



UNITED STATES DEPARTMENT OF COMMERCE
International Trade Administration
Washington, D.C. 20230

A-821-809
Admin Review: 7/01/10 – 6/30/11
Public Document
IA/OP/BAU/ASD

NOV 30 2012

TO: Ronald K. Lorentzen
Deputy Assistant Secretary
for Import Administration

FROM: Lynn Fischer Fox *Lnff*
Deputy Assistant Secretary
for Policy and Negotiations

RE: Issues and Decision Memorandum for the Final Results of Administrative Review and Revision to the Agreement Suspending the Antidumping Investigation on Certain Hot-Rolled Flat-Rolled Carbon-Quality Steel Products from the Russian Federation

Summary

On June 1, 2012, the Department published its preliminary results of an administrative review of the Agreement Suspending the Antidumping Investigation on Certain Hot-Rolled Flat-Rolled Carbon-Quality Steel Products from the Russian Federation (“the Agreement”) for the period July 1, 2010 through June 30, 2011. See [Hot-Rolled Flat-Rolled Carbon-Quality Steel Products from the Russian Federation; Preliminary Results of the Administrative Review of the Suspension Agreement](#), 77 FR 32513 (June 1, 2012) (“Preliminary Results”). In its Preliminary Results, the Department determined that, although the Government of the Russian Federation was in compliance with the Agreement, the Department’s evaluation with respect to the status of the Agreement indicated that the Agreement was not meeting its statutory requirement to prevent price undercutting of domestic hot-rolled steel prices. On November 14 and 15, 2012, respectively, the Department and the Ministry of Economic Development of the Russian Federation (“The Economy Ministry of Russia”) initialed a draft revision to the Agreement which realigns the reference prices issued pursuant to the Agreement with current U.S. market prices. The Department requested, and received on November 23, 2012, comments from interested parties on the initialed draft revision. On November 30, 2012, the Department and The Economy Ministry of Russia signed the final revision to the Agreement. The revision to the Agreement establishes an effective reference price mechanism and, thus, brings the revised Agreement into compliance with its statutory requirement to prevent the undercutting of domestic price levels by imports of Russian hot-rolled steel.

We have analyzed, and responded to, the relevant comments submitted by interested parties with respect to the initialed draft revision to the Agreement in the “Analysis of Comments” section below. We recommend that you approve the positions we have described in this memorandum.



Scope of the Agreement

See Attachment One.

Period of Review (POR)

The POR is July 1, 2010 through June 30, 2011.

Background

In response to a request from Nucor Corporation (“Nucor”), a domestic interested party, the Department conducted an administrative review of the Agreement, and, on June 1, 2012, the Preliminary Results were published in the Federal Register. Section 751(a)(1)(C) of the Act specifies that, in an administrative review of a suspension agreement, the Department shall “review the current status of, and compliance with, any agreement by reason of which an investigation was suspended.” In this case, the Department reviewed the current status of, and compliance with, the Agreement, which was signed by the Department and the Ministry of Trade of the Russian Federation on July 12, 1999, and suspended the antidumping duty investigation. Because the Department determined that the Russian Federation was a non-market economy country at that time, the Agreement was entered into under section 734(l) of the Act, which applies to non-market economy countries.¹ This section provides that the Department may suspend an investigation upon acceptance of an agreement with a non-market economy country to restrict the volume of imports into the United States, if the Department determines that the agreement is in the public interest; that effective monitoring is possible; and that the agreement “will prevent the suppression or undercutting of price levels of domestic products by imports of the merchandise under investigation.” See Section 734(l)(1). For this purpose, the Agreement’s terms established annual quota limits and a reference price mechanism to provide minimum prices for sales of Russian hot-rolled steel imports into the U.S. market.

