commerce

Robert S. LaRussa, Assistant Secretary for
Import Administration

Date
Appendix A—Cut-to-Length Carbon Steel Plate From the Republic of South Africa Principles of Cost

General Framework

The cost information reported to the Department that will form the basis of the NV calculations for purposes of the Agreement must be:

- Comprehensive in nature and based on a reliable accounting system (i.e., a system based on well-established standards that can be tied to the audited financial statements);
- Representative of the company's costs incurred for the general class of merchandise;
- Calculated on a quarterly weighted-average basis of the plants or cost centers manufacturing the product;
- Based on fully-absorbed costs of production, including any downtime;

- Valued in accordance with generally accepted accounting principles;
- Reflective of appropriately allocated common costs so that the costs necessary for the manufacturing of the product are not absorbed by other products; and
- Reflective of the actual cost of producing the product.

Additionally, a single figure should be reported for each cost component.

Cost of Manufacturing (COM)

Costs of manufacturing are reported by major cost category and for major stages of production. Weighted-average costs are used for a product that is produced at more than one facility, based on the cost at each facility.

Direct materials—cost of those materials which are input into the production process and physically become part of the final product.

Direct labor—cost identified with a specific product. These costs are not allocated among products except when two or more products are produced at the same cost center. Direct labor costs should include salary, bonus and overtime pay, training expenses, and all fringe benefits. Any contracted-labor expense should reflect the actual billed cost or the actual costs incurred by the subcontractor when the corporation has influence over the contractor.

Factory overhead—overhead costs include indirect materials, indirect labor, depreciation, and other fixed and variable expenses attributable to a production line or factory. Because overhead costs are typically incurred for an entire production line, an appropriate portion of those costs must be allocated to covered products, as well as any other products produced on that line.

Acceptable cost allocations can be based on labor hours or machine hours. Overhead costs should also reflect any idle or downtime and be fully absorbed by the products.

Cost of Production (COP)

Is equal to the sum of materials, labor, and overhead (COM) plus SG&A expenses in the home market (HM).

SG&A—those expenses incurred for the operation of the corporation as a whole and not directly related to the manufacture of a particular product. They include corporate general and administrative expenses, financing expenses, and general research and development expenses. Additionally, direct and indirect selling expenses incurred in the HM for sales of the product under investigation are included. Such expenses are allocated over cost of goods sold.

Constructed Value

Is equal to the sum of materials, labor and overhead (COM) and SG&A expenses plus profit in the comparison market and the cost of packing for exportation to the United States.

Calculation of Suspension Agreement NVs

NVs (for purposes of the Agreement) are calculated by adjusting the CV and are provided for both EP and CEP transactions. In effect, any expenses uniquely associated with the covered products sold in the HM are subtracted from the CV, and any such

expenses which are uniquely associated with the covered products sold in the United States are added to the CV to calculate the NV.

Export Price—Generally, a U.S. sale is classified as an export price sale when the first sale to an unaffiliated person occurs before the goods are imported into the United States. In cases where the foreign manufacturer knows or has reason to believe that the merchandise is ultimately destined for the United States, the manufacturer's sale is the sale subject to review. If, on the other hand, the manufacturer sold the merchandise to a foreign trader without knowledge of the trader's intention to export the merchandise to the United States, then the trader's first sale to an unaffiliated person is the sale subject to review. For EP NVs, the CV is adjusted for movement costs and differences in direct selling expenses such as commissions, credit, warranties, technical services, advertising, and sales promotion.

Constructed Export Price—Generally, a U.S. sale is classified as a constructed export price sale when the first sale to an unaffiliated person occurs after importation. However, if the first sale to the unaffiliated person is made by a person in the United States affiliated with the foreign exporter, constructed export price applies even if the sale occurs prior to importation, unless the U.S. affiliate performs only clerical functions in connection with the sale. For CEP NVs, the CV is adjusted similar to EP sales, with differences for adjustment to U.S. and HM indirect-selling expenses.

Home market direct-selling expenses—expenses that are incurred as a direct result of a sale. These include such expenses as commissions, advertising, discounts and rebates, credit, warranty expenses, freight costs, etc. Certain direct-selling expenses are treated individually. They include:

commission expenses—payments to unaffiliated parties for sales in the HM.
credit expenses—expenses incurred for the extension of credit to HM customers.
movement expenses—freight, brokerage and handling, and insurance expenses.

U.S. direct-selling expenses—the same as HM direct-selling expenses except that they are incurred for sales in the United States.

Movement expenses—additional expenses incidental to importation into the United States. These typically include U.S. inland freight, insurance, brokerage and handling expenses, U.S. Customs duties, and international freight.

U.S. indirect-selling expenses—include general fixed expenses incurred by the U.S. sales subsidiary or affiliated exporter for sales to the United States. They may also include a portion of indirect expenses incurred in the HM for export sales.

FOR EP TRANSACTIONS

| | |
|---|------------------------------------|
| + | direct materials |
| + | direct labor |
| + | factory overhead |
| = | Cost of Manufacturing |
| + | home market SG&A |
| = | Cost of Production |
| + | U.S. packing |
| + | Profit |
| = | Constructed Value |
| + | U.S. direct selling expense |
| + | U.S. commission expense |
| + | U.S. movement expense |
| + | U.S. credit expense |
| - | HM direct selling expense |
| - | HM commission expense ¹ |
| - | HM credit expense |
| = | NV for EP sales |

¹ If the company does not have HM commissions, HM indirect expenses are subtracted only up to the amount of the U.S. commissions.

FOR CEP TRANSACTIONS

| | |
|---|--|
| + | direct materials |
| + | direct labor |
| + | factory overhead |
| = | Cost of Manufacturing |
| + | home market SG&A |
| = | Cost of Production |
| + | U.S. packing |
| + | profit |
| = | Constructed Value |
| + | U.S. direct selling expense |
| + | U.S. indirect selling expense |
| + | U.S. commission expense |
| + | U.S. movement expense |
| + | U.S. credit expense |
| + | U.S. further manufacturing expenses (if any) |
| + | CEP profit |
| - | HM direct selling expense |
| - | HM commission expense |
| - | HM credit expense |
| = | NV for CEP sales |

[FR Doc. 97-30390 Filed 11-18-97; 8:45 am]

BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE

International Trade Administration

[A-823-808]

Notice of Final Determination of Sales at Less Than Fair Value: Certain Cut-to-Length Carbon Steel Plate From Ukraine

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

EFFECTIVE DATE: November 19, 1997.

FOR FURTHER INFORMATION CONTACT: Nithya Nagarajan at (202) 482-1324 or Eugenia Chu at (202) 482-3964, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

Comment 13: Wood

Respondents claim that the wood it utilizes in packing/loading was verified through invoices provided to the Department.

Petitioners argue that the Department should use its PAI information and conversion factor to value wood.

Department Position

Based on both Petitioners' and Respondents' submissions and briefs, we have used Respondents' value for softwood and applied Petitioners' conversion methodology to calculate a factor for wood packing. See *Final Determination Calculation Memorandum*, dated October 24, 1997.

Comment 14: Publicly Available Information (PAI)

Petitioners argue that the Department should use the factor value information contained in its submissions because this information is the only reliable PAI on the surrogate values of the factors, and because the information submitted by Respondents is based on an inappropriate surrogate country and is fraught with errors.

Respondents argue that the Department should not use Petitioners' PAI. Respondents argue that the Department should change its surrogate from Brazil to Poland (Comment 3). Respondents argue that much of the information on the record concerning material factors for Poland are UN statistics corresponding to the statistics submitted by Petitioners themselves for Brazil, as well as to statistics used by the Department in its preliminary determination.

Department Position

We do not agree with Petitioners' contention that its own publicly available information is the only reliable information for valuing factors. However, as stated throughout this notice, the Department has continued to use Brazil as the surrogate for the final determination. Therefore, whether the information on Poland is reliable is irrelevant, as we have only used PAI from Brazil to value factors in this investigation.

Continuation of Suspension of Liquidation

On October 24, 1997, the Department signed a suspension agreement with the Government of Ukraine (the Agreement). Therefore, we will instruct Customs to terminate the suspension of liquidation of all entries of cut-to-length carbon steel plate from Ukraine. Any cash deposits of entries of cut-to-length carbon steel plate from Ukraine shall be

refunded and any bonds shall be released.

On October 14, 1997, we received a request from Petitioners requesting that we continue the investigation. We received a separate request from the United Steelworkers of America, an interested party under section 771(9)(D) of the Act, on October 14, 1997. Pursuant to these requests, we have continued and completed the investigation in accordance with section 734(g) of the Act. We have found the following margins of dumping:

| Manufacturer/producer/exporter | Weight-average percentage margin |
|--------------------------------|----------------------------------|
| Azovstal | 81.43 |
| Ilyich | 155.00 |
| Ukraine-Wide Rate | 237.91 |

The Ukraine-wide rate applies to all entries of subject merchandise except for entries from Azovstal and Ilyich.

ITC Notification

In accordance with section 735(d) of the Act, we have notified the ITC of our determination. As our final determination is affirmative, the ITC will determine, within 45 days, whether these imports are causing material injury, or threat of material injury, to an industry in the United States. If the ITC's injury determination is negative, the agreement will have no force or effect, and the investigation shall be terminated. See section 734(f)(3)(A) of the Act. If, on the other hand, the Commission's determination is affirmative, the Agreement shall remain in force but the Department shall not issue an antidumping duty order so long as (1) the Agreement remains in force, (2) the Agreement continues to meet the requirements of subsection (d) and (1) of the Act, and the parties to the Agreement carry out their obligations under the Agreement in accordance with its terms. See section 734(f)(3)(B) of the Act.

This determination is published pursuant to section 735(d) of the Act.

Dated: October 24, 1997.

Robert S. LaRussa,

Assistant Secretary for Import Administration.

[FR Doc. 97-30391 Filed 11-18-97; 8:45 am]

BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE**International Trade Administration**

[A-823-808]

Suspension of Antidumping Duty Investigation: Certain Cut-to-Length Carbon Steel Plate From Ukraine

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

SUMMARY: The Department of Commerce (the Department) has suspended the antidumping duty investigation involving certain cut-to-length carbon steel plate (CTL plate) from Ukraine. The basis for this action is an agreement between the Department and the Government of Ukraine wherein the Government of Ukraine has agreed to restrict the volume of direct or indirect exports to the United States of CTL plate from all Ukrainian producers/exporters and to revise its prices to eliminate completely sales of this merchandise to the United States at less than fair value.

EFFECTIVE DATE: October 24, 1997.

FOR FURTHER INFORMATION CONTACT:

Nithya Nagarajan, or Eugenia Chu, Office of AD/CVD Enforcement III, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th & Constitution Avenue N.W., Washington, D.C. 20230; telephone (202) 482-1324, or (202) 482-3964 respectively.

SUPPLEMENTARY INFORMATION:**Background**

On December 3, 1996, the Department initiated an antidumping investigation under section 732 of the Tariff Act of 1930, (the Act), as amended, to determine whether imports of CTL plate from Ukraine are being or are likely to be sold in the United States at less than fair value (61 FR 64051 (December 3, 1996)). On December 19, 1996, the United States International Trade Commission (ITC) notified the Department of its affirmative preliminary injury determination (see ITC Investigation Nos. 731-TA-753-756). On June 11, 1997, the Department preliminarily determined that CTL plate is being, or is likely to be, sold in the United States at less than fair value (LTFV), as provided in section 733 of the Tariff Act of 1930, as amended by the Uruguay Round Agreements Act (62 FR 31958, (June 11, 1997)).

The Department and the Government of Ukraine initialed a proposed agreement suspending this investigation on September 24, 1997. On September 25, 1997, we invited interested parties

to provide written comments on the agreement and received comments from Geneva Steel, Gulf States Steel, Bethlehem Steel Corp., U.S. Steel Group, United Steel Workers of America, and the Government of Ukraine.

The Department and the Government of Ukraine signed the final suspension agreement on October 24, 1997.

Scope of Investigation

See Notice of Final Determination of Sales at Less Than Fair Value: Certain Cut-to-Length Carbon Steel Plate from Ukraine, signed on October 24, 1997.

Suspension of Investigation

The Department consulted with the parties to the proceeding and has considered the comments submitted with respect to the proposed suspension agreement. In accordance with Section 734 (l) of the Act, we have determined that the agreement will prevent the suppression or undercutting of price levels of domestic products by imports of the merchandise under investigation, that the agreement is in the public interest, and that the agreement can be monitored effectively. See Public Interest Memorandum, dated October 24, 1997. We find, therefore, that the criteria for suspension of an investigation pursuant to section 734(l) of the Act have been met. The terms and conditions of this agreement, signed October 24, 1997, are set forth in Annex 1 to this notice.

Pursuant to section 734(f)(2)(A) of the Act, the suspension of liquidation of all entries of cut-to-length carbon steel plate from Ukraine entered or withdrawn from warehouse, for consumption, as directed in our notice of "Preliminary Determination of Sales at Less Than Fair Value: Cut-to-Length Carbon Steel Plate from Ukraine" and "Postponement of the Final Determination: Cut-to-Length Carbon Steel Plate from Ukraine" is hereby terminated. Any cash deposits on entries of cut-to-length carbon steel plate from Ukraine pursuant to that suspension of liquidation shall be refunded and any bonds shall be released.

On October 14, 1997 we received a request from petitioners requesting that we continue the investigation. We received separate requests for continuation from Bethlehem Steel Corp., U.S. Steel Corp. (A Unit of USX Corporation), and the United Steelworkers of America, interested parties under section 771(9)(D) of the Act. Pursuant to these requests, we have completed the investigation in accordance with section 734(g) of the

Act, and have notified the International Trade Commission (ITC) of our determination. If the ITC's injury determination is negative, the agreement will have no force or effect, and the investigation will be terminated (see section 734(f)(3)(A) of the Act). If the ITC's determination is affirmative, the Department will not issue an antidumping duty order as long as the suspension agreement remains in force (see section 734(f)(3)(B) of the Act).

This notice is published pursuant to section 734(f)(1)(A) of the Act.

Dated: November 7, 1997.

Robert S. LaRussa,
Assistant Secretary for Import
Administration.

Agreement Suspending the Antidumping Investigation on Certain Cut-To-Length Carbon Steel Plate From Ukraine

For purposes of encouraging free and fair trade in certain cut-to-length carbon steel plate (CTL plate), establishing more normal market relations, and preventing the suppression or undercutting of price levels of the domestic products by imports of the merchandise subject to this Agreement, the United States Department of Commerce ("the Department") and the Government of Ukraine enter into this suspension agreement ("the Agreement").

Pursuant to this Agreement, the Government of Ukraine will restrict the volume of direct and indirect exports to the United States of CTL plate from all Ukrainian producers/exporters, subject to the terms and provisions set forth below.

On the basis of this Agreement, pursuant to the provisions of Section 734(l) of the Tariff Act of 1930, as amended, by the Uruguay Round Agreements Act, as effective on January 1, 1995 ("the Act") (19 U.S.C. 1673c(1)), the Department shall suspend its antidumping investigation with respect to CTL plate produced in Ukraine, subject to the terms and provisions set forth below. Further the Department will instruct the U.S. Customs Service ("Customs") to terminate the suspension of liquidation of, and release any cash deposit or bond posted on, CTL plate covered by this Agreement as of the effective date of this Agreement.

I. Definitions

For purposes of this Agreement, the following definitions apply:

A. "Date of Export" for imports of subject merchandise into the United States shall be considered the date the export license was issued.

B. "Parties to the Proceeding" means any interested party, within the meaning of section 353.2(k) of the Department's Regulations, which actively participates through written submissions of factual information or written argument.

C. "Indirect Exports" means arrangements as defined in Section III.E of this Agreement and exports from Ukraine through one or more third countries, whether or not such exports are further processed, insofar as they remain within the scope of the Agreement, and includes further processing which results in minor alterations, or under certain limited circumstances, as described in Section VII. G., further processing which results in substantial transformation as a result of an attempt to circumvent the Agreement, whether or not such exports are sold in one or more third countries prior to importation into the United States and whether or not the Ukrainian producer knew the product was destined to enter the United States.

D. For purposes of this Agreement, "United States" shall comprise the customs territory of the United States of America (the 50 States, the District of Columbia and Puerto Rico) and foreign trade zones located in the territory of the United States of America.

E. "For Consumption" means all CTL plate sold to customers, such as, trading companies, distributors, resellers, end-users, or service centers.

F. Customer means an entity, such as a steel service center, reseller, trading company, end-user, etc., which consumes CTL plate as defined in Section I.E.

G. "Date of Sale" is defined as the date on which price and quantity become firm, e.g.* the specification date or, in the case of a long-term contract, the date of contract, as recorded in the company's records kept in the ordinary course of business.

H. "Export License" is the document issued by the Ministry of Foreign Economic Relations ("MINFER") which must accompany all shipments of CTL plate from Ukraine to the United States, and must contain all of the information enumerated in the Appendix to this Agreement, except that Date of Entry and Final Destination may be omitted if unknown to the MINFER and the licensee. It shall be required for customs clearance into the United States.

I. "Reference Price" means the price calculated by the Department, as described in Section IV, on a quarterly basis to be used as a floor price for sales of Ukrainian CTL plate into the United States.

J. "Relevant Period" for the export limits of the Agreement means the period November 1, through October 31 of each year that the Agreement is in effect.

II. Product Coverage

The products covered by this Agreement include hot-rolled iron and non-alloy steel universal mill plates (i.e., flat-rolled products rolled on four faces or in a closed box pass, of a width exceeding 150 mm but not exceeding 1250 mm and of a thickness of not less than 4 mm, 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 iron and non-alloy steel flat-rolled products not in coils, 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 mm or more in thickness and of a width which exceeds 150 mm and measures at least twice the thickness. Included as subject merchandise in this Agreement 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. This merchandise is currently classified in the Harmonized Tariff Schedule of the United States (HTS) under item numbers 7208.40.3030, 7208.40.3060, 7208.51.0030, 7208.51.0045, 7208.51.0060, 7208.52.0000, 7208.53.0000, 7208.90.0000, 7210.70.3000, 7210.90.9000, 7211.13.0000, 7211.14.0030, 7211.14.0045, 7211.90.0000, 7212.40.1000, 7212.40.5000, 7212.50.0000. Although the HTS subheadings are provided for convenience and customs purposes, the written description of the scope of this Agreement is dispositive.

Specifically excluded from subject merchandise within the scope of this Agreement is grade X-70 steel plate.

III. Export Limits

A. The export limit for CTL plate for the first Relevant Period shall be 158,000 metric tons. Of this export limit not more than 20,000 metric tons may be utilized in selling CTL plate which is 0.375 inches or less in actual or nominal thickness. The parties also agree that an increase in the export limit for each subsequent Relevant Period shall be made under the following

circumstances: (1) The Government of Ukraine shall receive a 5 percent increase in the export limit for each subsequent Relevant Period if the weighted-average F.O.B. sales price for A36 plate over 0.375 inches exceeds the reference price by more than 5 percent during the most recently completed Relevant Period; (2) this increase in the export limit may be used only for exports of A36 plate which is over 0.375 inches in thickness; (3) the determination to increase the export limit for each subsequent Relevant Period will be made by the Department based on the Government of Ukraine's compliance with all relevant data reporting requirements.

B. No later than 60 days prior to the end of the first Relevant Period, the Department shall calculate an upward or downward adjustment to the next Relevant Period's export limit based upon changes in U.S. apparent consumption for steel plate. U.S. apparent consumption will be calculated using official statistics from the U.S. Census Bureau and data from the American Iron and Steel Institute regarding domestic shipments. The maximum adjustment will be plus or minus no more than 6 percent per Relevant Period, and will be calculated by comparing the most recent twelve months of data for U.S. apparent consumption available to the Department at the time of the calculation to the level of the previous corresponding twelve months of data. The Department will then apply the adjustment to the Relevant Period's export limit. The Department will similarly adjust the export limit every Relevant Period, and the effects of the adjustment will be cumulative. Deductions from the export limits shall be made based on the "Date of Export", as defined in Section I. MINFER will not issue Export Licenses accounting for more than sixty percent of the export limit for any Relevant Period during either semi-annual period within such Relevant Period.

C. On and after the effective date of this Agreement, the Government of Ukraine will restrict the volume of direct and indirect exports of CTL plate to the United States, and the transfer and withdrawal from inventory of CTL plate (consistent with the provisions of Section III.E), in accordance with the export limits then in effect.

D. Any export of CTL plate shall not when cumulated with all prior exports in such Relevant Period exceed the export limit for that Relevant Period.

E. Any inventories of CTL plate currently held in the United States by a Ukrainian legal entity and imported into

the United States between November 5, 1996 and the effective date of this Agreement will be subject to the following conditions:

1. Such inventories will not be transferred or withdrawn from inventory for consumption in the United States without an Export License issued by MINFER. Any such transfers or withdrawals from inventory shall be deducted from the export limits in effect at the time the Export License is issued.

2. A request for an Export License under this provision shall be accompanied by a report containing the information set forth in the Appendix to this Agreement.

F. Any arrangement involving the exchange, sale, or delivery of CTL plate products from Ukraine, whether or not further processed, to the degree it results in the sale or delivery in the United States of CTL plate from a country other than Ukraine, is subject to the requirements of Section V and will be counted toward the export limits. Any such transaction that does not comply with the requirements of Section V will be deducted from the export limits pursuant to Section VII.

G. Where CTL plate is imported into the United States and is subsequently re-exported or re-packaged and re-exported, the export limits shall be increased by the quantity of product re-exported. Such increase will be applicable to the Relevant Period corresponding to the time of such re-export. Such increase will be applied only after the Department receives, and has the opportunity to verify, evidence demonstrating original importation, any re-packaging, and subsequent exportation. The re-exported material must be identical to the imported material.

H. Export Licenses for a given Relevant Period may not be issued after the expiration of the Relevant Period, except that Export Licenses not so issued may be issued during the first three months of the following Relevant Period, up to a maximum of 15 percent of the export limit for that following Relevant Period. Such "carried-over" quota shall be counted against the export limits applicable to the previous Relevant Period.

