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DEPARTMENT OF COMMERCE

International Trade Administration

[A-485-805]

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

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

SUMMARY: The Department of Commerce (the Department) is conducting an administrative review of the antidumping duty order on certain small diameter carbon and alloy seamless standard, line and pressure pipe from Romania. The review covers one producer/exporter of the subject merchandise, ArcelorMittal Tubular Products Roman S.A. (AMTP). The period of review (POR) is August 1, 2010, through July 31, 2011. We preliminarily determine that AMTP did not sell the subject merchandise at less than normal value during the POR. We invite interested parties to comment on these preliminary results.

EFFECTIVE DATE: [Insert date of publication in the *Federal Register*.]

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SUPPLEMENTARY INFORMATION:

Background

On August 10, 2000, the Department published the antidumping duty order on certain small diameter carbon and alloy seamless standard, line and pressure pipe (small diameter

seamless pipe) from Romania.¹

On August 31, 2011, pursuant to section 751(a)(1) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.213(b), AMTP, a Romanian producer and exporter of the subject merchandise, requested an administrative review of itself. On October 3, 2011, in accordance with 19 CFR 351.221(c)(1)(i), we published a notice of initiation of administrative review of the order.² We are conducting the administrative review of the order in accordance with section 751(a) of the Act.

On January 30, 2012, the petitioner, United States Steel Corporation (the petitioner) alleged that AMTP made sales of small diameter seamless pipe from Romania at prices below the cost of production (COP) in its home market during the POR.³ The Department determined that this allegation was timely filed in accordance with 19 CFR 351.301(d)(2)(ii). On February 24, 2012, we initiated a sales-below-cost investigation with respect to AMTP.⁴

Scope of the Order

For purposes of this review, the products covered include small diameter seamless carbon and alloy (other than stainless) steel standard, line, and pressure pipes and redraw hollows produced, or equivalent, to the American Society for Testing and Materials (ASTM) A-53, ASTM A-106, ASTM A-333, ASTM A-334, ASTM A-335, ASTM A-589, ASTM A-795, and the American Petroleum Institute (API) 5L specifications and meeting the physical parameters

¹ See *Notice of Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order: Certain Small Diameter Carbon and Alloy Seamless Standard, Line and Pressure Pipe From Romania*, 65 FR 48963 (August 10, 2000).

² See *Initiation of Antidumping and Countervailing Duty Administrative Reviews and Requests for Revocation in Part*, 76 FR 61076 (October 3, 2011).

³ See letter from the petitioner dated January 30, 2012.

⁴ See Memorandum to Susan Kuhbach dated February 24, 2012.

described below, regardless of application. The scope of this review also include all products used in standard, line, or pressure pipe applications and meeting the physical parameters described below, regardless of specification. Specifically included within the scope of this review are seamless pipes and redraw hollows, less than or equal to 4.5 inches (114.3 mm) in outside diameter, regardless of wall-thickness, manufacturing process (hot finished or cold-drawn), end finish (plain end, beveled end, upset end, threaded, or threaded and coupled), or surface finish.

The merchandise subject to this review is typically classified in the HTSUS at subheadings: 7304.10.10.20, 7304.10.50.20, 7304.19.10.20, 7304.19.50.20, 7304.31.30.00, 7304.31.60.50, 7304.39.00.16, 7304.39.00.20, 7304.39.00.24, 7304.39.00.28, 7304.39.00.32, 7304.51.50.05, 7304.51.50.60, 7304.59.60.00, 7304.59.80.10, 7304.59.80.15, 7304.59.80.20, and 7304.59.80.25.

Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise under review is dispositive.

Specifications, Characteristics, and Uses: Seamless pressure pipes are intended for the conveyance of water, steam, petrochemicals, chemicals, oil products, natural gas and other liquids and gasses in industrial piping systems. They may carry these substances at elevated pressures and temperatures and may be subject to the application of external heat. Seamless carbon steel pressure pipe meeting the ASTM A-106 standard may be used in temperatures of up to 1000 degrees Fahrenheit, at various American Society of Mechanical Engineers (ASME) code stress levels. Alloy pipes made to ASTM A-335 standard must be used if temperatures and

stress levels exceed those allowed for ASTM A-106. Seamless pressure pipes sold in the United States are commonly produced to the ASTM A-106 standard.

