I. SUMMARY

The Department of Commerce (Commerce) is conducting an administrative review of the antidumping duty order on certain hot-rolled flat-rolled carbon-quality steel products (hot-rolled steel) from the Russian Federation (Russia). The period of review (POR) is December 1, 2016, through November 30, 2017. The review covers one producer/exporter of the subject merchandise, Novolipetsk Steel (NLMK). As discussed below, Commerce preliminarily determines that NLMK did not make a *bona fide* sale during the POR. As such, Commerce is preliminarily rescinding the administrative review of NLMK.

Interested parties are invited to comment on the preliminary rescission of this review. We intend to issue the final results or final rescission of this administrative review no later than 90 days from the date the preliminary results are issued, pursuant to section 751(a)(2)(B) of the Tariff Act of 1930, as amended (the Act).

II. BACKGROUND

On October 15, 1998, Commerce initiated a less-than-fair-value investigation on imports of hot-rolled steel from Russia.1 On July 12, 1999, Commerce and the Russian Ministry of Trade signed the Suspension Agreement, under section 734(l) of the Act, which suspended the

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antidumping duty investigation on hot-rolled steel from Russia.\(^2\) Commerce subsequently made an affirmative final determination of sales at less than fair value,\(^3\) and the International Trade Commission (ITC) continued its investigation and made an affirmative determination of material injury to an industry in the United States.\(^4\)

On October 17, 2014, Commerce issued a letter stating that it had made a final decision to exercise its option under Section X.C of the Suspension Agreement to terminate the Suspension Agreement, effective in 60 days.\(^5\) The effective date of termination of the Suspension Agreement was December 19, 2014. On December 24, 2014, Commerce published a notice of termination of the Suspension Agreement and issuance of an antidumping duty order.\(^6\)

Pursuant to section 751(a)(1) of the Act, 19 CFR 351.213(b), and the notice of opportunity to request an administrative review,\(^7\) NLMK requested an administrative review of the antidumping duty order on hot-rolled steel from Russia on December 29, 2017.\(^8\)

On March 15, 2018, Commerce issued its antidumping duty questionnaire (AD Questionnaire) to NLMK.\(^9\) On April 11, 2018, NLMK submitted a timely response to section A of Commerce’s AD Questionnaire, \(i.e.,\) the section relating to general information.\(^10\) On May 3, 2018, NLMK timely submitted responses to sections B and C of Commerce’s AD Questionnaire, \(i.e.,\) the sections relating to home market sales and U.S. sales, respectively.\(^11\) On May 10, 2018, NLMK submitted timely responses to section D of Commerce’s AD Questionnaire, \(i.e.,\) the section relating to the cost of production and constructed value.\(^12\)


\(^3\) See Notice of Final Determination of Sales at Less Than Fair Value: Hot-Rolled Flat-Rolled Carbon-Quality Steel Products from the Russian Federation, 64 FR 38626 (July 19, 1999) (Final Determination).

\(^4\) See Certain Hot-Rolled Steel Products from Brazil and Russia, 64 FR 46951 (August 27, 1999).


\(^7\) See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity To Request Administrative Review, 82 FR 57219 (December 4, 2017).


\(^12\) See Letter from NLMK, “Section D Response of Novolipetsk Steel: Administrative Review of the Antidumping Duty Order on Certain Hot-Rolled-Carbon-Quality Steel Products from the Russian Federation for the period
Additionally, on May 21, 2018, Commerce issued a customer-specific questionnaire to NLMK. On June 8, 2018, NLMK submitted a timely response to Commerce’s customer-specific questionnaire.

We issued supplemental questionnaires to NLMK and received responses to these supplemental questionnaires from June 2018 through October 2018.

On August 20, 2018, and pursuant to section 751(a)(3)(A) of the Act, and 19 CFR 351.213(h)(2), Commerce extended the time period for issuing the preliminary results of this review by 90 days.