Export Licenses for up to 15 percent of the export limits for a subsequent Relevant Period may be issued as early as 45 days prior to the beginning of the subsequent Relevant Period. Such "carried-back" quota shall be counted against the export limits applicable to the following Relevant Period.

IV. Reference Price

A. CTL plate will not be sold below the reference price. Each grade of CTL plate shall have its own reference price, and all such reference prices shall be calculated in the same manner.

B. The reference price issued quarterly by the Department shall be released by October 1, January 1, April 1, and July 1 of each year and shall be effective on November 1, February 1, May 1, and August 1, respectively. The reference price for the first Relevant Period is set forth in Section IV.C. of this Agreement and shall remain effective until revised by the Department pursuant to this paragraph IV:B. Either party is entitled to request consultations regarding the calculation of reference prices.

C. The reference price for the first Relevant Period shall be as follows:

| Grade of CTL plate | Reference price |
|--------------------|--------------------------|
| A36 | \$359.00 per metric ton. |
| A572 | 387.00 per metric ton. |
| A516 | 390.00 per metric ton. |
| API-2H | 530.00 per metric ton. |

The reference price for API-2Y will be determined at a later date.

Until such time as the Department and MINFER agree upon reference prices for other grades of CTL plate, only grades A36, A572, A516, and API-2H may be exported to the United States.

Best efforts will be made by the Department and MINFER to consult for the purpose of establishing reference prices for other grades of CTL plate by November 30, 1997.

D. For each subsequent Relevant Period the reference price will be adjusted on a quarterly basis to reflect the change in the BLS Producer Price Index for carbon steel plate for the most recent three months for which data is available preceding the date on which the reference price is issued.

If the last month of BLS PPI for the three-month period preceding the date on which the reference price is issued has fallen by more than 2.6 percent from the average of the first two months of the period the reference price will be adjusted on the basis of the PPI for the last month of the three-month period.

E. MINFER will ensure that with respect to merchandise covered by each Export License, the Ukrainian unit values of imports of CTL plate into the United States will equal or exceed the reference price at equivalent points in the transaction chain. The reference price will be at a level in the transaction chain as far upstream as possible (i.e.,

F.O.B.). MINFER will ensure that contracts and all relevant documentation will be available to the Department and will be subject to verification.

V. Export License

A. The Government of Ukraine will restrict the volume of direct and indirect exports of CTL plate to the United States by means of Export Licenses. Export Licenses shall be issued by MINFER for all direct and indirect exports of CTL plate to the United States in accordance with the export limits in section III and the reference price in section IV.

B. MINFER shall issue Export Licenses on a first-come-first-serve basis for all Ukrainian producers.

C. Before it issues an Export License, MINFER will ensure that the Relevant Period's export limit is not exceeded and that the price for the CTL plate is at or above the reference price.

D. MINFER shall take action, including the imposition of penalties, as may be necessary to make effective the obligations resulting from the price restrictions, export limits, and Export Licenses. MINFER will inform the Department, in writing, of any violations concerning the price restrictions, export limits, or Export Licenses which come to its attention and the action taken with respect thereto.

The Department will inform MINFER in writing of violations concerning the price restrictions, export limits or Export Licenses which come to its attention and the action taken with respect thereto.

E. Export Licenses will be issued sequentially, endorsed against the export limit for the Relevant Period, and will reference the report of quota allocation results for the appropriate Relevant Period.

F. Export Licenses must contain an English language translation.

G. On and after the effective date of this Agreement, the United States shall require presentation of an Export License as a condition for entry of CTL plate into the United States. The United States will prohibit the entry of any CTL plate not accompanied by an Export License.

H. The validity of Export License shall be six (6) months, except that no more than 90 days shall elapse between the date of issuance of the Export License and the date on which the merchandise is cleared through Ukrainian customs for export.

VI. Implementation

In order to effectively restrict the volume of exports of CTL plate to the

United States, the Government of Ukraine agrees to implement the following procedures no later than 90 days after the effective date of this Agreement, except as provided for in VI.A.:

A. Establish, through MINFER, an export licensing program for all exports of CTL plate to, or destined directly or indirectly for consumption in, the United States, as of the effective date of the Agreement.

B. Ensure compliance by any official Ukrainian institution, chamber, or other entities authorized by the Government of Ukraine, all producers, exporters, brokers, and traders of CTL plate, and their affiliated parties, as well as independent trading companies/resellers utilized by the Ukrainian producer to make sales to the United States, with all procedures established in order to effectuate this Agreement.

C. Collect information from all producers, exporters, brokers, and traders of the CTL plate to the United States, and their affiliated parties; as well as independent trading companies/resellers utilized by the Ukrainian producer, on the sale of the CTL plate, and report such information pursuant to Section VIII (A) of this Agreement.

D. The Government of Ukraine, by law, will prohibit direct and indirect exports to the United States of CTL plate except under Export Licenses issued pursuant to Section V.A and impose strict sanctions, such as penalties or prohibition from participation in the export limits allowed by the Agreement, in the event that any Ukrainian or Ukrainian-affiliated party does not comply in full with all terms of the Agreement.

E. Require that purchasers agree: Not to circumvent this Agreement; to report to MINFER any subsequent arrangement entered into for the sale, exchange, or loan to a person or entity in the United States of CTL plate purchased from Ukraine; and to include these same provisions in any subsequent contracts involving CTL plate purchased from Ukraine.

F. Prohibit direct and indirect exports to the United States of CTL plate which is not die-stamped with the mark of the producing mill and which is not marked with Ukraine as the country of origin.

VII. Anticircumvention

A. MINFER will take all appropriate measures under Ukrainian law to prevent circumvention of this Agreement. It shall respond promptly to conduct an inquiry into any and all allegations of circumvention, including allegations raised by the Department, and shall complete such inquiries in a

timely manner (normally within 45 days). MINFER shall notify the Department, in writing, of the results of its inquiries within ten days of the conclusion of such inquiries. Within 15 days of a request from the Department, MINFER shall share with the Department all information received or collected by MINFER regarding its inquiries, its analysis of such information and the results of such inquiries. MINFER will require all exporters of CTL plate to include a provision in their contracts for sales to countries other than the United States that the CTL plate sold through such contracts cannot be re-exported, transhipped, or swapped to the United States, or otherwise used to circumvent the export limits of this Agreement. MINFER will also establish appropriate mechanisms to enforce this requirement.

B. MINFER of Ukraine shall advise within one month after the effective date of this Agreement that all contracts for sales of CTL plate to third countries by Ukrainian producers/exporters shall include a clause which stipulates the following: that in the event that their customer sells the merchandise to another trading company it must provide the identity of the subsequent trading company to MINFER.

Given the critical need to prevent circumvention, both Governments agree to share information to the greatest extent their national legislation will allow. Therefore, MINFER agrees to use its maximum efforts to provide transaction specific data for all third country sales to the final end-user.

C. If, in an inquiry pursuant to paragraph A, MINFER determines that a Ukrainian company has participated in a transaction that resulted in circumvention of the export limits of this Agreement, then MINFER shall impose penalties on such company including, but not limited to, denial of access to the CTL plate quota. Additionally, MINFER shall deduct an amount of CTL plate equivalent to the amount involved in such circumvention from the export limit and shall immediately notify the Department, in writing, of the amount deducted. If sufficient tonnage is not available in the current Relevant Period, then the remaining amount necessary shall be deducted from the subsequent Relevant Period.

D. If MINFER determines that a company from a third country has circumvented the Agreement and the parties agree that no Ukrainian entity participated in or had knowledge of such activities, then the parties shall hold consultations for the purpose of

sharing evidence regarding such circumvention and reaching mutual agreement on the appropriate steps to be taken to eliminate such circumvention, such as MINFER prohibiting sales of Ukrainian CTL plate to the company responsible or reducing CTL plate exports to the country in question. If the parties are unable to reach a mutual agreement within 45 days, then the Department may take appropriate action, such as deducting the amount of CTL plate involved in such circumvention from the export limit, or instructing Customs to deny entry to any CTL plate sold by the entity found to be circumventing the Agreement, taking into account all relevant factors. Before taking such action, the Department will notify MINFER of the facts and the reasons constituting the basis for the Department's intended action and will afford MINFER ten days in which to comment.

E. If the Department determines that a Ukrainian/ or third country entity participated in circumvention, the parties shall hold consultations for the purpose of sharing evidence regarding such circumvention and reaching mutual agreement on an appropriate resolution of the problem. If the parties are unable to reach mutual agreement within 45 days, the Department may take appropriate action, such as deducting the amount of CTL plate involved in such circumvention from the export limit, or instructing Customs to deny entry to any CTL plate sold by the entity found to be circumventing the Agreement. Before taking such action, the Department will notify MINFER of the facts and reasons constituting the basis for the Department's intended action and will afford MINFER ten days in which to comment.

F. The Department shall direct the U.S. Customs Service to require all importers of CTL plate into the United States, regardless of stated country of origin, to submit at the time of entry a written statement certifying that the CTL plate being imported was not obtained under any arrangement, swap, or other exchange which would result in the circumvention of the export limits established by this Agreement. Where the Department has reason to believe that such a certification has been made falsely, the Department will refer the matter to U.S. Customs or the U.S. Department of Justice for further action.

G. Given the fungibility of the world steel market, the Department will take the following factors into account in distinguishing normal steel market arrangements, swaps, or other exchanges from arrangements, swaps, or other exchanges which would result in

the circumvention of the export limits established by this Agreement:

1. Existence of any verbal or written arrangements which would result in the circumvention of the export limits established by this Agreement;

2. Existence of any arrangement as defined in Section III.E that was not reported to the Department pursuant to Section VIII.A;

3. Existence and function of any subsidiaries or affiliates of the parties involved;

4. Existence and function of any historical and/or traditional trading patterns among the parties involved;

5. Deviations (and reasons for deviation) from the above patterns, including physical conditions of relevant steel producing facilities;

6. Existence of any payments unaccounted for by previous or subsequent deliveries, of any payments to one party for merchandise delivered or swapped by another party;

7. Sequence and timing of the arrangements; and

8. Any other information relevant to the transaction or circumstances.

H. "Swaps" include, but are not limited to:

Ownership swaps—involve the exchange of ownership of any type of CTL plate product(s), without physical transfer. These may include exchange of ownership of CTL plate products in different countries, so that the parties obtain ownership of products located in different countries; or exchange of ownership of CTL plate products produced in different countries so that the parties obtain ownership of products of different national origin.

Flag swaps—involve the exchange of indicia of national origin of CTL plate products without any exchange of ownership.

Displacement swaps—involve the sale or delivery of any type of steel product(s) from Ukraine to an intermediary country (or countries) which can be shown to have resulted in the ultimate delivery or sale into the United States of displaced CTL plate products of any type, regardless of the sequence of the transaction.

I. The Department will enter its determinations regarding circumvention into the record of the Agreement.

VIII. Monitoring

MINFER will provide to the Department such information as is necessary and appropriate to monitor the implementation of and compliance with the terms of this Agreement. The Department shall provide semi-annual reports to MINFER indicating the volume of imports of the CTL plate to

the United States, together with such additional information as is necessary and appropriate to monitor the implementation of this Agreement.

A. Reporting of Data

Beginning on the effective date of this Agreement, MINFER shall collect and provide to the Department the information set forth, in the agreed format, in the Appendix to this Agreement. All such information will be provided to the Department by the 15th of each month for exports to the United States occurring during the previous month. For exports to countries other than the United States and for home market sales, all such information will be provided to the Department by May 30 of each year for exports and home market sales during the period November 1 through April 30, and by November 30 of each year for exports and sales during May 1 through October 31, or within 90 days of a request made by the Department. All information will be subject to the verification provision identified in Section VIII.C of this Agreement. MINFER agrees to allow sales of CTL plate only through those brokers and trading companies which permit verification and full reporting of data. The Department may disregard any information submitted after the deadlines set forth in this Section or any information which it is unable to verify to its satisfaction.

Aggregate quantity and value of exports by HTS category to each third country will be provided to the Department by July 30 of each year for exports during the period November 1 through April 30 and by January 31 of each for exports during period May 1 through October 31.

Transaction-specific data for all third country sales will also be reported on the schedule provided above in the format provided in the Appendix. However, if the Department concludes that transaction-specific data is not necessary for a given period, it will notify MINFER at least 90 days before the reporting deadline that transaction-specific sales data need not be reported. If the Department determines that such data is relevant in connection with Section VII and requests information on transactions for one or more third countries during a period for which the Department waived complete reporting, MINFER will provide the data listed in the Appendix for those specific transactions within 90 days of the request.

MINFER will also report transaction-specific data for home market sales as specified in the Appendix to this Agreement.

Both governments recognize that effective monitoring of this Agreement may require that MINFER provide information additional to that which is identified above. Accordingly, the Department may establish additional reporting requirements, as appropriate, during the course of this Agreement. The Department shall provide notice to MINFER of any additional reporting requirements no later than 45 days prior to the period covered by such reporting requirements unless a shorter notice period is mutually agreed.

B. Other Sources for Monitoring

The Department will review publicly-available data as well as Customs Form 7501 entry summaries and other financial import data from the Bureau of the Census, on a monthly basis, to determine whether there have been imports that are inconsistent with the provisions of this Agreement.

The Department will monitor Bureau of the Census IM-115 computerized records, which include the quantity and value of each entry. Because these records do not provide other specific entry information, such as the identity of the producer/exporter which may be responsible for such sales, the Department may request the U.S. Customs Service to provide such information. The Department may request other additional documentation from the U.S. Customs Service.

The Department may also request the U.S. Customs Service to direct ports of entry to forward an Antidumping Report of Imports for entries of the CTL plate during the period this Agreement is in effect.

C. Verification

MINFER will permit full verification of all information affiliated to the administration of this Agreement, including verification of the Ukrainian producer and the trading companies/brokers utilized in making sales/shipments to the United States, on an annual basis or more frequently, as the Department deems necessary to ensure that the Government of Ukraine is in full compliance with the terms of the Agreement. Such verifications may take place in association with scheduled consultations whenever possible.

IX. Disclosure and Comment

A. The Department shall make available to representatives of each party to the proceeding under appropriately-drawn administrative protective orders consistent with the Department's Regulations business proprietary information submitted to the Department semi-annually or upon

request, and in any administrative review of this Agreement.

B. Not later than 30 days after the date of disclosure under Section VII.A, the parties to the proceeding may submit written comments to the Department, not to exceed 30 pages.

C. During the anniversary month of this Agreement, each party to the proceeding may request a hearing on issues raised during the preceding Relevant Period. If such a hearing is requested, it will be conducted in accordance with Section 751 of the Act (19 U.S.C. 1675) and applicable regulations.

X. Consultations

MINFER and the Department shall hold consultations regarding matters concerning the implementation, operation, including the calculation of reference prices, and/or enforcement of this Agreement. Such consultations will be held each year during the anniversary month of this Agreement. Additional consultations may be held at any other time upon request of either MINFER or the Department.

XI. Violations of the Agreement

A. Violation

"Violation" means noncompliance with the terms of this Agreement caused by an act or omission, in accordance with Section 353.19 of the Department's Regulations. Each party will inform the other party of any violations of the Agreement which come to their attention and the action taken with respect thereto.

Prior to making a determination of an alleged violation, the Department will engage in emergency consultations. Such consultations shall begin no later than 14 days from the day of request and shall provide for full review, but in no event will exceed 30 days. After consultations, the Department will provide MINFER 20 days within which to provide comments. The Department will make a determination within 30 days of the date established for submission of comments by MINFER.

B. Appropriate Action

If the Department determines that this Agreement is being or has been violated the Department will take such action as it determines is appropriate under 734(i) of the Act and Section 353.19 of the Department's Regulations.

XII. Duration

The export limit provided for in Section III of this Agreement shall remain in force from the effective date of this Agreement through November 1, 2002.

The Department will, upon receiving a proper request no later than November 1, 2001, conduct an administrative review under Section 751 of the Act. The Department expects to terminate this Agreement and the underlying investigation no later than November 1, 2002, provided that Ukraine has not been found to have violated the Agreement in any substantive manner. Such review and termination shall be conducted consistent with Section 353.25 of the Department's Regulations.

The Government of Ukraine may terminate this Agreement at any time upon notice to the Department. Termination shall be effective 60 days after such notice is given to the Department. Upon termination at the request of MINFER, the provisions of Section 734(i) of the Act shall apply.

XIII. Conditions

The Department recognizes that it may determine during the life of this Agreement that the Ukrainian CTL plate industry is a market-oriented industry, or that Ukraine is a market economy country. In either event, the Department may:

(a) Enter into a new suspension agreement under section 734(b) or 734(c) of the Act; or

(b) If the investigation was not completed under section 353.18(i) of the Department's regulations, afford MINFER a full opportunity to submit new information, and take such information into account in reaching its final determination—provided that all parties to the proceeding are given a full opportunity to submit factual information and argument in rebuttal; or

(c) If the investigation was completed under section 353.18(i), consider a request made no later than 30 days after termination of the Agreement to conduct a changed circumstances review under section 751 (b).

XIV. Other Provisions

A. In entering into this Agreement, MINFER does not admit that any sales of the merchandise subject to this Agreement have been made at less than fair value or that such sales have materially injured or threatened material injury to, an industry or industries in the United States.

B. The Department finds that this Agreement is in the public interest; that effective monitoring of this Agreement by the United States is practicable; and that this Agreement will prevent the suppression or undercutting of price levels of United States domestic CTL plate products by imports of the merchandise subject to this Agreement.

C. The Department does not consider any of the obligations concerning exports of CTL plate to the United States undertaken by MINFER pursuant to this Agreement relevant to the question of whether firms in the underlying investigation would be entitled to separate rates, should the investigation be resumed for any reason.

D. The English language version of this Agreement shall be controlling.

E. For all purposes hereunder, the Department and the signatory Government of Ukraine shall be represented by, an all communications and notices shall be given and addressed to:

Department of Commerce

U.S. Department of Commerce,
Assistant Secretary for Import
Administration, International Trade
Administration, Washington, DC
20230

Government of Ukraine

Ministry of Foreign Economic Relations
and Trade of Ukraine, 8 Livivska
Square, Kiev, GSP. 655,254655,
Ukraine

XV. Effective Date

The effective date of this Agreement suspending the antidumping investigation on CTL plate from Ukraine shall be October 24, 1997.

Signed on this 24 day of October, 1997.

For the U.S. Department of Commerce.

Robert S. LaRussa,
Assistant Secretary for Import
Administration.

For the Government of Ukraine.

Sergei Gryshchenko,
Deputy Minister for Ministry of Industrial
Policy.

Appendix

In accordance with the established format, MINFER shall collect and provide to the Department all information necessary to ensure compliance with this Agreement. This information will be provided to the Department on a semi-annual basis, or upon request.

MINFER will collect and maintain data on exports to the United States and to countries other than the United States, on a continuous basis and provide the prescribed information to the Department.

MINFER will report home market sales for those companies which represent substantially all of domestic production of CTL plate. For these companies, MINFER will report all home market sales of CTL plate for those grades listed in Section IV. C. Of the Agreement.

MINFER will provide a narrative explanation to substantiate all data collected in accordance with the following formats.

A. Report of Inventories

Report by location, the inventories of CTL plate held by an Ukrainian legal entity in the United States and imported into the United States during the period November 5, 1996, through the effective date of the Agreement.

1. Quantity: Indicate original units of measure (metric tons).
2. Location: Identify where the inventory is currently being held. Provide the name and address for the location.
3. Titled Party: Name and address of party who legally has beneficial title to the merchandise.
4. Contract Registration Number: Indicate the number(s) relating to each entry now being held in inventory.
5. Export License Number: Indicate the number(s) relating to each sale or entry.
6. Date of Original Export: Date the Export License is issued.
7. Date of Entry: Date the merchandise entered the United States or the date book transfer took place.
8. Original Importer: Name and address.
9. Original Exporter: Name and address.
10. Complete Description of Merchandise: Include heat numbers, HTS number, physical description, ASTM specification, and other available information.

B. Exports to the United States

MINFER will provide all Export Licenses issued to Ukrainian entities which shall contain the following information with the exception that information requested in item #9, date of entry, item 10, importer of record, and item #16, final destination may be omitted if unknown to MINFER and the licensee.

1. Export License Number(s): Indicate the number(s) relating to each sale and/or entry.
2. Complete Description of Merchandise: Include the 10 digit HTS category, and the ASTM or equivalent grade.
3. Quantity: Indicate in metric tons.
4. F.O.B. Sales Value: Indicate currency used.
5. Unit Price: Indicate per metric ton.
6. Date of Sale: The date all essential terms of order (i.e., price and quantity) become fixed.
7. Sales Order Number (s): Indicate the specification number/order number relating to each sale and/or shipment.
8. Date of Export: Date the export license is issued.
9. Date of Entry: Date the merchandise entered the United States or the date book transfer took place.
10. Importer of Record: Name and address.
11. Trading Company: Name and address of trading company involved in sale.
12. Customer: Name and address of the first unaffiliated party purchasing from the Ukrainian producer/exporter.
13. Customer Relationship: Indicate whether the customer is affiliated or unaffiliated to the Ukrainian producer/exporter.
14. Remaining Export Limit: Indicate the remaining export limit available to the Ukrainian producers during the Relevant Period.
15. Final Destination: The complete name and address of the end-user.

Customer Certification

MINFER shall ensure that all customers of the CTL plate shall certify that the merchandise imported into the United States pursuant to this Agreement shall not be loaned or swapped.

Mill Certification

MINFER shall ensure that all shipments of CTL plate exported to the United States pursuant to this Agreement, shall be accompanied by a copy of the original mill certification, which includes the heat number(s).

C. Sales to Countries Other Than the United States

Pursuant to Section VIII, paragraph A, MINFER will provide country-specific volume and value information for all exports of CTL plate to third countries.

