

DEPARTMENT OF COMMERCE

International Trade Administration

[A-821-809]

Notice of Preliminary Determination of Sales at Less Than Fair Value: Hot-Rolled Flat-Rolled Carbon-Quality Steel Products From the Russian Federation

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

EFFECTIVE DATE: February 25, 1999.

FOR FURTHER INFORMATION CONTACT: Lyn Baranowski (Severstal), Carrie Blozy (MMK), Lesley Stagliano (Novolipetsk), or Rick Johnson, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-3208, (202) 482-0165, (202) 482-0190, and (202) 482-3818, respectively.

The Applicable Statute

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended ("the Act"), are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act ("URAA"). In addition, unless otherwise indicated, all citations to the Department's regulations are to the regulations at 19 CFR part 351 (1998).

Preliminary Determination

We preliminarily determine that hot-rolled flat-rolled carbon-quality steel products ("hot-rolled steel") 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 733 of the Act. The estimated margins of sales at LTFV are shown in the "Suspension of Liquidation" section of this notice.

Case History

On October 15, 1998, the Department initiated antidumping duty investigations of imports of hot-rolled steel from Brazil, Japan, and the Russian Federation. See *Initiation of Antidumping Duty Investigations: Certain Hot-Rolled Flat-Rolled Carbon-Quality Steel Products from Brazil, Japan, and the Russian Federation*, 63 FR 56607 (October 22, 1998). Since the initiation of this investigation the following events have occurred:

The Department set aside a period for all interested parties to raise issues regarding product coverage. The Department received numerous filings from respondents and other interested parties proposing amendments to the

scope of these investigations. On January 6, 1999 and January 27, 1999, petitioners (Bethlehem Steel Corporation, U.S. Steel Group, a unit of USX Corporation, Ispat Inland Steel, LTV Steel Company, Inc., National Steel Corporation, California Steel Industries, Gallatin Steel Company, Geneva Steel, Gulf States Steel Inc., IPSCO Steel Inc., Steel Dynamics, Weirton Steel Corporation, the Independent Steelworkers Union, and the United Steelworkers of America) filed letters agreeing to amend the scope of these investigations to exclude those products for which Itochu International Inc., Nippon Steel Corporation, and others had requested exclusion. See *Memorandum to Joseph A. Spetrini, from Richard Weible, Edward Yang, and Roland MacDonald; Re: Antidumping and Countervailing Duty Investigations of Hot-Rolled Flat-Rolled Carbon-Quality Steel Products from Brazil, Japan, and the Russian Federation: Scope Amendments*, dated February 12, 1999.

On October 19, 1998, the Department requested comments from petitioners and respondents regarding the criteria to be used for model matching purposes. On October 22 and 27, 1998, petitioners and respondents (Companhia Siderurgica Nacional, Companhia Siderurgica Paulista, Usinas Siderurgicas de Minas Gerais, Nippon Steel Corporation, NKK Corporation, Kawasaki Steel, Sumitomo Metal Industries, Ltd., and Kobe Steel Ltd.) in the Japanese and Brazilian investigations submitted comments on proposed model matching criteria.

On November 16, 1998, the United States International Trade Commission ("the ITC") notified the Department of its November 13, 1998 affirmative preliminary finding of threat of material injury with respect to subject imports from the Russian Federation. Additionally, on November 25, 1998, the ITC published its preliminary determination that there is a reasonable indication that an industry in the United States is being threatened with material injury by reason of imports of the subject merchandise from the Russian Federation (63 FR 65221).

On October 19, 1998, the Department issued Section A of its antidumping questionnaire to JSC Severstal ("Severstal"), Novolipetsk Iron & Steel Corporation ("Novolipetsk"), Magnitogorsk Iron & Steel Works ("MMK"), Amursteel, Novosibirsk Joint-Stock Co., Chusovskoy Iron & Steel Works, Gorkovskiy Metallurgichesky Zavod, Kuznetskiy Met Kombinat, Lysva Metallurgical Plant, Nosta, Shchelkovsky Sheet Rolling Mill,

Taganrog, Tulachermet, Volgograd Steel Works (Red October), Zapsib Met Kombinat, and Mechel. On October 30, 1998, the Department issued Sections C and D of its antidumping questionnaire to the above-named companies.

