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DEPARTMENT OF COMMERCE

International Trade Administration

[A-821-809]

Hot-Rolled Flat-Rolled Carbon-Quality Steel Products from the Russian Federation; 2010-2011; Final Results of Administrative Review and Revision of Agreement Suspending Antidumping Duty Investigation

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

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

On November 30, 2012, the Department and The Economy Ministry of Russia signed the final revision to the Agreement. The revision to the Agreement reestablishes the effectiveness of the reference price mechanism and, thus, brings the revised Agreement into compliance with the statutory requirement to prevent the undercutting of domestic price levels by imports of Russian hot-rolled steel.

EFFECTIVE DATE: November 30, 2012

FOR FURTHER INFORMATION CONTACT: Sally C. Gannon or Anne D'Alauro, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230, telephone: (202) 482-0162 or (202) 482-4830.

SUPPLEMENTAL INFORMATION:

Background

In response to a request from Nucor Corporation (“Nucor”), a domestic interested party, the Department conducted an administrative review of the Agreement, and, on June 1, 2012, the Preliminary Results were published in the *Federal Register*. Section 751(a)(1)(C) of the Act specifies that, in an administrative review of a suspension agreement, the Department shall “review the current status of, and compliance with, any agreement by reason of which an investigation was suspended.” In this case, the Department reviewed the current status of, and compliance with, the Agreement, which was signed by the Department and the Ministry of Trade of the Russian Federation on July 12, 1999, and suspended the antidumping duty investigation. Because the Department determined that the Russian Federation was a non-market economy country at that time, the Agreement was entered into under section 734(l) of the Act, which

applies to non-market economy countries.¹ This section provides that the Department may suspend an investigation upon acceptance of an agreement with a non-market economy country to restrict the volume of imports into the United States, if the Department determines that the agreement is in the public interest; that effective monitoring is possible; and that the agreement “will prevent the suppression or undercutting of price levels of domestic products by imports of the merchandise under investigation.” Section 734(l)(1). For this purpose, the Agreement’s terms established annual quota limits and a reference price mechanism to provide minimum prices for sales of Russian hot-rolled steel imports into the U.S. market. The reference price mechanism in the Agreement relied on quarterly adjustments, based on the average unit prices of fairly-traded imports as reported by the U.S. Bureau of the Census, as specified under Section III.E of the Agreement.

In evaluating the information on the record of the administrative review with respect to the current status of, and compliance with, the Agreement, the Department preliminarily determined that the Agreement’s reference price mechanism, in its current form, was no longer preventing price undercutting by Russian imports of hot-rolled steel into the U.S. market, and, as a result, preliminarily determined that the Agreement was no longer fulfilling its statutory requirement. See Preliminary Results, 77 FR at 32516. The Department preliminarily determined that the record evidence indicated that the adjustments made quarterly within the Agreement’s existing reference price mechanism failed to keep pace with changes in U.S. market prices. Further, once the reference prices became too low relative to U.S. market prices, the

¹ In a memorandum dated June 6, 2002, based on the evidence of Russian economic reforms to that date, the Department revoked Russia’s status as a non-market-economy country under section 771(18)(B) of the Act, with such revocation effective as of April 1, 2002.

subsequent quarterly adjustments were no longer effective in providing new reference prices that were reflective of U.S. market prices for hot-rolled steel. In addition, the Department preliminarily determined that the record evidence indicated that the failing reference price mechanism, as described, had led to the undercutting of domestic hot-rolled steel price levels by Russian hot-rolled steel imports during the period of review (“POR”). As a separate matter, in its preliminary results, the Department found no evidence, in the information submitted by interested parties in the administrative review, that the Agreement had been violated during the POR.

