

Comment 13: Wood

Respondents claim that the wood it utilizes in packing/loading was verified through invoices provided to the Department.

Petitioners argue that the Department should use its PAI information and conversion factor to value wood.

Department Position

Based on both Petitioners' and Respondents' submissions and briefs, we have used Respondents' value for softwood and applied Petitioners' conversion methodology to calculate a factor for wood packing. *See Final Determination Calculation*

Memorandum, dated October 24, 1997.

Comment 14: Publicly Available Information (PAI)

Petitioners argue that the Department should use the factor value information contained in its submissions because this information is the only reliable PAI on the surrogate values of the factors, and because the information submitted by Respondents is based on an inappropriate surrogate country and is fraught with errors.

Respondents argue that the Department should not use Petitioners' PAI. Respondents argue that the Department should change its surrogate from Brazil to Poland (Comment 3). Respondents argue that much of the information on the record concerning material factors for Poland are UN statistics corresponding to the statistics submitted by Petitioners themselves for Brazil, as well as to statistics used by the Department in its preliminary determination.

Department Position

We do not agree with Petitioners' contention that its own publicly available information is the only reliable information for valuing factors. However, as stated throughout this notice, the Department has continued to use Brazil as the surrogate for the final determination. Therefore, whether the information on Poland is reliable is irrelevant, as we have only used PAI from Brazil to value factors in this investigation.

Continuation of Suspension of Liquidation

On October 24, 1997, the Department signed a suspension agreement with the Government of Ukraine (the Agreement). Therefore, we will instruct Customs to terminate the suspension of liquidation of all entries of cut-to-length carbon steel plate from Ukraine. Any cash deposits of entries of cut-to-length carbon steel plate from Ukraine shall be

refunded and any bonds shall be released.

On October 14, 1997, we received a request from Petitioners requesting that we continue the investigation. We received a separate request from the United Steelworkers of America, an interested party under section 771(9)(D) of the Act, on October 14, 1997. Pursuant to these requests, we have continued and completed the investigation in accordance with section 734(g) of the Act. We have found the following margins of dumping:

Manufacturer/producer/exporter	Weight-average percentage margin
Azovstal	81.43
Ilyich	155.00
Ukraine-Wide Rate	237.91

The Ukraine-wide rate applies to all entries of subject merchandise except for entries from Azovstal and Ilyich.

ITC Notification

In accordance with section 735(d) of the Act, we have notified the ITC of our determination. As our final determination is affirmative, the ITC will determine, within 45 days, whether these imports are causing material injury, or threat of material injury, to an industry in the United States. If the ITC's injury determination is negative, the agreement will have no force or effect, and the investigation shall be terminated. *See* section 734(f)(3)(A) of the Act. If, on the other hand, the Commission's determination is affirmative, the Agreement shall remain in force but the Department shall not issue an antidumping duty order so long as (1) the Agreement remains in force, (2) the Agreement continues to meet the requirements of subsection (d) and (1) of the Act, and the parties to the Agreement carry out their obligations under the Agreement in accordance with its terms. *See* section 734(f)(3)(B) of the Act.

This determination is published pursuant to section 735(d) of the Act.

Dated: October 24, 1997.

Robert S. LaRussa,
Assistant Secretary for Import Administration.

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DEPARTMENT OF COMMERCE**International Trade Administration**

[A-823-808]

Suspension of Antidumping Duty Investigation: Certain Cut-to-Length Carbon Steel Plate From Ukraine

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

SUMMARY: The Department of Commerce (the Department) has suspended the antidumping duty investigation involving certain cut-to-length carbon steel plate (CTL plate) from Ukraine. The basis for this action is an agreement between the Department and the Government of Ukraine wherein the Government of Ukraine has agreed to restrict the volume of direct or indirect exports to the United States of CTL plate from all Ukrainian producers/exporters and to revise its prices to eliminate completely sales of this merchandise to the United States at less than fair value.

EFFECTIVE DATE: October 24, 1997.

FOR FURTHER INFORMATION CONTACT: Nithya Nagarajan, or Eugenia Chu, Office of AD/CVD Enforcement III, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th & Constitution Avenue N.W., Washington, D.C. 20230; telephone (202) 482-1324, or (202) 482-3964 respectively.

SUPPLEMENTARY INFORMATION:**Background**

On December 3, 1996, the Department initiated an antidumping investigation under section 732 of the Tariff Act of 1930, (the Act), as amended, to determine whether imports of CTL plate from Ukraine are being or are likely to be sold in the United States at less than fair value (61 FR 64051 (December 3, 1996)). On December 19, 1996, the United States International Trade Commission (ITC) notified the Department of its affirmative preliminary injury determination (see ITC Investigation Nos. 731-TA-753-756). On June 11, 1997, the Department preliminarily determined that CTL plate 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 Tariff Act of 1930, as amended by the Uruguay Round Agreements Act (62 FR 31958, (June 11, 1997)).

The Department and the Government of Ukraine initiated a proposed agreement suspending this investigation on September 24, 1997. On September 25, 1997, we invited interested parties

to provide written comments on the agreement and received comments from Geneva Steel, Gulf States Steel, Bethlehem Steel Corp., U.S. Steel Group, United Steel Workers of America, and the Government of Ukraine.

The Department and the Government of Ukraine signed the final suspension agreement on October 24, 1997.