On November 16, 1998, we received the section A questionnaire responses from Severstal, Novolipetsk, and MMK. Petitioners filed comments on all three of the respondents section A questionnaire responses on November 30, 1998 and December 1, 1998. We issued supplemental questionnaires for section A to Severstal, Novolipetsk, and MMK on December 4, 1998. On December 11, 1998, we issued a letter to respondents informing them that the Department would consider these supplemental questions for section A to have been issued on January 4, 1999. On December 21, 1998, we received responses to sections C and D of the questionnaire from Severstal, Novolipetsk, and MMK. Petitioners filed comments on Severstal's, Novolipetsk's, and MMK's section C and D questionnaire responses on December 28, 1998. We issued supplemental questionnaires for sections C and D to Severstal, Novolipetsk, and MMK on January 4, 1999, and received responses to these questionnaires on January 25, 1999, as well as to our supplemental section A questionnaires. On February 2, 1999, we issued an additional supplemental questionnaire to Severstal, and received the company's response on February 5, 1999.

On February 9, 1999, MMK submitted additional narrative explanation and worksheets describing its calculation of the factors of production. Because of the late date of this submission, the Department has not had time to fully analyze the information provided by MMK. Therefore, the Department has not considered this submission for its preliminary determination. However, the Department will consider MMK's February 9, 1999 submission for its final determination.

In the petition filed on September 30, 1998, petitioners alleged that there is a reasonable basis to believe or suspect that critical circumstances exist with respect to imports of hot-rolled steel from Brazil, Japan, and the Russian Federation. On November 23, 1998, in the investigations of Japan and the Russian Federation, the Department issued its preliminary critical circumstances decisions (63 FR 65750; November 30, 1998). In these determinations, the Department preliminarily determined that there is a reasonable basis to believe or suspect that critical circumstances exist for

imports of hot-rolled steel from Japan and the Russian Federation.

The Department notes that it has requested company specific export information from Severstal, Novolipetsk, and MMK. We invite interested parties to comment on the issue of critical circumstances, and we will consider these comments and the company-specific data in making our final determination.

Scope of Investigation

For purposes of this investigation, the products covered are 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 these investigations.

Specifically included in this scope are vacuum degassed, fully stabilized (‘‘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 investigation, regardless of 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 investigation unless otherwise excluded. The following products, by way of example, are outside and/or specifically excluded from the scope of this investigation:

- 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% Mo 0.21% Max | 0.70–0.90% | 0.025% Max | 0.006% Max | 0.30–0.50% | 0.50–0.70% | 0.25% Max | 0.20% 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 |
|--|-------------------------------------|------------------------------|------------------------------|------------------------------|------------------------------|------------------------------|-----------|
| 0.10–0.14% V (wt.) 0.10 Max .. | 1.30–1.80% Cb 0.08% 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 = 0.350 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 |
|----------------------------|-------------------------|-----------------------------|----------------|----------------|----------------|----------------|-----------|
| 0.15% Max | 1.40% Max | 0.025% Max. | 0.010% Max. | 0.50% Max | 1.00% Max | 0.50% Max | 0.20% Max |
| Nb 0.005% Min. | Ca Treated ... | Al 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.

The merchandise subject to these investigations is classified in the *Harmonized Tariff Schedule of the United States* ("HTSUS") 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 by this investigation, including: 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 7226.99.00.00. Although the HTSUS subheadings are provided for convenience and Customs purposes, the written description of the merchandise under investigation is dispositive.

Period of Investigation

The period of investigation (POI) is January 1, 1998 through June 30, 1998.

Selection of Respondents

Section 777A(c)(1) of the Act directs the Department to calculate individual dumping margins for each known exporter and producer of the subject merchandise. However, section 777A(c)(2) of the Act gives the Department discretion, when faced with a large number of exporters/producers, to limit its examination to a reasonable number of such companies if it is not practicable to examine all companies. When it is not practicable to examine all known producers/exporters of subject merchandise, this provision permits the Department to investigate either: (1) a sample of exporters, producers, or types of products that is statistically valid based on the information available at the time of selection; or (2) exporters and producers accounting for the largest volume of the subject merchandise that can reasonably be examined.

After consideration of the complexities expected to arise in this proceeding and the resources available to the Department, we determined that it was not practicable to examine all known producers/exporters of subject merchandise. Instead, we found that, given our resources, we would be able to investigate the three Russian producers/exporters with the greatest export volume. Based on the responses to section A from Severstal, Novolipetsk, and MMK, these companies accounted for substantially all known exports of the subject merchandise during the POI. For a more detailed discussion of respondent selection in this investigation, see *Memorandum to Joseph A. Spetrini, from the Russia Team; Re: Selection of*

Respondents ("Respondent Selection Memo"), dated November 19, 1998.

Date of Sale

For its U.S. sales, Severstal and Novolipetsk reported the date of order specification as the date of sale. MMK has argued that the Department should use the date of shipment as the date of sale.