As specified under Section III.E of the Agreement, the reference price mechanism in the original, unrevised Agreement utilized quarterly adjustments to the reference prices. The adjustments were based on volume and value data for hot-rolled steel imports from all countries except those subject to an antidumping duty order or investigation (*i.e.*, “fairly-traded”) for the two most recently completed, calendar quarters reported by the U.S. Bureau of the Census (from the International Trade Commission’s Dataweb). The percentage change between these two quarters was calculated, in Step 4 of the methodology, based on their respective average unit values (value of imports divided by the volume of imports). However, if the average unit value (“AUV”) of the last month of the last quarter had risen or fallen more than six percent (positive or negative) from the AUV of the first two months of the last quarter, the reference prices for the various grades were adjusted on the basis of the last month of the last quarter compared to the AUV of the first

¹ In a memorandum dated June 6, 2002, based on the evidence of 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, with such revocation effective as of April 1, 2002.

quarter (Step 5 of the methodology). This resulting “Step 5” adjustment was capped at 10 percent. If Step 5 was not applicable, the reference prices were adjusted using the result of Step 4 only. The percentage adjustment resulting from either Step 4 or 5 was made to the current reference prices in determining the upcoming quarter’s reference prices for the three product groups of subject hot-rolled steel.

As discussed above, pursuant to section 734(l)(1) of the Act, the Department must ensure that the Agreement “will prevent the suppression or undercutting of price levels of domestic products by imports of the merchandise under investigation.” In evaluating the information on the record of the administrative review with respect to the current status of, and compliance with, the Agreement, the Department preliminarily determined that the Agreement’s reference price mechanism, in its current form, was no longer preventing price undercutting by Russian imports of hot-rolled steel into the U.S. market, and, as a result, preliminarily determined that the Agreement was no longer fulfilling its statutory requirement. See Preliminary Results, 77 FR at 32516. Based on the record evidence, the Department preliminarily determined that the adjustments made quarterly within the Agreement’s existing reference price mechanism failed to keep pace with changes in U.S. market prices. Further, once the reference prices became too low relative to U.S. market prices, the subsequent quarterly adjustments were no longer effective in providing new reference prices that were reflective of U.S. market prices for hot-rolled steel. In addition, the Department preliminarily determined that the record evidence indicated that the failing reference price mechanism, as described, had led to the undercutting of domestic hot-rolled steel price levels by Russian hot-rolled steel imports during the POR. As a separate matter, in its preliminary results, the Department found no evidence, in the information submitted by interested parties in the administrative review, that the Agreement had been violated during the POR.

Section X.C of the Agreement specifies that the Department may terminate the Agreement at any time upon written notice to the other party. In its Preliminary Results, pursuant to section X(C) of the Agreement, the Department provided written notice to The Economy Ministry of Russia of the termination of the Agreement if the Department made no changes from the Preliminary Results in its final results of this review and no amendment to the Agreement was agreed upon. Under such circumstances, the Department stated its intention to terminate the Agreement in accordance with section 734(i) of the Act. Id.

After publication of the Preliminary Results, the Department offered interested parties an opportunity to place additional factual information on the record of this administrative review. In July 2012, the Russian producers Joint Stock Company Severstal (“Severstal”), Novolipetsk Steel, Magnitogorsk Iron and Steel Works, and OJSC “OMK-Steel” (collectively, “the Russian producers”) and Nucor placed factual information on the record; then Severstal, and Nucor and the domestic producers ArcelorMittal USA LLC, United States Steel Corporation, Gallatin Steel Company, Steel Dynamics, Inc., and SSAB N.A.D., Inc. (collectively, “the domestic producers”), placed rebuttal factual information on the record. In July and August 2012, The Economy Ministry of Russia, the Russian producers, and the domestic producers submitted case and rebuttal briefs, respectively, in response to the Preliminary Results.

On January 31, 2012, the Department requested consultations with The Economy Ministry of Russia, under Section VIII.C of the Agreement, to discuss the issues of the alleged sales of Russian hot-rolled steel imports at prices that called into question the effectiveness of the Agreement's reference price mechanism and whether the Agreement was fulfilling its statutory mandate to prevent the undercutting and suppression of domestic hot-rolled steel prices. On February 23, 2012, and September 26-27, 2012, the Department and The Economy Ministry of Russia held consultations in Washington, D.C., and on June 1, 2012, in Paris, France, to discuss these issues. The Department and The Economy Ministry of Russia exchanged several written proposals in an attempt to resolve these concerns and to bring the Agreement into alignment with its statutory requirement to prevent the undercutting of domestic price levels for hot-rolled steel.