Scope of Investigation

See Notice of Final Determination of Sales at Less Than Fair Value: Certain Cut-to-Length Carbon Steel Plate from Ukraine, signed on October 24, 1997.

Suspension of Investigation

The Department consulted with the parties to the proceeding and has considered the comments submitted with respect to the proposed suspension agreement. In accordance with Section 734 (l) of the Act, we have determined that the agreement will prevent the suppression or undercutting of price levels of domestic products by imports of the merchandise under investigation, that the agreement is in the public interest, and that the agreement can be monitored effectively. See Public Interest Memorandum, dated October 24, 1997. We find, therefore, that the criteria for suspension of an investigation pursuant to section 734(l) of the Act have been met. The terms and conditions of this agreement, signed October 24, 1997, are set forth in Annex 1 to this notice.

Pursuant to section 734(f)(2)(A) of the Act, the suspension of liquidation of all entries of cut-to-length carbon steel plate from Ukraine entered or withdrawn from warehouse, for consumption, as directed in our notice of "Preliminary Determination of Sales at Less Than Fair Value: Cut-to-Length Carbon Steel Plate from Ukraine" and "Postponement of the Final Determination: Cut-to-Length Carbon Steel Plate from Ukraine" is hereby terminated. Any cash deposits on entries of cut-to-length carbon steel plate from Ukraine pursuant to that suspension of liquidation shall be refunded and any bonds shall be released.

On October 14, 1997 we received a request from petitioners requesting that we continue the investigation. We received separate requests for continuation from Bethlehem Steel Corp., U.S. Steel Corp. (A Unit of USX Corporation), and the United Steelworkers of America, interested parties under section 771(9)(D) of the Act. Pursuant to these requests, we have completed the investigation in accordance with section 734(g) of the

Act, and have notified the International Trade Commission (ITC) of our determination. If the ITC's injury determination is negative, the agreement will have no force or effect, and the investigation will be terminated (see section 734(f)(3)(A) of the Act). If the ITC's determination is affirmative, the Department will not issue an antidumping duty order as long as the suspension agreement remains in force (see section 734(f)(3)(B) of the Act).

This notice is published pursuant to section 734(f)(1)(A) of the Act.

Dated: November 7, 1997.

Robert S. LaRussa,

Assistant Secretary for Import Administration.

Agreement Suspending the Antidumping Investigation on Certain Cut-To-Length Carbon Steel Plate From Ukraine

For purposes of encouraging free and fair trade in certain cut-to-length carbon steel plate (CTL plate), establishing more normal market relations, and preventing the suppression or undercutting of price levels of the domestic products by imports of the merchandise subject to this Agreement, the United States Department of Commerce ("the Department") and the Government of Ukraine enter into this suspension agreement ("the Agreement").

Pursuant to this Agreement, the Government of Ukraine will restrict the volume of direct and indirect exports to the United States of CTL plate from all Ukrainian producers/exporters, subject to the terms and provisions set forth below.

On the basis of this Agreement, pursuant to the provisions of Section 734(1) of the Tariff Act of 1930, as amended, by the Uruguay Round Agreements Act, as effective on January 1, 1995 ("the Act") (19 U.S.C. 1673c(1)), the Department shall suspend its antidumping investigation with respect to CTL plate produced in Ukraine, subject to the terms and provisions set forth below. Further the Department will instruct the U.S. Customs Service ("Customs") to terminate the suspension of liquidation of, and release any cash deposit or bond posted on, CTL plate covered by this Agreement as of the effective date of this Agreement.

I. Definitions

For purposes of this Agreement, the following definitions apply:

A. "Date of Export" for imports of subject merchandise into the United States shall be considered the date the export license was issued.

B. "Parties to the Proceeding" means any interested party, within the meaning of section 353.2(k) of the Department's Regulations, which actively participates through written submissions of factual information or written argument.

C. "Indirect Exports" means arrangements as defined in Section III.E of this Agreement and exports from Ukraine through one or more third countries, whether or not such exports are further processed, insofar as they remain within the scope of the Agreement, and includes further processing which results in minor alterations, or under certain limited circumstances, as described in Section VII. G., further processing which results in substantial transformation as a result of an attempt to circumvent the Agreement, whether or not such exports are sold in one or more third countries prior to importation into the United States and whether or not the Ukrainian producer knew the product was destined to enter the United States.

D. For purposes of this Agreement, "United States" shall comprise the customs territory of the United States of America (the 50 States, the District of Columbia and Puerto Rico) and foreign trade zones located in the territory of the United States of America.

E. "For Consumption" means all CTL plate sold to customers, such as, trading companies, distributors, resellers, end-users, or service centers.

F. Customer means an entity, such as a steel service center, reseller, trading company, end-user, etc., which consumes CTL plate as defined in Section I.E.

G. "Date of Sale" is defined as the date on which price and quantity become firm, e.g.* the specification date or, in the case of a long-term contract, the date of contract, as recorded in the company's records kept in the ordinary course of business.

H. "Export License" is the document issued by the Ministry of Foreign Economic Relations ("MINFER") which must accompany all shipments of CTL plate from Ukraine to the United States, and must contain all of the information enumerated in the Appendix to this Agreement, except that Date of Entry and Final Destination may be omitted if unknown to the MINFER and the licensee. It shall be required for customs clearance into the United States.