Seamless standard pipes are most commonly produced to the ASTM A-53 specification and generally are not intended for high temperature service. They are intended for the low temperature and pressure conveyance of water, steam, natural gas, air and other liquids and gasses in plumbing and heating systems, air conditioning units, automatic sprinkler systems, and other related uses. Standard pipes (depending on type and code) may carry liquids at elevated temperatures but must not exceed relevant ASME code requirements. If exceptionally low temperature uses or conditions are anticipated, standard pipe may be manufactured to ASTM A-333 or ASTM A-334 specifications.

Seamless line pipes are intended for the conveyance of oil and natural gas or other fluids in pipe lines. Seamless line pipes are produced to the API 5L specification.

Seamless water well pipe (ASTM A-589) and seamless galvanized pipe for fire protection uses (ASTM A-795) are used for the conveyance of water.

Seamless pipes are commonly produced and certified to meet ASTM A-106, ASTM A-53, API 5L-B, and API 5L-X42 specifications. To avoid maintaining separate production runs and separate inventories, manufacturers typically triple or quadruple certify the pipes by meeting the metallurgical requirements and performing the required tests pursuant to the respective specifications. Since distributors sell the vast majority of this product, they can thereby maintain a single inventory to service all customers.

The primary application of ASTM A-106 pressure pipes and triple or quadruple certified pipes is in pressure piping systems by refineries, petrochemical plants, and chemical plants.

Other applications are in power generation plants (electrical-fossil fuel or nuclear), and in some oil field uses (on shore and off shore) such as for separator lines, gathering lines and metering runs. A minor application of this product is for use as oil and gas distribution lines for commercial applications. These applications constitute the majority of the market for the subject seamless pipes. However, ASTM A-106 pipes may be used in some boiler applications.

Redraw hollows are any unfinished pipe or "hollow profiles" of carbon or alloy steel transformed by hot rolling or cold drawing/hydrostatic testing or other methods to enable the material to be sold under ASTM A-53, ASTM A-106, ASTM A-333, ASTM A-334, ASTM A-335, ASTM A-589, ASTM A-795, and API 5L specifications.

The scope of this review includes all seamless pipe meeting the physical parameters described above and produced to one of the specifications listed above, regardless of application, and whether or not also certified to a non-covered specification. Standard, line, and pressure applications and the above-listed specifications are defining characteristics of the scope of these reviews. Therefore, seamless pipes meeting the physical description above, but not produced to the ASTM A-53, ASTM A-106, ASTM A-333, ASTM A-334, ASTM A-335, ASTM A-589, ASTM A-795, and API 5L specifications shall be covered if used in a standard, line, or pressure application.

For example, there are certain other ASTM specifications of pipe which, because of overlapping characteristics, could potentially be used in ASTM A-106 applications. These specifications generally include ASTM A-161, ASTM A-192, ASTM A-210, ASTM A-252, ASTM A-501, ASTM A-523, ASTM A-524, and ASTM A-618. When such pipes are used in a

standard, line, or pressure pipe application, such products are covered by the scope of this review.

Specifically excluded from the scope of this review are boiler tubing and mechanical tubing, if such products are not produced to ASTM A-53, ASTM A-106, ASTM A-333, ASTM A-334, ASTM A-335, ASTM A-589, ASTM A-795, and API 5L specifications and are not used in standard, line, or pressure pipe applications. In addition, finished and unfinished OCTG are excluded from the scope of this review, if covered by the scope of another antidumping duty order from the same country. If not covered by such an OCTG order, finished and unfinished OCTG are included in this scope when used in standard, line, or pressure applications.

Fair-Value Comparisons

To determine whether AMTP's sales of small diameter seamless pipe from Romania were made in the United States at less than normal value, we compared the constructed export price (CEP) to the normal value as described in the "Constructed Export Price" and "Normal Value" sections of this notice.⁵

When making this comparison in accordance with section 771(16) of the Act, we considered all products sold in the home market as described in the "Scope of the Order" section of this notice, above, that were in the ordinary course of trade for purposes of determining an appropriate product comparison to the U.S. sale. If an identical home-market model with identical physical characteristics as described below was reported, we made comparisons to

⁵ In these preliminary results, the Department applied the weighted-average dumping margin calculation method adopted in *Antidumping Proceedings: Calculation of the Weighted-Average Dumping Margin and Assessment Rate in Certain Antidumping Proceedings: Final Modification*, 77 FR 8101 (February 14, 2012) ("*Final Modification for Reviews*"). In particular the Department compared monthly weighted-average CEPs with monthly weighted-average normal values and granted offsets for non-dumped comparisons in the calculation of the weighted average dumping margin.

weighted-average home-market prices that were based on all sales of the identical product during a contemporaneous month. If there were no contemporaneous sales of an identical model, we identified sales of the most similar merchandise that were most contemporaneous with the U.S. sale in accordance with 19 CFR 351.414(f).