On November 14 and 15, 2012, respectively, the Department and The Economy Ministry of Russia initialed a draft revision to the Agreement in which the parties agreed to updated reference prices for the fourth quarter of the 2012 Export Limit Period, based on current domestic prices published by the industry publication *SteelBenchmarker*TM ("*SteelBenchmarker*"), as well as a modification to the quarterly adjustment mechanism for making future quarterly reference price adjustments. On November 15, 2012, the Department released to interested parties the initialed draft revision to the Agreement and requested comments by November 23, 2012. See Memorandum to All Interested Parties from Sally C. Gannon Re "Draft Revision to the Agreement Suspending the Antidumping Investigation on Certain Hot-Rolled Flat-Rolled Carbon-Quality Steel Products from the Russian Federation; Request for Comments" (November 15, 2012). The initialed draft revision and request for comments were also published in the *Federal Register* on November 23, 2012. See Initialed Draft Revision to the Agreement Suspending the Antidumping Investigation on Certain Hot-Rolled Flat-Rolled Carbon Quality Steel Products from the Russian Federation: Request for Comments, 77 FR 70142 (November 23, 2012). The Department received timely comments on the draft revision from The Economy Ministry of Russia, the Russian producers, and the domestic producers. The Department has considered, and responded to, all relevant comments concerning the revised Agreement in this memorandum. The revised Agreement is effective on November 30, 2012, the date of the signing of the revision.

Discussion of the Issues

Comments from The Economy Ministry of Russia

Comment 1:

Argument: In its comments on the initialed draft revision, The Economy Ministry of Russia requested that the revision to the Agreement be named a "Protocol." Specifically, The Economy Ministry of Russia requested the title "The Protocol to the Agreement Suspending the Antidumping Investigation on Certain Hot-Rolled Flat-Rolled Carbon Quality Steel Products from the Russian Federation."

Recommendation: The Department's regulations allow for the negotiation and acceptance of a "revised suspension agreement," under certain circumstances. See 19 C.F.R. §351.209.

Following the precise wording of the regulation is consistent with the language of the Department's regulations, and, thus, the Department determines it should continue to use the wording "Revision to the Suspension Agreement." The Department recognizes, however, that The Economy Ministry of Russia may utilize the term "Protocol" in the Russian-language version of the revision to the Agreement as the most appropriate translation of "Revision" for these purposes.

The Department also recommends correcting the title of the revision to use the exact wording of the Agreement's title, as suggested by the Economy Ministry of Russia, as follows: "Revision to the Agreement Suspending the Antidumping Investigation on Certain Hot-Rolled Flat-Rolled Carbon-Quality Steel Products from the Russian Federation."

Comment 2:

Argument: The Economy Ministry of Russia requests that the Department withdraw the Preamble to the draft revision to the Agreement, and state as follows: "Ministry of Economic Development of the Russian Federation (The Economy Ministry of Russia)" and Department of Commerce of the USA (the DOC) agreed as follows. . ." Further, they request that the revision's text replace "MED" throughout with the requested shortened name of "The Economy Ministry of Russia." In further government-to-government communications prior to finalizing the revision to the Agreement, The Economy Ministry of Russia requested additional language to be added to the revision regarding: 1) the Ministry of Trade ("MOT") of the Russian Federation as the original signer of the Agreement, and 2) World Trade Organization ("WTO") rights.

Recommendation: We propose that the Department redefine the Ministry of Economic Development using the requested shortened name of "The Economy Ministry of Russia" and replace references to "MED" throughout the revision's text with the requested shortened name. In the revision, the Department will reference its formal title of "United States Department of Commerce" and will continue to use the shortened name of "DOC" thereafter, as already specified in the original Agreement. See Agreement, 64 FR at 38643.

In the government-to-government communications prior to finalizing this revision to the Agreement, the Department agreed to the addition of language to the revision regarding MOT as the original signer of the Agreement, for purposes of clarity. Therefore, the Department recommends revising the first sentence in the first opening paragraph of the revision to the Agreement as follows:

The Agreement Suspending the Antidumping Investigation on Hot-Rolled Flat-Rolled Carbon-Quality Steel Products from the Russian Federation ("Agreement"), signed by the United States Department of Commerce and the Ministry of Trade of the Russian Federation on July 12, 1999, is revised as set forth below.