As stated in 19 CFR 351.401(i), the Department will use as the date of sale that date which best reflects the date on which the exporter or producer establishes the material terms of sale. Severstal has stated that the material terms of sale, namely price, quantity and product characteristics, are set on the order specification date, and, therefore it is the most appropriate date to use as date of sale. Novolipetsk reported that the order specification date is the first time that the material terms of the sale are recorded, making this date the appropriate date of sale. However, Novolipetsk stated that it does not date its order specifications. Novolipetsk reported that, to the best of its knowledge, order specifications are not signed more than 30 days prior to commencing delivery. Therefore, the company claimed to have reported as sales within the POI all specification orders with delivery dates between January and July 1998 (one month beyond the POI) to ensure that the entire universe of sales with order specification dates within the POI was properly reported. In its supplemental questionnaire response, Novolipetsk further stated that the company reported the date on which the order was accepted, as evidenced by the date stamp on the document. For a further discussion of this issue, see *Memorandum to the File from Lesley Stagliano, Case Analyst; Re: Analysis for Novolipetsk Iron & Steel Corporation (Novolipetsk)*, dated February 22, 1999.

In its section A questionnaire response, MMK stated that it considered date of shipment to be the date of sale. However, MMK also stated that the date of the order specification would most likely be considered by the Department to be the most appropriate date of sale, because the terms of sale are set in the order specification. See MMK's section A questionnaire response at 13. Nevertheless, in MMK's subsequent

questionnaire responses, MMK maintained that the Department should treat the date of shipment as the date of sale because this is the date that MMK recognizes as the date of sale in its accounting system and because the terms of sale are subject to change until the shipment date. See, e.g., supplemental section A questionnaire response at SA-1. MMK identified sales for which the order specifications were amended after the order was signed and reported the date of the order amendment as the date of sale. Based on the sample order specification and the order amendments provided by MMK, it appears that the terms of sale are set in the order specification or, if applicable, in the order amendment. We note that there is no evidence on the record which indicates that, when no order amendment was provided, the terms of sale for the merchandise shipped differed from the terms of sale set in the order specification. Therefore, for the preliminary determination, the Department is using the date of the order specification or order amendment, if applicable, as the date of sale.

The Department is preliminarily using the date of sale for U.S. sales as reported by respondents Severstal and Novolipetsk. For MMK, we have preliminarily decided to use the order specification date as the date of sale for U.S. sales. We intend to fully examine this issue at verification, and we will incorporate our findings, as appropriate, in our analysis for the final determination. Due to the complexity of this issue, we invite all interested parties to submit comments on this issue in accordance with the schedule set forth in this notice.

Nonmarket Economy Country Status

The Department has treated the Russian Federation as a nonmarket economy ("NME") country in all past antidumping investigations and administrative reviews (see, e.g., *Titanium Sponge from the Russian Federation: Final Results of Antidumping Administrative Review*, 64 FR 1599 (January 11, 1999); *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 (November 19, 1997); *Notice of Final Determination of Sale at Less Than Fair Value: Pure Magnesium and Alloy Magnesium from the Russian Federation*, 60 FR 16440 (March 30, 1995); *Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of the Final Determination: Ferrovandium and Nitridid Vanadium from the Russian Federation*, 60 FR 438 (January

4, 1995)). A designation as an NME remains in effect until it is revoked by the Department (see section 771(18)(C) of the Act). Therefore, for this preliminary determination, the Department is continuing to treat the Russian Federation as an NME.

Surrogate Country

When the Department is investigating imports from an NME, section 773(c) of the Act provides for the Department to base normal value ("NV") on the NME producers' factors of production, valued in a surrogate market economy country or countries considered appropriate by the Department. In accordance with section 773(c)(4), the Department, in valuing the factors of production, shall utilize, to the extent possible, the prices or costs of factors of production in one or more market economy countries that are comparable in terms of economic development to the NME country and are significant producers of comparable merchandise. The sources of individual factor values are discussed under the NV section below.

The Department has determined that Tunisia, Colombia, Poland, Venezuela, South Africa, and Turkey are countries comparable to the Russian Federation in terms of overall economic development. See *Memorandum to Rick Johnson, Program Manager, from Jeff May, Director, Office of Policy; Re: Certain Hot-Rolled Flat-Rolled Carbon-Quality Steel Products from the Russian Federation: Nonmarket Economy Status and Surrogate Country Selection ("Policy Memorandum")*, dated December 21, 1998. According to the available information on the record, we have determined that Turkey is an appropriate surrogate because it is at a comparable level of economic development and is a significant producer of comparable merchandise. Furthermore, there is a wide array of publicly available information for Turkey. Accordingly, we have calculated NV using Turkish prices to value the Russian producers' factors of production, when available and where appropriate. We have obtained and relied upon public information wherever possible.