Product Comparisons

In accordance with section 771(16) of the Act, we compared products produced by AMTP and sold in the U.S. and home markets on the basis of the comparison product which was closest in terms of the physical characteristics to the product sold in the United States. In the order of importance, these characteristics are specification/grade, manufacturing process, outside diameter, wall thickness, surface finish, and end finish.

Date of Sale

Section 351.401(i) of the Department's regulations states that, normally, the Department will use the date of invoice, as recorded in the producer's or exporter's records kept in the ordinary course of business, as the date of sale. The regulation provides further that the Department may use a date other than the date of the invoice if the Secretary is satisfied that a different date better reflects the date on which the material terms of sale are established. The Department has a long-standing practice of finding that, where shipment date precedes invoice date, shipment date better reflects the date on which the material terms of sale are established.⁶

For all U.S. sales, AMTP reported the date of shipment from the mill in Romania as the

⁶ See *Notice of Final Determination of Sales at Less Than Fair Value and Negative Final Determination of Critical Circumstances: Certain Frozen and Canned Warmwater Shrimp From Thailand*, 69 FR 76918 (December 23, 2004), and accompanying Issues and Decision Memorandum at Comment 10; see also *Notice of Final Determination of Sales at Less Than Fair Value: Structural Steel Beams From Germany*, 67 FR 35497 (May 20, 2002), and accompanying Issues and Decision Memorandum at Comment 2.

date of sale because the date of shipment preceded the invoice date. With respect to AMTP's U.S. sales, price and quantity are subject to change until the merchandise is shipped from the mill in Romania. Because the material terms of sale are established at shipment, prior to invoicing, we have used the date of sale as reported by AMTP.

AMTP reported the earlier of shipment date or invoice date for its home market sales. With respect to AMTP's home market sales, price and quantity are subject to change until invoicing, except where invoicing occurs after shipment, in which case the material terms are set when the product is shipped. Accordingly, we have used the date of sale as reported by AMTP.

Constructed Export Price

In accordance with section 772(b) of the Act, we used CEP for AMTP because the subject merchandise was sold in the United States by a U.S. seller affiliated with the producer.

We calculated CEP based on the delivered price to unaffiliated purchasers in the United States. We also made deductions for any movement expenses in accordance with section 772(c)(2)(A) of the Act. In accordance with section 772(d)(1) of the Act, we calculated the CEP by deducting selling expenses associated with economic activities occurring in the United States, which includes direct selling expenses and indirect selling expenses. Finally, we made an adjustment for profit allocated to these expenses in accordance with section 772(d)(3) of the Act.

Normal Value

In order to determine whether there is a sufficient volume of sales in the home market to serve as a viable basis for calculating normal value (*i.e.*, the aggregate volume of home market sales of the foreign like product is five percent or more of the aggregate volume of U.S. sales), we compared the volume of AMTP's home market sales of the foreign like product to the

volume of its U.S. sales of subject merchandise in accordance with section 773(a)(1)(B)(i) of the Act. Based on this comparison, we determined that AMTP had a viable home market during the POR. Consequently, we based normal value on home market sales to unaffiliated purchasers made in the usual commercial quantities in the ordinary course of trade and sales made to affiliated purchasers where we find prices were made at arm's length, described in detail below.

Cost of Production

Based on our analysis of the petitioner's allegation, we found that there were reasonable grounds to believe or suspect that sales of the foreign like product in the home market were made at prices below their COP. Accordingly, pursuant to section 773(b) of the Act, we initiated a sales-below-cost investigation to determine whether sales were made at prices below their respective COP.⁷

1. Calculation of Cost of Production

In accordance with section 773(b)(3) of the Act, we calculated COP based on the sum of the cost of materials and fabrication for the foreign like product plus an amount for general and administrative expenses, and financial expenses. We relied on the COP data submitted by AMTP with one exception: we increased the reported costs using the major-input adjustment for an affiliated-party input pursuant to section 773(f)(3) of the Act.⁸ We examined the cost data and determined that our quarterly cost methodology is not warranted, and, therefore, we have

⁷ See Memorandum to Susan Kuhbach dated February 24, 2012.