I. "Reference Price" means the price calculated by the Department, as described in Section IV, on a quarterly basis to be used as a floor price for sales of Ukrainian CTL plate into the United States.

J. "Relevant Period" for the export limits of the Agreement means the period November 1, through October 31 of each year that the Agreement is in effect.

II. Product Coverage

The products covered by this Agreement include hot-rolled iron and non-alloy steel universal mill plates (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 rectangular shape, neither clad, plated nor coated with metal, whether or not painted, varnished, or coated with plastics or other nonmetallic substances; and certain iron and non-alloy steel flat-rolled products not in coils, of rectangular shape, hot-rolled, neither clad, plated, nor coated with metal, whether or not painted, varnished, or coated with plastics or other nonmetallic substances, 4.75 mm or more in thickness and of a width which exceeds 150 mm and measures at least twice the thickness. Included as subject merchandise in this Agreement are flat-rolled products of nonrectangular cross-section where such cross-section is achieved subsequent to the rolling process (i.e., products which have been "worked after rolling") for example, products which have been beveled or rounded at the edges. This merchandise is currently classified in the Harmonized Tariff Schedule of the United States (HTS) under item numbers 7208.40.3030, 7208.40.3060, 7208.51.0030, 7208.51.0045, 7208.51.0060, 7208.52.0000, 7208.53.0000, 7208.90.0000, 7210.70.3000, 7210.90.9000, 7211.13.0000, 7211.14.0030, 7211.14.0045, 7211.90.0000, 7212.40.1000, 7212.40.5000, 7212.50.0000. Although the HTS subheadings are provided for convenience and customs purposes, the written description of the scope of this Agreement is dispositive.

Specifically excluded from subject merchandise within the scope of this Agreement is grade X-70 steel plate.

III. Export Limits

A. The export limit for CTL plate for the first Relevant Period shall be 158,000 metric tons. Of this export limit not more than 20,000 metric tons may be utilized in selling CTL plate which is 0.375 inches or less in actual or nominal thickness. The parties also agree that an increase in the export limit for each subsequent Relevant Period shall be made under the following

circumstances: (1) The Government of Ukraine shall receive a 5 percent increase in the export limit for each subsequent Relevant Period if the weighted-average F.O.B. sales price for A36 plate over 0.375 inches exceeds the reference price by more than 5 percent during the most recently completed Relevant Period; (2) this increase in the export limit may be used only for exports of A36 plate which is over 0.375 inches in thickness; (3) the determination to increase the export limit for each subsequent Relevant Period will be made by the Department based on the Government of Ukraine's compliance with all relevant data reporting requirements.

B. No later than 60 days prior to the end of the first Relevant Period, the Department shall calculate an upward or downward adjustment to the next Relevant Period's export limit based upon changes in U.S. apparent consumption for steel plate. U.S. apparent consumption will be calculated using official statistics from the U.S. Census Bureau and data from the American Iron and Steel Institute regarding domestic shipments. The maximum adjustment will be plus or minus no more than 6 percent per Relevant Period, and will be calculated by comparing the most recent twelve months of data for U.S. apparent consumption available to the Department at the time of the calculation to the level of the previous corresponding twelve months of data. The Department will then apply the adjustment to the Relevant Period's export limit. The Department will similarly adjust the export limit every Relevant Period, and the effects of the adjustment will be cumulative. Deductions from the export limits shall be made based on the "Date of Export", as defined in Section I. MINFER will not issue Export Licenses accounting for more than sixty percent of the export limit for any Relevant Period during either semi-annual period within such Relevant Period.

C. On and after the effective date of this Agreement, the Government of Ukraine will restrict the volume of direct and indirect exports of CTL plate to the United States, and the transfer and withdrawal from inventory of CTL plate (consistent with the provisions of Section III.E), in accordance with the export limits then in effect.

D. Any export of CTL plate shall not when cumulated with all prior exports in such Relevant Period exceed the export limit for that Relevant Period.

E. Any inventories of CTL plate currently held in the United States by a Ukrainian legal entity and imported into

the United States between November 5, 1996 and the effective date of this Agreement will be subject to the following conditions:

1. Such inventories will not be transferred or withdrawn from inventory for consumption in the United States without an Export License issued by MINFER. Any such transfers or withdrawals from inventory shall be deducted from the export limits in effect at the time the Export License is issued.

2. A request for an Export License under this provision shall be accompanied by a report containing the information set forth in the Appendix to this Agreement.

F. Any arrangement involving the exchange, sale, or delivery of CTL plate products from Ukraine, whether or not further processed, to the degree it results in the sale or delivery in the United States of CTL plate from a country other than Ukraine, is subject to the requirements of Section V and will be counted toward the export limits. Any such transaction that does not comply with the requirements of Section V will be deducted from the export limits pursuant to Section VII.

G. Where CTL plate is imported into the United States and is subsequently re-exported or re-packaged and re-exported, the export limits shall be increased by the quantity of product re-exported. Such increase will be applicable to the Relevant Period corresponding to the time of such re-export. Such increase will be applied only after the Department receives, and has the opportunity to verify, evidence demonstrating original importation, any re-packaging, and subsequent exportation. The re-exported material must be identical to the imported material.

H. Export Licenses for a given Relevant Period may not be issued after the expiration of the Relevant Period, except that Export Licenses not so issued may be issued during the first three months of the following Relevant Period, up to a maximum of 15 percent of the export limit for that following Relevant Period. Such "carried-over" quota shall be counted against the export limits applicable to the previous Relevant Period.