1. Customs Export Declaration Number: Indicates the number(s) related to each shipment.
2. Quantity: Indicate in original units of measure sold and/or entered in metric tons.
3. Date of Sale: The date all essential terms of the order (i.e., price and quantity) become fixed.
4. Sales Order Number(s): Indicate the number(s) relating to each sale and/or entry.
5. Date of Export: Date of Export Certification is Issued.
6. Importer of Record: Name and address.
7. Customer: Name and address of the first unaffiliated party purchasing from the Ukrainian producer/exporter.
8. Customer Relationship: Indicate whether the customer is affiliated or unaffiliated.
9. Name of Vessel: Identity of the name of vessel for each shipment to third countries.
10. Other: The identity of any subsequent trading company in the transaction chain pursuant to Section VII.B.
11. Estimated Date of Entry: Date the merchandise entered the third country or the date a book transfer took place.

D. Home Market Sales

Pursuant to Section VIIIA., MINFER will provide home market sales data for those companies which represent substantially all of domestic production of CTL plate. For these companies, the MINFER will report all home market sales of CTL plate for those grades listed in Section IV. C. Of the Agreement.

1. Quantity: Indicate in original units of measure sold and/or entered in metric tons.
2. Date of Sale: The date all essential terms of the order (i.e., price and quantity) become fixed.
3. Sales Order Number(s): Indicate the number(s) relating to each sale.
4. Customer: Name and address of the first unaffiliated party purchasing from the Ukrainian producer.
5. Customer Relationship: Indicate whether the customer is affiliated or unaffiliated.

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DEPARTMENT OF COMMERCE**International Trade Administration**

[A-570-849]

Suspension of Antidumping Duty Investigation: Certain Cut-to-Length Carbon Steel Plate From the People's Republic of China

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

SUMMARY: The Department of Commerce (the Department) has suspended the antidumping investigation on cut-to-length carbon steel plate from the People's Republic of China (PRC). The basis for the suspension is an agreement by the Government of the PRC to restrict the volume of direct and indirect exports to the United States of cut-to-length carbon steel plate from all PRC producers/exporters and to revise its prices to eliminate completely sales of this merchandise to the United States at less than fair value.

EFFECTIVE DATE: October 24, 1997.

FOR FURTHER INFORMATION CONTACT: Edward Yang, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone: (202) 482-3910.

SUPPLEMENTARY INFORMATION:**Background**

On December 3, 1996, the Department initiated an antidumping investigation under section 732 of the Tariff Act of 1930, (the Act), as amended, to determine whether imports of CTL plate from the People's Republic of China are being or are likely to be sold in the United States at less than fair value (61 FR 64051 (December 3, 1996)). On December 19, 1996, the United States International Trade Commission (ITC) notified the Department of its affirmative preliminary threat of injury determination (see ITC Investigation Nos. 731-TA-756). On June 11, 1997, the Department preliminarily determined that CTL plate is being, or is likely to be, sold in the United States at less than fair value (LTFV), as provided in section 733 of the Tariff Act of 1930, as amended by the Uruguay Round Agreements Act (62 FR 31958, (June 11, 1997)).

The Department and the People's Republic of China initialed a proposed agreement suspending this investigation on September 24, 1997. On September 25, 1997, we invited interested parties to provide written comments on the agreement and received comments from

Geneva Steel, Gulf States Steel, Bethlehem Steel Corp., U.S. Steel Group, United Steel Workers of America, Liaoning, Anshan, Bao Steel, Shanghai Pudong and WISCO.

The Department and the Government of the People's Republic of China signed the final suspension agreement on October 24, 1997.

Scope of the Investigation

See Notice of *Final Determination of Sales at Less than Fair Value: Certain Cut-to-Length Carbon Steel Plate from the People's Republic of China*, signed on October 24, 1997.

Suspension of Investigation

The Department consulted with the parties to the proceeding and has considered the comments submitted with respect to the proposed suspension agreement. In accordance with Section 734 (l) of the Act, we have determined that the agreement will prevent the suppression or undercutting of price levels of domestic products by imports of the merchandise under investigation, that the agreement is in the public interest, and that the agreement can be monitored effectively. See *Public Interest Memorandum*, dated October 24, 1997. We find, therefore, that the criteria for suspension of an investigation pursuant to section 734(l) of the Act have been met. The terms and conditions of this Agreement, signed October 24, 1997, are set forth in Annex 1 to this notice.

Pursuant to section 734(f)(2)(A) of the Act, the suspension of liquidation of all entries of cut-to-length carbon steel plate from the People's Republic of China entered or withdrawn from warehouse, for consumption, as directed in our notice of "Preliminary Determination of Sales at Less Than Fair Value: Cut-to-Length Carbon Steel Plate from the People's Republic of China" and "Postponement of the Final Determination: Cut-to-Length Carbon Steel Plate from the People's Republic of China" is hereby terminated. Any cash deposits on entries of cut-to-length carbon steel plate from the People's Republic of China pursuant to that suspension of liquidation shall be refunded and any bonds shall be released.

On October 14, 1997, we received a request from petitioners requesting that we continue the investigation. We received separate requests for continuation from Bethlehem Steel Corp., U.S. Steel Corporation, and the United Steelworkers of America, interested parties under section 771(9)(D) of the Act. Pursuant to these requests, we have

completed the investigation in accordance with section 734(g) of the Act, and have notified the International Trade Commission (ITC) of our determination. If the ITC's injury determination is negative, the agreement will have no force or effect, and the investigation will be terminated (See section 734(f)(3)(A) of the Act). If the ITC's determination is affirmative, the Department will not issue an antidumping duty order as long as the suspension agreement remains in force (See section 734(f)(3)(B) of the Act).

This notice is published pursuant to section 734(f)(1)(A) of the Act.

Dated: November 7, 1997.

Robert S. LaRussa,

Assistant Secretary for Import Administration.

Annex 1—Agreement Suspending the Antidumping Investigation on Certain Cut-to-Length Carbon Steel Plate From the People's Republic of China

For purposes of encouraging free and fair trade in certain cut-to-length carbon steel plate (CTL plate), establishing more normal market relations, and preventing the suppression or undercutting of price levels of the domestic products by imports of the merchandise subject to this Agreement, the United States Department of Commerce ("the Department") and the Government of the People's Republic of China enter into this suspension agreement ("the Agreement").

Pursuant to this Agreement, the Government of the People's Republic of China will restrict the volume of direct and indirect exports to the United States of CTL plate from all Chinese producers/exporters, subject to the terms and provisions set forth below. For any of the deadlines mentioned in this Agreement, the Ministry of Foreign Trade and Economic Cooperation ("MOFTEC") may request an extension which will be considered by the Department if it is received in writing prior to the deadline in question and includes reasons for the extension.

On the basis of this Agreement, pursuant to the provisions of Section 734(1) of the Tariff Act of 1930, as amended, by the Uruguay Round Agreements Act, as effective on January 1, 1995 ("the Act") (19 U.S.C. 1673c(1)), the Department shall suspend its antidumping investigation with respect to CTL plate produced in the People's Republic of China, subject to the terms and provisions set forth below. Further, the Department will instruct the U.S. Customs Service ("Customs") to terminate the suspension of liquidation of, and release any cash deposit or bond

posted on, CTL plate covered by this Agreement as of the effective date of this Agreement.

I. Definitions

For purposes of this Agreement, the following definitions apply:

A. "Date of Export" for imports of CTL plate into the United States shall be considered the date the export license was issued.

B. "Parties to the Proceeding" means any interested party, within the meaning of section 353.2(k) of the Department's Regulations, which actively participates through written submissions of factual information or written argument.

C. "Indirect Exports" means arrangements as defined in Section III.E of this Agreement and exports from the People's Republic of China through one or more third countries, whether or not such exports are further processed, insofar as they remain within the scope of the Agreement, and includes further processing which results in minor alterations, or under certain limited circumstances, as described in Section VII. G., further processing which results in substantial transformation as a result of an attempt to circumvent the Agreement, whether or not such exports are sold in one or more third countries prior to importation into the United States and whether or not the Chinese producer knew the product was destined to enter the United States.

D. For purposes of this Agreement, "United States" shall comprise the customs territory of the United States of America (the 50 States, the District of Columbia and Puerto Rico) and foreign trade zones located in the territory of the United States of America.

E. "For Consumption" means all CTL plate sold to customers, such as, trading companies, distributors, resellers, end-users, or service centers.

F. Customer means an entity, such as a steel service center, reseller, trading company, end-user, etc., which consumes CTL plate as defined in Section I.E.

G. "Date of Sale" is defined as the date on which price and quantity become firm, e.g., the specification date or, in the case of a long-term contract, the date of contract, as recorded in the company's records kept in the ordinary course of business.

H. "Export License" is the document issued by the Ministry of Foreign Trade and Economic Cooperation ("MOFTEC") which must accompany all shipments of CTL plate from the People's Republic of China to the United States, and must contain all of the information enumerated in the

Appendix to this Agreement, except that the categories Date of Entry, Importer of Record, Final Destination, and Other may be omitted if unknown to the MOFTEC and the licensee. An export license shall be required for customs clearance into the United States.

I. "Reference Price" means the price calculated by the Department, as described in Section IV, on a quarterly basis to be used as a floor price for sales of Chinese CTL plate into the United States.

J. "Relevant Period" for the export limits of the Agreement means the period November 1, through October 31 of each year that the Agreement is in effect.

II. Product Coverage

The products covered by this Agreement include hot-rolled iron and non-alloy steel universal mill plates (i.e., flat-rolled products rolled on four faces or in a closed box pass, of a width exceeding 150 mm but not exceeding 1250 mm and of a thickness of not less than 4 mm, 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 iron and non-alloy steel flat-rolled products not in coils, 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 mm or more in thickness and of a width which exceeds 150 mm and measures at least twice the thickness. Included as subject merchandise in this Agreement 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. This merchandise is currently classified in the Harmonized Tariff Schedule of the United States (HTS) under item numbers 7208.40.3030, 7208.40.3060, 7208.51.0030, 7208.51.0045, 7208.51.0060, 7208.52.0000, 7208.53.0000, 7208.90.0000, 7210.70.3000, 7210.90.9000, 7211.13.0000, 7211.14.0030, 7211.14.0045, 7211.90.0000, 7212.40.1000, 7212.40.5000, 7212.50.0000. Although the HTS subheadings are provided for convenience and customs purposes, the written description of the scope of this Agreement is dispositive.

Specifically excluded from subject merchandise within the scope of this Agreement is grade X-70 steel plate.

III. Export Limit

A. The export limit for CTL plate for the first Relevant Period shall be 150,000 metric tons. Until such time as reference prices are agreed to for other grades, only grade A36 may be exported. Of this export limit, not more than 25,000 metric tons may be utilized in selling CTL plate which is 0.375 inches or less in actual or nominal thickness, and not more than 25,000 metric tons may be utilized in selling CTL plate which is three inches or more in actual or nominal thickness. No later than 60 days prior to the end of the first Relevant Period, the Department shall calculate an upward or downward adjustment to the next Relevant Period's quota based upon changes in U.S. apparent consumption for steel plate. U.S. apparent consumption will be calculated using official statistics from the U.S. Census Bureau and data from the American Iron and Steel Institute regarding domestic shipments. The maximum adjustment will be plus or minus no more than 6 percent per Relevant Period, and will be calculated by comparing the most recent twelve months of data for U.S. apparent consumption available to the Department at the time of the calculation to the level of the previous corresponding twelve months of data. The Department will then apply the adjustment to the Relevant Period's export limit. The Department will similarly adjust the export limit every Relevant Period, and the effects of the adjustment will be cumulative. Deductions from the export limits shall be made based on the "Date of Export", as defined in Section I. No more than sixty percent of the export limit for any Relevant Period may be licensed during each half (six-month period) within a given Relevant Period.

B. On and after the effective date of this Agreement, the Government of the People's Republic of China will restrict the volume of direct and indirect exports of CTL plate to the United States, and the transfer and withdrawal from inventory of CTL plate (consistent with the provisions of Section III.D), in accordance with the export limits then in effect.

C. Export licenses may not be issued for more than the entire amount of quota allocated in any given Relevant Period. Any CTL plate exported during a Relevant Period shall not when cumulated with all prior exports in such Relevant Period exceed the export limit for that Relevant Period.

D. Any inventories of CTL plate currently held in the United States by a Chinese legal entity and imported into the United States between November 5, 1996 and the effective date of this Agreement will be subject to the following conditions:

1. Such inventories will not be transferred or withdrawn from inventory for consumption in the United States without an Export License issued by MOFTEC. Any such transfers or withdrawals from inventory shall be deducted from the export limits in effect at the time the Export License is issued.

2. A request for an Export License under this provision shall be accompanied by a report containing the information set forth in the Appendix to this Agreement.

E. Any arrangement involving the exchange, sale, or delivery of CTL plate products from the People's Republic of China, whether or not further processed, to the degree it results in the sale or delivery in the United States of CTL plate from a country other than the People's Republic of China, is subject to the requirements of Section V and will be counted toward the export limits. Any such transaction that does not comply with the requirements of Section V will be deducted from the export limits pursuant to Section VII.

F. Where CTL plate is imported into the United States and is subsequently re-exported or re-packaged and re-exported, the export limits shall be increased by the quantity of product re-exported. Such increase will be applicable to the Relevant Period corresponding to the time of such re-export. Such increase will be applied only after the Department receives, and has the opportunity to verify, evidence demonstrating original importation, any re-packaging, and subsequent exportation. The re-exported material must be identical to the imported material.

G. Export Licenses for a given Relevant Period may not be issued after the expiration of the Relevant Period, except that Export Licenses not so issued may be issued during the first three months of the following Relevant Period, up to a maximum of 15 percent of the export limit for that following Relevant Period. Such "carried-over" quota shall be counted against the export limits applicable to the previous Relevant Period.

Export Licenses for up to 15 percent of the export limits for a subsequent Relevant Period may be issued as early as 45 days prior to the beginning of the subsequent Relevant Period. Such "carried-back" quota shall be counted

against the export limits applicable to the following Relevant Period.

H. For the first 90 days after the effective date of this Agreement, CTL plate shall be admitted into the United States with a temporary Export License.

The volume of any such imports will be deducted from the export limits applicable to the first Relevant Period. A full reporting of any such imports, which must correspond to the United States sales information detailed in the Appendix to this Agreement, must be submitted to the Department no later than 30 days after the conclusion of the 90 day period. This data must be sorted on the basis of date of export and must be set forth on a transaction-specific basis.

IV. Reference Price

A. CTL plate will not be sold below the reference price on the date of sale. Each grade of CTL plate shall have its own reference price, and all such reference prices shall be calculated in the same manner.

B. The reference price issued quarterly by the Department shall be released by October 1, January 1, April 1, and July 1 of each year and shall be effective on November 1, February 1, May 1, and August 1, respectively. The reference price for the first Relevant Period is set forth in Section IV.C. of this Agreement and shall remain effective until revised by the Department pursuant to this paragraph IV.B. Either party is entitled to request consultations regarding the calculation of reference prices.

C. The reference price for the first Relevant Period shall be as follows:

| Grade of CTL plate | Reference price |
|--------------------|--------------------------|
| A36 | \$350.00 per metric ton. |

D. For each subsequent Relevant Period, the reference price will be adjusted on a quarterly basis to reflect the change in the BLS Producer Price Index for carbon steel plate for the most recent three months for which data is available preceding the date on which the reference price is issued. If the last month of the BLS PPI for carbon steel plate for the three-month period preceding the date on which the reference price is issued has fallen by more than 2.6 percent from the average of the first two months of the quarter, the reference price will be adjusted on the basis of the BLS PPI for carbon steel plate for the last month of the three-month period.

E. MOFTEC will ensure that, with respect to merchandise covered by each

Export License, the Chinese unit values of imports of CTL plate into the United States will equal or exceed the reference price at equivalent points in the transaction chain. The reference price will be at a level in the transaction chain as far upstream as possible (i.e., F.O.B Chinese ocean port, (excluding Hong Kong)). MOFTEC will ensure that contracts and all relevant documentation will be available to the Department and will be subject to verification.

F. CTL plate imported after the effective date of the Agreement, exported from the People's Republic of China prior to October 24, 1997 and sold pursuant to a contract in effect on or before August 31, 1997, in which the price to the first unrelated purchaser in the United States is fixed at a specific and definite amount with respect to the import at issue, shall not be subject to reference price restrictions. Consistent with Section III.H, the volume of such imports shall be deducted from the export limits.

V. Export License

A. MOFTEC will restrict the volume of direct and indirect exports of CTL plate to the United States by means of annual quota allocations and Export Licenses. Export Licenses shall be issued by MOFTEC for all direct and indirect exports of CTL plate to the United States in accordance with the export limits in section III and the reference price in section IV.

B. Thirty days following the annual allocation of quota rights for any Relevant Period, MOFTEC shall provide to the Department a written report identifying each quota recipient and the volume of quota which each recipient has been accorded ("report of quota allocation results"). MOFTEC may reallocate the volume of quota among quota recipients without prior approval from the Department, but must inform the Department in writing within thirty days of such reallocation.

C. Before it issues an Export License, MOFTEC will ensure that the Relevant Period's export limit is not exceeded and that the price for the CTL plate is at or above the reference price on the date of sale. The quantity specified on each export license may vary up to ten percent above or below the quantity actually shipped under that license. MOFTEC, however, will ensure that the total amount of CTL plate shipped under such licenses does not exceed the export limit for the Relevant Period.

D. MOFTEC shall take action, including the imposition of penalties, as may be necessary to make effective the obligations resulting from the price

restrictions, export limits, and Export Licenses. MOFTEC will inform the Department, in writing, of any violations concerning the price restrictions, export limits, or Export Licenses which come to its attention and the action taken with respect thereto.

The Department will inform MOFTEC in writing of violations concerning the price restrictions, export limits, and/or Export Licenses which come to its attention and the action taken with respect thereto.

E. Export Licenses will be issued sequentially, endorsed against the export limit for the Relevant Period, and will reference the report of quota allocation results for the appropriate Relevant Period.

F. Export Licenses must be issued no earlier than 90 days before the day on which the merchandise is accepted by a transportation company, as indicated in the bill-of-lading or a comparable transportation document, for export. Export Licenses must contain an English language translation.

G. On and after the effective date of this Agreement, the United States shall require presentation of an Export License as a condition for entry of CTL plate into the United States. The United States will prohibit the entry of any CTL plate not accompanied by an Export License.

H. For purposes of this Agreement, the duration of the validity of the Export License will be a period of 180 days.

VI. Implementation

In order to effectively restrict the volume of exports of CTL plate to the United States, MOFTEC agrees to implement the following procedures no later than 90 days after the effective date of this Agreement.

A. Establish, through MOFTEC, an export licensing program for all exports of CTL plate to, or destined directly or indirectly for consumption in, the United States.

B. Ensure compliance by any official Chinese institution, chamber, or other entities authorized by the Government of the People's Republic of China, all producers, exporters, brokers, and traders of CTL plate, and their affiliated parties, as well as independent trading companies/resellers utilized by the Chinese producer to make sales to the United States, with all procedures established in order to effectuate this Agreement.

C. Collect information from all producers, exporters, brokers, and traders of the CTL plate to the United States, and their affiliated parties; as well as independent trading companies/

resellers utilized by the Chinese producer, on the sale of the CTL plate, and report such information pursuant to Section VIII(A) of this Agreement.

D. Prohibit, by law, direct and indirect exports to the United States of CTL plate except under Export Licenses issued pursuant to Section V.A and impose strict sanctions, such as penalties or prohibition from participation in the export limits allowed by the Agreement, in the event that any Chinese or Chinese-affiliated party does not comply in full with all terms of the Agreement.

E. Require that purchasers agree: not to circumvent this Agreement; to report to MOFTEC any subsequent arrangement(s) entered into for the sale, exchange, or loan to a person or entity in the United States of CTL plate purchased from the People's Republic of China; and to ensure that these same provisions are included in any subsequent contracts involving CTL plate purchased from the People's Republic of China.

F. Prohibit direct and indirect exports to the United States of CTL plate which is not die-stamped with the mark of the producing mill and which is not marked with the People's Republic of China as the country of origin.

VII. Anticircumvention

A. MOFTEC will take all appropriate measures under Chinese law to prevent circumvention of this Agreement. It shall respond promptly to conduct an inquiry into any and all allegations of circumvention, including allegations raised by the Department, and shall complete such inquiries in a timely manner (normally within 45 days). MOFTEC shall notify the Department, in writing, of the results of its inquiries within ten days of the conclusion of such inquiries. Within 15 days of a request from the Department, MOFTEC shall share with the Department all information received or collected by MOFTEC regarding its inquiries, its analysis of such information and the results of such inquiries. MOFTEC will require all exporters of CTL plate to include a provision in their contracts for sales to countries other than the United States that the CTL plate sold through such contracts cannot be re-exported, transhipped, or swapped to the United States, or otherwise used to circumvent the export limits of this Agreement. MOFTEC will also establish appropriate mechanisms to enforce this requirement.

B. MOFTEC shall advise within one month after the effective date of this Agreement that all contracts for sales of CTL plate to third countries by Chinese

producers/exporters shall include a clause which stipulates the following: that in the event that their customer sells the merchandise to another trading company it must provide the identity of the subsequent trading company to the Government of the People's Republic of China.

Given the critical need to prevent circumvention, both Governments agree to share information to the greatest extent their national legislation will allow. Therefore, MOFTEC agrees to use its maximum efforts to provide transaction specific data for all third country sales to the final end-user.

C. If, in an inquiry pursuant to paragraph A, MOFTEC determines that a Chinese company has participated in a transaction that resulted in circumvention of the export limits of this Agreement, then MOFTEC shall impose penalties on such company including, but not limited to, denial of access to the CTL plate quota. Additionally, MOFTEC shall deduct an amount of CTL plate equivalent to the amount involved in such circumvention from the export limit and shall immediately notify the Department, in writing, of the amount deducted. If sufficient tonnage is not available in the current Relevant Period, then the remaining amount necessary shall be deducted from the subsequent Relevant Period.