⁸ See Memorandum to Neal Halper from Kristin Case entitled "Cost of Production and Constructed Value Calculation Adjustments for the Preliminary Determination – ArcelorMittal Tubular Products Roman S.A.," dated August 14, 2012.

applied our standard methodology of using annual costs based on the reported data, adjusted as described above.

2. Test of Home Market Sales Prices

On a product-specific basis, we compared the adjusted weighted-average COP to the home market sales of the foreign like product, as required under section 773(b) of the Act, to determine whether the sales were made at prices below the COP. We compared model-specific COPs to the reported home market prices less any applicable movement charges, discounts and rebates, selling and packing expenses.

3. Results of the COP Test

Pursuant to section 773(b)(2)(C)(i) of the Act, where less than 20 percent of the respondent's sales of a given product are at prices less than the COP, we do not disregard any below cost sales of that product because we determine that the below cost sales were not made in "substantial quantities." Where 20 percent or more of the respondent's sales of a given product during the POI were at prices less than COP, we determine that such sales have been made in "substantial quantities" and, thus, we disregard below cost sales.⁹ Further, we determine that the sales were made within an extended period of time, in accordance with section 773(b)(2)(B) of the Act, because we examine below cost sales occurring during the entire POR. Because we are applying our standard annual-average cost test in these preliminary results, we have also applied our standard cost-recovery test with no adjustments. In such cases, because we compare prices to POR-average costs, we also determine that such sales were not made at prices which would

⁹ See section 773(b)(2)(C) of the Act.

permit recovery of all costs within a reasonable period of time in accordance with section 773(b)(2)(D) of the Act.

In this case, we found that, for certain specific products, more than 20 percent of AMTP's home market sales were at prices less than the COP and, in addition, such sales did not provide for the recovery of costs within a reasonable period of time. Therefore, we disregarded these sales and used the remaining sales as the basis for determining normal value in accordance with section 773(b)(1) of the Act.

Calculation of Normal Value Based on Home Market Prices

We based normal value on the starting prices to home market customers. We made adjustments for differences in packing and for movement expenses in accordance with sections 773(a)(6)(A) and (B) of the Act. We also made adjustments for differences in cost attributable to differences in physical characteristics of the merchandise pursuant to section 773(a)(6)(C)(ii) of the Act and 19 CFR 351.411, and for differences in circumstances of sale in accordance with section 773(a)(6)(C)(iii) of the Act and 19 CFR 351.410. We made circumstance-of-sale adjustments by deducting home market direct selling expenses from normal value.

Affiliation

The Department may calculate normal value based on a sale to an affiliated party only if it is satisfied that the price to the affiliated party is comparable to the price at which sales are made to parties not affiliated with the exporter or producer, *i.e.*, sales were made at arm's-length

prices.¹⁰ We exclude from our analysis transactions to affiliated customers for consumption in the home market that we determine were not sold at arm's-length prices.

To test whether AMTP's sales to affiliated parties were made at arm's-length prices, we compared the prices of sales of comparable merchandise to affiliated and unaffiliated customers, net of all rebates, movement charges, direct selling expenses, and packing. Pursuant to 19 CFR 351.403(c) and in accordance with our practice, when the prices charged to an affiliated party were, on average, between 98 and 102 percent of the prices charged to unaffiliated parties for merchandise comparable to that sold to the affiliated party, we determined that the sales to the affiliated party were at arm's-length prices.¹¹ We preliminarily find that all of AMTP's sales to affiliated parties were made at arm's-length prices and we included them in our calculation of normal value.

Level of Trade

To determine whether home market sales are at a different level of trade than U.S. sales, we examined stages in the marketing process and selling functions along the chain of distribution between the producer and the unaffiliated customer.

During the POR, AMTP reported that it sold the foreign like product in the home market through a single channel of distribution and that the selling activities associated with all sales through this channel of distribution did not differ. We found no evidence to contradict AMTP's representations. Accordingly, we found that the home market channel of distribution constituted a single level of trade.

¹⁰ See 19 CFR 351.403(c).

¹¹ See *Antidumping Proceedings: Affiliated Party Sales in the Ordinary Course of Trade*, 67 FR 69186 (November 15, 2002).