The Department also recommends inserting the following language as the last sentence of the new second opening paragraph in the revision:

The Agreement and the present revision to the Agreement are applied without prejudice to either party's rights under the WTO.

In addition to adding the above-noted language, the Department also recommends replacing the "Preamble" language in the draft revision with the following language (which now constitutes the third opening paragraph of the revision):

The United States Department of Commerce ("DOC") and Ministry of Economic Development of the Russian Federation ("The Economy Ministry of Russia") hereby agree as follows:

Further additions to the opening paragraphs are discussed below.

Comment 3:

Argument: The Economy Ministry of Russia requested that the last paragraph of the draft revision indicate that the "present Protocol is made in English and Russian in duplicate, one original of equal legal force for each Party." In addition, The Economy Ministry of Russia suggested noting that the document was signed in Washington "at _____ November 2012." The Economy Ministry of Russia also requested that the signature block be left blank until it was determined who would be signing as its official representative.

Recommendation: Because Section XI.C of the Agreement already provides that "[t]he English and Russian language versions of this Agreement shall be authentic, with the English version being controlling," we recommend that the revision to the Agreement be consistent with this provision. Therefore, the Department recommends including the following additional sentence as the second sentence of the first opening paragraph of the revision's text:

Consistent with Section XI.C of the Agreement governing "Other Provisions," the English and Russian language versions of this revision shall be authentic, with the English version being controlling.

Further, as requested by The Economy Ministry of Russia, the Department proposes adding the following statement at the end of the revision: "Signed in Washington, D.C., on November 30, 2012." In addition, pursuant to official designation by the Government of the Russian Federation, the Department has added Mr. Rinat Dosmukhamedov, the Trade Representative of the Russian Federation in the USA, as the signer on behalf of The Economy Ministry of Russia. The Department also proposes moving the last two sentences in the initialed draft revision, regarding possible conflicts between the provisions of the revision and the Agreement, up to the beginning of the second opening paragraph of the revision where contextually they are more appropriately placed. The last two sentences in the initialed draft revision read as follows:

To the extent that there are any inconsistencies between this revision and the Agreement, the provisions of the Agreement are superseded, and the provisions of this revision shall

govern. All other provisions of the Agreement and their applicability continue with full force.

Also, in order to ensure clarity, the Department proposes that these two sentences now read as follows:

If a provision of the Agreement conflicts with a provision of this revision, the provision of the revision shall supersede the provision of the Agreement to the extent of the conflict. All other provisions of the Agreement and their applicability continue with full force.

Comments from the Russian Producers

Comment 4:

Argument: The Russian producers request that the effective date for the fourth quarter 2012 reference prices, updated in the revised Agreement, be clarified so that it is understood that the reference prices are prospective, rather than retroactive, in nature. The Russian producers suggest that the effective date for these prices should be the date of the revision's publication in the *Federal Register*.

Recommendation: The Department agrees that the effective date for these prices should be specified. However, we recommend that the effective date for the revised Agreement, *i.e.*, the November 30, 2012, signing date, be specified as the effective date for the updated fourth quarter 2012 reference prices. Accordingly, the Department proposes adding the appropriate language to Section III.C.5 of the revision to the Agreement, specifically stating as follows: "The resulting updated Reference Prices for the fourth quarter of the 2012 Export Limit Period, corresponding to October 1, 2012 through December 31, 2012, and effective as of the date of the signing of this revision to the Agreement, are as follows. . ." Although the Russian producers suggest that the effective date of the revised Agreement should be the date of publication, the Department finds that the effective date for the updated prices should be the date of signing of the revised Agreement, which is consistent with the original Agreement, which was effective on the signing date, July 12, 1999. See Agreement, 64 FR at 38642 and 38648.

Comment 5:

Argument: Incorporating their comments submitted in case and rebuttal briefs during the review, the Russian producers continue to question the use of *SteelBenchmark*, either for purposes of determining whether the Agreement is allowing price suppression or as a basis for resetting the Agreement's reference prices. The Russian producers believe that a benchmark that more appropriately corresponds to their level of trade and selling conditions should be used in the future.