We note that, in this investigation, Severstal, Novolipetsk, and MMK have argued that Poland is a more appropriate surrogate than Turkey. See January 7 and January 15, 1999 *Letters to the Department from Novolipetsk and MMK*, and January 7, 1999 *Letter to the Department from Severstal*. The Department concurs with respondents that Poland also meets the above-mentioned criteria of being comparable

in terms of economic development to the Russian Federation and is likewise a significant producer of comparable merchandise.

However, as noted in the *Policy Memorandum*, in the event that more than one country satisfies both statutory requirements, the Department should narrow the field to a single country on the basis of data availability and quality. See also *Notice of Final Determination of Sales at Less Than Fair Value: Certain Cased Pencils from the People's Republic of China*, 59 FR 55625 (November 8, 1994). Based on the information submitted by interested parties in response to the Department's solicitation of surrogate values, as well as information independently gathered by the Department for the purposes of this preliminary determination, we find that the Turkish data is more complete and, for most values, of either the same or superior quality when compared with the Polish data.

In accordance with section 351.301(c)(3)(i) of the Department's regulations, for a final determination in an antidumping investigation, interested parties may submit publicly available information to value factors of production within 40 days after the date of publication of the preliminary determination. Therefore, in the event that interested parties submit timely additional information, including information pertaining to Polish surrogate values, the Department will re-examine its selection of Turkey as the primary surrogate country for the purposes of its final determination. For a further discussion of the Department's selection of Turkey as the primary surrogate, see *Memorandum to the File, from Carrie Blozy, Case Analyst; Re: Selection of a Surrogate Country*, dated February 22, 1999.

Separate Rates

The Department presumes that a single dumping margin is appropriate for all exporters in an NME country. See *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*"). The Department may, however, consider requests for a separate rate from individual exporters. Severstal, Novolipetsk, and MMK have each requested a separate, company-specific rate. 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) and amplified in *Silicon Carbide*. Under the separate rates criteria, the Department assigns separate rates in NME cases only if a respondent can demonstrate the absence of both *de jure* and *de facto* government control over export activities. For a complete analysis of separate rates, see *Memorandum to Edward C. Yang from Lesley Stagliano, Case Analyst; Re: Separate Rates for Exporters that Submitted Questionnaire Responses* ("Separate Rates Memo"), dated February 22, 1999.

1. Absence of *De Jure* Control

An individual company may be considered for separate rates 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.

The respondents have placed on the administrative record a number of documents to demonstrate absence of *de jure* control. These documents include laws, regulations, and provisions enacted by the central government of the Russian Federation, describing the deregulation of Russian enterprise as well as the deregulation of the Russian export trade, except for a list of products that may be subject to central government export constraints. Respondents claim that the subject merchandise is not on this list. This information supports a preliminary finding that there is an absence of *de jure* government control. See *Separate Rates Memo*.

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 respondent has autonomy from the government in making decisions regarding the selection of management; and (4) whether the respondent retains the proceeds of its export sales and makes independent decisions regarding disposition of profits or financing of losses. All three respondents have reported that they are publicly-owned companies. In no case is there aggregate government ownership greater than 25 percent.

Severstal has asserted that the company establishes its prices in negotiation with its customers, and that these prices are not subject to review or guidance from any government organization. Furthermore, Severstal's management has the authority to negotiate and sign contracts, also without review or guidance from outside organizations. Severstal stated that it can retain all export earnings, and that there are no restrictions on the use of the company's export revenues or utilization of profits. Severstal further reports that its management is appointed by the company's shareholders, and that the government has no role in, and is not advised of, the selection of its management.

Novolipetsk stated that it either negotiates directly with customers or contracts with agents in determining price. The company has reported that its prices are not subject to review by, or guidance from, any government nor does the government have any involvement in decisions involving the allocation of export profits. Novolipetsk stated that only its Board of Directors makes decisions as to how profits will be used. Novolipetsk's shareholders elect the Board of Directors and the company's Director General at the annual shareholder's meeting. Novolipetsk reports that the company's sales director is authorized to contractually bind the company, and that no organization outside the company reviews or approves any aspect of the company's sales transactions.

MMK stated that it also negotiates prices directly with its customers. These negotiations are conducted by the export department. MMK reports that no outside authority or organization reviews or approves pricing or any other aspect of the company's sales transactions. Additionally, MMK reported that the allocation of MMK's profits is determined by the General Shareholder's Meeting (with respect to the payment of dividends) and MMK's management. MMK stated that the members of the Board of Directors are elected to the Board by the shareholders of MMK and the Chairman is elected by the Board of Directors.

In addition, the respondents' questionnaire responses indicate that company-specific pricing during the POI does not suggest coordination among exporters. This information supports a preliminary finding that there is an absence of *de facto* governmental control of the export functions of these companies. Consequently, we preliminarily determine that Severstal, Novolipetsk,

and MMK meet the criteria for application of separate rates. For a further discussion of this issue, see *Separate Rates Memo*.