D. If MOFTEC determines that a company from a third country has circumvented the Agreement and the parties agree that no Chinese entity participated in or had knowledge of such activities, then the parties shall hold consultations for the purpose of sharing evidence regarding such circumvention and reaching mutual agreement on the appropriate steps to be taken to eliminate such circumvention, such as MOFTEC prohibiting sales of Chinese CTL plate to the company responsible or reducing CTL plate exports to the country in question. If the parties are unable to reach a mutual agreement within 45 days, then the Department may take appropriate action, such as deducting the amount of CTL plate involved in such circumvention from the export limit, or instructing Customs to deny entry to any CTL plate sold by the entity found to be circumventing the Agreement, taking into account all relevant factors. Before taking such action, the Department will notify MOFTEC of the facts and the reasons constituting the basis for the Department's intended action and will afford MOFTEC ten days in which to comment.

E. If the Department determines that a Chinese or third country entity

participated in circumvention, the parties shall hold consultations for the purpose of sharing evidence regarding such circumvention and reaching mutual agreement on an appropriate resolution of the problem. If the parties are unable to reach mutual agreement within 45 days, the Department may take appropriate action, such as deducting the amount of CTL plate involved in such circumvention from the export limit, or instructing Customs to deny entry to any CTL plate sold by the entity found to be circumventing the Agreement. Before taking such action, the Department will notify MOFTEC of the facts and reasons constituting the basis for the Department's intended action and will afford MOFTEC ten days in which to comment.

F. The Department shall direct the U.S. Customs Service to require all importers of CTL plate into the United States, regardless of stated country of origin, to submit at the time of entry a written statement certifying that the CTL plate being imported was not obtained under any arrangement, swap, or other exchange which would result in the circumvention of the export limits established by this Agreement. Where the Department has reason to believe that such a certification has been made falsely, the Department will refer the matter to Customs or the Department of Justice for further action.

G. Given the fungibility of the world steel market, the Department will take the following factors into account in distinguishing normal steel market arrangements, swaps, or other exchanges from arrangements, swaps, or other exchanges which would result in the circumvention of the export limits established by this Agreement:

1. Existence of any verbal or written arrangements which would result in the circumvention of the export limits established by this Agreement;
2. Existence of any arrangement as defined in Section III.E that was not reported to the Department pursuant to Section VIII.A;
3. Existence and function of any subsidiaries or affiliates of the parties involved;
4. Existence and function of any historical and/or traditional trading patterns among the parties involved;
5. Deviations (and reasons for deviation) from the above patterns, including physical conditions of relevant steel producing facilities;
6. Existence of any payments unaccounted for by previous or subsequent deliveries, or any payments to one party for merchandise delivered or swapped by another party;

7. Sequence and timing of the arrangements; and

8. Any other information relevant to the transaction or circumstances.

H. "Swaps" include, but are not limited to:

Ownership swaps—involve the exchange of ownership of any type of CTL plate product(s), without physical transfer. These may include exchange of ownership of CTL plate products in different countries, so that the parties obtain ownership of products located in different countries; or exchange of ownership of CTL plate products produced in different countries, so that the parties obtain ownership of products of different national origin.

Flag swaps—involve the exchange of indicia of national origin of CTL plate products, without any exchange of ownership.

Displacement swaps—involve the sale or delivery of any type of steel product(s) from the People's Republic of China to an intermediary country (or countries) which can be shown to have resulted in the ultimate delivery or sale into the United States of displaced CTL plate products of any type, regardless of the sequence of the transaction. Two years after the effective date of this Agreement, this provision with regard to displacement swaps will cease to exist unless the Department determines that there has been evidence of displacement swaps during the preceding two years.

I. The Department will enter its determinations regarding circumvention into the record of the Agreement.

VIII. Monitoring

MOFTEC will provide to the Department such information as is necessary and appropriate to monitor the implementation of and compliance with the terms of this Agreement. The Department shall provide semi-annual reports to MOFTEC indicating the volume of imports of the CTL plate to the United States, together with such additional information as is necessary and appropriate to monitor the implementation of this Agreement.

A. Reporting of Data

Beginning on the effective date of this Agreement, MOFTEC shall collect and provide to the Department the information set forth, in the agreed format, in the Appendix to this Agreement. All such information will be provided to the Department by May 30 of each year for exports and aggregate home market sales during the period November 1 through April 30, and by November 30 of each year for exports during the period May 1 through October 31, or within 90 days of a

request made by the Department. MOFTEC agrees to provide transaction-specific information for home market sales upon demand, within 30 days of a request made by the Department. Such information will be subject to the verification provision identified in Section VIII.C of this Agreement. MOFTEC agrees to allow sales of CTL plate only through those brokers and trading companies which permit verification and full reporting of data. The Department may disregard any information submitted after the deadlines set forth in this Section or any information which it is unable to verify to its satisfaction.

Aggregate quantity and value of exports by HTS category to each third country will be provided to the Department by July 30 of each year for exports during the period November 1 through April 30 and by January 31 of each year for exports during period May 1 through October 31.

Transaction-specific data for all third country sales will also be reported on the schedule provided above in the format provided in the Appendix. However, if the Department concludes that transaction-specific data is not necessary for a given period, it will notify MOFTEC at least 90 days before the reporting deadline that transaction-specific sales data need not be reported. If the Department determines that such data is relevant in connection with Section VII and requests information on transactions for one or more third countries during a period for which the Department waived complete reporting, MOFTEC will provide the data listed in the Appendix for those specific transactions within 90 days of the request.

Both governments recognize that effective monitoring of this Agreement may require that MOFTEC provide information additional to that which is identified above. Accordingly, the Department may establish additional reporting requirements, as appropriate, during the course of this Agreement. The Department shall provide notice to MOFTEC of any additional reporting requirements no later than 45 days prior to the period covered by such reporting requirements unless a shorter notice period is mutually agreed.

B. Other Sources for Monitoring

The Department will review publicly-available data as well as Customs Form 7501 entry summaries and other official import data from the Bureau of the Census, on a monthly basis, to determine whether there have been imports that are inconsistent with the provisions of this Agreement.

The Department will monitor Bureau of the Census IM-115 computerized records, which include the quantity and value of each entry. Because these records do not provide other specific entry information, such as the identity of the producer/exporter which may be responsible for such sales, the Department may request the U.S. Customs Service to provide such information. The Department may request other additional documentation from the U.S. Customs Service.

The Department may also request the U.S. Customs Service to direct ports of entry to forward an Antidumping Report of Importations for entries of the CTL plate during the period this Agreement is in effect.

C. Verification

MOFTEC will permit full verification of all information affiliated to the administration of this Agreement, including verification of the Chinese producer and the trading companies/brokers utilized in making sales/shipments to the United States, on an annual basis or more frequently, as the Department deems necessary to ensure that the Government of the People's Republic of China is in full compliance with the terms of the Agreement. Such verifications may take place in association with scheduled consultations whenever possible.

IX. Disclosure and Comment

A. The Department shall make available to representatives of each party to the proceeding, under appropriately-drawn administrative protective orders consistent with the Department's Regulations, business proprietary information submitted to the Department semi-annually or upon request, and in any administrative review of this Agreement.

B. Not later than 30 days after the date of disclosure under Section VII.A, the parties to the proceeding may submit written comments to the Department, not to exceed 30 pages.

C. During the anniversary month of this Agreement, each party to the proceeding may request a hearing on issues raised during the preceding Relevant Period. If such a hearing is requested, it will be conducted in accordance with Section 751 of the Act (19 U.S.C. 1675) and applicable regulations.

X. Consultations

MOFTEC and the Department shall hold consultations regarding matters concerning the implementation, operation, including the calculation of reference prices, and/or enforcement of

this Agreement. Such consultations will be held each year during the anniversary month of this Agreement. Additional consultations may be held at any other time upon request of either MOFTEC or the Department.

XI. Violations of the Agreement

A. Violation

"Violation" means noncompliance with the terms of this Agreement caused by an act or omission, in accordance with Section 353.19 of the Department's Regulations.

Each party will inform the other party of any violations of the Agreement which come to their attention and the action taken with respect thereto.

Exports in excess of the export limits set out in this Agreement shall not be considered a violation of the Agreement or an indication that the Agreement no longer meets the requirements of U.S. laws and regulations where such exports are inconsequential, inadvertent, and are applied against the export limits of the following Relevant Period.

Prior to making a determination of an alleged violation, the Department will engage in emergency consultations. Such consultations shall begin no later than 14 days from the day of request and shall provide for full review, but in no event will exceed 30 days. After consultations, the Department will provide MOFTEC 20 days within which to provide comments. The Department will make a determination within 30 days of the date established for submission of comments by MOFTEC.

B. Appropriate Action

If the Department determines that this Agreement is being or has been violated, the Department will take such action as it determines is appropriate under 734(i) of the Act and Section 353.19 of the Department's Regulations.

XII. Duration

The export limits provided for in Section III of this Agreement shall remain in force from the effective date of this Agreement through November 1, 2002.

The Department will, upon receiving a proper request no later than November 1, 2001, conduct an administrative review under Section 751 of the Act. The Department expects to terminate this Agreement and the underlying investigation no later than November 1, 2002, provided that the People's Republic of China has not been found to have violated the Agreement in any substantive manner. Such review and termination shall be conducted

consistent with section 353.25 of the Department's Regulations.

The Government of the People's Republic of China may terminate this Agreement at any time upon notice to the Department. Termination shall be effective 60 days after such notice is given to the Department. Upon termination at the request of MOFTEC, the provisions of Section 734(i) of the Act shall apply.

XIII. Conditions

The Department recognizes that it may determine during the life of this Agreement that the Chinese CTL plate industry is a market-oriented industry, or that the People's Republic of China is a market economy country. In either event, the Department may:

(a) Enter into a new suspension agreement under Section 734(b) or 734(c) of the Act; or

(b) If the investigation was not completed under section 353.18(i) of the Department's regulations, afford MOFTEC a full opportunity to submit new information, and take such information into account in reaching its final determination—provided that all parties to the proceeding are given a full opportunity to submit factual information and argument in rebuttal; or

(c) If the investigation was completed under section 353.18(i), consider a request made no later than 30 days after termination of the Agreement to conduct a changed circumstances review under Section 751(b).

XIV. Other Provisions

A. In entering into this Agreement, MOFTEC does not admit that any sales of CTL plate subject to this Agreement have been made at less than fair value or that such sales have materially injured, or threatened material injury to, an industry or industries in the United States.

B. The Department finds that this Agreement is in the public interest; that effective monitoring of this Agreement by the United States is practicable; and that this Agreement will prevent the suppression or undercutting of price levels of United States domestic CTL plate products by imports of the merchandise subject to this Agreement.

C. The Department does not consider any of the obligations concerning exports of CTL plate to the United States undertaken by MOFTEC pursuant to this Agreement relevant to the question of whether firms in the underlying investigation would be entitled to separate rates, should the investigation be resumed for any reason.

D. The English language version of this Agreement shall be controlling.

E. For all purposes hereunder, the Department and the signatory Government of the People's Republic of China shall be represented by, and all communications and notices shall be given and addressed to:

U.S. Department of Commerce,
Assistant Secretary for Import
Administration, International Trade
Administration, Washington, D.C.
20230

Government of the People's Republic of
China, Ministry of Foreign Trade and
Economic Cooperation of the People's
Republic of China, Beijing 100731

XV. Effective Date

The effective date of this Agreement suspending the antidumping investigation on CTL plate from the People's Republic of China shall be October 24, 1997.

Signed on this 24th day of October, 1997.

For the U.S. Department of Commerce.

Robert S. LaRussa,
*Assistant Secretary for Import
Administration.*

For the Government of the People's
Republic of China.

Shi Jianxin,
*Minister Counsellor, Embassy of the People's
Republic of China.*

Appendix

In accordance with the established format, MOFTEC shall collect and provide to the Department all information necessary to ensure compliance with this Agreement. This information will be provided to the Department on a semi-annual basis, or upon request.

MOFTEC will collect and maintain data on exports to the United States, and to countries other than the United States, on a continuous basis and provide the prescribed information to the Department.

MOFTEC will report the aggregate volume and value of home market sales of CTL plate for those companies which exported to the United States in the same reporting period as specified in Section VIII.A. For these companies, MOFTEC will report the aggregate home market sales of CTL plate for the grade listed in Section IV. C. of the Agreement. Upon demand, MOFTEC will provide the information requested in the "Home Market Sales" section.

MOFTEC will provide a narrative explanation to substantiate all data collected in accordance with the following formats.

Report of Inventories

Report, by location, the inventories of CTL plate held by a Chinese legal entity in the United States and imported into the United States during the period November 5, 1996, through the effective date of the Agreement.

1. Quantity: Indicate original units of measure (metric tons).

2. Location: Identify where the inventory is currently being held. Provide the name and address for the location.

3. Titled Party: Name and address of party who legally has beneficial title to the merchandise.

4. Contract Registration Number: Indicate the number(s) relating to each entry now being held in inventory.

5. Export License Number: Indicate the number(s) relating to each sale or entry.

6. Date of Original Export: Date the Export License is issued.

7. Date of Entry: Date the merchandise entered the United States or the date book transfer took place.

8. Original Importer: Name and address.

9. Original Exporter: Name and address.

10. Complete Description of Merchandise: Include heat numbers, HTS number, physical description, ASTM specification, and other available information.

Exports to the United States

MOFTEC will provide all Export Licenses issued to Chinese entities which shall contain the following information with the exception that information requested in item #9, date of entry, item #10, Importer of Record; item #16, final destination, item #17, other, may be omitted if unknown to MOFTEC and the licensee.

1. Export License number(s): Indicate the number(s) relating to each sale and/or entry.

2. Complete Description of Merchandise: Include the 10 digit HTS category, and the ASTM or equivalent grade.

3. Quantity: Indicate in metric tons.

4. F.O.B. Sales Value: Indicate currency used.

5. Unit Price: Indicate per metric ton.

6. Date of Sale: The date all essential terms of order (i.e., price and quantity) become fixed.

7. Sales Order Number (s): Indicate the specification number/order number relating to each sale and/or shipment.

8. Date of Export: Date the export license is issued.

9. Date of Entry: Date the merchandise entered the United States or the date book transfer took place.

10. Importer of Record: Name and address.

11. Trading Company: Name and address of trading company involved in sale.

12. Customer: Name and address of the first unaffiliated party purchasing from the Chinese producer/exporter.

13. Customer Relationship: Indicate whether the customer is affiliated or unaffiliated with the Chinese producer/exporter.

14. Quota Allocated to Exporter: Indicate the total amount of quota allocated to the individual Chinese producer/exporter during the Relevant Period.

15. Quota Remaining: Indicate the remaining quota available to the individual Chinese producer/exporter during the Relevant Period.

16. Final Destination: Indicate the complete name and address of the end-user.

17. Other: Indicate the identity of any party(ies) in the transaction chain between the customer and the final destination/end user.

Customer Certification

MOFTEC shall ensure that all customers of the CTL plate shall certify that the

merchandise imported into the United States pursuant to this Agreement shall not be loaned or swapped.

Mill Certification

MOFTEC shall ensure that all shipments of CTL plate exported to the United States pursuant to this Agreement shall be accompanied by a copy of the original mill certification, which includes the heat number(s).

Sales to Countries Other Than the United States

Pursuant to Section VIII, paragraph A, MOFTEC will provide country-specific volume and value information for all exports of CTL plate to third countries. The following information shall be provided except that information requested in item #6, importer of record, and item #10, other, may be omitted if unknown to MOFTEC and the licensee.

1. Customs Export Declaration Number: Indicate the number(s) related to each shipment.
2. Quantity: Indicate in original units of measure sold and/or entered in metric tons.
3. Date of Sale: The date all essential terms of the order (i.e., price and quantity) become fixed.
4. Sales Order Number(s): Indicate the number(s) relating to each sale and/or entry.
5. Date of Export: Date of Export Certification is issued.
6. Importer of Record: Name and address.
7. Customer: Name and address of the first unaffiliated party purchasing from the Chinese producer/exporter.
8. Customer Relationship: Indicate whether the customer is affiliated or unaffiliated.
9. Name of Vessel: Identify the name of vessel for each shipment to third countries.
10. Other: The identity of any subsequent trading company in the transaction chain pursuant to Section VII.B.
11. Estimated Date of Entry: Date the merchandise entered the third country or the date a book transfer took place.

Home Market Sales

Pursuant to Section VIII.A., MOFTEC will provide transaction-specific home market information for sales of subject merchandise, upon demand. The following information shall be provided, except that information requested in item #6 may be omitted if unknown to MOFTEC and the licensee.

1. Quantity: Indicate in original units of measure sold and/or entered in metric tons.
2. Date of Sale: The date all essential terms of the order (i.e., price and quantity) become fixed.
3. Sales Order Number(s): Indicate the number(s) relating to each sale and/or entry.
4. Customer: Name and address of the first affiliated party purchasing from the Chinese exporter.
5. Customer Relationship: Indicate whether the customer is affiliated or unaffiliated.
6. Other: The identity of any party(ies) in the transaction chain between the customer and the final destination.

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DEPARTMENT OF COMMERCE

International Trade Administration

[A-821-808]

Suspension of Antidumping Duty Investigation: Certain Cut-to-Length Carbon Steel Plate From the Russian Federation

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

SUMMARY: The Department of Commerce (the Department) has suspended the antidumping duty investigation involving certain cut-to-length carbon steel plate (CTL plate) from the Russian Federation. The basis for this action is an agreement between the Department and the Ministry of Foreign Economic Relations and Trade of the Russian Federation (MINFER) wherein MINFER has agreed to restrict the volume of direct or indirect exports to the United States of CTL plate from all Russian producers/exporters and to revise its prices to eliminate completely sales of this merchandise to the United States at less than fair value.

EFFECTIVE DATE: October 24, 1997.

FOR FURTHER INFORMATION CONTACT: Nithya Nagarajan, or Eugenia Chu, Office of AD/CVD Enforcement III, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th & Constitution Avenue N.W., Washington, D.C. 20230; telephone (202) 482-1324, or (202) 482-3964 respectively.

SUPPLEMENTARY INFORMATION:

Background

On December 3, 1996, the Department initiated an antidumping investigation under section 732 of the Tariff Act of 1930, (the Act), as amended, to determine whether imports of CTL plate from the Russian Federation are being or are likely to be sold in the United States at less than fair value (61 FR 64051 (December 3, 1996)). On December 19, 1996, the United States International Trade Commission (ITC) notified the Department of its affirmative preliminary injury determination (see ITC Investigation Nos. 731-TA-753-756). On June 11, 1997, the Department preliminarily determined that CTL plate is being, or is likely to be, sold in the United States at less than fair value (LTFV), as provided in section 733 of the Tariff Act of 1930, as amended by the Uruguay Round Agreements Act (62 FR 31967, (June 11, 1997)).

The Department and MINFER initiated a proposed agreement

suspending this investigation on September 24, 1997. On September 25, 1997, we invited interested parties to provide written comments on the agreement and received comments from Geneva Steel, Gulf States Steel, Bethlehem Steel Corp., U.S. Steel Group, United Steel Workers of America, and the Government of the Russian Federation.

The Department and MINFER signed the final suspension agreement on October 24, 1997.

Scope of Investigation

See Notice of Final Determination of Sales at Less Than Fair Value: Certain Cut-to-Length Carbon Steel Plate From Ukraine, signed on October 24, 1997.

Suspension of Investigation

The Department consulted with the parties to the proceeding and has considered the comments submitted with respect to the proposed suspension agreement. In accordance with Section 734 (l) of the Act, we have determined that the agreement will prevent the suppression or undercutting of price levels of domestic products by imports of the merchandise under investigation, that the agreement is in the public interest, and that the agreement can be monitored effectively. See October 24, 1997, Public Interest Memorandum. We find, therefore, that the criteria for suspension of an investigation pursuant to section 734(l) of the Act have been met. The terms and conditions of this agreement, signed October 24, 1997, are set forth in Annex 1 to this notice.

Pursuant to section 734(f)(2)(A) of the Act, the suspension of liquidation of all entries of cut-to-length carbon steel plate from the Russian Federation entered or withdrawn from warehouse, for consumption, as directed in our notice of "Preliminary Determination of Sales at Less Than Fair Value: Cut-to-Length Carbon Steel Plate from the Russian Federation" and "Postponement of the Final Determination: Cut-to-Length Carbon Steel Plate from the Russian Federation" is hereby terminated. Any cash deposits on entries of cut-to-length carbon steel plate from the Russian Federation pursuant to that suspension of liquidation shall be refunded and any bonds shall be released.

On October 14, 1997 we received a request from petitioners requesting that we continue the investigation. We received separate requests for continuation from Bethlehem Steel Corp., U.S. Steel Corp. (A Unit of USX Corporation), and the United Steelworkers of America, interested parties under section 771(9)(D) of the

Act. Pursuant to these requests, we have completed the investigation in accordance with section 734(g) of the Act, and have notified the International Trade Commission (ITC) of our determination. If the ITC's injury determination is negative, the agreement will have no force or effect, and the investigation will be terminated (see section 734(f)(3)(A) of the Act). If the ITC's determination is affirmative, the Department will not issue an antidumping duty order as long as the suspension agreement remains in force (see section 734(f)(3)(B) of the Act).

This notice is published pursuant to section 734(f)(1)(A) of the Act.

Dated: November 7, 1997.

Robert S. LaRussa,
Assistant Secretary for Import
Administration.

Agreement Suspending the Antidumping Investigation on Cut-To- Length Carbon Steel Plate From the Russian Federation

For the purpose of encouraging free and fair trade in cut-to-length carbon steel plate ("steel plate"), establishing more normal market relations, and preventing the suppression or undercutting of price levels of the domestic product, the United States Department of Commerce ("U.S. DOC") and the Ministry of Foreign Economic Relations and Trade of the Russian Federation ("MINFER of Russia") enter into this suspension agreement ("the Agreement").

Pursuant to this Agreement, MINFER of Russia will restrict the volume of direct and indirect exports to the United States of steel plate from all Russian producers/exporters, subject to the terms and provisions set forth below.