Recommendation: As discussed below in the "**Final Results of Review**" section of this memorandum, the revision to the Agreement updates the reference prices for the fourth quarter

of 2012 to current U.S. price levels using *SteelBenchmarker*, a published and reliable source for current U.S. market pricing of hot-rolled steel. The Department evaluated information about *SteelBenchmarker* submitted by interested parties on the record of the administrative review, for example, in Nucor's July 5, 2012 submission (at Exhibit 3) and also on *SteelBenchmarker*'s public website. The Department found that *SteelBenchmarker* closely tracked numerous other price indices for domestic hot-rolled steel prices and was otherwise an appropriate benchmark for this purpose. In addition, the Department notes that, in the Preliminary Results, it did not find that the original, unrevised Agreement resulted in price suppression, but rather that the base reference prices, as well as the mechanism used to adjust the reference prices, did not prevent price undercutting. Also, and as further described below in the “**Final Results of Review**” section, going forward, the revised Agreement will utilize an improved version of the original quarterly reference price adjustment methodology. The Department has determined that the revision to the Agreement reestablishes the effectiveness of the reference price mechanism and, thus, brings the revised Agreement into compliance with its statutory requirement to prevent the undercutting of domestic price levels by imports of Russian hot-rolled steel.

Comments from the Domestic Producers

Comment 6:

Argument: The domestic producers note that the proposed revision to the Agreement represents a marked improvement, and will help bring the Agreement into conformance with its statutory requirements. Nonetheless, the domestic industry believes that the revised Agreement is still favorable to the Russian producers because it allows them to sell pursuant to a reference price mechanism, despite the fact that the Department has recognized the Russian Federation as a market economy since 2002, and avoids the imposition of an antidumping duty order. The domestic interested parties reiterate that the statutory requirement of the Agreement is to prevent price undercutting and not to provide guaranteed access to the United States market. Furthermore, they assert that the Russian government maintains the right to cancel the Agreement at any time in favor of implementation of an antidumping duty order. Accordingly, the domestic producers caution the Department about any future allegations that reference prices are too high to permit the Russian producers to sell in the U.S. market. Finally, the domestic producers recommend that the Department remain vigilant in evaluating the performance of the Agreement in satisfying its statutory requirements, and they remind the Department of the domestic producers' continuing right to raise this issue in further administrative reviews.

Recommendation: In its Preliminary Results, the Department agreed with the domestic producers' assertion that the Agreement was no longer meeting its statutory requirement to prevent price undercutting. However, the Department and The Economy Ministry of Russia have now reached agreement on a revised Agreement that establishes an effective reference price mechanism and, thus, brings the revised Agreement into compliance with its statutory requirement to prevent the undercutting of domestic price levels by imports of Russian hot-rolled steel. As discussed below in the “**Final Results of Review**” section, the Department has determined that the use of a published source for current U.S. market pricing of hot-rolled steel to update the reference prices, along with the modifications to the quarterly adjustment

mechanism going forward, ensure that the revised Agreement complies with the statutory requirements, pursuant to section 734(l) of the Act.

The Department further asserts that the revised Agreement does not limit the Department's or The Economy Ministry of Russia's ability to request consultations under Section VIII or to request termination of the Agreement under Section X.C. Further, under the Act, the domestic producers, the Russian producers, and The Economy Ministry of Russia may request an administrative review of the Agreement, as Nucor did in a recent anniversary month. See section 751(a)(1)(C) of the Act.

Final Results of Review

As noted above, in its Preliminary Results, the Department evaluated the information on the record of the administrative review with respect to the current status of, and compliance with, the Agreement and preliminarily determined that the Agreement's reference price mechanism was no longer preventing price undercutting by Russian imports of hot-rolled steel into the U.S. market, and, as a result, that the Agreement was no longer fulfilling its statutory requirement. The Department indicated in its Preliminary Results that, on February 23, 2012, it had entered into consultations with The Economy Ministry of Russia to discuss the issues of the alleged sales of Russian hot-rolled steel imports at prices that called into question the effectiveness of the Agreement's reference price mechanism and whether the Agreement was fulfilling its statutory mandate to prevent the undercutting and suppression of domestic hot-rolled steel prices. The Department further indicated that it intended to move forward with additional consultations with The Economy Ministry of Russia during the course of the administrative review, as mutually agreed, in an attempt to resolve these concerns and to bring the Agreement back into alignment with its statutory requirement to prevent price undercutting. Id.