After the publication of the Preliminary Results, the Department offered interested parties an opportunity to place additional factual information on the record of this administrative review. The Russian producers Joint Stock Company Severstal (“Severstal”), Novolipetsk Steel, Magnitogorsk Iron and Steel Works, and OJSC “OMK-Steel” (collectively, “the Russian producers”), and Nucor placed factual information on the record on July 5, 2012. Severstal and the domestic producers Nucor, ArcelorMittal USA LLC, United States Steel Corporation, Gallatin Steel Company, Steel Dynamics, Inc., and SSAB N.A.D., Inc. (collectively, “the domestic producers”), placed rebuttal factual information on the record on July 16, 2012. The Economy Ministry of Russia, the Russian producers and the domestic producers submitted case and rebuttal briefs in response to the Preliminary Results on July 23, 2012, and August 1, 2012, respectively.

On September 21, 2012, the Department extended the deadline for the final results of review from October 1, 2012, until November 28, 2012. See Memorandum to Lynn Fischer Fox, Deputy Assistant Secretary for Policy and Negotiations in Import Administration, regarding “Extension of Deadline for Final Results of Administrative Review of the Suspension

Agreement” (September 21, 2012). The Department subsequently exercised its discretion to toll deadlines for the duration of the closure of the Federal Government from October 29, 2012, through October 30, 2012. Thus, all deadlines in this segment of the proceeding have been extended by two days. The revised deadline for the final results of this review is now November 30, 2012. See Memorandum to the Record from Paul Piquado, Assistant Secretary for Import Administration, regarding “Tolling of Administrative Deadlines As a Result of the Government Closure during the Recent Hurricane” (October 31, 2012).

On January 31, 2012, the Department requested consultations with The Economy Ministry of Russia, under Section VIII.C of the Agreement, to discuss the issues of the alleged sales of Russian hot-rolled steel imports at prices that called into question the effectiveness of the Agreement’s reference price mechanism and whether or not the Agreement was fulfilling its statutory mandate to prevent the undercutting and suppression of domestic hot-rolled steel prices. On February 23, 2012, and September 26-27, 2012, the Department and The Economy Ministry of Russia held consultations in Washington, D.C., and on June 1, 2012, in Paris, France, to discuss these issues. The Department and The Economy Ministry of Russia exchanged several written proposals in an attempt to resolve these concerns and to bring the Agreement into alignment with its statutory requirement to prevent the undercutting of domestic price levels for hot-rolled steel.

On November 14 and 15, 2012, respectively, the Department and The Economy Ministry of Russia initialed a draft revision to the Agreement in which the parties agreed to updated reference prices for the fourth quarter of the 2012 Export Limit Period, based on current domestic prices published by the industry publication *SteelBenchmarker*, as well as a modification to the quarterly adjustment mechanism for making future quarterly reference price

adjustments. On November 15, 2012, the Department released to interested parties the initialed draft revision to the Agreement and requested that comments be submitted to the Department by November 23, 2012. See Memorandum to All Interested Parties from Sally C. Gannon Re “Draft Revision to the Agreement Suspending the Antidumping Investigation on Certain Hot-Rolled Flat-Rolled Carbon-Quality Steel Products from the Russian Federation; Request for Comments” (November 15, 2012). The initialed draft revision and request for comments were also published in the *Federal Register* on November 23, 2012. See [Initialed Draft Revision to the Agreement Suspending the Antidumping Investigation on Certain Hot-Rolled Flat-Rolled Carbon Quality Steel Products from the Russian Federation; Request for Comment](#), 77 FR 70142 (November 23, 2012). The Department received timely comments on the draft revision from The Economy Ministry of Russia, the Russian producers, and the domestic producers. The Department has considered, and responded to, all relevant comments concerning the revised Agreement in the Issues and Decision Memorandum (“Decision Memorandum”) accompanying this notice. The revised Agreement is effective on November 30, 2012, the date of the signing of the revised Agreement.

Scope of Agreement

The merchandise subject to the Agreement is certain hot-rolled flat-rolled carbon-quality steel products. The covered merchandise 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 include: vacuum degassed, fully stabilized; high strength low alloy; and the substrate for motor lamination steel may also enter under the following tariff numbers: 7225.11.00.00, 7225.19.00.00, 7225.30.30.50, 7225.30.70.00, 7225.40.70.00, 7225.99.00.90, 7226.11.10.00, 7226.11.90.30, 7226.11.90.60, 7226.19.10.00, 7226.19.90.00, 7226.91.50.00, 7226.91.70.00, 7226.91.80.00, and 7226.99.01.80. Although the HTSUS subheadings are provided for convenience and Customs purposes, the written description of the covered merchandise is dispositive.