On the basis of this Agreement, pursuant to the provisions of Section 734(1) of the Tariff Act of 1930, as amended (19 U.S.C. 1673c(1)), (see Appendix II), U.S. DOC shall suspend its antidumping investigation with respect to steel plate produced in Russia, subject to the terms and provisions set forth below. Further, U.S. DOC will instruct the U.S. Customs Service to terminate the suspension of liquidation of, and release any cash deposit or bond posted on, the steel plate covered by this Agreement as of the effective date of this Agreement.

I. Definitions

For purposes of this Agreement, the following definitions apply.

A. "Date of Export" for imports of steel plate to the United States shall be considered the date on which the Export License/Temporary Document was issued.

B. "Parties to the Proceeding" means any interested party, within the meaning of section 353.2(k) of the Department's Regulations, which actively participates through written submission of factual information or written argument.

C. "Indirect Exports" means arrangements as defined in Section III.E of this Agreement and exports from Russia through one or more third countries, whether or not such exports are further processed, insofar as they remain within the scope of the Agreement, and includes further processing which results in minor alterations, or under certain limited circumstances, as described in Section VII. G., further processing which results in substantial transformation as a result of an attempt to circumvent the Agreement, whether or not such exports are sold in one or more third countries prior to importation into the United States and whether or not the Russian producer knew the product was destined to enter the United States.

D. For purposes of this Agreement, "United States" shall comprise the customs territory of the United States of America (the 50 States, the District of Columbia and Puerto Rico) and foreign trade zones located in the territory of the United States.

E. "For Consumption" means all steel plate sold to customers, such as, trading companies, distributors, resellers, end-users, or service centers.

F. "End-User" means an entity, such as a steel service center, reseller, trading company, end-user, etc. which consumes steel plate as defined in Section I.E.

G. "Date of Sale" is defined as the date on which price and quantity become firm, e.g., the specification date or, the date of the contract if the contract fixes the price and quantity for more than one year, as recorded in the company's records kept in the ordinary course of business.

H. "Export License/Temporary Document" is the document issued by ("MINFER") of Russia which serves also as both a quota certificate and a certificate of origin. An Export License/Temporary Document must accompany all shipments of steel plate from Russia to the United States, and must contain all of the information enumerated in the Appendix I to this Agreement, except that Date of Entry, Importer of Record, Final Destination, and Other, may be omitted if unknown to MTNFFR of Russia and the licensee.

I. "Reference Price" means the price calculated by U.S. DOC, as described in Section IV, on a quarterly basis to be

used as a floor price for sales of steel plate to the United States.

J. "Relevant Period" for the export limit of this Agreement means the period from January 1 through December 31 of each year that the Agreement is in effect, except that the First Relevant Period shall be the period from October 24, 1997 through December 31, 1998. The Final Relevant Period shall be the period from January 1, 2002 through October 23, 2002.

II. Product Coverage

The products covered by this Agreement include hot-rolled iron and non-alloy steel universal mill steel plates (i.e., flat-rolled products rolled on four faces or in a closed box pass, of a width exceeding 150 mm but not exceeding 1250 mm and of a thickness of not less than 4 mm, 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 non-metallic substances; and certain iron and non-alloy steel flat-rolled products not in coils, 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 mm or more in thickness and of a width which exceeds 150 mm and measures at least twice the thickness. Included as steel plate in this Agreement are flatrolled 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. This merchandise is currently classifiable in the Harmonized Tariff Schedule of the United States ("HTS") under item numbers 7208.40.3030, 7208.40.3060, 7208.51.0030, 7208.51.0045, 7208.51.0060, 7208.52.0000, 7208.53.0000, 7208.90.0000, 7210.70.3000, 7210.90.9000, 7211.13.0000, 7211.14.0030, 7211.14.0045, 7211.90.0000, 7212.40.1000, 7212.40.5000, 7212.50.0000. Excluded from steel plate within the scope of this Agreement is grade X-70 steel plate. Although the HTS subheadings are provided for convenience and customs purposes, the written description of the scope of this Agreement is dispositive.

The products covered by the above definition shall be referred to hereinafter as "steel plate".

III. Export Limits

A. The export limit for each Relevant Period shall be 100,000 metric tons of steel plate, except that for the First Relevant Period the export limit shall be 118,630 metric tons of steel plate and for the Final Relevant Period the export limit shall be 81,370 metric tons of steel plate. No later than 60 days prior to the end of the First Relevant Period, U.S. DOC shall calculate an upward or downward adjustment to the next Relevant Period's export limit based upon the changes in U.S. apparent consumption for steel plate. U.S. apparent consumption will be calculated using of financial statistics of the U.S. Census Bureau and data from the American Iron and Steel Institute regarding domestic shipments. The maximum adjustment will be plus or minus no more than 6 percent per Relevant Period, and will be calculated by comparing the most recent twelve months of data for U.S. apparent consumption available to U.S. DOC at the time of the calculation, to the level of the previous corresponding twelve months of data. U.S. DOC will then apply the adjustment to the Relevant Period's export limit. U.S. DOC will similarly adjust the export limit every Relevant Period, and the effects of the adjustments shall be cumulative.

Deductions from the export limit shall be made based on the "Date of Export", as defined in Section I. MINFER of Russia will not issue Export Licenses/Temporary Documents accounting for more than sixty percent of the export limits for any Relevant Period during either semi-annual period within such Relevant Period. The two semi-annual periods within the Relevant Period are defined as: (1) January 1 through June 30; and (2) July 1 through December 31 and except that for the First Relevant Period, the two semi-annual periods are defined as: (1) the period beginning on October 24, 1997 through May 31 1998; and (2) the period June 17 1998 through December 31, 1998. and for the Final Relevant Period, the semi-annual periods are defined as: (1) January 1, 2002 through May 31, 2002; and (2) June 1, 2001 through October 23, 2002.

B. On and after October 24, 1997, MINFER of Russia will restrict the volume of direct or indirect exports of steel plate to the United States, and the transfer and withdrawal from inventory of steel plate (consistent with the provisions of Section III.D) in accordance with the export limit then in effect.

C. Any amount delivered during a Relevant Period shall not when cumulated with all prior deliveries in

such Relevant Period, exceed the export limit for that Relevant Period except as provided for in Section III.G.

D. Any inventories of steel plate currently held in the United States by a Russian entity and imported into the United States between November 5, 1996, and October 24 1997, will be subject to the following conditions:

1. Such inventories will not be transferred or withdrawn from inventory for consumption in the United States without an Export License/Temporary Document issued by MINFER of Russia. Any such transfers or withdrawals from inventory shall be deducted from the export limit in effect at the time the Export License/Temporary Document is issued.

2. A request for an Export License/Temporary Document under this provision shall be accompanied by a report specifying the data pursuant to the provisions of Russian legislation, in particular, the identity of the original exporter and importer, the customer, if known, the original date of export and entry into the United States, if known, the quantity expressed in metric tons, and a complete description of the steel plate (including heat numbers and other available identifying documentation).

E. Any arrangement involving the exchange, sale, or delivery of steel plate products from Russia whether or not further processed within the meaning of I.C., to the degree it can be shown to have resulted in the sale or delivery in the United States of steel plate products from a country other than Russia, will be counted toward the export limit under this Agreement. Any such transaction that does not comply with the requirements of Section V will be deducted from the export limit pursuant to Section VII.

F. When steel plate is imported into the United States and is subsequently re-exported, or re-packaged and re-exported or further processed within the meaning of I.C. and re-exported, the export limit shall be increased by the quantity re-exported. Such increase will be applicable to the Relevant Period corresponding to the time of such re-export. Such increase will be applied only after U.S. DOC receives, and has the opportunity to verify, evidence demonstrating original importation, any repackaging or further processing, and subsequent exportation.

G. Export Licenses/Temporary Documents issued for a given Relevant Period may not be used after the expiration of that Relevant Period, except that Export Licenses/Temporary Documents not used during the Relevant Period may be used during the first three months of the following

Relevant Period, up to a maximum of 15 percent of the export limit for that following Relevant Period. Such "carried-over" quota shall be counted against the export limit applicable to the previous Relevant Period.

Export Licenses/Temporary Documents for up to 15 percent of the export limit for a subsequent Relevant Period may be issued as early as 45 days prior to the beginning of the subsequent Relevant Period. Such "carried-back" quota shall be counted against the export limit applicable to the following Relevant Period.

H. For the first 120 days after October 24, 1997, steel plate shall be admitted into the United States with a "Temporary Document."

The volume of any such imports will be deducted from the export limit applicable to the First Relevant Period. A full reporting of any such imports, which must correspond to the information detailed in Appendix I.B. to this Agreement, must be submitted to U.S. DOC no later than 45 days after the conclusion of the 120 day period. This data must be sorted on the basis of date of export and must be set forth on a transaction-specific basis.

IV. Reference Price

A. Steel plate will not be sold below the reference price in effect on the date of sale.

B. The reference price issued quarterly by U.S. DOC shall be released by September 1, December 1, March 1, and June 1 of each year and shall be effective on October 1, January 1, April 1, and July 1, respectively. The reference price for the First Relevant Period shall be issued and effective on October 24, 1997. Either party is entitled to request consultations regarding the calculation of reference prices.

C. The reference price for the First Relevant Period shall be as follows:
A36—\$300.00 per metric ton
A572—\$325.00 per metric ton

Until such time as U.S. DOC and MINFER of Russia agree, after consultations, upon reference prices for other grades of steel plate, only grades A36 and A572 may be exported to the United States. Consultations regarding reference prices for other grades of steel plate shall be held within 30 days of a request and shall be completed within 15 days.

D. For each subsequent Relevant Period, the reference price will be adjusted on a quarterly basis to reflect the change in the BLS Producer Price Index (PPI) for carbon steel plate over the three months for which data is available preceding the date on which the reference price is issued.

If the last month of BLS PPI for the three-month period preceding the date on which the reference price is issued has fallen by more than 2.6 percent from the average of the first two months of the period, the reference price will be adjusted on the basis of the PPI for the last month of the three-month period.

E. MINFER of Russia will ensure that, with respect to merchandise covered by each Export License/Temporary Document, the Russian unit values of steel plate exports will equal or exceed the reference price at equivalent points in the transaction chain. The reference price will be F.O.B. port. MINFER of Russia will ensure that contracts and all relevant documentation will be available to U.S. DOC and will be subject to verification.

V. Export License/Temporary Document

A. MINFER of Russia shall restrict the volume of direct or indirect exports of steel plate to the United States by means of annual quota allocations and Export Licenses/Temporary Documents. Export Licenses/Temporary Documents shall be issued by MINFER of Russia for all direct or indirect exports of steel plate to the United States in accordance with the export limit in Section III and the reference price in Section IV.

B. Thirty days following the allocation of quota rights for any Relevant Period.

MINFER of Russia shall provide to U.S. DOC a notice identifying each quota recipient and the volume of quota which each recipient has been accorded ("notice of quota allocation results"). MINFER of Russia shall not be required to seek the approval of U.S. DOC for changing the volume of quota assigned to individual quota recipients. MINFER of Russia shall inform U.S. DOC of any changes in the volume of quota assigned to individual quota recipients within 60 days of the date on which such changes become effective.

C. Before it issues an Export License/Temporary Document, MINFER of Russia will ensure that the Relevant Period's export limit is not exceeded and that the price for the steel plate is at or above the reference price.

D. MINFER of Russia shall take measures, as may be necessary, to make effective the obligations resulting from the reference price, export limits and Export Licenses/Temporary Documents. MINFER of Russia will inform U.S. DOC of any violations concerning reference price, export limits and/or Export Licenses/Temporary Documents which come to its attention and the measures taken with respect thereto.

U.S. DOC will inform MINFER of Russia of violations concerning the

reference price, export limits, and/or Export Licenses/Temporary Documents which come to its attention and the actions taken with respect thereto.

E. Export Licenses/Temporary Documents will be issued sequentially, endorsed against the export limit for the Relevant Period, and will reference the notice of quota allocation results for the appropriate Relevant Period.

F. Export License/Temporary Document must be issued no earlier than 90 days before the day on which the steel plate is accepted by a transportation company, as indicated in the bill of lading or a comparable transportation document, for export. Export License/Temporary Document must be also issued in English.

G. On and after October 24, 1997, the United States shall require presentation of an original stamped Export License/Temporary Document as a condition for entry of steel plate into the United States. The United States will prohibit the entry of any steel plate not accompanied by an original stamped Export License/Temporary Document.¹

VI. Implementation

In order to effectively restrict the volume of exports of steel plate to the United States, MINFER of Russia agrees to implement the following procedures no later than 90 days after October 24, 1997, except as noted in Section VI.A.:

A. Establish a quota and licensing program for all exports of steel plate to, or destined directly or indirectly for consumption in, the United States no later than 120 days after October 24, 1997.

B. Ensure compliance by any official Russian institution, chamber, or other entities authorized by the Government of Russia all Russian producers, exporters, brokers, and traders of the steel plate, and their relevant affiliated parties; as well as relevant trading companies/resellers utilized by the Russian producer to make sales to the United States, with all procedures established in order to effectuate this Agreement.

C. Collect information from all Russian producers, exporters, brokers, and traders of steel plate, and their relevant affiliated parties, as well as relevant trading companies/resellers utilized by the Russian producer, on the sale of the steel plate, and report such information pursuant to Article VIII.A of this Agreement.

D. Issue Export Licenses/Temporary Documents to Russian producers and

¹ The validity of an Export License/Temporary Document will not be affected by a subsequent change of an HTS number.

exporters of steel plate for the duration of this Agreement in accordance with Russian legislation.

E. Impose strict measures, such as prohibition from participation in the export limits allowed by the Agreement, in the event that any Russian entity does not comply in full with the terms of the Agreement.

F. Require that purchasers agree not to circumvent this Agreement, report to MINFER of Russia subsequent arrangement entered into for the sale, exchange, or loan to the United States of steel plate purchased from Russia, and include these same provisions in any subsequent contracts involving steel plate purchased from Russia.

G. For purposes of this Agreement the duration of validity of Export Licenses/Temporary Documents will be six (6) months. U.S. D.O.C. and MINFER of Russia may agree to an extension of the validity of the Export License/Temporary Document in cases of force majeure.

VII. Anticircumvention

A. MINFER of Russia will take all appropriate measures under Russian law to prevent circumvention of this Agreement. It shall respond promptly to conduct an inquiry into allegations of circumvention, including allegations raised by U.S. DOC, and shall complete such inquiries in a timely manner (normally within 45 days). MINFER of Russia shall notify U.S. DOC of the results of its inquiries within 15 days of the conclusion of such inquiries. Within 15 days of a request from U.S. DOC, MINFER of Russia shall share with U.S. DOC all information received or collected by MINFER of Russia regarding its inquiries, its analysis of such information, and the results of such inquiries. MINFER of Russia will require all Russian exporters of steel plate to include a provision in their contracts for sales to countries other than the United States that the steel plate sold through such contracts cannot be re-exported, transshipped, or swapped to the United States, or otherwise used to circumvent the export limits of this Agreement. This requirement does not apply to exports to the United States through a third country which are accompanied by a valid Export License/Temporary Document. MINFER of Russia will also establish appropriate mechanisms to enforce this requirement.

B. If, in an inquiry pursuant to Section VI.A, MINFER of Russia determines that a Russian entity has participated in a transaction that resulted in circumvention of the export limits of this Agreement, then MINFER

of Russia shall impose measures on such company including, but not limited to, denial of access to a quota for the steel plate. Additionally, MINFER of Russia shall deduct an amount of steel plate equivalent to the amount involved in such circumvention from the export limit and shall immediately notify U.S. DOC of the amount deducted. If sufficient tonnage is not available in the current Relevant Period, then the remaining amount necessary shall be deducted from the subsequent Relevant Period.

C. If MINFER of Russia determines that a company from a third country has circumvented the Agreement and the parties agree that no Russian entity participated in or had knowledge of such activities, then the parties shall hold consultations for the purpose of sharing information regarding such circumvention and reaching mutual agreement on the appropriate measures to be taken to eliminate such circumvention. If the parties are unable to reach mutual agreement within 45 days, then U.S. DOC may take appropriate measures, such as deducting the amount of steel plate involved in such circumvention from the export limit, or instructing U.S. Customs to deny entry to any steel plate sold by the entity found to be circumventing the Agreement, taking into account all relevant factors. Before taking such measures U.S. DOC will notify MINFER of Russia of the facts and reasons constituting the basis for U.S. DOC's intended action and will afford MINFER of Russia 15 days in which to comment.

D. If U.S. DOC determines that a Russian entity participated in circumvention the parties shall hold consultations for the purpose of sharing evidence regarding such circumvention and reaching mutual agreement on an appropriate resolution of the problem. If the parties are unable to reach mutual agreement within 60 days, U.S. DOC may take appropriate measures, such as deducting the amount of steel plate involved in such circumvention from the export limit or instructing U.S. Customs to deny entry to any steel plate sold by the entity found to be circumventing the Agreement. Before taking such measures, U.S. DOC will notify MINFER of Russia of the facts and reasons constituting the basis for U.S. DOC's intended action and will afford MINFER of Russia 30 days in which to comment.

E. U.S. DOC shall direct the U.S. Customs Service to require all importers of steel plate into the United States, regardless of stated country of origin, to submit at the time of entry a written

statement certifying that the steel plate being imported was not obtained under any arrangement, swap, or other exchange which would result in the circumvention of the export limits established by this Agreement. Where U.S. DOC has reason to believe that such a certification has been made falsely, U.S. DOC will refer the matter to the U.S. Customs Service or U.S. Department of Justice for further action.

F. U.S. DOC will take the following factors into account in distinguishing normal steel plate market arrangements, swaps, or other exchanges from arrangements, swaps, or other exchanges which would result in the circumvention of the export limits established by this Agreement:

1. Existence of any verbal or written arrangements which would result in the circumvention of the export limits established by this Agreement;

2. Existence of any arrangement as defined in Section III.E that was not reported to U.S. DOC pursuant to Section VIII;

3. Existence and function of any subsidiaries or affiliates of the parties involved;

4. Existence and function of any historical and/or traditional trading patterns among the parties involved;

5. Deviations (and reasons for deviation) from the above patterns, including physical conditions of relevant steel plate facilities;

6. Existence of any payments unaccounted for by previous or subsequent deliveries, or any payments to one party for steel plate delivered or swapped by another party;

7. Sequence and timing of the arrangements; and

8. Any other information relevant to the transaction or circumstances.

G. "Swaps" include, but are not limited to:

Ownership swaps—involve the exchange of ownership of steel plate without physical transfer. These may include exchange of ownership of steel plate in different countries, so that the parties obtain ownership of products located in different countries, or exchange of ownership of steel plate produced in different countries, so that the parties obtain ownership of products of different national origin.

Flag swaps—involve the exchange of indicia of national origin of steel plate, without any exchange of ownership.

Displacement swaps—involve the sale or delivery of steel plate from Russia to an intermediary country (or countries) which can be shown to have resulted in the ultimate delivery or sale into the United States of displaced steel plate,

regardless of the sequence of the transaction.

H. U.S. DOC will enter its determinations regarding circumvention into the record of the Agreement.

I. MINFER of Russia may request an extension of up to 15 days for any of the deadlines mentioned in this Section.

VIII. Monitoring

MINFER of Russia will provide to U.S. DOC such information as is necessary and appropriate to monitor the implementation of and compliance with the terms of this Agreement. U.S. DOC shall provide semi-annual reports to MINFER of Russia indicating the volume of imports of the steel plate to the United States, together with such additional information as is necessary and appropriate to monitor the implementation of this Agreement.

A. Reporting of Data

Beginning on October 24, 1997, MINFER of Russia shall collect and provide to U.S. DOC information for exports to the United States set forth in the agreed format in the Appendix I to this Agreement. All such information will be provided to U.S. DOC by March 31st of each year for exports to the United States during the period from July 1st through December 31st. In addition, such information will be provided to U.S. DOC by September 30th for exports from January 1st through June 30th, or within 90 days of a request made by U.S. DOC. Such information will be subject to the verification provision identified in Section VIII.C of this Agreement. MINFER of Russia agrees to provide Export Licenses/Temporary Documents to only those Russian producers/exporters which permit verification and full reporting of data. U.S. DOC may disregard any information submitted after the deadlines set forth in this Section or any information which it is unable to verify to its satisfaction.

Aggregate quantity and value of exports of steel plate to each third country will be provided to U.S. DOC by March 31st of each year for exports during the period from July 1st through December 31st. In addition, such information will be provided to U.S. DOC by September 30th for exports from January 1st through June 30th.

Upon request by the U.S. DOC, transaction-specific data for exports of steel plate to third country(ies) and home market sales of steel plate will also be reported in the format provided in the Appendix I. This information shall be provided within 45 days of the request. However, MINFER of Russia

may request an extension of up to 30 days.

Both Parties recognize that the effective monitoring of this Agreement may require that MINFER of Russia provide information additional to that which is identified above. Accordingly, U.S. DOC may establish additional reporting requirements, as appropriate, during the course of this Agreement.

U.S. DOC shall provide notice to MINFER of Russia of any additional reporting requirements no later than 45 days prior to the period covered by such reporting requirements unless a shorter notice period is mutually agreed.

MINFER of Russia may request an extension of up to 30 days for any of the deadlines mentioned in this Section.

B. Other Sources for Monitoring

U.S. DOC will review publicly available data as well as U.S. Customs entry summaries and other of financial import data from the Bureau of the Census, on a monthly basis, to determine whether there have been imports that are inconsistent with the provisions of this Agreement.

U.S. DOC will monitor Bureau of the Census computerized records, which include the quantity and value of each entry. Because these records do not provide other specific entry information, such as the identity of the producer/exporter which may be responsible for such sales, U.S. DOC may request the U.S. Customs Service to provide such information. U.S. DOC may request other additional documentation from the U.S. Customs Service.

U.S. DOC may also request the U.S. Customs Service to direct ports of entry to forward an Antidumping Report of Importations for entries of the steel plate during the period this Agreement is in effect.

C. Verification

MINFER of Russia will permit full verification of all information related to the administration of this Agreement, on an annual basis or more frequently, as the U.S. D.O.C. deems necessary to ensure that MINFER of Russia is in full compliance with the terms of the Agreement. Such verifications may take place in association with scheduled consultations whenever possible.