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13 See Letter from Commerce, dated May 21, 2018 (customer questionnaire).


to December 4, 2018.\textsuperscript{16} Commerce then extended the preliminary results by an additional 30 days until January 3, 2019.\textsuperscript{17}

NLMK and a petitioner (\textit{i.e.}, Nucor Corporation) submitted pre-preliminary comments on November 6, 2018 and November 16, 2018, respectively.\textsuperscript{18}

Commerce exercised its discretion to toll all deadlines affected by the partial federal government closure from December 22, 2018, through the resumption of operations on January 29, 2019.\textsuperscript{19} If the new deadline falls on a non-business day, in accordance with Commerce’s practice, the deadline will become the next business day. The revised deadline for the preliminary results is now February 12, 2019.

\textbf{III. SCOPE OF THE ORDER}

For the purposes of this administrative review, “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 (\textit{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 administrative review.

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.

\begin{footnotesize}
\begin{itemize}
\item[19] See memorandum to the Record from Gary Taverman, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, performing the non-exclusive functions and duties of the Assistant Secretary for Enforcement and Compliance, “Deadlines Affected by the Partial Shutdown of the Federal Government,” dated January 28, 2019. All deadlines in this segment of the proceeding have been extended by 40 days.
\end{itemize}
\end{footnotesize}
Steel products to be included in the scope of this administrative review, 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.
- Silica-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:

<table>
<thead>
<tr>
<th>C</th>
<th>Mn</th>
<th>P</th>
<th>S</th>
<th>Si</th>
<th>Cr</th>
<th>Cu</th>
<th>Ni</th>
</tr>
</thead>
<tbody>
<tr>
<td>0.10 - 0.14%</td>
<td>0.90% Max</td>
<td>0.025% Max</td>
<td>0.005% Max</td>
<td>0.30 - 0.50%</td>
<td>0.50 - 0.70%</td>
<td>0.20 - 0.40% Max</td>
<td>0.20% Max</td>
</tr>
</tbody>
</table>

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:

<table>
<thead>
<tr>
<th>C</th>
<th>Mn</th>
<th>P</th>
<th>S</th>
<th>Si</th>
<th>Cr</th>
<th>Cu</th>
<th>Ni</th>
</tr>
</thead>
<tbody>
<tr>
<td>0.10 - 0.16%</td>
<td>0.70% - 0.90% Max</td>
<td>0.025% Max</td>
<td>0.006% Max</td>
<td>0.30 - 0.50%</td>
<td>0.50 - 0.70%</td>
<td>0.25% Max</td>
<td>0.20% Max</td>
</tr>
</tbody>
</table>

Mo
0.21% Max
Width = 44.80 inches maximum; Thickness = 0.350 inches maximum; Yield Strength = 80,000 ksi minimum; Tensile Strength = 105,000 psi.

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

<table>
<thead>
<tr>
<th></th>
<th>C</th>
<th>Mn</th>
<th>P</th>
<th>S</th>
<th>Si</th>
<th>Cr</th>
<th>Cu</th>
<th>Ni</th>
</tr>
</thead>
<tbody>
<tr>
<td>0.10 - 0.14%</td>
<td>1.30 - 1.80%</td>
<td>0.025% Max</td>
<td>0.005% Max</td>
<td>0.30 - 0.50%</td>
<td>0.50 - 0.70%</td>
<td>0.20 - 0.70% Max</td>
<td>0.20% Max</td>
<td></td>
</tr>
<tr>
<td>V(wt.)</td>
<td>Cb</td>
<td>0.10% Max</td>
<td>0.08% Max</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Width = 44.80 inches maximum; Thickness = 0.350 inches maximum; Yield Strength = 80,000 ksi minimum; Tensile Strength = 105,000 psi.

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

<table>
<thead>
<tr>
<th></th>
<th>C</th>
<th>Mn</th>
<th>P</th>
<th>S</th>
<th>Si</th>
<th>Cr</th>
<th>Cu</th>
<th>Ni</th>
</tr>
</thead>
<tbody>
<tr>
<td>0.15% Max</td>
<td>1.40% Max</td>
<td>0.025% Max</td>
<td>0.010% Max</td>
<td>0.50% Max</td>
<td>1.00% Max</td>
<td>0.50% Max</td>
<td>.20% Max</td>
<td></td>
</tr>
<tr>
<td>Nb</td>
<td>Ca</td>
<td>Treated</td>
<td>0.01 - 0.07%</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

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 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 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, 7225.99.00.90, 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 HTSUS subheadings are provided for convenience and Customs purposes, the written description of the covered merchandise is dispositive.