All of AMTP's U.S. sales were CEP sales. We identified the level of trade based on the price after the deduction of expenses and profit under section 772(d) of the Act. Most of the selling activities are performed by the U.S. affiliate and, after eliminating expenses and profit associated with those selling activities, we found that AMTP performed few selling activities and that the intensity levels for these activities were very small in comparison to the intensity levels for activities performed for the home market level of trade. Therefore, we have concluded that CEP sales constitute a different level of trade from the level of trade in the home market and that the home market level of trade was at a more advanced stage of distribution than the CEP level of trade.

We were unable to match CEP sales at the same level of trade in the home market or to make a level-of-trade adjustment because there was no level of trade in the home market equivalent to the CEP level of trade. Because the data available do not provide an appropriate basis to determine a level-of-trade adjustment and the home market level of trade is at a more advanced stage of distribution than the CEP, we made a CEP-offset adjustment to NV for all such sales. The CEP offset was the sum of indirect selling expenses incurred on home market sales up to the amount of indirect selling expenses incurred on the U.S. sales.

Preliminary Results of the Review

As a result of this review, we preliminarily determine that no dumping margin exists for AMTP for the period August 1, 2010, through July 31, 2011.

Disclosure and Comment

We will disclose the calculations used in our analysis to parties to this review within

five days of the date of publication of this notice.¹² Any interested party may request a hearing within 30 days of the publication of this notice in the *Federal Register*.¹³ If a hearing is requested, the Department will notify interested parties of the hearing schedule.

Interested parties are invited to comment on the preliminary results of this review. Interested parties may submit case briefs within 30 days of the date of publication of this notice.¹⁴ Rebuttal briefs, which must be limited to issues raised in the case briefs, may be filed not later than 35 days after the date of publication of this notice.¹⁵ Parties who submit case briefs or rebuttal briefs in this review are requested to submit with each argument (1) a statement of the issue and (2) a brief summary of the argument with an electronic version included.

We intend to issue the final results of this administrative review, including the results of our analysis of issues raised in the case briefs, within 120 days after the date on which the preliminary results are published.¹⁶

Assessment Rates

Upon completion of the administrative review, the Department shall determine and U.S. Customs and Border Protection (CBP) shall assess antidumping duties on all appropriate entries. If AMTP's weighted-average dumping margin is above *de minimis* in the final results of this review, we will calculate an importer-specific assessment rate on the basis of the ratio of the total amount of antidumping duties calculated for the importer's examined sales and the total entered value of the sales in accordance with 19 CFR 351.212(b)(1). If AMTP's weighted-average

¹² See 19 CFR 351.224(b).

¹³ See 19 CFR 351.310(c).

¹⁴ See 19 CFR 351.309(c).

¹⁵ See 19 CFR 351.309(d).

¹⁶ See 19 CFR 351.213(h)(1).

dumping margin continues to be zero or *de minimis* in the final results of review, we will instruct CBP not to assess duties on any of AMTP's entries in accordance with the *Final Modification for Reviews*, *i.e.*, "where the weighted-average margin of dumping for the exporter is determined to be zero or *de minimis*, no antidumping duties will be assessed."¹⁷

The Department clarified its "automatic assessment" regulation on May 6, 2003. This clarification applies to entries of subject merchandise during the POR produced by AMTP where AMTP did not know that its merchandise was destined for the United States. In such instances, we will instruct CBP to liquidate unreviewed entries at the all-others rate if there is no rate for the intermediate company(ies) involved in the transaction. For a full discussion of this clarification, *see Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties*, 68 FR 23954 (May 6, 2003).

The Department intends to issue assessment instructions to CBP 15 days after the date of publication of the final results of this administrative review.

Cash Deposit Requirements

The following deposit requirements will be effective upon publication of the notice of final results of administrative review for all shipments of subject merchandise entered, or withdrawn from warehouse, for consumption on or after the date of publication, as provided by section 751(a)(1) of the Act: (1) the cash deposit rate for AMTP will be the rate established in the final results of this review; (2) for previously reviewed or investigated companies not listed above, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review or the less-than-fair-value

¹⁷ See *Final Modification for Reviews*, 77 FR at 8102.

investigation but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; (4) the cash deposit rate for all other manufacturers or exporters will continue to be 13.06 percent, the all-others rate established in *Notice of Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order: Certain Small Diameter Carbon and Alloy Seamless Standard, Line and Pressure Pipe From Romania*, 65 FR 48963 (August 10, 2000). These cash deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

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

Paul Piquado
Assistant Secretary
for Import Administration

__August 14, 2012_____
(Date)

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