Fair Value Comparisons

To determine whether hot-rolled steel products from the Russian Federation sold to the United States by the Russian producers/exporters receiving separate rates were made at less than fair value, we compared the EP to the NV, as described in the "Export Price" and "Normal Value" sections of this notice.

Export Price

For Severstal, we preliminarily calculated EP in accordance with section 772(a) of the Act, because the subject merchandise was sold to the first unaffiliated purchaser in the United States prior to importation and constructed export price ("CEP") methodology was not otherwise indicated. We will examine the EP/CEP designation further at verification. In accordance with section 777A(d)(1)(A)(i) of the Act, we compared POI-wide weighted-average EPs to the NV based on factors of production.

We calculated EP based on either packed FOB prices or FCA prices to unaffiliated trading companies. When appropriate, for FOB sales, we made deductions from the starting price for brokerage and handling. These services were assigned a surrogate value based on public information from *Certain Circular Welded Carbon Steel Pipe and Tube from Turkey*. See *Memorandum to Edward C. Yang; Re: Factor Valuation for Severstal, MMK, and Novolipetsk* ("Factor Valuation Memo"), dated February 22, 1999. We also made adjustments for foreign inland freight, which was valued using Polish transportation rates, since public information on Turkish values was unavailable. Because the mode of transportation reported by Severstal is proprietary, for a further discussion, see *Factor Valuation Memo* (proprietary version).

For MMK, we preliminarily calculated EP in accordance with section 772(a) of the Act, because the subject merchandise was sold to the first unaffiliated purchaser in the United States prior to importation and CEP methodology was not otherwise indicated. We will examine the EP/CEP designation further at verification. In accordance with section 777A(d)(1)(A)(i) of the Act, we compared POI-wide weighted-average EPs to the NV based on factors of

production. We calculated EP based on packed prices to unaffiliated trading companies.

For Novolipetsk, we preliminarily calculated EP in accordance with section 772(a) of the Act, because the subject merchandise was sold to the first unaffiliated purchaser in the United States prior to importation and CEP methodology was not otherwise indicated. We will examine the EP/CEP designation further at verification. In accordance with section 777A(d)(1)(A)(i) of the Act, we compared POI-wide weighted-average EPs to the factors of production.

For Novolipetsk, we calculated EP based on either packed FOB prices to the port of loading in the Russian territory or FCA rail prices to unaffiliated trading companies. With regard to FOB sales, we made deductions from the starting price, when appropriate, for brokerage and handling. We assigned a surrogate value based on public information from *Certain Circular Welded Carbon Steel Pipe and Tube from Turkey*. See *Factor Valuation Memo*.

Normal Value

Section 773(c)(1) of the Act provides that the Department shall determine the NV using a factors-of-production methodology if: (1) the merchandise is exported from an NME country; and (2) the information does not permit the calculation of NV using home-market prices, third-country prices, or constructed value under section 773(a) of the Act.

Factors of production include: (1) hours of labor required; (2) quantities of raw materials employed; (3) amounts of energy and other utilities consumed; and (4) representative capital costs, including depreciation. We calculated NV based on factors of production reported by Severstal, Novolipetsk and MMK, with the following exceptions: Severstal's "charge by-products," packing bands, packing fasteners and cleaning gas; Novolipetsk's by-products; and MMK's fluxing agents and quantities purchased of raw materials (used in freight calculation). For further discussions of these exceptions, see *Factor Valuation Memo, Memorandum to the File, from Lyn A. Baranowski, Case Analyst; Re: Margin Calculation for the Preliminary Determination for JSC Severstal (Severstal)*, dated February 22, 1999 and *Memorandum to the File, from Carrie Blozy, Case Analyst; Re: Analysis for Magnitogorsk Iron and Steel Works ("MMK") ("Analysis Memo: MMK")*, dated February 22, 1999. We valued all the input factors using publicly available published information as

discussed in the "Surrogate Country" and "Factor Valuations" sections of this notice.

Factor Valuations

The selection of the surrogate values was based on the quality and contemporaneity of the data. When possible, we valued material inputs on the basis of tax-exclusive domestic prices in the surrogate country. When we were not able to rely on domestic prices, we used import prices to value factors. As appropriate, we adjusted import prices to make them delivered prices. For those values not contemporaneous with the POI, we adjusted for inflation using producer or wholesale price indices, as appropriate, published in the International Monetary Fund's International Financial Statistics.