Export Licenses for up to 15 percent of the export limits for a subsequent Relevant Period may be issued as early as 45 days prior to the beginning of the subsequent Relevant Period. Such "carried-back" quota shall be counted against the export limits applicable to the following Relevant Period.

IV. Reference Price

A. CTL plate will not be sold below the reference price. Each grade of CTL plate shall have its own reference price, and all such reference prices shall be calculated in the same manner.

B. The reference price issued quarterly by the Department shall be released by October 1, January 1, April 1, and July 1 of each year and shall be effective on November 1, February 1, May 1, and August 1, respectively. The reference price for the first Relevant Period is set forth in Section IV.C. of this Agreement and shall remain effective until revised by the Department pursuant to this paragraph IV:B. Either party is entitled to request consultations regarding the calculation of reference prices.

C. The reference price for the first Relevant Period shall be as follows:

Grade of CTL plate	Reference price
A36	\$359.00 per metric ton.
A572	387.00 per metric ton.
A516	390.00 per metric ton.
API-2H	530.00 per metric ton.

The reference price for API-2Y will be determined at a later date.

Until such time as the Department and MINFER agree upon reference prices for other grades of CTL plate, only grades A36, A572, A516, and API-2H may be exported to the United States.

Best efforts will be made by the Department and MINFER to consult for the purpose of establishing reference prices for other grades of CTL plate by November 30, 1997.

D. For each subsequent Relevant Period the reference price will be adjusted on a quarterly basis to reflect the change in the BLS Producer Price Index for carbon steel plate for the most recent three months for which data is available preceding the date on which the reference price is issued.

If the last month of BLS PPI for the three-month period preceding the date on which the reference price is issued has fallen by more than 2.6 percent from the average of the first two months of the period the reference price will be adjusted on the basis of the PPI for the last month of the three-month period.

E. MINFER will ensure that with respect to merchandise covered by each Export License, the Ukrainian unit values of imports of CTL plate into the United States will equal or exceed the reference price at equivalent points in the transaction chain. The reference price will be at a level in the transaction chain as far upstream as possible (i.e.,

F.O.B.). MINFER will ensure that contracts and all relevant documentation will be available to the Department and will be subject to verification.

V. Export License

A. The Government of Ukraine will restrict the volume of direct and indirect exports of CTL plate to the United States by means of Export Licenses. Export Licenses shall be issued by MINFER for all direct and indirect exports of CTL plate to the United States in accordance with the export limits in section III and the reference price in section IV.

B. MINFER shall issue Export Licenses on a first-come-first-serve basis for all Ukrainian producers.

C. Before it issues an Export License, MINFER will ensure that the Relevant Period's export limit is not exceeded and that the price for the CTL plate is at or above the reference price.

D. MINFER shall take action, including the imposition of penalties, as may be necessary to make effective the obligations resulting from the price restrictions, export limits, and Export Licenses. MINFER will inform the Department, in writing, of any violations concerning the price restrictions, export limits, or Export Licenses which come to its attention and the action taken with respect thereto.

The Department will inform MINFER in writing of violations concerning the price restrictions, export limits or Export Licenses which come to its attention and the action taken with respect thereto.

E. Export Licenses will be issued sequentially, endorsed against the export limit for the Relevant Period, and will reference the report of quota allocation results for the appropriate Relevant Period.

F. Export Licenses must contain an English language translation.

G. On and after the effective date of this Agreement, the United States shall require presentation of an Export License as a condition for entry of CTL plate into the United States. The United States will prohibit the entry of any CTL plate not accompanied by an Export License.

H. The validity of Export License shall be six (6) months, except that no more than 90 days shall elapse between the date of issuance of the Export License and the date on which the merchandise is cleared through Ukrainian customs for export.

VI. Implementation

In order to effectively restrict the volume of exports of CTL plate to the

United States, the Government of Ukraine agrees to implement the following procedures no later than 90 days after the effective date of this Agreement, except as provided for in VI.A.:

A. Establish, through MINFER, an export licensing program for all exports of CTL plate to, or destined directly or indirectly for consumption in, the United States, as of the effective date of the Agreement.

B. Ensure compliance by any official Ukrainian institution, chamber, or other entities authorized by the Government of Ukraine, all producers, exporters, brokers, and traders of CTL plate, and their affiliated parties, as well as independent trading companies/resellers utilized by the Ukrainian producer to make sales to the United States, with all procedures established in order to effectuate this Agreement.

C. Collect information from all producers, exporters, brokers, and traders of the CTL plate to the United States, and their affiliated parties; as well as independent trading companies/resellers utilized by the Ukrainian producer, on the sale of the CTL plate, and report such information pursuant to Section VIII (A) of this Agreement.

D. The Government of Ukraine, by law, will prohibit direct and indirect exports to the United States of CTL plate except under Export Licenses issued pursuant to Section V.A and impose strict sanctions, such as penalties or prohibition from participation in the export limits allowed by the Agreement, in the event that any Ukrainian or Ukrainian-affiliated party does not comply in full with all terms of the Agreement.

E. Require that purchasers agree: Not to circumvent this Agreement; to report to MINFER any subsequent arrangement entered into for the sale, exchange, or loan to a person or entity in the United States of CTL plate purchased from Ukraine; and to include these same provisions in any subsequent contracts involving CTL plate purchased from Ukraine.