Pursuant to the government-to-government negotiations that took place during the course of the administrative review, including direct consultations in February, June and September of 2012, the Department and The Economy Ministry of Russia reached an agreement on a revised Agreement that would meet the statutory requirement to prevent the undercutting of domestic price levels of hot-rolled steel. As described herein, the revised Agreement provides updated reference prices for the fourth quarter of the 2012 Export Limit Period, based on current domestic prices published by the industry publication *SteelBenchmarker*, and modifies the quarterly adjustment mechanism for updating the reference prices going forward. As described in the "**Discussion of the Issues**" section above, the Department has determined to make certain changes in the text of the draft revision for the final revision to the Agreement. The Department and The Economy Ministry of Russia signed the finalized revision to the Agreement on November 30, 2012, the same day these final results were issued.

In the Preliminary Results, as discussed above, the Department preliminarily determined that the record evidence indicated that the adjustments made quarterly within the Agreement's existing reference price mechanism failed to keep pace with changes in U.S. prices. Further, once the reference prices became too low relative to U.S. market prices, the subsequent quarterly adjustments were no longer effective in providing new reference prices that were reflective of

U.S. market prices for hot-rolled steel. In addition, the Department preliminarily determined that the record evidence indicated that the failing reference price mechanism, as described, had led to the undercutting of domestic hot-rolled steel price levels by Russian hot-rolled steel imports during the POR. Therefore, in the revision to the Agreement, the reference prices for the fourth quarter of 2012 (effective as of November 30, 2012) are updated to current U.S. price levels using a published and reliable source for current U.S. market pricing of hot-rolled steel, *SteelBenchmarker*. Specifically, as indicated on *SteelBenchmarker*'s public website:²

- The *SteelBenchmarker* publication has an established history, having reported benchmark prices for hot-rolled band (“HRB”) since April of 2006.
- The purpose of the *SteelBenchmarker* publication is to serve as a standard transaction price for the settling of futures contracts involving steel.
- Accordingly, *SteelBenchmarker* requires an underlying methodology that is both robust and investable and applies a number of measures to ensure accuracy in its price indices and to prevent manipulation.
- The number of price assessment providers for hot rolled band (“HRB”) is particularly robust, and HRB prices are submitted through a very controlled process, specifically designed to prevent manipulation.
- *SteelBenchmarker* seeks to eliminate an upward or downward bias in the benchmark prices by including steel mills, large and small buyers, steel traders and steel service centers (and steel scrap processors in the case of steel scrap) in the assessment providing groups.
- *SteelBenchmarker*'s benchmark prices are determined only after the elimination of outliers.
- *SteelBenchmarker* has its internal information-gathering processes and procedures audited on a regular and unannounced basis.

Thus, the Department has determined that, insofar as the Agreement is statutorily required to prevent the suppression and/or undercutting of U.S. domestic prices, the use of a domestic price benchmark--in this case, *SteelBenchmarker*--to update the reference prices in this revised Agreement is reasonable and appropriate and consistent with the statutory requirements.

After the updating of the fourth quarter 2012 reference prices, as agreed by the parties, the revised Agreement's quarterly adjustment mechanism used to update the reference prices thirty days prior to the start of each new quarter is modified so that the most current six-month U.S. Bureau of the Census AUV data available for “fairly-traded” imports is being used. Specifically for the first quarter of 2013, the revision specifies that the adjustment of the reference prices will be delayed in order to ensure the incorporation of October 2012 AUV data. In addition, going forward, the revised Agreement eliminates Step 5 of the Agreement's original, unrevised adjustment methodology which, under certain circumstances, made the above-described AUV comparison utilizing the last month of the last quarter, capped at ten percent. Step 5, including in

² See <http://www.steelbenchmarker.com/files/SteelBenchmarker.com>.

particular its ten percent cap, was found to inappropriately limit the movement of the reference prices in response to market fluctuations. Instead, in the revised Agreement, the quarterly adjustment going forward will be determined using Step 4 of the original methodology exclusively. Therefore, the improved methodology for quarterly reference price adjustments ensures that the reference prices going forward remain in sync with U.S. domestic price levels and that the mechanism will be effective in meeting the statutory requirement to prevent the undercutting of U.S. prices by imports of Russian hot-rolled steel. In summary, the use of a published source for current U.S. market pricing of hot-rolled steel to update the reference prices, along with the modifications to the quarterly adjustment mechanism going forward, ensure that the revised Agreement complies with the statutory requirements, pursuant to section 734(f) of the Act.