IX. Disclosure and Comment

A. U.S. DOC shall make available to representatives of each party to the proceeding, under appropriately-drawn administrative protective orders consistent with U.S. laws and regulations, business proprietary information submitted to U.S. DOC

semi-annually or upon request, and in any administrative review of this Agreement.

B. Not later than 45 days after the date of disclosure under Section VIII.A, the parties to the proceeding may submit written comments to U.S. DOC, not to exceed 30 pages.

C. During the anniversary month of this Agreement each party to the proceeding may request a hearing on issues raised during the preceding Relevant Period. If such a hearing is requested, it will be conducted in accordance with U.S. laws and regulations.

X. Consultations

MINFER of Russia and U.S. DOC shall hold consultations regarding matters concerning the implementation operation including the calculation of reference prices, and/or enforcement of this Agreement. Such consultations will be held each year during the anniversary month of this Agreement. Additional consultations may be held at any other time upon request of either MINFER of Russia or U.S. DOC.

XI. Violations of the Agreement

A. Violation

"Violation" means noncompliance with the terms of this Agreement caused by an act or omission, in accordance with U.S. Laws and regulations.

MINFER of Russia and U.S. DOC will inform the other Party of any violations of the Agreement which come to their attention and the action taken with respect thereto.

Exports in excess of the export limits set out in this Agreement shall not be considered a violation of this Agreement or an indication the Agreement no longer meets the requirements of U.S. laws and regulations where such exports are inconsequential, inadvertent, and are applied against the export limits of the following Relevant Period.

Prior to making a determination of an alleged violation, U.S. DOC will engage in emergency consultations. Such consultations shall begin no later than 21 days from the day of request and shall provide for full review, but in no event will exceed 40 days. After consultations, U.S. DOC will provide MINFER of Russia 20 days within which to provide comments. U.S. DOC will make a determination within 30 days after the date established for submission of comments by MINFER of Russia.

B. Appropriate Action

If U.S. DOC determines that this Agreement is being or has been violated,

U.S. DOC will take such action as it determines is appropriate under the U.S. laws and regulations.

C. MINFER of Russia may request an extension of up to 15 days for any of the deadlines mentioned in this Section.

XII. Duration

The export limit provided for in Section III of this Agreement shall remain in force from October 24, 1997 through October 23, 2002.

U.S. DOC will, upon receiving a proper request made by MINFER of Russia, conduct an administrative review under the U.S. laws and regulations. U.S. DOC expects to terminate this Agreement and the underlying investigation no later than 5 years from October 24, 1997, provided that no Russian entity has been found to have violated the Agreement in any substantive manner. Such review and termination shall be conducted with U.S. laws and regulations.

MINFER of Russia may terminate this Agreement at any time upon notice to U.S. DOC. Termination shall be effective 60 days after such notice is given to U.S. DOC. Upon termination at the request of MINFER of Russia, the provisions of U.S. laws and regulations shall apply.

XIII. Other Provisions

A. U.S. DOC finds that this Agreement is in the public interest, that effective monitoring of this Agreement by the United States is practicable, and that this Agreement will prevent the suppression or undercutting of price levels of United States domestic steel plate products by imports of the steel plate subject to this Agreement.

B. U.S. DOC does not consider any of the obligations concerning exports of steel plate to the United States undertaken by MINFER of Russia pursuant to this Agreement relevant to the question of whether firms in the underlying investigation would be entitled to separate rates, should the investigation be resumed for any reason.

C. The English and Russian language versions of this Agreement shall be authentic and equally binding, with the English version being controlling.

D. All provisions of this Agreement, including the provisions of the Preamble, shall have equal force.

E. For all purposes hereunder, the signatory Parties shall be represented by, and all communications and notices shall be given and addressed to:

Department: U.S. Department of Commerce, Assistant Secretary for Import Administration, International Trade Administration, Washington, D.C. 20230

Ministry: Head of Department for the Regulation of External Economic Activities of the Ministry for Foreign Economic Relations and Trade of the Russian Federation, 18/1 Ovchinnikovskaya naberezhnaya, Moscow- 1 13324, Russia

XIV. Effective Date

The effective date of this Agreement suspending the antidumping investigation on cut-to-length carbon steel plate from Russia shall be October 24, 1997.

Signed on this 24th day of October, 1997.
For U.S. DOC.

Robert LaRussa,
Assistant Secretary for Import Administration.

For MINFER of Russia.
Vladimir M. Chibrev,
Acting Trade Representative of the Russian Federation to the United States.

Appendix I

In accordance with the established format, MINFER of Russia shall collect and provide to U.S. DOC all information necessary to ensure compliance with this Agreement. This information will be provided to U.S. DOC on a semi-annual basis.

MINFER of Russia will collect and maintain data on exports to the United States on a continuous basis. Sales data for the home market, and data for exports to countries other than the United States, will be reported upon request.

MINFER of Russia will provide a narrative explanation to substantiate all data collected in accordance with the following formats.

A. Report of Inventories

Report by location, the inventories held by Russian entities in the United States and imported into the United States during the period November 5, 1996 through October 24, 1997.

- Quantity: Indicate original units of measure and in metric tons.
- Location: Identify where the inventory is currently being held. Provide the name and address for the location.
- Titled Party: Name and address of party who legally has title to the steel plate.
- Export License/Temporary Document Number: Indicate the number(s) relating to each entry now being held in inventory.
- Certificate of Origin Number(s): Indicate the number(s) relating to each sale or entry.
- Date of Original Export: Date the Export License/Temporary Document is issued.
- Date of Entry: Date the steel plate entered the United States or the date book transfer took place.
- Original Importer: Name and address.
- Original Exporter: Name and address.
- Complete Description of Merchandise: Include heat numbers, HTS numbers, physical description, ASTM specification, and other available information.

B. Exports to The United States

MINFER of Russia will provide all Export License/Temporary Document, which shall contain the following information except that information requested in item #9, date of entry, item #10, importer of record, item #16, final destination, and item #17 other, may be omitted if unknown to MINFER of Russia and the Russian licensee.

- Export License/Temporary Document: Indicate the number(s) relating to each sale and or entry.
- Complete Description of Merchandise: Include the 10 digit HTS category, and the ASTM or equivalent grade.
- Quantity: Indicate in metric tons.
- F.O.B. Sales Value: Indicate currency used.
- Unit Price: Indicate currency used per metric ton.
- Date of Sale: The date all essential terms of the order (i.e., price and quantity) become fixed.
- Sales Order Number(s): Indicate the number(s) relating to each sale and/or entry.
- Date of Export: Date the Export License/Temporary Document is issued.
- Date of Entry: Date the merchandise entered the United States or the date book transfer took place.
- Importer of Record: Name and address.
- Trading Company: Name and address of trading company involved in sale.
- Customer: Name and address of the first unaffiliated party purchasing from the Russian exporter.
- Customer Relationship: Indicate whether the customer is affiliated or unaffiliated to the Russian exporter.
- Quota Allocated to Exporter: Indicate the total amount of quota allocated to the individual exporter during the Relevant Period.
- Quota Remaining: Indicate the remaining quota available to the individual exporter during the Relevant Period.
- Final Destination: The complete name and address of the end-user.
- Other: The identity of any party(ies) in the transaction chain between the customer and the final destination/end-user.

Mill Certification

MINFER of Russia shall ensure that all shipments of steel plate exported to the United States pursuant to this Agreement, shall be accompanied by a copy of the original mill certification, which includes the heat number(s).

C. Exports Other Than to The United States

Pursuant to Section VIII, paragraph A, MINFER of Russia will provide country-specific volume and value information for exports of steel plate to third countries, upon request, regardless of whether MINFER of Russia licenses exports of steel plate to such country(ies). The following information shall be provided except that information requested in item #6, date of entry, #7, importer of record, and item #10, may be omitted if unknown to MINFER of Russia and the Russian licensee.

- Export License/Temporary Document: Indicate the number(s) relating to each sale and/or entry, if any.
- Quantity: Indicate in original units of measure sold and/or entered in metric tons.
- Date of Sale: The date all essential terms of the order (i.e., price and quantity) become fixed.
- Sales Order Number(s): Indicate the number(s) relating to each sale and/or entry.
- Date of Export: Date Export License/Temporary Document is issued, if any.
- Date of Entry: Date the merchandise entered the third country or the date a book transfer took place.
- Importer of Record: Name and address.
- Customer: Name and address of the first unaffiliated party purchasing from the Russian exporter.
- Customer Relationship: Indicate whether the customer is affiliated or unaffiliated.
- Other: The identity of any party(ies) in the transaction chain between the customer and the final destination.

D. Home Market Sales

Pursuant to Section VIII, paragraph A, the MINFER of Russia will provide home market volume and value information for sales of steel plate, upon request. The following information shall be provided with the exception of item #6, if unknown to MINFER of Russia and the Russian producer/exporter.

- Quantity: Indicate in original units of measure sold and/or entered in metric tons.
- Date of Sale: The date all essential terms of order (i.e., price and quantity) become fixed.
- Sales Order Number(s): Indicate the number(s) relating to each sale and/or entry.
- Customer: Name and address of the first unaffiliated party purchasing from the Russian exporter.
- Customer Relationship: Indicate whether the customer is affiliated or unaffiliated.
- Other: The identity of any party(ies) in the transaction chain between the customer and the final destination.

Appendix II

Section 734 (1) of the Tariff Act of 1930 as amended:

(1) Special Rule for Non-Market Economy Countries

(I) In General.—The administering authority may suspend an investigation under this subtitle upon acceptance of an agreement with a non-market economy country to restrict the volume of imports into the United States of the merchandise under investigation only if the administering authority determines that:

- such agreement satisfies the requirements of subsection (d), and
- will prevent the suppression or undercutting of price levels of domestic products by imports of the merchandise under investigation.

(2) Failure of Agreements.—If the administering authority determines that the agreement accepted under this subsection no

longer prevents the suppression or undercutting of domestic prices of merchandise manufactured in the United States, the provisions of subsection (I) shall apply.

[FR Doc. 97-30395 Filed 11-18-97; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[A-821-808]

Notice of Final Determination of Sales at Less Than Fair Value: Certain Cut-to-Length Carbon Steel Plate from the Russian Federation

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

EFFECTIVE DATE: November 19, 1997.

FOR FURTHER INFORMATION CONTACT: Nithya Nagarajan at (202) 482-1324 or Eugenia Chu at (202) 482-3964, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230.

Applicable Statute: Unless otherwise indicated, 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 indicated, all citations to the Department's regulations are to 19 C.F.R. part 353 (1997).

Final Determination: We determine that certain cut-to-length steel plate (CTL plate) from the Russian Federation is being, or is likely to be, sold in the United States at less than fair value (LTFV), as provided in section 735 of the Act.

Case History

Since the preliminary determination in this investigation (*Preliminary Determination of Sales at Less Than Fair Value: Certain Cut-to-Length Carbon Steel Plate From the Russian Federation*, 62 FR 31967 (June 11, 1997)), the following events have occurred:

In June 1997, we verified the Severstal's questionnaire responses. On July 23, 1997, the Department issued its report on verification findings. Petitioners and Respondent, Severstal, submitted case briefs on July 31, 1997, and rebuttal briefs on August 5, 1997. A public hearing was not requested nor held.

On August 8, 1997, the Department provided interested parties the opportunity to submit additional

publicly-available information (PAI) from surrogate countries to value certain factors of production. The Department received responses on August 15, 1997, and comments on August 22, 1997.

Scope of Investigation

The products covered by this investigation are hot-rolled iron and non-alloy steel universal mill plates (i.e., flat-rolled products rolled on four faces or in a closed box pass, of a width exceeding 150 mm but not exceeding 1250 mm and of a thickness of not less than 4 mm, 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 iron and non-alloy steel flat-rolled products not in coils, 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 mm or more in thickness and of a width which exceeds 150 mm and measures at least twice the thickness. Included as subject merchandise in this petition 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. This merchandise is currently classified in the Harmonized Tariff Schedule of the United States (HTS) under item numbers 7208.40.3030, 7208.40.3060, 7208.51.0030, 7208.51.0045, 7208.51.0060, 7208.52.0000, 7208.53.0000, 7208.90.0000, 7210.70.3000, 7210.90.9000, 7211.13.0000, 7211.14.0030, 7211.14.0045, 7211.90.0000, 7212.40.1000, 7212.40.5000, 7212.50.0000. Excluded from the subject merchandise within the scope of the petition is grade X-70 plate. Although the HTS subheadings are provided for convenience and customs purposes, our written description of the scope of this investigation is dispositive. See memorandum on *Scope of Investigations on Carbon Steel Plate*, from Joseph Spetrini to Robert S. LaRussa (October 24, 1997).

Period of Investigation (POI)

The POI is April 1, 1996 through September 30, 1996.

Separate Rates

Severstal has requested a separate, company-specific rate. The claimed ownership structure of Severstal during

the POI is that of a publicly owned joint stock company, where the state owned 20% of the shares.

To establish whether a firm is sufficiently independent from government control to be entitled to a separate rate, the Department analyzes each exporting entity under a test arising out of the *Final Determination of Sales at Less Than Fair Value: Sparklers from the People's Republic of China*, 56 FR 20588 (May 6, 1991) (*Sparklers*) and amplified in *Final Determination of Sales at Less Than Fair Value: Silicon Carbide from the People's Republic of China*, 59 FR 22585 (May 2, 1994) (*Silicon Carbide*). Under the separate rates criteria, the Department assigns separate rates in nonmarket economy cases only if a respondent can demonstrate the absence of both *de jure* and *de facto* governmental control over export activities.

1. Absence of De Jure Control

An individual company may be considered for a separate rate if it meets the following *de jure* criteria: (1) an absence of restrictive stipulations associated with an individual exporter's business and export licenses; (2) any legislative enactments decentralizing control of companies; and (3) any other formal measures by the government decentralizing control of companies. Severstal has placed on the administrative record a number of documents demonstrating absence of *de jure* control. These documents include laws, regulations, and provisions enacted by the government of the Russian Federation, describing the deregulation of Russian enterprises as well as the deregulation of the Russian export trade (except for a list of products that may be subject to government export constraints which Severstal claims, and the Department verified, do not include subject merchandise). Specifically, Severstal provided English translations of the laws and regulations governing their enterprises. These laws and regulations authorized Severstal to make its own operational and managerial decisions during the POI. See *Separate Rates Memorandum*, dated June 3, 1997.

2. Absence of De Facto Control

The Department typically considers four factors in evaluating whether each respondent is subject to *de facto* governmental control of its export functions: (1) whether the export prices ("EP") are set by or subject to the approval of a governmental authority; (2) whether the respondent has authority to negotiate and sign contracts and other agreements; (3) whether the

EXPLANATION OF COMMISSION DETERMINATION ON ADEQUACY

in

Cut-to-Length Carbon Steel Plate from China, Russia, South Africa, and Ukraine Investigations. Nos. 731-TA-753-756 (Review)

On December 9, 2002, the Commission determined that it should proceed to full reviews in the subject five-year reviews pursuant to section 751(c)(5) of the Tariff Act of 1930 (19 U.S.C. § 1675(c)(5)). The Commission, in consultation with the Department of Commerce, grouped these reviews because they involve similar domestic like products.¹

With regard to each of the reviews, the Commission determined that the domestic interested party group response to the notice of institution was adequate and the respondent interested party group response was adequate.

Regarding domestic interested parties, the Commission received adequate responses containing company specific information from Bethlehem Steel Corp., United States Steel Corp., IPSCO Steel Inc., and Nucor Corp. These companies account for a significant share of U.S. production of cut-to-length ("CTL") carbon steel plate. With regard to respondent interested parties, the Commission received adequate responses containing company specific information from Wuyang Iron and Steel Co., Ltd., a producer and exporter of CTL carbon steel plate in China; Shanghai Baosteel Group Corp., a producer and exporter of CTL carbon steel plate in China; China Iron & Steel Industry & Trade Group Corp. ("China Steel"), on behalf of its subsidiary, China Metallurgical Import and Export Liaoning Co. ("China Metallurgical"), an exporter of CTL carbon steel plate in China;^{2 3 4} Anshan Iron & Steel Group Corp., a

¹ See 19 U.S.C. § 1675(c)(5)(D); 63 Fed. Reg. 29372, 29374 (May 29, 1998).

² Chairman Okun, Vice Chairman Hillman, and Commissioner Miller found that the response filed by China Steel on behalf of its subsidiary, China Metallurgical, contained the information requested in the notice of institution and was an adequate response on behalf of China Metallurgical for purposes of this adequacy determination. They note that China Steel's submission contained a certification of completeness and accuracy pursuant to Commission rule 207.3. On the facts of this case, they found that the submission provided: (1) adequate assurance that the data supplied was accurate, and (2) a sufficient expression of willingness to participate in a full investigation.

³ Commissioner Bragg notes that in response to a request for additional information, counsel for China Steel stated that "China Steel is a trading company and has never produced or exported the subject merchandise to the United States." *Supplemental Information Filed by White & Case in Letter dated November 8, 2002*. Counsel for China Steel further stated that China Steel's subsidiary, *i.e.*, China Metallurgical, has exported subject merchandise to the United States; in addition, China Steel stated that China Metallurgical "will respond to the Commission's questionnaire" and that China Steel intends to participate in the review investigation on behalf of China Metallurgical. *See id.* However, China Metallurgical itself did not certify that the information being submitted was accurate and complete to the best of its knowledge, as required by Commission rule 207.3.

Commissioner Bragg has determined in previous review investigations that a third party may file a response to the Commission's notice of institution on behalf of an interested party. *See* Explanation of Commission Determinations on Adequacy at 1 n.5 (June 1999) in *Fresh Cut Flowers from Ecuador and Mexico*, Inv. Nos. 731-TA-331 and 333 (Review); *Standard Carnations from Chile*, Inv. Nos. 701-TA-276 (Review) and 731-TA-328 (Review); and *Pompom Chrysanthemums from Peru*, Inv. No. 303-TA-18 (Review). In order for a submission filed by a third party on behalf of an interested party to be deemed individually adequate, however, Commissioner Bragg has required that the interested party itself must certify that the information being submitted is accurate and complete to the best of the interested party's knowledge, just as if the interested party had filed the submission itself. *See id.*; *see also* Commission rule 207.3. Because China Metallurgical itself did not submit the requisite

(continued...)

producer and exporter of CTL carbon steel plate in China; and Wuhan Iron and Steel Group Co., a producer and exporter of CTL carbon steel plate in China. These companies account for a significant share of Chinese production and Chinese exports to the United States of CTL carbon steel plate. The Commission received adequate responses containing company specific information from JSC Severstal, a producer and exporter of CTL carbon steel plate in Russia, as well as Severstal Inc. and Severstal Trade, Inc., U.S. importers of the subject merchandise from Russia. These companies account for a significant share of Russian production and Russian exports to the United States of CTL carbon steel plate, as well as U.S. imports of the subject merchandise. The Commission received an adequate response containing company specific information from Highveld Steel and Vanadium Corp. Ltd., a producer and exporter of CTL carbon steel plate in South Africa; Iscor, Ltd., a producer and exporter of CTL carbon steel plate in South Africa; and Newco Steel Trading, a U.S. importer of the subject merchandise from South Africa. These companies account for a significant share of South African production and South African exports to the United States of CTL carbon steel plate, as well as U.S. imports of the subject merchandise. The Commission received adequate responses containing company specific information from JSC Azovstal Iron & Steel Works and JSC Ilich Iron & Steel Works, producers and exporters of CTL carbon steel plate in Ukraine. These companies account for a significant share of Ukrainian production and Ukrainian exports to the United States of CTL carbon steel plate.

A record of the Commissioners' votes is available from the Office of the Secretary and at the Commission's web site, www.usitc.gov.

³ (...continued)

certification as provided for in the notice of institution (67 Fed. Reg. 56311, 56312 (Sept. 3, 2002)) and in conformance with Commission rule 207.3, Commissioner Bragg finds the response filed by China Steel on behalf of China Metallurgical to be individually inadequate.

⁴ Commissioner Koplan found the response on behalf of China Metallurgical to be individually inadequate because China Metallurgical itself did not submit the requisite certification as required by the notice of institution and Commission rule 207.3.

APPENDIX B
LIST OF WITNESSES

CALENDAR OF PUBLIC HEARING

Those listed below appeared as witnesses at the United States International Trade Commission's hearing:

Subject: Cut-to-Length Carbon Steel Plate from China, Russia, South Africa, and Ukraine

Inv. Nos.: 731-TA-753-756 (Review)

Date and Time: July 8, 2003 - 9:30 a.m.

Sessions were held in connection with these investigations in the Main Hearing Room, 500 E Street, SW, Washington, D.C.

OPENING REMARKS:

In Support of Continuation (**Roger B. Schagrín**, Schagrín Associates)
In Support of Revocation (**Philippe M. Bruno**, Dorsey & Whitney LLP)

In Support of the Continuation of the Suspension Agreements:

Schagrín Associates
Washington, D.C.
on behalf of

IPSCO Steel Inc.
Nucor Steel Hertford County, a division of Nucor Corporation

John Tulloch, Senior Vice President and Chief
Commercial Officer, IPSCO Inc.