F. Prohibit direct and indirect exports to the United States of CTL plate which is not die-stamped with the mark of the producing mill and which is not marked with Ukraine as the country of origin.

VII. Anticircumvention

A. MINFER will take all appropriate measures under Ukrainian law to prevent circumvention of this Agreement. It shall respond promptly to conduct an inquiry into any and all allegations of circumvention, including allegations raised by the Department, and shall complete such inquiries in a

timely manner (normally within 45 days). MINFER shall notify the Department, in writing, of the results of its inquiries within ten days of the conclusion of such inquiries. Within 15 days of a request from the Department, MINFER shall share with the Department all information received or collected by MINFER regarding its inquiries, its analysis of such information and the results of such inquiries. MINFER will require all exporters of CTL plate to include a provision in their contracts for sales to countries other than the United States that the CTL plate sold through such contracts cannot be re-exported, transhipped, or swapped to the United States, or otherwise used to circumvent the export limits of this Agreement. MINFER will also establish appropriate mechanisms to enforce this requirement.

B. MINFER of Ukraine shall advise within one month after the effective date of this Agreement that all contracts for sales of CTL plate to third countries by Ukrainian producers/exporters shall include a clause which stipulates the following: that in the event that their customer sells the merchandise to another trading company it must provide the identity of the subsequent trading company to MINFER.

Given the critical need to prevent circumvention, both Governments agree to share information to the greatest extent their national legislation will allow. Therefore, MINFER agrees to use its maximum efforts to provide transaction specific data for all third country sales to the final end-user.

C. If, in an inquiry pursuant to paragraph A, MINFER determines that a Ukrainian company has participated in a transaction that resulted in circumvention of the export limits of this Agreement, then MINFER shall impose penalties on such company including, but not limited to, denial of access to the CTL plate quota. Additionally, MINFER shall deduct an amount of CTL plate equivalent to the amount involved in such circumvention from the export limit and shall immediately notify the Department, in writing, of the amount deducted. If sufficient tonnage is not available in the current Relevant Period, then the remaining amount necessary shall be deducted from the subsequent Relevant Period.

D. If MINFER determines that a company from a third country has circumvented the Agreement and the parties agree that no Ukrainian entity participated in or had knowledge of such activities, then the parties shall hold consultations for the purpose of

sharing evidence regarding such circumvention and reaching mutual agreement on the appropriate steps to be taken to eliminate such circumvention, such as MINFER prohibiting sales of Ukrainian CTL plate to the company responsible or reducing CTL plate exports to the country in question. If the parties are unable to reach a mutual agreement within 45 days, then the Department may take appropriate action, such as deducting the amount of CTL plate involved in such circumvention from the export limit, or instructing Customs to deny entry to any CTL plate sold by the entity found to be circumventing the Agreement, taking into account all relevant factors. Before taking such action, the Department will notify MINFER of the facts and the reasons constituting the basis for the Department's intended action and will afford MINFER ten days in which to comment.

E. If the Department determines that a Ukrainian/ or third country entity participated in circumvention, the parties shall hold consultations for the purpose of sharing evidence regarding such circumvention and reaching mutual agreement on an appropriate resolution of the problem. If the parties are unable to reach mutual agreement within 45 days, the Department may take appropriate action, such as deducting the amount of CTL plate involved in such circumvention from the export limit, or instructing Customs to deny entry to any CTL plate sold by the entity found to be circumventing the Agreement. Before taking such action, the Department will notify MINFER of the facts and reasons constituting the basis for the Department's intended action and will afford MINFER ten days in which to comment.

F. The Department shall direct the U.S. Customs Service to require all importers of CTL plate into the United States, regardless of stated country of origin, to submit at the time of entry a written statement certifying that the CTL plate being imported was not obtained under any arrangement, swap, or other exchange which would result in the circumvention of the export limits established by this Agreement. Where the Department has reason to believe that such a certification has been made falsely, the Department will refer the matter to U.S. Customs or the U.S. Department of Justice for further action.

G. Given the fungibility of the world steel market, the Department will take the following factors into account in distinguishing normal steel market arrangements, swaps, or other exchanges from arrangements, swaps, or other exchanges which would result in

the circumvention of the export limits established by this Agreement:

1. Existence of any verbal or written arrangements which would result in the circumvention of the export limits established by this Agreement;

2. Existence of any arrangement as defined in Section III.E that was not reported to the Department pursuant to Section VIII.A;

3. Existence and function of any subsidiaries or affiliates of the parties involved;

4. Existence and function of any historical and/or traditional trading patterns among the parties involved;

5. Deviations (and reasons for deviation) from the above patterns, including physical conditions of relevant steel producing facilities;

6. Existence of any payments unaccounted for by previous or subsequent deliveries, of any payments to one party for merchandise delivered or swapped by another party;

7. Sequence and timing of the arrangements; and

8. Any other information relevant to the transaction or circumstances.

H. "Swaps" include, but are not limited to:

Ownership swaps—involve the exchange of ownership of any type of CTL plate product(s), without physical transfer. These may include exchange of ownership of CTL plate products in different countries, so that the parties obtain ownership of products located in different countries; or exchange of ownership of CTL plate products produced in different countries so that the parties obtain ownership of products of different national origin.

Flag swaps—involve the exchange of indicia of national origin of CTL plate products without any exchange of ownership.