Because the Department has determined that the revised Agreement, which has been signed by the Department and The Economy Ministry of Russia, is in compliance with the requirements of section 734 of the Act, the Department finds that the interested parties' comments concerning the original, unrevised Agreement are moot. In addition, because we have not reached a final determination with respect to the original, unrevised Agreement, the provisions of 19 CFR 351.209(c) with respect to suspension of liquidation do not apply.

Recommendation:


Based on our analysis of the comments received, we recommend adopting all of the above positions and incorporating the noted changes, as applicable, into the final revision to the Agreement. If these recommendations are accepted, we will publish the final results of review and revision to the Agreement in the Federal Register.

Agree _____

Disagree _____



Ronald K. Lorentzen
Deputy Assistant Secretary
for Import Administration



Date

ATTACHMENT ONE

Scope of Review

For the purposes of this Agreement, “hot-rolled steel” means certain hot-rolled flat-rolled carbon-quality steel products of a rectangular shape, of a width of 0.5 inch or greater, neither clad, plated, nor coated with metal and whether or not painted, varnished, or coated with plastics or other non-metallic substances, in coils (whether or not in successively superimposed layers) regardless of thickness, and in straight lengths, of a thickness less than 4.75 mm and of a width measuring at least 10 times the thickness.

Universal mill plate (*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 a thickness not less than 4.0 mm is not included within the scope of this agreement.

Specifically included in this scope are vacuum degassed, fully stabilized (commonly referred to as interstitial-free (“IF”)) steels, high strength low alloy (“HSLA”) steels, and the substrate for motor lamination steels. IF steels are recognized as low carbon steels with micro-alloying levels of elements such as titanium and/or niobium added to stabilize carbon and nitrogen elements. HSLA steels are recognized as steels with micro-alloying levels of elements such as chromium, copper, niobium, titanium, vanadium, and molybdenum. The substrate for motor lamination steels contains micro-alloying levels of elements such as silicon and aluminum.

Steel products to be included in the scope of this agreement, regardless of *Harmonized Tariff Schedule of the United States* (“HTSUS”) definitions, are products 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 1.50 percent of silicon, or 1.00 percent of copper, or 0.50 percent of aluminum, or 1.25 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 0.012 percent of boron, or 0.10 percent of molybdenum, or 0.10 percent of niobium, or 0.41 percent of titanium, or 0.15 percent of vanadium, or 0.15 percent of zirconium.

All products that meet the physical and chemical description provided above are within the scope of this agreement unless otherwise excluded. The following products, by way of example, are outside and/or specifically excluded from the scope of this agreement:

- Alloy hot-rolled steel products in which at least one of the chemical elements exceeds those listed above (including e.g., ASTM specifications A543, A387, A514, A517, and A506).
- SAE/AISI grades of series 2300 and higher.
- Ball bearing steels, as defined in the HTSUS.
- Tool steels, as defined in the HTSUS.
- Silico-manganese (as defined in the HTSUS) or silicon electrical steel with a

silicon level exceeding 1.50 percent.

--- ASTM specifications A710 and A736.

--- USS Abrasion-resistant steels (USS AR 400, USS AR 500).

--- Hot-rolled steel coil which meets the following chemical, physical and mechanical specifications:

C	Mn	P	S	Si	Cr	Cu	Ni
0.10 - 0.14%	0.90% Max	0.025% Max	0.005% Max	0.30 - 0.50%	0.50 - 0.70%	0.20 - 0.40%	0.20% Max

Width = 44.80 inches maximum; Thickness = 0.063 - 0.198 inches;

Yield Strength = 50,000 ksi minimum; Tensile Strength = 70,000 - 88,000 psi.

--- Hot-rolled steel coil which meets the following chemical, physical and mechanical specifications:

C	Mn	P	S	Si	Cr	Cu	Ni
0.10 - 0.16%	0.70 - 0.90%	0.025% Max	0.006% Max	0.30 - 0.50%	0.50 - 0.70%	0.25% Max	0.20% Max
Mo							

0.21% Max							
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Width = 44.80 inches maximum; Thickness = 0.350 inches maximum;

Yield Strength = 80,000 ksi minimum; Tensile Strength = 105,000 psi Aim.