See the accompanying Decision Memorandum for the full description of merchandise covered by the Agreement.

Period of Review

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

Final Results of Administrative Review

As noted above, in its Preliminary Results, the Department evaluated the information on the record of the administrative review with respect to the current status of, and compliance with, the Agreement and preliminarily determined that the Agreement's reference price mechanism was no longer preventing price undercutting by Russian imports of hot-rolled steel into the U.S. market, and, as a result, that the Agreement was no longer fulfilling its statutory requirement. The Department indicated in its Preliminary Results that, on February 23, 2012, it had entered into consultations with The Economy Ministry of Russia to discuss the issues of the alleged sales of Russian hot-rolled steel imports at prices that called into question the effectiveness of the

Agreement's reference price mechanism and whether the Agreement was fulfilling its statutory mandate to prevent the undercutting and suppression of domestic hot-rolled steel prices. The Department further indicated that it intended to move forward with additional consultations with The Economy Ministry of Russia during the course of the administrative review period, as mutually agreed, in an attempt to resolve these concerns and to bring the Agreement back into alignment with its statutory requirement to prevent price undercutting. See Preliminary Results, 77 FR at 32516.

Pursuant to the government-to-government negotiations that took place during the course of the administrative review, including direct consultations in February, June and September of 2012, the Department and The Economy Ministry of Russia reached an agreement on a revised Agreement that would meet the statutory requirement of preventing the undercutting of domestic prices of hot-rolled steel. The Department and The Economy Ministry of Russia signed the revision to the Agreement on November 30, 2012, the same day these final results were issued. As described above, the revised Agreement provides updated reference prices for the fourth quarter of the 2012 Export Limit Period, based on current domestic prices published by the industry publication *SteelBenchmarker*, and modifies the quarterly adjustment mechanism for updating the reference prices going forward. The use of a published source for current U.S. market pricing of hot-rolled steel to update the reference prices, and the modifications to the quarterly adjustment mechanism going forward, ensure that the revised Agreement complies with the statutory requirements, pursuant to section 734(l) of the Act.

For a detailed discussion of the relevant comments received from interested parties, and the Department's response to those comments, see the Decision Memorandum. Because the Department has determined that the revised Agreement, which has been signed by the

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

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

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

The text of the signed revision to the Agreement follows in Annex 1 to this notice.

Ronald K. Lorentzen
Deputy Assistant Secretary for
Import Administration

____ November 30, 2012 _____
Date

Annex 1

REVISION TO THE AGREEMENT SUSPENDING THE ANTIDUMPING INVESTIGATION ON CERTAIN HOT-ROLLED FLAT-ROLLED CARBON-QUALITY STEEL PRODUCTS FROM THE RUSSIAN FEDERATION

The Agreement Suspending the Antidumping Investigation on Certain Hot-Rolled Flat-Rolled Carbon-Quality Steel Products from the Russian Federation (“Agreement”), signed by the United States Department of Commerce and the Ministry of Trade of the Russian Federation on July 12, 1999, is revised as set forth below. Consistent with Section XI.C of the Agreement governing “Other Provisions,” the English and Russian language versions of this revision shall be authentic, with the English version being controlling.

If a provision of the Agreement conflicts with a provision of this revision, the provision of the revision shall supersede the provision of the Agreement to the extent of the conflict. All other provisions of the Agreement and their applicability continue with full force. The Agreement and the present revision to the Agreement are applied without prejudice to either party’s rights under the WTO.