To value coal, iron ore concentrate, iron ore pellets, sinter, aluminum, dolomite, ferro-alloys, recycled materials, lime and scrap, we used public information published by the United Nations Trade Commodity Statistics for 1997 ("UNTCS"). Neither Novolipetsk nor Severstal provided information on the record regarding iron content for iron ore pellets. For the preliminary determination, we have valued iron ore pellets based on the 1997 UNTCS Turkish value for HTS 260112, which represents iron ore pellets with a low iron content. We have based our valuation on evidence from *The Making, Shaping and Treating of Steel* that indicates low iron content iron ore pellets are used in blast furnaces. See *Factor Valuation Memo, Attachment 6*. We intend to fully review actual iron ore content at verification.

For limestone, coal tar, grease and kerosene, we used information from 1996 UNTCS. For packing, Severstal reports that it uses a certain material for bands. Therefore, we have used the 1996 UNTCS for valuing bands, as well as fasteners (for which Severstal has not reported the composition). For packing, MMK reports that it uses straps, wire rods and cold-rolled sheets. For wire rods and sheets, we have used 1996 UNTCS for carbon wire rod and cold-rolled sheets. For packing straps, we have based their value on the value of packing bands reported in public information from the antidumping investigation, *Stainless Steel Plate in Coils from South Africa* (see July 15, 1998 response of Columbus Stainless Steel Company, page 48).

We note that certain inputs into the production of subject merchandise have been reported by all three companies as being self-produced. The Department instructed respondents, in the initial

questionnaire, that "if you manufacture or produce one or more products in a separate production process that is then used in a subsequent process to manufacture the subject merchandise (e.g., if your company produces), report separately the materials, labor, and energy factors (Fields 2.0 through 6.n) consumed in each production stage or process. If you have any questions regarding the reporting of intermediate production factors, please contact the Official In Charge immediately." See page D-3 of the original questionnaire.

Subsequently, in supplemental questionnaires to Severstal, Novolipetsk, and MMK, the Department noted that each respondent had reported that it produced certain inputs internally. We again indicated that "these and any other factors produced internally should be included in your calculation of factors of production for subject merchandise. As requested in the original questionnaire, you should provide a complete narrative description of your calculations, including supporting documentation and calculation worksheets." See, e.g., Supplemental Questionnaire to JSC Severstal, page 10, dated January 4, 1999. Nevertheless, we note that none of the three respondents appear to have reported the factors of production for these self-produced inputs in their supplemental responses of January 25, 1999 (see Novolipetsk's response to supplemental section D questionnaire, pgs. 23-24; Severstal's response to supplemental section D questionnaire, pg. 23; MMK's response to supplemental section D questionnaire, pg. SD-6).

For this preliminary determination, the Department has used the direct factors reported by respondents for these self-produced inputs. However, should the Department find at verification that reporting the factors used to produce these intermediate products would lead to higher overall usage rates, we may apply facts available with adverse inferences for the final determination.

MMK has not reported any direct usage rates for fluxing agents in its factors of production database for hot-rolled steel. Therefore, we have assigned, as facts available, usage rates for certain fluxing agents, as reported in Exhibit D-2 of MMK's section D questionnaire response, dated December 21, 1998. For a further discussion of this issue, see *Analysis Memo: MMK*.

We have valued by-products in the production of hot-rolled steel reported by these companies. We have valued non-solid by-products at their natural gas equivalents. We have valued solid

by-products based on 1996 and 1997 UNTCS. However, we note that Novolipetsk apparently aggregated the production of all of its by-products into a single database field. As discussed in the *Factor Valuation Memo*, we found Novolipetsk's by-product factors to be aberrational. Moreover, Novolipetsk failed to support those factors with requested calculation worksheets. For these reasons, we have disregarded Novolipetsk's by-product factors for the preliminary determination. As facts available for the preliminary determination, the Department has allocated a theoretical output for Novolipetsk's by-products based on outputs of the two largest components of the aggregate by-products field reported by Novolipetsk. For a further discussion of this issue, see *Factor Valuation Memo* (proprietary version).

For some of the energy inputs reported (natural gas, blast furnace gas, coke oven gas, and electricity), we relied on public information from "Energy Prices and Taxes: 2nd quarter 1998," published by the International Energy Agency, OECD. In addition to these inputs, MMK reported coal as an energy input, while Novolipetsk reported grease as an energy input. We valued coal and grease based on 1997 and 1996 UNTCS Turkish values, respectively. Because we were unable to obtain publicly available Turkish values, we used Polish transport information to value transport for raw materials. Since the mode of transportation reported by all respondents is proprietary, for a full discussion of this issue, see *Factor Valuation Memo* (proprietary version).