Giff Daughtridge, Vice President and General Manager,
Nucor Steel Hertford County

Pat McFadden, National Sales Manager, Plate, Nucor
Steel Hertford County

Tom Ballou, Director, Flat-Rolled Products,
O'Neal Steel

**In Support of the Continuation of
the Suspension Agreements (continued):**

Dr. Robert Blecker, Professor of Economics, American
University

Roger B. Schagrin) – OF COUNSEL

Dewey Ballantine LLP
Washington, D.C.

and

Skadden, Arps, Slate, Meagher & Flom LLP
Washington, D.C.
on behalf of

United States Steel Corporation (“U.S. Steel”)

Thomas Cera, General Manager, Plate Products,
U.S. Steel

William Klinefelter, Assistant to the President;
and Legislative and Political Director, United
Steelworkers of America

Susan B. Hester, Economist, Dewey Ballantine LLP

Stephen J. Narkin)
Stephen Vaughn) – OF COUNSEL
Kevin M. Dempsey)

APPENDIX C
SUMMARY DATA

Table C-1
 CTL plate: Summary data concerning the U.S. market, 1997-2002, January-March 2002, and January-March 2003

(Quantity=short tons; values=1,000 dollars; unit values, unit labor costs, and unit expenses are per ton; and period changes=percent, except where noted)

| Item | Calendar year | | | | | | | | | | January-March | | | | Period changes | | | |
|-----------------------------------|---------------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|------|------|---------------|-----------|-----------|-----------|---------------------|--|--|--|
| | 1997 | 1998 | 1999 | 2000 | 2001 | 2002 | 2002 | 2002 | 2003 | 2003 | 1997-2002 | 2000-2001 | 2001-2002 | 2001-2002 | Jan.-Mar. 2002-2003 | | | |
| U.S. consumption quantity: Amount | 7,348,408 | 8,938,897 | 6,538,528 | 6,448,960 | 6,123,347 | 5,814,031 | 1,490,314 | 1,283,354 | | | -20.9 | -5.0 | -5.1 | -13.9 | | | | |
| Producers' share ¹ | 83.0 | 79.6 | 88.8 | 87.6 | 88.1 | 89.2 | 85.7 | 89.4 | | | 6.1 | 0.5 | 1.1 | 3.8 | | | | |
| Importers' share ¹ | | | | | | | | | | | | | | | | | | |
| China | 2.2 | 1.7 | 0.4 | 2.3 | 1.5 | 0.5 | 0.8 | 0.0 | | | -1.7 | -0.8 | -1.0 | -0.8 | | | | |
| Russia | 2.2 | 1.3 | 0.3 | 1.4 | 1.3 | 0.6 | 0.8 | 0.1 | | | -1.6 | -0.1 | -0.7 | -0.7 | | | | |
| South Africa | 0.1 | 0.2 | 0.2 | 0.1 | 0.2 | 0.2 | 0.4 | 0.1 | | | 0.1 | 0.1 | 0.0 | -0.3 | | | | |
| Ukraine | 2.5 | 1.7 | 0.1 | 0.4 | 0.5 | 0.1 | 0.0 | 0.1 | | | -2.4 | 0.1 | -0.4 | 0.1 | | | | |
| Subtotal | 7.0 | 4.9 | 0.9 | 4.2 | 3.5 | 1.4 | 2.0 | 0.4 | | | -5.6 | -0.8 | -2.0 | -1.6 | | | | |
| Other sources | 10.0 | 15.4 | 10.3 | 8.2 | 8.4 | 9.4 | 12.3 | 10.1 | | | -0.6 | 0.2 | 1.0 | -2.1 | | | | |
| Total | 17.0 | 20.4 | 11.2 | 12.4 | 11.9 | 10.8 | 14.3 | 10.6 | | | -6.1 | -0.5 | -1.1 | -3.8 | | | | |
| U.S. consumption value: Amount | 3,198,639 | 3,887,182 | 2,467,720 | 2,440,993 | 2,176,496 | 2,104,804 | 511,842 | 484,482 | | | -34.2 | -10.8 | -3.3 | -5.3 | | | | |
| Producers' share ¹ | 84.1 | 80.6 | 88.3 | 87.3 | 87.3 | 87.8 | 84.7 | 88.1 | | | 3.7 | 0.0 | 0.4 | 3.4 | | | | |
| Importers' share ¹ | | | | | | | | | | | | | | | | | | |
| China | 1.8 | 1.5 | 0.4 | 1.9 | 1.3 | 0.5 | 0.7 | 0.0 | | | -1.2 | -0.6 | -0.8 | -0.6 | | | | |
| Russia | 1.7 | 1.0 | 0.2 | 1.0 | 1.0 | 0.5 | 0.6 | 0.1 | | | -1.2 | 0.0 | -0.5 | -0.5 | | | | |
| South Africa | 0.1 | 0.2 | 0.1 | 0.1 | 0.2 | 0.2 | 0.3 | 0.1 | | | 0.1 | 0.1 | 0.0 | -0.2 | | | | |
| Ukraine | 2.0 | 1.5 | 0.1 | 0.4 | 0.5 | 0.1 | 0.0 | 0.1 | | | -1.9 | 0.1 | -0.4 | 0.1 | | | | |
| Subtotal | 5.5 | 4.2 | 0.8 | 3.3 | 2.9 | 1.3 | 1.6 | 0.4 | | | -4.2 | -0.4 | -1.6 | -1.3 | | | | |
| Other sources | 10.4 | 15.1 | 10.9 | 9.3 | 9.8 | 11.0 | 13.7 | 11.5 | | | 0.5 | 0.5 | 1.2 | -2.2 | | | | |
| Total | 15.9 | 19.4 | 11.7 | 12.7 | 12.7 | 12.2 | 15.3 | 11.9 | | | -3.7 | 0.0 | -0.4 | -3.4 | | | | |
| U.S. imports from-- | | | | | | | | | | | | | | | | | | |
| China: Quantity | 163,527 | 154,955 | 26,159 | 151,126 | 91,510 | 31,138 | 12,009 | 401 | | | -81.0 | -39.4 | -66.0 | -96.7 | | | | |
| Value | 56,247 | 56,471 | 9,003 | 46,031 | 28,309 | 10,980 | 3,408 | 177 | | | -80.5 | -38.5 | -61.2 | -94.8 | | | | |
| Unit value | \$343.96 | \$364.44 | \$344.17 | \$304.59 | \$309.35 | \$352.61 | \$283.77 | \$443.00 | | | 2.5 | 1.6 | 14.0 | 56.1 | | | | |
| Ending inventory | *** | *** | *** | *** | *** | *** | *** | *** | *** | *** | *** | *** | *** | *** | | | | |
| Russia: Quantity | 158,509 | 117,614 | 17,390 | 87,898 | 79,070 | 34,453 | 12,390 | 1,528 | | | -78.3 | -10.0 | -56.4 | -87.7 | | | | |
| Value | 53,096 | 39,929 | 6,115 | 23,933 | 20,690 | 10,399 | 3,196 | 490 | | | -80.4 | -13.5 | -49.7 | -84.7 | | | | |
| Unit value | \$334.97 | \$339.49 | \$351.63 | \$272.28 | \$261.67 | \$301.84 | \$257.93 | \$320.83 | | | -9.9 | -3.9 | 15.4 | 24.4 | | | | |
| Ending inventory | *** | *** | *** | *** | *** | *** | *** | *** | *** | *** | *** | *** | *** | *** | | | | |

-Table continued on next page.

Table C-1--Continued
 CTL plate: Summary data concerning the U.S. market, 1997-2002, January-March 2002, and January-March 2003

(Quantity=short tons; value=1,000 dollars; unit values, unit labor costs, and unit expenses are per ton; and period changes=percent, except where noted)

| Item | Calendar year | | | | | | | | | | January-March | | | | | Period changes | | |
|---------------------------|---------------|-----------|----------|----------|----------|----------|------|------|------|------------------|---------------|-----------|-----------|-----------|-----------|----------------|--|--|
| | 1997 | 1998 | 1999 | 2000 | 2001 | 2002 | 2002 | 2002 | 2002 | 2003 | 2001-2002 | 2000-2001 | 1997-2002 | 2000-2001 | 2001-2002 | 2002-2003 | | |
| | | | | | | | | | | | | | | | | | | |
| U.S. imports from-- | | | | | | | | | | | | | | | | | | |
| South Africa: | | | | | | | | | | | | | | | | | | |
| Quantity | 7,945 | 21,177 | 10,561 | 5,771 | 10,992 | 11,889 | | | | 5,971 | 1,708 | | | | | | | |
| Value | 3,059 | 8,625 | 3,449 | 1,983 | 3,665 | 3,484 | | | | 1,788 | 605 | | | | | | | |
| Unit value | \$385.07 | \$407.28 | \$326.54 | \$343.68 | \$333.39 | \$293.01 | | | | \$299.50 | \$354.19 | | | | | | | |
| Ending inventory | *** | *** | *** | *** | *** | *** | | | | *** | *** | | | | | | | |
| Ukraine: | | | | | | | | | | | | | | | | | | |
| Quantity | 184,615 | 148,349 | 3,814 | 28,627 | 31,316 | 5,650 | | | | 0 | 1,537 | | | | | | | |
| Value | 63,018 | 59,955 | 1,904 | 8,884 | 9,899 | 2,184 | | | | 0 | 593 | | | | | | | |
| Unit value | 341 | \$404.15 | \$499.33 | \$310.33 | \$316.12 | \$386.57 | | | | (¹) | \$385.90 | | | | | | | |
| Ending inventory | *** | *** | *** | *** | *** | *** | | | | *** | *** | | | | | | | |
| Subtotal subject sources: | | | | | | | | | | | | | | | | | | |
| Quantity | 514,597 | 442,094 | 57,923 | 273,422 | 212,888 | 83,130 | | | | 30,370 | 5,173 | | | | | | | |
| Value | 175,420 | 164,980 | 20,471 | 80,830 | 62,563 | 27,046 | | | | 8,392 | 1,865 | | | | | | | |
| Unit value | \$340.89 | \$373.18 | \$353.41 | \$295.63 | \$293.88 | \$325.35 | | | | \$276.32 | \$360.64 | | | | | | | |
| Ending inventory | *** | *** | *** | *** | *** | *** | | | | *** | *** | | | | | | | |
| Other sources: | | | | | | | | | | | | | | | | | | |
| Quantity | 732,631 | 1,379,685 | 671,426 | 529,085 | 515,870 | 546,414 | | | | 182,998 | 130,252 | | | | | | | |
| Value | 333,633 | 588,526 | 269,054 | 227,994 | 213,186 | 230,775 | | | | 69,950 | 55,823 | | | | | | | |
| Unit value | \$455.39 | \$426.57 | \$400.72 | \$430.92 | \$413.26 | \$422.34 | | | | \$382.25 | \$428.58 | | | | | | | |
| Ending inventory | *** | *** | *** | *** | *** | *** | | | | *** | *** | | | | | | | |
| All sources: | | | | | | | | | | | | | | | | | | |
| Quantity | 1,247,228 | 1,821,779 | 729,349 | 802,507 | 728,758 | 629,543 | | | | 213,369 | 135,425 | | | | | | | |
| Value | 509,053 | 763,506 | 289,524 | 308,824 | 275,751 | 257,821 | | | | 78,342 | 57,689 | | | | | | | |
| Unit value | \$408.15 | \$413.61 | \$396.96 | \$384.82 | \$378.39 | \$409.54 | | | | \$367.17 | \$425.98 | | | | | | | |
| Ending inventory | 10,019 | 29,481 | 10,336 | 6,921 | 7,547 | 5,012 | | | | 3,509 | 6,875 | | | | | | | |

-Table continued on next page.

Table C-1--Continued
 CTL plate: Summary data concerning the U.S. market, 1997-2002, January-March 2002, and January-March 2003

(Quantity=short tons; value=1,000 dollars; unit values, unit labor costs, and unit expenses are per ton; and period changes=percent, except where noted)

| Item | Calendar year | | | | | | | January-March | | | | Period changes | | |
|--|---------------|------------|-----------|-----------|-----------|-----------|-----------|---------------|------|-----------|-----------|----------------|-----------|------------------------|
| | 1997 | 1998 | 1999 | 2000 | 2001 | 2002 | 2002 | 2002 | 2003 | 1997-2002 | 2000-2001 | 2001-2002 | 2001-2002 | Jan.-Mar. 2002-2003 |
| | | | | | | | | | | | | | | |
| U.S. producers-- | | | | | | | | | | | | | | |
| Capacity quantity | 8,667,033 | 10,010,548 | 9,431,014 | 9,258,670 | 8,340,306 | 8,181,782 | 2,183,859 | 2,170,908 | | | -5.6 | -9.9 | -1.9 | -0.6 |
| Production quantity | 6,330,510 | 7,419,073 | 6,088,967 | 5,861,042 | 5,669,296 | 5,625,598 | 1,308,483 | 1,204,259 | | | -11.1 | -3.3 | -0.8 | -8.0 |
| Capacity utilization ¹ | 73.0 | 74.1 | 64.6 | 63.3 | 67.6 | 68.4 | 59.9 | 55.5 | | | -4.6 | 4.3 | 0.8 | -4.4 |
| U.S. shipments-- | | | | | | | | | | | | | | |
| Quantity | 6,101,180 | 7,117,118 | 5,809,179 | 5,646,453 | 5,394,589 | 5,184,488 | 1,276,946 | 1,147,929 | | | -15.0 | -4.5 | -3.9 | -10.1 |
| Value | 2,689,586 | 3,133,676 | 2,178,196 | 2,132,169 | 1,900,745 | 1,846,983 | 433,299 | 426,793 | | | -31.3 | -10.9 | -2.8 | -1.5 |
| Unit value | \$440.83 | \$440.30 | \$374.96 | \$377.61 | \$352.34 | \$356.25 | \$339.32 | \$371.79 | | | -19.2 | -6.7 | 1.1 | 9.6 |
| Export shipments: | | | | | | | | | | | | | | |
| Quantity | 170,955 | 226,837 | 194,051 | 217,225 | 177,518 | 227,124 | 35,157 | 64,549 | | | 32.9 | -18.3 | 27.9 | 55.2 |
| Value | 77,713 | 102,976 | 72,252 | 79,492 | 63,468 | 78,244 | 13,262 | 19,041 | | | 0.7 | -20.2 | 23.3 | 43.6 |
| Unit value | \$454.58 | \$453.96 | \$372.34 | \$365.94 | \$357.53 | \$344.50 | \$377.22 | \$349.06 | | | -24.2 | -2.3 | -3.6 | -7.5 |
| Ending inventory quantity | 428,270 | 500,751 | 446,738 | 447,226 | 442,041 | 334,473 | 300,135 | 260,882 | | | -21.9 | -1.2 | -24.3 | -13.1 |
| Inventories/total shipments ¹ | 6.8 | 6.8 | 7.4 | 7.6 | 7.9 | 6.2 | 5.7 | 5.4 | | | -0.6 | 0.3 | -1.8 | -0.3 |
| Production workers | 7,577 | 7,979 | 6,522 | 6,641 | 6,082 | 4,862 | 4,899 | 4,311 | | | -35.8 | -8.4 | -20.1 | -12.0 |
| Hours worked (1,000 hours) | 17,212 | 18,087 | 14,277 | 14,384 | 12,962 | 10,908 | 2,612 | 2,371 | | | -36.6 | -9.9 | -15.9 | -9.2 |
| Wages paid (1,000 dollars) | 375,409 | 402,019 | 318,065 | 321,268 | 300,089 | 258,415 | 62,893 | 59,333 | | | -31.2 | -6.6 | -13.9 | -5.7 |
| Hourly wages | \$21.81 | \$22.23 | \$22.28 | \$22.34 | \$23.15 | \$23.69 | \$24.08 | \$25.02 | | | 8.6 | 3.7 | 2.3 | 3.9 |
| Productivity (tons per hour) | 364.0 | 406.8 | 422.6 | 405.5 | 435.6 | 513.8 | 519.6 | 523.5 | | | 41.2 | 7.4 | 18.0 | 0.8 |
| Unit labor costs | \$59.92 | \$54.64 | \$52.72 | \$55.08 | \$53.15 | \$46.11 | \$46.92 | \$48.28 | | | -23.1 | -3.5 | -13.3 | 2.9 |

--Table continued on next page.

Table C-2

CTL plate: Summary data concerning the U.S. micro-alloy market, 1999-02, January-March 2002, and January-March 2003

* * * * *

Table C-3

CTL plate: Summary data concerning the U.S. market for carbon product (excluding micro-alloy), 1999-02, January-March 2002, and January-March 2003

* * * * *

Table C-4

CTL plate: Summary data concerning the U.S. market for non-alloy product (including carbon and micro-alloy), 1999-02, January-March 2002, and January-March 2003

* * * * *

APPENDIX D
ADDITIONAL INFORMATION ON
RELATED INVESTIGATIONS

Table D-1
Plate: AD/CVD investigations instituted, FY 1980-2002

| Institution year | Inv. number | | Product | Country | Outcome |
|------------------|-------------|-----|---------------------------------|-------------|-------------|
| | AD | CVD | | | |
| 80 | 18 | | Carbon steel products | Belgium | Terminated |
| 80 | 19 | | Carbon steel products | Germany-W. | Terminated |
| 80 | 20 | | Carbon steel products | France | Terminated |
| 80 | 21 | | Carbon steel products | Italy | Terminated |
| 80 | 22 | | Carbon steel products | Luxembourg | Terminated |
| 80 | 23 | | Carbon steel products | Netherlands | Terminated |
| 80 | 24 | | Carbon steel products | UK | Terminated |
| 82 | 51 | | Carbon steel plate | Romania | Terminated |
| 82 | | 83 | Carbon steel plate | Belgium | Terminated |
| 82 | | 84 | Carbon steel plate | Brazil | Terminated |
| 82 | 53 | 86 | Carbon steel plate | Belgium | Terminated |
| 82 | | 87 | Carbon steel plate | Brazil | Affirmative |
| 82 | 54 | 88 | Carbon steel plate | France | Negative |
| 82 | 55 | 89 | Carbon steel plate | Italy | Negative |
| 82 | 56 | 90 | Carbon steel plate | Luxembourg | Negative |
| 82 | 57 | 91 | Carbon steel plate | Netherlands | Negative |
| 82 | 58 | | Carbon steel plate | Romania | Terminated |
| 82 | 59 | 92 | Carbon steel plate | UK | Terminated |
| 82 | 60 | 93 | Carbon steel plate | Germany-W. | Terminated |
| 82 | | 155 | Carbon steel plate | Spain | Affirmative |
| 82 | | 170 | Carbon steel plate | Korea | Affirmative |
| 83 | 123 | | Carbon steel plate | Brazil | Affirmative |
| 83 | 146 | | Carbon steel plate | Belgium | Terminated |
| 83 | 147 | | Carbon steel plate | Germany-W. | Terminated |
| 84 | 151 | | Carbon steel plate not in coils | Korea | Affirmative |
| 84 | 169 | | Carbon steel plate not in coils | Finland | Terminated |

Table continued on next page.

Table D-1--Continued
Plate: AD/CVD investigations instituted, FY 1980-2002

| Institution year | Inv. number | | Product | Country | Outcome |
|------------------|-------------|-----|--|----------------|-------------|
| | AD | CVD | | | |
| 84 | 170 | | Carbon steel plate not in coils | South Africa | Terminated |
| 84 | 171 | | Carbon steel plate not in coils | Spain | Terminated |
| 85 | 213 | | Carbon steel plate | Czechoslovakia | Terminated |
| 85 | 214 | | Carbon steel plate | Germany-E. | Terminated |
| 85 | 215 | | Carbon steel plate | Hungary | Terminated |
| 85 | 216 | | Carbon steel plate | Poland | Terminated |
| 85 | | 225 | Carbon steel plate | Sweden | Negative |
| 85 | 217 | 226 | Carbon steel plate | Venezuela | Terminated |
| 85 | 224 | 230 | Cold-rolled carbon steel plate & sheet | Austria | Affirmative |
| 85 | 225 | | Cold-rolled carbon steel plate & sheet | Czechoslovakia | Terminated |
| 85 | 226 | | Cold-rolled carbon steel plate & sheet | Germany-E. | Terminated |
| 85 | 227 | | Cold-rolled carbon steel plate & sheet | Finland | Terminated |
| 85 | 228 | | Cold-rolled carbon steel plate & sheet | Romania | Terminated |
| 85 | 229 | 232 | Cold-rolled carbon steel plate & sheet | Venezuela | Terminated |
| 92 | 573 | 319 | Cut-to-length carbon steel plate | Belgium | Affirmative |
| 92 | 574 | 320 | Cut-to-length carbon steel plate | Brazil | Affirmative |
| 92 | 575 | | Cut-to-length carbon steel plate | Canada | Affirmative |
| 92 | 576 | | Cut-to-length carbon steel plate | Finland | Affirmative |
| 92 | 577 | 321 | Cut-to-length carbon steel plate | France | Negative |
| 92 | 578 | 322 | Cut-to-length carbon steel plate | Germany | Affirmative |
| 92 | 579 | 323 | Cut-to-length carbon steel plate | Italy | Negative |
| 92 | 580 | | Cut-to-length carbon steel plate | Japan | Negative |
| 92 | 581 | 324 | Cut-to-length carbon steel plate | Korea | Negative |
| 92 | 582 | 325 | Cut-to-length carbon steel plate | Mexico | Affirmative |
| 92 | 583 | | Cut-to-length carbon steel plate | Poland | Affirmative |

Table continued on next page.

Table D-1--Continued

Plate: AD/CVD investigations instituted, FY 1980-2002

| Institution year | Inv. number | | Product | Country | Outcome |
|------------------|-------------|-----|----------------------------------|----------------|-------------|
| | AD | CVD | | | |
| 92 | 584 | | Cut-to-length carbon steel plate | Romania | Affirmative |
| 92 | 585 | 326 | Cut-to-length carbon steel plate | Spain | Affirmative |
| 92 | 586 | 327 | Cut-to-length carbon steel plate | Sweden | Affirmative |
| 92 | 587 | 328 | Cut-to-length carbon steel plate | UK | Affirmative |
| 97 | 753 | | Cut-to-length carbon steel plate | China | Affirmative |
| 97 | 754 | | Cut-to-length carbon steel plate | Russia | Affirmative |
| 97 | 755 | | Cut-to-length carbon steel plate | South Africa | Affirmative |
| 97 | 756 | | Cut-to-length carbon steel plate | Ukraine | Affirmative |
| 99 | 815 | | Cut-to-length carbon steel plate | Czech Republic | Negative |
| 99 | 816 | 387 | Cut-to-length carbon steel plate | France | Affirmative |
| 99 | 817 | 388 | Cut-to-length carbon steel plate | India | Affirmative |
| 99 | 818 | 389 | Cut-to-length carbon steel plate | Indonesia | Affirmative |
| 99 | 819 | 390 | Cut-to-length carbon steel plate | Italy | Affirmative |
| 99 | 820 | | Cut-to-length carbon steel plate | Japan | Affirmative |
| 99 | 821 | 391 | Cut-to-length carbon steel plate | Korea | Affirmative |
| 99 | 822 | 392 | Cut-to-length carbon steel plate | Macedonia | Negative |
| 67 | 61 | 32 | TOTALS | 29 | 93 |

Source: Commission statistics.