-- Hot-rolled steel coil which meets the following chemical, physical and mechanical specifications:

C	Mn	P	S	Si	Cr	Cu	Ni
0.10 - 0.14%	1.30 - 1.80%	0.025% Max	0.005% Max	0.30 - 0.50%	0.50 - 0.70%	0.20 - 0.40%	0.20% Max
V(wt.)	Cb						
0.10 Max	0.08% Max						

Width = 44.80 inches maximum; Thickness = 0.350 inches maximum;

Yield Strength = 80,000 ksi minimum; Tensile Strength = 105,000 psi Aim.

-- Hot-rolled steel coil which meets the following chemical, physical and mechanical specifications:

C	Mn	P	S	Si	Cr	Cu	Ni
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0.15% Max	1.40% Max	0.025% Max	0.010% Max	0.50% Max	1.00% Max	0.50% Max	0.20% Max
Nb	Ca	Al					
0.005% Min	Treated	0.01 - 0.07%					

Width = 39.37 inches; Thickness = 0.181 inches maximum; Yield Strength = 70,000 psi minimum for thicknesses ≤ 0.148 inches and 65,000 psi minimum for thicknesses >0.148 inches; Tensile Strength = 80,000 psi minimum.

Hot-rolled dual phase steel, phase-hardened, primarily with a ferritic-martensitic microstructure, contains 0.9 percent up to and including 1.5 percent silicon by weight, further characterized by either (i) tensile strength between 540 N/mm² and 640 N/mm² and an elongation percentage ≥ 26 percent for thicknesses of 2 mm and above, or (ii) a tensile strength between 590 N/mm² and 690 N/mm² and an elongation percentage ≥ 25 percent for thicknesses of 2mm and above.

Hot-rolled bearing quality steel, SAE grade 1050, in coils, with an inclusion rating of 1.0 maximum per ASTM E 45, Method A, with excellent surface quality and chemistry restrictions as follows: 0.012 percent maximum phosphorus, 0.015 percent maximum sulfur, and 0.20 percent maximum residuals including 0.15 percent maximum chromium.

Grade ASTM A570-50 hot-rolled steel sheet in coils or cut lengths, width of 74 inches (nominal, within ASTM tolerances), thickness of 11 gauge (0.119 inches nominal), mill edge and skin passed, with a minimum copper content of 0.20 percent.

The covered merchandise is classified in the HTS US at subheadings: 7208.10.15.00, 7208.10.30.00, 7208.10.60.00, 7208.25.30.00, 7208.25.60.00, 7208.26.00.30, 7208.26.00.60, 7208.27.00.30, 7208.27.00.60, 7208.36.00.30, 7208.36.00.60, 7208.37.00.30, 7208.37.00.60, 7208.38.00.15, 7208.38.00.30, 7208.38.00.90, 7208.39.00.15, 7208.39.00.30, 7208.39.00.90, 7208.40.60.30, 7208.40.60.60, 7208.53.00.00, 7208.54.00.00, 7208.90.00.00, 7210.70.30.00,

7210.90.90.00, 7211.14.00.30, 7211.14.00.90, 7211.19.15.00, 7211.19.20.00, 7211.19.30.00, 7211.19.45.00, 7211.19.60.00, 7211.19.75.30, 7211.19.75.60, 7211.19.75.90, 7212.40.10.00, 7212.40.50.00, 7212.50.00.00. Certain hot-rolled flat-rolled carbon-quality steel covered include: vacuum degassed, fully stabilized; high strength low alloy; and the substrate for motor lamination steel may also enter under the following tariff numbers: 7225.11.00.00, 7225.19.00.00, 7225.30.30.50, 7225.30.70.00, 7225.40.70.00, 7225.99.00.90, 7226.11.10.00, 7226.11.90.30, 7226.11.90.60, 7226.19.10.00, 7226.19.90.00, 7226.91.50.00, 7226.91.70.00, 7226.91.80.00, and 7226.99.01.80. Although the HTS US subheadings are provided for convenience and Customs purposes, the written description of the covered merchandise is dispositive.