For labor, we used the Russian regression-based wage rate at Import Administration's homepage, Import Library, Expected Wages of Selected NME Countries, revised on June 2, 1997. Because of the variability of wage rates in countries with similar per capita gross domestic products, section 351.408(c)(3) of the Department's regulations requires the use of a regression-based wage rate. The source of this wage rate data on the Import Administration's homepage is found in the *1996 Year Book of Labour Statistics*, International Labour Office ("ILO"), (Geneva: 1996), Chapter 5B: Wages in Manufacturing.

To value overhead, general expenses and profit, we used public information reported in the 1997 financial statements of Eregli Demir ve Celik Fabrikalari TAS ("Erdemir"), a Turkish steel producer. We adjusted Erdemir's depreciation expenses for the effects of high inflation, and we reduced its financial expenses for estimated short-term interest income and excluded

estimated long-term foreign exchange losses. For a further discussion of this issue, see Attachment 10 of the *Factor Valuation Memo*.

Verification

As provided in section 782(i) of the Act, we will verify all information relied upon in making our final determination.

Facts Available

Section 776(a)(2) of the Act provides that if an interested party: (a) withholds information that has been requested by the Department; (B) fails to provide such information in a timely manner or in the form or manner requested; (C) significantly impedes a proceeding under the antidumping statute; or (D) provides such information but the information cannot be verified, as provided in section 782(i), the Department shall, subject to subsections 782(d), use facts otherwise available in reaching the applicable determination.

As discussed in the *Factor Valuation Memo*, and the "Factor Valuations" section above, the Department had requested information regarding by-products both in its initial and supplemental questionnaires. Novolipetsk did not report the by-products as instructed, and failed to adequately answer the Department's questions regarding the calculation of the quantities of these by-products. Having found the reported quantities of by-product to be aberrationally high, the Department has instead utilized an applied theoretical output for the two largest by-products. These output factors were based on information published in a steel industry treatise, *The Making, Shaping and Treating of Steel*.

As discussed in the "Factor Valuations" section above, and in *Analysis Memo: MMK*, MMK failed to report direct usage rates for certain fluxing agents in its database. As a result, we have assigned usage rates based on information included in Exhibit D-2 of MMK's section D questionnaire response, dated December 21, 1998.

Suspension of Liquidation

In accordance with section 733(d) and (e) of the Act, we are directing the U.S. Customs Service to suspend liquidation of all imports of subject merchandise that are entered, or withdrawn from warehouse, for consumption on or after the date 90 days prior to the date of publication of this notice in the **Federal Register**. We will instruct the U.S. Customs Service to require a cash deposit or the posting of a bond equal to the weighted-average amount by

which the NV exceeds the EP, as indicated below. These suspension-of-liquidation instructions will remain in effect until further notice. The weighted-average dumping margins are as follows:

| Exporter/manufacturer | Weighted-average margin (percent) |
|---------------------------------------|-----------------------------------|
| JSC Severstal | 70.66 |
| Novolipetsk Iron & Steel Corp. | 217.67 |
| Magnitogorsk Iron & Steel Works | 149.54 |
| All Others | 156.58 |

The All-Others Rate

The three companies selected by the Department have all preliminarily qualified for a separate rate. Moreover, the information on the record indicates that these three companies account for all imports of subject merchandise during the period of investigation. See *Respondent Selection Memo*. We have no evidence that there are any other Russian exporters of subject merchandise that may be subject to common government control. For this reason, we have not calculated a Russia-wide rate in this investigation. We have calculated an all-others rate in accordance with section 735(c)(5) of the Act. See *Notice of Final Determination of Sales at Less Than Fair Value; Polyvinyl Alcohol From the People's Republic of China*, 61 FR 14057, 14059 (1996). This all-others rate has been calculated based on the weighted-average of all margins that are not zero, *de minimis* or based on facts available. The all-others rate applies to all entries of subject merchandise except for entries from exporters/factories that are identified individually above.

International Trade Commission Notification

In accordance with section 733(f) of the Act, we have notified the ITC of our determination. If our final determination is affirmative, the ITC will determine before the later of 120 days after the date of this preliminary determination or 45 days after our final determination whether imports of hot-rolled steel from the Russian Federation are materially injuring, or threatening material injury to, the U.S. industry.

Public Comment

Case briefs or other written comments may be submitted to the Assistant Secretary for Import Administration no later than fifty days after the date of publication of this notice, and rebuttal briefs, limited to issues raised in case briefs, no later than fifty-five days after

the date of publication of this preliminary determination. A list of authorities used and an executive summary of issues should accompany any briefs submitted to the Department. This summary should be limited to five pages total, including footnotes. In accordance with section 774 of the Act, we will hold a public hearing, if requested, to afford interested parties an opportunity to comment on arguments raised in case or rebuttal briefs. Tentatively, any hearing will be held fifty-seven days after publication of this notice at the U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230, at a time and location to be determined. Parties should confirm by telephone the date, time, and location of the hearing two days before the scheduled date.