Table D-2
Plate: Outstanding AD/CVD duty orders, as of March 31, 2003

| Date | | Case number | | Review sequence group number | Country |
|----------|--------------|-------------|-----------|------------------------------|--------------------------|
| Order | Continuation | ITC | Commerce | | |
| 02/10/00 | | A-821 | A-580-836 | 40 | Korea |
| 02/10/00 | | A-820 | A-588-847 | 40 | Japan |
| 02/10/00 | | A-819 | A-475-826 | 40 | Italy |
| 02/10/00 | | A-818 | A-560-805 | 40 | Indonesia |
| 02/10/00 | | A-817 | A-533-817 | 40 | India |
| 02/10/00 | | A-816 | A-427-816 | 40 | France |
| 10/24/97 | | A-756 | A-823-808 | 7 | Ukraine (Suspended) |
| 10/24/97 | | A-755 | A-791-804 | 7 | South Africa (Suspended) |
| 10/24/97 | | A-754 | A-821-808 | 7 | Russia (Suspended) |
| 10/24/97 | | A-753 | A-570-849 | 7 | China (Suspended) |
| 08/19/93 | 12/15/00 | A-587 | A-412-814 | 79 | United Kingdom |
| 08/19/93 | 12/15/00 | A-586 | A-401-805 | 79 | Sweden |
| 08/19/93 | 12/15/00 | A-585 | A-469-803 | 79 | Spain |
| 08/19/93 | 12/15/00 | A-584 | A-485-803 | 79 | Romania |
| 08/19/93 | 12/15/00 | A-583 | A-455-802 | 79 | Poland |
| 08/19/93 | 12/15/00 | A-582 | A-201-809 | 79 | Mexico |
| 08/19/93 | 12/15/00 | A-578 | A-428-816 | 79 | Germany |
| 08/19/93 | 12/15/00 | A-576 | A-405-802 | 79 | Finland |
| 08/19/93 | 12/15/00 | A-574 | A-351-817 | 79 | Brazil |
| 08/19/93 | 12/15/00 | A-573 | A-423-805 | 79 | Belgium |
| 06/13/79 | 12/15/00 | AA-197 | A-583-080 | 79 | Taiwan |
| 02/10/00 | | C-391 | C-580-837 | 40 | Korea |
| 02/10/00 | | C-390 | C-475-827 | 40 | Italy |
| 02/10/00 | | C-389 | C-560-806 | 40 | Indonesia |
| 02/10/00 | | C-388 | C-533-818 | 40 | India |

Table continued on next page.

Table D-2--Continued

Plate: Outstanding AD/CVD duty orders, as of March 31, 2003

| Date | | Case number | | Review sequence group number | Country |
|----------|--------------|-------------|-----------|---------------------------------------|----------------|
| Order | Continuation | ITC | Commerce | | |
| 02/10/00 | | C-387 | C-427-817 | 40 | France |
| 08/17/93 | 12/15/00 | C-328 | C-412-815 | 79 | United Kingdom |
| 08/17/93 | 12/15/00 | C-327 | C-401-804 | 79 | Sweden |
| 08/17/93 | 12/15/00 | C-326 | C-469-804 | 79 | Spain |
| 08/17/93 | 12/15/00 | C-325 | C-201-810 | 79 | Mexico |
| 08/17/93 | 12/15/00 | C-322 | C-428-817 | 79 | Germany |
| 08/17/93 | 12/15/00 | C-320 | C-351-818 | 79 | Brazil |
| 08/17/93 | 12/15/00 | C-319 | C-423-806 | 79 | Belgium |
| 33 | 18 | TOTALS | | 4 | 21 |

Source: Commission statistics.

SECTION 201 IMPORT RELIEF MEASURES

Scope

Plate (including cut-to-length plate and clad plate).—Cut-to-length plate is a flat-rolled product of rectangular cross-section, having a thickness of 4.75 mm or more and a width which exceeds 150 mm and measures at least twice the thickness. It is flat (i.e., not in coils, and may be of any shape (rectangular, circular, or other). It may have been produced by rolling on a sheared-plate mill or by flattening and cutting-to-length a coiled plate. It may have patterns-in-relief derived directly from rolling (e.g., floor plate). It may be perforated, corrugated, or polished. Plate may also have been subject to heat-treatment and have been descaled or pickled. Clad plate is a flat-rolled product of more than one metal layer, of which the predominating metal is non-alloy steel, and the layers are joined by molecular interpenetration of the surfaces in contact. The metal other than non-alloy steel may be stainless steel, titanium, or any other metal. The product may be in the form of a flat plate or a coiled plate, may be of any thickness, and may be either hot- or cold-rolled. Carbon and alloy steel cut-to-length and clad plate are provided for in the following HTS statistical reporting numbers:

| | | | | |
|--------------|--------------|--------------|--------------|--------------|
| 7208.40.3030 | 7208.51.0045 | 7208.90.0000 | 7211.14.0030 | 7225.40.3050 |
| 7208.40.3060 | 7208.51.0060 | 7210.90.1000 | 7211.14.0045 | 7225.50.6000 |
| 7208.51.0030 | 7208.52.0000 | 7211.13.0000 | 7225.40.3005 | 7226.91.5000 |

Exemptions and Exclusions

Certain products listed in U.S. note 11(a) and (b)(i)-(ix) in chapter 99 subchapter III of the HTS were excluded from investigation No. TA-201-73 and from the section 203 remedy resulting from it. Excluded products as found in temporary HTS subheadings for plate established by proclamation pursuant to trade legislation are as follows:

- (1) 9903.72.50 through 9903.72.54, 9903.74.38 through 9903.74.42, 9903.74.45 through 9903.74.49, 9903.74.54, 9903.74.58 through 9903.74.60, 9903.74.70,¹ and 9903.78.25 through 9903.78.28 for products excluded from the 203 remedy;
- (2) 9903.74.43, 9903.74.44, 9903.74.50 through 9903.74.53, 9903.74.55 through 9903.74.57, 9903.74.69, 9903.74.73, and 9903.78.29 through 9903.78.32 for products entered in quantities up to stated limits without additional tariffs; and
- (3) 9903.72.60, 9903.72.61, and 9903.72.62 entered in excess of quantities specified in (2), above, and products not covered by any exclusion; all of the foregoing for products incurring, respectively, 30% additional tariffs through March 19, 2003, 24% additional tariffs through March 19, 2004, and 18% additional tariffs through March 20, 2005.

¹ Although this no-longer-existent temporary HTS subheading was originally categorized as hot-rolled sheet and strip (including plate in coils) as described on the following page, it is believed that all imports entered under this subheading were indeed plate as described on this page.

Exempt Countries

Countries exempt from the President's section 203 remedy include Canada, Israel, Jordan, Mexico, and the following developing countries:

Albania, Angola, Antigua and Barbuda, Argentina, Bahrain, Bangladesh, Barbados, Belize, Benin, Bolivia, Botswana, Bulgaria, Burkina Faso, Burundi, Cameroon, Central African Republic, Chad, Chile, Colombia, Congo (Brazzaville), Congo (Kinshasa), Costa Rica, Cote d'Ivoire, Croatia, Czech Republic, Djibouti, Dominica, Dominican Republic, Ecuador, Egypt, El Salvador, Estonia, Fiji, Gabon, the Gambia, Georgia, Ghana, Grenada, Guatemala, Guinea, Guinea Bissau, Guyana, Haiti, Honduras, Hungary, India, Indonesia, Jamaica, Jordan, Kenya, Kyrgyzstan, Latvia, Lesotho, Lithuania, Macedonia, Madagascar, Malawi, Mali, Mauritania, Mauritius, Moldova, Mongolia, Morocco, Mozambique, Namibia, Niger, Nigeria, Oman, Pakistan, Panama, Papua New Guinea, Paraguay, Peru, Philippines, Poland, Romania, Rwanda, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, Senegal, Sierra Leone, Slovakia, Solomon Islands, South Africa, Sri Lanka, Suriname, Swaziland, Tanzania, Thailand, Togo, Trinidad and Tobago, Tunisia, Turkey, Uganda, Uruguay, Venezuela, Zambia, and Zimbabwe.

Subject countries

Subject countries include all other countries not identified as exempt countries. In addition, although Brazil is a developing country, its flat products (including CTL plate) are subject to the import relief measure.

APPENDIX E

**COMMENTS REGARDING THE EFFECTS OF
THE SUSPENSION AGREEMENTS AND
THE LIKELY EFFECTS OF TERMINATION**

U.S. PRODUCERS' COMMENTS

Anticipated Operational/Organizational Changes

The Commission's questionnaires in these reviews requested comments from U.S. producers/processors (question II-4) regarding any anticipated changes in the character of their operations or organization relating to the production of CTL plate in the future if the suspension agreements on CTL plate from China, Russia, South Africa, and Ukraine were to be terminated. The following comments were received:

U.S. mills

*** U.S. producers of CTL mill plate responded "No." The firms include: ***.

If terminated, "it is expected that a resumption of low priced imported plates from subject countries will occur. This threat is severe, and while hard to quantify, it is only from past experience that we can predict this will require mill shutdowns and layoffs in our facilities. A loss of profitability will certainly occur as the need develops to drop selling values to sub-optimum levels to compete with low priced imports."

Termination "will allow additional supply into the market that already has sufficient capacity to support current and future needs. In addition, additional manpower reductions are highly probable should the agreements be revoked."

Termination would likely lead to dumping and "resumption of dumping from the subject countries would have devastating effects on ***'s plate operations. As shown by the financial results reported in this questionnaire, ***'s plate operations are extremely vulnerable to injury at this time."

If terminated, "the resulting return to imports of dumped product from the named countries could lead to curtailment of production at *** facilities."

"We would anticipate reduced volume, lower employment levels, reduced operating shifts, higher costs, lower prices and significant losses."

U.S. processors

*** U.S. processors of CTL plate from coiled plate responded "No." The firms include: ***.

“We would expect a resumption of substantial import tonnage from these countries priced below domestic product.”

Significance of Agreements In Terms of the Effects on Trade and Related Factors

The Commission’s questionnaires in these reviews requested comments from U.S. producers/processors (question II-12) regarding the significance of the existing suspension agreements on CTL plate from China, Russia, South Africa, and Ukraine in terms of the effect on their production capacity, production, U.S. shipments, inventories, purchases, employment, revenues, costs, profits, cash flow, capital expenditures, research and development expenditures, and asset values. The following comments were received:

U.S. mills

*** U.S. producers of CTL mill plate responded that the suspension agreements had no or little impact on their CTL plate operations. The firms include: ***.

“The suspension agreements afforded *** an opportunity to plan and make the \$*** investment in this facility. *** knew the *** facility would be *** mill positioned to compete against *** facilities. The producers subject to these agreements are neither price nor cost conscience and will target export markets regardless of the cost or price implications.”

“The suspension agreements and the consequential reduction in dumped import availability has had a stabilizing effect on market pricing although that stability is constantly under pressure as importers switch to new sources of dumped product.”

“The implementation of the 1997 suspension agreements provided an opportunity for the domestic plate market to work through the inventory overhang of product coming into the United States from China, Russia, South Africa, and Ukraine. The recovery in pricing took over a year to be realized, as the elimination of inventories and demand had to come into equilibrium. Unfortunately, there was a country of origin shift in 1998 generating another surge of unfairly traded imports from a new host of countries. Obviously, if the subject countries had not had suspension agreements in place, the effect on the domestic industry could well have been fatal.

These suspension agreements allowed our facilities to operate at a *** turns per week configuration, versus the *** turns per week operation realized during the import surge period. Maintaining consistent operation rates allowed us to staff our mills adequately without taking down weeks due to lack of business. The recovery to pricing allowed us to reinvest and provide maintenance on our facilities which at times had been postponed due to limited cash resources to spend on new initiatives. Should the suspension agreements be allowed to lapse, we anticipate that these foreign competitors will return to dumping their product in the United States market, thereby thwarting any hope of the domestic market defining its own natural level.”

“*** saw immediate improvements as a result of these agreements. Commercial shipments of cut-to-length plate increased and financial performance improved in the year after these agreements were put in place. Unfortunately, the recovery was short-lived as huge volumes of dumped plate from France, India, Indonesia, Italy, Japan, and Korea once again drove prices and shipments down. Nevertheless, these suspension agreements continue to perform a vital service by keeping out what would be a devastating flood of imports from the subject countries.”

U.S. processors

*** U.S. processors of CTL plate from coiled plated responded that the suspension agreements had no impact on their CTL plate operations. The firms include: ***.

“China, Russia, South Africa, and Ukraine were relatively *** suppliers of CTL plate to *** prior to the suspension agreements. Consequently, the direct impact of these mills’ shipments to *** was ***. Their indirect impact, however, both real and psychological, was *** because those countries that did ship plate to *** did so partly because they couldn’t ship all they wanted to ship to other U.S. ports.”

“We experienced a coil shortage last year which reduced our sales opportunities.”

Anticipated Changes in Trade and Related Factors

The Commission’s questionnaires in these reviews requested comments from U.S. producers/processors (question II-13) regarding anticipated changes in their production capacity, *production, U.S. shipments, inventories, purchases, employment, revenues, costs, profits, cash flow, capital expenditures, research and development expenditures, or asset values* relating to the production of CTL plate in the future if the suspension agreements on CTL plate from China, Russia, South Africa, and/or Ukraine were to be terminated. The following comments were received:

U.S. mills

“No.”

“We would anticipate an immediate large volume surge of dumped low price imports from these countries. This will result in an immediate negative impact on our shipments, capacity utilization, employment levels and profitability. These factors will disrupt our ability to make further capital investments.”

If terminated, "it is expected that traders and importers will resume their past practices and begin importing dumped products from these countries in increasing quantities. To the extent that these imports impact ***'s sales, imports may be curtailed."

"(W)e note that in October 2001, the ITC found that increased imports were a substantial cause of serious injury to domestic producers of carbon and alloy flat roll products (including cut-to-length plate). *** has not fully recovered from this injury. Revoking these agreements would lead to a renewal of unfair trade, which would inevitably lead to additional material injury."

If terminated, "it is ***'s opinion that there would be a surge of imported products similar to what happened in 1997-1998. This excess supply would most likely result in further reduction in labor and potentially result in a significant loss in sales revenue and profitability. Detailed projections on the potential impact have not been made at the present time."

If terminated, "we would anticipate that they would return to dumping their product in the domestic market at will. These surges in supply will disrupt the domestic market production and pricing levels, taking its toll on employment and profitability rates.

From history, these countries typically return to the United States within six months, at prices substantially below domestic market levels. While it is difficult to predict the volumes expected, we would anticipate these countries to maximize production as they have in the past, knowing they had an unlimited American market in which to export finished plates.

As a result, our facilities would be forced to reduce operations due to subsequent over capacity in supply. Shipments would decline as imports unfairly capture market share and profitability would decline as the surges in availability causes inventory fluctuations, eliminating the possibility of consistent mill operations.

The ability to achieve a fair return on our product, plus the ability to maintain our facilities would be severely damaged if these suspension agreements were revoked."

U.S. IMPORTERS' COMMENTS

Anticipated Operational/Organizational Changes

The Commission's questionnaires in these reviews requested comments from U.S. importers (question II-4) regarding any anticipated changes in the character of their operations or organization relating to the importation of CTL plate in the future if the suspension agreements on CTL plate from China, Russia, South Africa, and Ukraine were to be terminated. The following comments were received:

*** U.S. importers of CTL plate responded "No." The firms include: ***.

"Unaware of any significance . . ."

"Our character or strategy would not change because we are always evaluating markets and supply/demand needs. There are many factors we evaluate including currency, world price, U.S. price, demand, quality, capabilities, size range, as well as restrictions."

**** import subject goods to ***. Should the agreements be revoked, dumping from the named countries will resume and *** will lose sales as a consequence, some of which may be comprised of *** thus resulting in import reductions."

Significance of Agreements In Terms of the Effects on Trade and Related Factors

The Commission's questionnaires in these reviews requested comments from U.S. importers (question II-8) regarding the significance of the suspension agreements concerning CTL plate from China, Russia, South Africa, and Ukraine in terms of their effect on their firms' imports, U.S. shipments of imports, and inventories. The following comments were received:

*** U.S. importers of CTL plate did not respond. The firms include: ***.

"Unaware of any significance . . ."

"The existing suspension agreements set minimum price levels that made it difficult to sell CTL carbon plate in the U.S.A. as U.S. mills added new plate production, CTL plate prices dropped making Russian and Ukrainian less competitive."

"The suspension minimum prices are rarely price competitive with ***. The effect has been to 'kill' a \$*** a year business for our company."

"Imports of products from these countries have been reduced partly due to minimum price levels. Some product has come in but is limited to special sizes and grades. If the suspension agreements are lifted other sizes and grades could become more attractive to U.S. buyers."

"The suspension agreements and the consequential reduction in dumped import availability has had a stabilizing effect on market pricing although that stability is constantly under pressure as importers switch to new sources of dumped product."

"Floor prices are set higher than domestic transaction prices. Resulting in restriction of fair trade for all but a few sizes and quantities. Only A-36 is allowed from China limiting our customers' purchasing options."

Anticipated Changes in Trade and Related Factors

The Commission's questionnaires in these reviews requested comments from U.S. importers (question II-9) regarding any anticipated changes in their imports, U.S. shipments of imports, or inventories of CTL plate in the future if the suspension agreements on CTL plate from China, Russia, South Africa, and Ukraine were to be terminated. The following comments were received:

*** U.S. importers of CTL plate responded "No." The firms include: ***.

"We would expect to see imports increase over time but as a result of numerous factors effecting supply and demand. By removing the minimum price or other agreement you are reducing the restrictions."

"Should the suspension agreements be revoked, it is expected that traders and importers will resume their past practices and begin importing dumped products from these countries in increasing quantities. To the extent that these imports impact ***'s sales, imports may be curtailed."

"We would resume our business from China *** annually, Russia *** annually, South Africa *** annually at fair market price."

“Our manufacturing customers (many who export) would be able to purchase C-T-L plate at world prices allowing them to compete with their foreign competition on a fair playing field.”

U.S. PURCHASERS' COMMENTS REGARDING THE EFFECTS OF TERMINATION

The Commission's questionnaires in these reviews requested comments from U.S. purchasers (question III-10) regarding the effects of termination of the suspension agreements on (1) the future activities of their firms and (2) the U.S. market as a whole. Four firms responded that there would be no/little/unknown effects if the suspension agreements were terminated. The firms include: ***. The following comments were received from the remaining firms:

- (1) **Activities of firm.**--"Don't know."
- (2) **Entire U.S. market.**--"Imports will rise in an already over-capacitated market."

- (1) **Activities of firm.**--"We would not anticipate any change to our purchasing patterns."
- (2) **Entire U.S. market.**--"Could possibly impact the sourcing."

- (1) **Activities of firm.**--"No change. The percentage of import to domestic will likely remain the same."
- (2) **Entire U.S. market.**--"Additional steel entering country will show further erosion in pricing unless demand improves. Domestics may be more market conscious in pricing patterns."

- (1) **Activities of firm.**--"I don't believe it will have much of any impact on our company because all of our plates are special sizes, we could not rely on the lead time from foreign sources."
- (2) **Entire U.S. market.**--"Depending on demand and U.S. capacity to meet or exceed demand, foreign material finds its niche in the U.S. market. Companies look to foreign sourcing when U.S. companies can't meet users expectations or deliveries."

FOREIGN PRODUCERS' COMMENTS

Anticipated Operational/Organizational Changes

The Commission's questionnaires in these reviews requested comments from foreign producers (question II-3) regarding any anticipated changes in the character of their operations or organization relating to the production of CTL plate in the future if the suspension agreements on CTL plate from China, Russia, South Africa, and Ukraine were to be terminated. The following comments were received:

All ten foreign producers of CTL plate responded "No."

Significance of Agreements In Terms of the Effects on Trade and Related Factors

The Commission's questionnaires in these reviews requested comments from foreign producers (question II-14) regarding the significance of the existing the suspension agreements on CTL plate from China, Russia, South Africa, and Ukraine in terms of their effect on the firms' production capacity, production, home market shipments, exports to the United States and other markets, and inventories.

*** foreign producers of CTL reported no significant influences as a result of the suspension agreements. The firms include: ***. The following comments were received from the remaining firms:

No impact. Factors "have remained constant to what they were prior to the agreement. We carry *** inventories. We have continued to export *** quantities to the United States. Due to reasons unrelated to the agreement, sales to the *** market have increased significantly because of the local demand for CTL plates created by ***.

"There is no impact . . . There was decrease of sales to the U.S. after signing the Suspension Agreement. There was increase in export sales to other countries . . . In case of exports to USA when we ship in frame of *** Agreement, there were problems because of imperfection mechanism of the minimal prices fixed on inappropriate high level. There are no experience how we will operate under the *** but we hope that we will be able to sell after canceling of the 201 duties only. Additionally combi cargo missing for certain destination ports on export of other product to the US, thus there is loss of certain local market segments like Florida or Alabama."

"It is fair to state that the existing suspension agreement covering imports of CTL carbon steel plate from *** did not (leave alone significantly) impact on ***'s production, capacity, production, home market shipments, and other markets, and inventories. However, the imposition of the suspension agreement had the effect that minimal tonnages could be exported to the US between ***. Whereas ***. The reason for this being that ***. Note should further be taken that production of CTL carbon steel plate *** declined over ***, mainly due to a decline in the domestic demand and the availability of feedstock to be allocated to the production of CTL carbon steel plate, as a result of the economic feasibility of CTL carbon steel plate vis-a-vis other value added flat steel products. This statement is