Displacement swaps—involve the sale or delivery of any type of steel product(s) from Ukraine to an intermediary country (or countries) which can be shown to have resulted in the ultimate delivery or sale into the United States of displaced CTL plate products of any type, regardless of the sequence of the transaction.

I. The Department will enter its determinations regarding circumvention into the record of the Agreement.

VIII. Monitoring

MINFER will provide to the Department such information as is necessary and appropriate to monitor the implementation of and compliance with the terms of this Agreement. The Department shall provide semi-annual reports to MINFER indicating the volume of imports of the CTL plate to

the United States, together with such additional information as is necessary and appropriate to monitor the implementation of this Agreement.

A. Reporting of Data

Beginning on the effective date of this Agreement, MINFER shall collect and provide to the Department the information set forth, in the agreed format, in the Appendix to this Agreement. All such information will be provided to the Department by the 15th of each month for exports to the United States occurring during the previous month. For exports to countries other than the United States and for home market sales, all such information will be provided to the Department by May 30 of each year for exports and home market sales during the period November 1 through April 30, and by November 30 of each year for exports and sales during May 1 through October 31, or within 90 days of a request made by the Department. All information will be subject to the verification provision identified in Section VIII.C of this Agreement. MINFER agrees to allow sales of CTL plate only through those brokers and trading companies which permit verification and full reporting of data. The Department may disregard any information submitted after the deadlines set forth in this Section or any information which it is unable to verify to its satisfaction.

Aggregate quantity and value of exports by HTS category to each third country will be provided to the Department by July 30 of each year for exports during the period November 1 through April 30 and by January 31 of each for exports during period May 1 through October 31.

Transaction-specific data for all third country sales will also be reported on the schedule provided above in the format provided in the Appendix. However, if the Department concludes that transaction-specific data is not necessary for a given period, it will notify MINFER at least 90 days before the reporting deadline that transaction-specific sales data need not be reported. If the Department determines that such data is relevant in connection with Section VII and requests information on transactions for one or more third countries during a period for which the Department waived complete reporting, MINFER will provide the data listed in the Appendix for those specific transactions within 90 days of the request.

MINFER will also report transaction-specific data for home market sales as specified in the Appendix to this Agreement.

Both governments recognize that effective monitoring of this Agreement may require that MINFER provide information additional to that which is identified above. Accordingly, the Department may establish additional reporting requirements, as appropriate, during the course of this Agreement. The Department shall provide notice to MINFER of any additional reporting requirements no later than 45 days prior to the period covered by such reporting requirements unless a shorter notice period is mutually agreed.

B. Other Sources for Monitoring

The Department will review publicly-available data as well as Customs Form 7501 entry summaries and other financial import data from the Bureau of the Census, on a monthly basis, to determine whether there have been imports that are inconsistent with the provisions of this Agreement.

The Department will monitor Bureau of the Census IM-115 computerized records, which include the quantity and value of each entry. Because these records do not provide other specific entry information, such as the identity of the producer/exporter which may be responsible for such sales, the Department may request the U.S. Customs Service to provide such information. The Department may request other additional documentation from the U.S. Customs Service.

The Department may also request the U.S. Customs Service to direct ports of entry to forward an Antidumping Report of Importations for entries of the CTL plate during the period this Agreement is in effect.

C. Verification

MINFER will permit full verification of all information affiliated to the administration of this Agreement, including verification of the Ukrainian producer and the trading companies/brokers utilized in making sales/shipments to the United States, on an annual basis or more frequently, as the Department deems necessary to ensure that the Government of Ukraine is in full compliance with the terms of the Agreement. Such verifications may take place in association with scheduled consultations whenever possible.

IX. Disclosure and Comment

A. The Department shall make available to representatives of each party to the proceeding under appropriately-drawn administrative protective orders consistent with the Department's Regulations business proprietary information submitted to the Department semi-annually or upon

request, and in any administrative review of this Agreement.

B. Not later than 30 days after the date of disclosure under Section VII.A, the parties to the proceeding may submit written comments to the Department, not to exceed 30 pages.

C. During the anniversary month of this Agreement, each party to the proceeding may request a hearing on issues raised during the preceding Relevant Period. If such a hearing is requested, it will be conducted in accordance with Section 751 of the Act (19 U.S.C. 1675) and applicable regulations.

X. Consultations

MINFER and the Department shall hold consultations regarding matters concerning the implementation, operation, including the calculation of reference prices, and/or enforcement of this Agreement. Such consultations will be held each year during the anniversary month of this Agreement. Additional consultations may be held at any other time upon request of either MINFER or the Department.

XI. Violations of the Agreement

A. Violation

"Violation" means noncompliance with the terms of this Agreement caused by an act or omission, in accordance with Section 353.19 of the Department's Regulations. Each party will inform the other party of any violations of the Agreement which come to their attention and the action taken with respect thereto.

Prior to making a determination of an alleged violation, the Department will engage in emergency consultations. Such consultations shall begin no later than 14 days from the day of request and shall provide for full review, but in no event will exceed 30 days. After consultations, the Department will provide MINFER 20 days within which to provide comments. The Department will make a determination within 30 days of the date established for submission of comments by MINFER.

B. Appropriate Action

If the Department determines that this Agreement is being or has been violated the Department will take such action as it determines is appropriate under 734(i) of the Act and Section 353.19 of the Department's Regulations.