Interested parties who wish to request a hearing, or to participate if one is requested, must submit a written request to the Assistant Secretary for Import Administration, U.S. Department of Commerce, Room 1870, within 30 days of the date of publication of this notice. Requests should contain: (1) the party's name, address, and telephone number; (2) the number of participants; and (3) a list of the issues to be discussed. At the hearing, each party may make an affirmative presentation only on issues raised in that party's case brief, and may make rebuttal presentations only on arguments included in that party's rebuttal brief. See 19 CFR 351.310(c). If this investigation proceeds normally, we will make our final determination no later than May 10, 1999.

This determination is issued and published in accordance with sections 733(d) and 777(i)(1) of the Act.

Dated: February 22, 1999.

Richard W. Moreland,
Acting Assistant Secretary for Import Administration.

[FR Doc. 99-4840 Filed 2-24-99; 8:45 am]

BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 021799C]

Pacific Fishery Management Council; Public Meeting

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

ACTION: Notice of public meeting.

SUMMARY: The Groundfish Harvest Rate Review Panel will hold a work session which is open to the public.

DATES: The Groundfish Harvest Rate Review Panel will meet beginning at 8 a.m., March 25, 1999 and continue until 12 p.m. on March 26, 1999 or as necessary to complete business.

ADDRESSES: The Harvest Rate Policy Review Panel meeting will be held at the California Department of Fish and Game Office, 20 Lower Ragsdale Drive, Suite 100, Main Conference Room, Monterey, CA 93940; telephone: (604) 535-1432.

Council address: Pacific Fishery Management Council, 2130 SW Fifth Avenue, Suite 224, Portland, OR 97201.

FOR FURTHER INFORMATION CONTACT: Julie Walker, Fishery Management Analyst; telephone: (503) 326-6352.

SUPPLEMENTARY INFORMATION: The purpose of the meeting is to review recent information regarding appropriate harvest rates for various groundfish species. Some investigations indicate current harvest policies ($F_{35\%}$ and $F_{40\%}$) may not adequately protect stocks and may not produce the maximum sustainable yield. This panel will provide external review of the new information on appropriate harvest rates. The review panel's conclusions will be forwarded to the Groundfish Management Team and the Council.

Although other issues not contained in this agenda may come before this panel for discussion, in accordance with the Magnuson-Stevens Fishery Management and Conservation Act, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically listed in this notice.

Special Accommodations

The meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Mr. John Rhoton at (503) 326-6352 at least 5 days prior to the meeting date.

Dated: February 18, 1999.

Bruce C. Morehead,
Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.
[FR Doc. 99-4636 Filed 2-24-99; 8:45 am]

BILLING CODE 3510-22-F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 020599A]

Fisheries Off West Coast States and in the Western Pacific

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

ACTION: Receipt of an exempted fishing permit application; announcement of the window period for the selection of participants.

SUMMARY: NMFS announces the receipt of an Exempted Fishing Permit (EFP) application from the Northwest Fisheries Science Center (NWFSC), NMFS. If awarded, the EFP will allow fishers aboard three commercial trawl vessels to collect depth-specific samples of fish according to NMFS' approved protocols. These fish will be delivered to designated ports in the State of Oregon where Oregon Department of Fish and Wildlife (ODF&W) and NMFS scientists will collect biological data that will be used to improve survey and stock assessments for sablefish, Dover sole, and thornyhead. An EFP is needed to allow the retention and sale of sablefish and Dover sole samples in excess of trip limits. NMFS also announces a 2-week window period in which interested parties may submit application materials that NMFS will use to select the 1999 industry participants. These actions are taken under the authority of the Pacific Coast Groundfish Fishery Management Plan (FMP).

DATES: The EFP will be effective from March 1, 1999, or as soon as possible thereafter, through February 29, 2000. Applications from interested parties must be received from February 25, 1999 to March 11, 1999.

ADDRESSES: Submit applications to Sharon Hunt, NMFS, 2030 South Marine Science Drive, Newport, OR 97365. Submit comments on this action to Katherine King, Northwest Region, NMFS, 7600 Sand Point Way NE., Bldg. 1, Seattle, WA 98115-0070.

FOR FURTHER INFORMATION CONTACT: Sharon Hunt 541-867-0307, or Cyreis Schmitt 206-860-3322 or 541-867-0127.

SUPPLEMENTARY INFORMATION:

I. Background

This action is authorized by the FMP and implementing regulations at 50 CFR 600.745 and 50 CFR 660.350, which specify that an EFP may be issued to a