IV. DISCUSSION OF THE METHODOLOGY

_Bona Fide Sale Analysis_

In evaluating whether a sale is commercially reasonable or typical of normal business practices and, therefore, _bona fide_, Commerce considers: (a) the price of the sale, (b) whether the sale was made in commercial quantities; (c) the timing of the sale; (d) the expenses arising from the transaction; (e) whether the goods were resold at a profit; (f) whether the transaction was made on an arm’s-length basis; and (g) any other factor that Commerce considers to be relevant to whether the sale at issue is “likely to be typical of those the exporter or producer will make after the completion of the review.” Accordingly, Commerce considers a number of factors in its _bona fides_ analysis, “all of which may speak to the commercial realities surrounding an alleged sale of subject merchandise.” Finally, where Commerce finds that a sale is not _bona fide_, Commerce will exclude the sale from its dumping margin calculations. Commerce has previously found that the totality of the circumstances test is applicable within the context of an

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22 See TTPC, 366 F. Supp. 2d at 1249.
administrative review and this application has been upheld by the Court of International Trade.

Based on the totality of the circumstances surrounding the sole sale reported by NLMK in this administrative review, we preliminarily determine that the sale is not a \textit{bona fide} sale. Accordingly, pursuant to section 751(a)(2)(B)(iv) of the Act, Commerce will not use this sale to calculate an assessment rate or a cash deposit rate. In particular, Commerce preliminarily finds a number of relevant factors including but not limited to the circumstances of the sale/customer correspondence and the sales price and quantity for NLMK’s sole POR sale, as compared to the quantities and sales prices of third country sales, call into question whether the sale is typical. Because our analysis involves the discussion of business proprietary information, we have included a full discussion of our preliminary analysis in a separate memorandum, see \textit{Bona Fide Sale Analysis Memorandum}.25

Because we preliminarily find that the single POR sale is not a \textit{bona fide} sale, we cannot rely on this sale to calculate a dumping margin in this administrative review. Given the determination that there was no \textit{bona fide} sale during the POR, there is no sale upon which we can base this review. Accordingly, Commerce is preliminarily rescinding this administrative review.26

\footnotesize
\begin{itemize}
\item \textsuperscript{23} See \textit{Glycine from the People’s Republic of China: Preliminary Results of Antidumping Duty Administrative Review and Preliminary Intent to Rescind, in Part; 2013-2014}; 80 FR 18814 (April 8, 2015), and accompanying Decision Memorandum for the Preliminary Results at 1, 3-5; see also \textit{Glycine from the People’s Republic of China: final Results of Antidumping Duty Administrative Review and Partial Recission of Antidumping Duty Administrative Review; 2013-2014}; 80 FR 62027 (October 15, 2015), and accompanying Issues and Decision Memorandum at Comment 5. See \textit{Certain Pasta from Turkey: Preliminary Results of Antidumping Duty Administrative Review, 82 FR 36737} (August 7, 2017), and accompanying Decision Memorandum for the Preliminary Results at 1-3; see also \textit{Certain Pasta from Turkey: Final Results and Recission of Antidumping Duty Administrative Review; 2015-2016}, 83 FR 6516 (February 14, 2018), and accompanying Issues and Decision Memorandum at Comment 1.
\item \textsuperscript{24} See e.g., \textit{Evonik Rexim (Nanning) Pharm. Co. v. United States}, 253 F. Supp. 3d 1364, 1370-1371 (CIT 2017) (sustaining Commerce’s application of the totality of the circumstances test and partial recission of an administrative review).
\item \textsuperscript{25} See Memorandum from Commerce, “2016-2017 Antidumping Duty Administrative Review of Certain Hot-Rolled Flat-Rolled Carbon-Quality Steel Products from the Russian Federation: Preliminary Bona Fide Sales Analysis for Novolipetsk Steel,” dated concurrently with this memorandum (\textit{Bona Fide Sale Analysis Memorandum}).
\end{itemize}
V. CONCLUSION

We recommend applying the above methodology for this preliminary determination.

☑ ☐

Agree
Disagree

2/11/2019

Signed by: CHRISTIAN MARSH

Christian Marsh
Deputy Assistant Secretary
for Enforcement and Compliance