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

Section III.C is revised, as follows:

III.C. The Reference Prices for the fourth quarter of the 2012 Export Limit Period, corresponding to October 1, 2012 through December 31, 2012, shall be updated by using the following procedure:

1. To update the Reference Price for Group One products, DOC shall average FOB U.S. mill (East of the Mississippi) prices for hot-rolled band (“HRB”) from the public source *SteelBenchmarker* for the two months, September and October 2012, resulting in \$684 per metric ton.²
2. DOC shall decrease the two-month average price resulting from Section III.C.1 by two percent to account for the percentage difference between the average *SteelBenchmarker* price and the average unit value of fairly-traded imports for the July 2010 through July 2012 period, resulting in \$670.32 per metric ton.
3. DOC shall adjust the price resulting from Section III.C.2 for freight and transportation expenses, using the following methodology. DOC shall calculate the freight and transportation expenses using publicly-available import statistics from the U.S. Bureau of the Census (from the International Trade Commission’s Dataweb) for January – June 2012. Based on the difference between the CIF values of Russian hot-rolled steel imports relative to the Customs values for the same entries during this period, DOC shall calculate the percentage ratio to be used as a deduction for freight and transportation expenses. DOC shall then subtract the resulting percentage amount of 10.23 percent from the price calculated in Step 2 above to determine the updated Reference Price of \$601.75 per metric ton for Group One products for the October 1, 2012, through December 31, 2012, quarterly period.

² Group One corresponds to the original grades in the reference price calculation under Section III.C of the Agreement, including modifications to that grade grouping made pursuant to administrative proceedings conducted over the course of the administration of the Agreement. See <http://ia.ita.doc.gov/reference-price/refprice-a821809.html> for the October 1, 2004 – December 31, 2004 quarter.

4. DOC shall calculate the Reference Prices for products in Groups Two and Three for the October 1, 2012, through December 31, 2012, quarterly period based on a 10 and 28 percent increase, respectively, to the Reference Price calculated for Group One, as set forth above.³
5. The resulting updated Reference Prices for the fourth quarter of the 2012 Export Limit Period, corresponding to October 1, 2012 through December 31, 2012, and effective as of the date of the signing of this revision to the Agreement, are as follows:

Group	Q4 2012 Reference Price
One - Commercial and Structural Quality	\$601.75
A36, A1011-CS A1011-SS-Grades 30, 33, 36, 40 A1018-SS-Grades 30, 33, 36, 40 API 5L Grades A & B	
Two - HSLA & HSLA-F Quality	
Grades: A572, A1011-HSLAS A1018-HSLAS, A1011-HSLAS-F A1018-HSLAS-F API 5L Gr. X42, X46, X52, X56, X60 API 5CT Grades J55 and K55	
Three - High Grade Coils and Sheets for Pipes and Casings	\$770.24
API 5L Gr. X65, X70, and X80	

Section III.E is replaced with:

III.E. Thirty days before the start of each quarter of each Export Limit Period (beginning with the first quarter, or January 1, 2013, through March 31, 2013), DOC shall calculate the new quarterly Reference

³ Groups Two (including modifications) and Three were added to the reference price calculation, in accordance with Section III.D of the Agreement, and as a result of administrative proceedings conducted over the course of the administration of the Agreement. See <http://ia.ita.doc.gov/reference-price/refprice-a821809.html> for the October 1, 2005 – December 31, 2005 quarter.

Prices, based on the percentage increase or decrease in the weighted-average unit import values for hot-rolled steel from all countries not subject to antidumping duty orders or investigations over the most recent three months for which data is available, compared to the three preceding months. The source of the unit import values will be publicly-available import statistics from the U.S. Bureau of the Census (International Trade Commission's Dataweb). DOC will provide The Economy Ministry of Russia with the worksheets supporting its calculation of the quarterly Reference Prices at the time it provides the Reference Prices to The Economy Ministry of Russia. For the first calculation only, i.e., for the quarterly reference prices effective for January 1, 2013, through March 31, 2013, the Department shall delay issuance of the reference prices to The Economy Ministry of Russia until the U.S. Bureau of the Census releases data for October 2012 which shall be incorporated into this calculation.

Signed in Washington, D.C., on November 30, 2012.

For the United States

Department of Commerce:

For the Ministry of Economic

Development of the Russian Federation:

Ronald K Lorentzen

Deputy Assistant Secretary

for Import Administration

Rinat M. Dosmukhamedov

Trade Representative of the

Russian Federation in the USA

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