XII. Duration

The export limit provided for in Section III of this Agreement shall remain in force from the effective date of this Agreement through November 1, 2002.

The Department will, upon receiving a proper request no later than November 1, 2001, conduct an administrative review under Section 751 of the Act. The Department expects to terminate this Agreement and the underlying investigation no later than November 1, 2002, provided that Ukraine has not been found to have violated the Agreement in any substantive manner. Such review and termination shall be conducted consistent with Section 353.25 of the Department's Regulations.

The Government of Ukraine may terminate this Agreement at any time upon notice to the Department. Termination shall be effective 60 days after such notice is given to the Department. Upon termination at the request of MINFER, the provisions of Section 734(i) of the Act shall apply.

XIII. Conditions

The Department recognizes that it may determine during the life of this Agreement that the Ukrainian CTL plate industry is a market-oriented industry, or that Ukraine is a market economy country. In either event, the Department may:

(a) Enter into a new suspension agreement under section 734(b) or 734(c) of the Act; or

(b) If the investigation was not completed under section 353.18(i) of the Department's regulations, afford MINFER a full opportunity to submit new information, and take such information into account in reaching its final determination—provided that all parties to the proceeding are given a full opportunity to submit factual information and argument in rebuttal; or

(c) If the investigation was completed under section 353.18(i), consider a request made no later than 30 days after termination of the Agreement to conduct a changed circumstances review under section 751 (b).

XIV. Other Provisions

A. In entering into this Agreement. MINFER does not admit that any sales of the merchandise subject to this Agreement have been made at less than fair value or that such sales have materially injured or threatened material injury to, an industry or industries in the United States.

B. The Department finds that this Agreement is in the public interest; that effective monitoring of this Agreement by the United States is practicable; and that this Agreement will prevent the suppression or undercutting of price levels of United States domestic CTL plate products by imports of the merchandise subject to this Agreement.

C. The Department does not consider any of the obligations concerning exports of CTL plate to the United States undertaken by MINFER pursuant to this Agreement relevant to the question of whether firms in the underlying investigation would be entitled to separate rates, should the investigation be resumed for any reason.

D. The English language version of this Agreement shall be controlling.

E. For all purposes hereunder, the Department and the signatory Government of Ukraine shall be represented by, an all communications and notices shall be given and addressed to:

Department of Commerce

U.S. Department of Commerce,
Assistant Secretary for Import
Administration, International Trade
Administration, Washington, DC
20230

Government of Ukraine

Ministry of Foreign Economic Relations
and Trade of Ukraine, 8 Livivska
Square, Kiev, GSP. 655,254655,
Ukraine

XV. Effective Date

The effective date of this Agreement suspending the antidumping investigation on CTL plate from Ukraine shall be October 24, 1997.

Signed on this 24 day of October, 1997.

For the U.S. Department of Commerce.

Robert S. LaRussa,
*Assistant Secretary for Import
Administration.*

For the Government of Ukraine.

Sergei Gryshchenko,
*Deputy Minister for Ministry of Industrial
Policy.*

Appendix

In accordance with the established format, MINFER shall collect and provide to the Department all information necessary to ensure compliance with this Agreement. This information will be provided to the Department on a semi-annual basis, or upon request.

MINFER will collect and maintain data on exports to the United States and to countries other than the United States, on a continuous basis and provide the prescribed information to the Department.

MINFER will report home market sales for those companies which represent substantially all of domestic production of CTL plate. For these companies, MINFER will report all home market sales of CTL plate for those grades listed in Section IV. C. Of the Agreement.

MINFER will provide a narrative explanation to substantiate all data collected in accordance with the following formats.

A. Report of Inventories

Report by location, the inventories of CTL plate held by an Ukrainian legal entity in the United States and imported into the United States during the period November 5, 1996, through the effective date of the Agreement.

1. Quantity: Indicate original units of measure (metric tons).
2. Location: Identify where the inventory is currently being held. Provide the name and address for the location.
3. Titled Party: Name and address of party who legally has beneficial title to the merchandise.
4. Contract Registration Number: Indicate the number(s) relating to each entry now being held in inventory.
5. Export License Number: Indicate the number(s) relating to each sale or entry.
6. Date of Original Export: Date the Export License is issued.
7. Date of Entry: Date the merchandise entered the United States or the date book transfer took place.
8. Original Importer: Name and address.
9. Original Exporter: Name and address
10. Complete Description of Merchandise: Include heat numbers, HTS number, physical description, ASTM specification, and other available information.

B. Exports to the United States

MINFER will provide all Export Licenses issued to Ukrainian entities which shall contain the following information with the exception that information requested in item #9, date of entry, item 10, importer of record, and item #16, final destination may be omitted if unknown to MINFER and the licensee.

1. Export License Number(s): Indicate the number(s) relating to each sale and/or entry.
2. Complete Description of Merchandise: Include the 10 digit HTS category, and the ASTM or equivalent grade.
3. Quantity: Indicate in metric tons.
4. F.O.B. Sales Value: Indicate currency used.
5. Unit Price: Indicate per metric ton.
6. Date of Sale: The date all essential terms of order (i.e., price and quantity) become fixed.
7. Sales Order Number (s): Indicate the specification number/order number relating to each sale and/or shipment.
8. Date of Export: Date the export license is issued.
9. Date of Entry: Date the merchandise entered the United States or the date book transfer took place.
10. Importer of Record: Name and address.
11. Trading Company: Name and address of trading company involved in sale.
12. Customer: Name and address of the first unaffiliated party purchasing from the Ukrainian producer/exporter.
13. Customer Relationship: Indicate whether the customer is affiliated or unaffiliated to the Ukrainian producer/exporter.
14. Remaining Export Limit: Indicate the remaining export limit available to the Ukrainian producers during the Relevant Period.
15. Final Destination: The complete name and address of the end-user.

Customer Certification

MINFER shall ensure that all customers of the CTL plate shall certify that the merchandise imported into the United States pursuant to this Agreement shall not be loaned or swapped.

Mill Certification

MINFER shall ensure that all shipments of CTL plate exported to the United States pursuant to this Agreement, shall be accompanied by a copy of the original mill certification, which includes the heat number(s).

C. Sales to Countries Other Than the United States

Pursuant to Section VIII, paragraph A, MINFER will provide country-specific volume and value information for all exports of CTL plate to third countries.

1. Customs Export Declaration Number: Indicates the number(s) related to each shipment.

2. Quantity: Indicate in original units of measure sold and/or entered in metric tons.

3. Date of Sale: The date all essential terms of the order (i.e., price and quantity) become fixed.

4. Sales Order Number(s): Indicate the number(s) relating to each sale and/or entry.

5. Date of Export: Date of Export Certification is issued.

6. Importer of Record: Name and address.

7. Customer: Name and address of the first unaffiliated party purchasing from the Ukrainian producer/exporter.

8. Customer Relationship: Indicate whether the customer is affiliated or unaffiliated.

9. Name of Vessel: Identity of the name of vessel for each shipment to third countries.

10. Other: The identity of any subsequent trading company in the transaction chain pursuant to Section VII.B.

11. Estimated Date of Entry: Date the merchandise entered the third country or the date a book transfer took place.

D. Home Market Sales

Pursuant to Section VIII.A., MINFER will provide home market sales data for those companies which represent substantially all of domestic production of CTL plate. For these companies, the MINFER will report all home market sales of CTL plate for those grades listed in Section IV. C. Of the Agreement.

1. Quantity: Indicate in original units of measure sold and/or entered in metric tons.

2. Date of Sale: The date all essential terms of the order (i.e., price and quantity) become fixed.

3. Sales Order Number(s): Indicate the number(s) relating to each sale.

4. Customer: Name and address of the first unaffiliated party purchasing from the Ukrainian producer.

5. Customer Relationship: Indicate whether the customer is affiliated or unaffiliated.

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DEPARTMENT OF COMMERCE**International Trade Administration**

[A-570-849]

Suspension of Antidumping Duty Investigation: Certain Cut-to-Length Carbon Steel Plate From the People's Republic of China

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

SUMMARY: The Department of Commerce (the Department) has suspended the antidumping investigation on cut-to-length carbon steel plate from the People's Republic of China (PRC). The basis for the suspension is an agreement by the Government of the PRC to restrict the volume of direct and indirect exports to the United States of cut-to-length carbon steel plate from all PRC producers/exporters and to revise its prices to eliminate completely sales of this merchandise to the United States at less than fair value.

EFFECTIVE DATE: October 24, 1997.

FOR FURTHER INFORMATION CONTACT:

Edward Yang, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone: (202) 482-3910.

SUPPLEMENTARY INFORMATION:**Background**

On December 3, 1996, the Department initiated an antidumping investigation under section 732 of the Tariff Act of 1930, (the Act), as amended, to determine whether imports of CTL plate from the People's Republic of China are being or are likely to be sold in the United States at less than fair value (61 FR 64051 (December 3, 1996)). On December 19, 1996, the United States International Trade Commission (ITC) notified the Department of its affirmative preliminary threat of injury determination (see ITC Investigation Nos. 731-TA-756). On June 11, 1997, the Department preliminarily determined that CTL plate 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 Tariff Act of 1930, as amended by the Uruguay Round Agreements Act (62 FR 31958, (June 11, 1997)).

The Department and the People's Republic of China initialed a proposed agreement suspending this investigation on September 24, 1997. On September 25, 1997, we invited interested parties to provide written comments on the agreement and received comments from

Geneva Steel, Gulf States Steel, Bethlehem Steel Corp., U.S. Steel Group, United Steel Workers of America, Liaoning, Anshan, Bao Steel, Shanghai Pudong and WISCO.

The Department and the Government of the People's Republic of China signed the final suspension agreement on October 24, 1997.

Scope of the Investigation

See Notice of *Final Determination of Sales at Less than Fair Value: Certain Cut-to-Length Carbon Steel Plate from the People's Republic of China*, signed on October 24, 1997.

Suspension of Investigation

The Department consulted with the parties to the proceeding and has considered the comments submitted with respect to the proposed suspension agreement. In accordance with Section 734 (l) of the Act, we have determined that the agreement will prevent the suppression or undercutting of price levels of domestic products by imports of the merchandise under investigation, that the agreement is in the public interest, and that the agreement can be monitored effectively. See *Public Interest Memorandum*, dated October 24, 1997. We find, therefore, that the criteria for suspension of an investigation pursuant to section 734(l) of the Act have been met. The terms and conditions of this Agreement, signed October 24, 1997, are set forth in Annex 1 to this notice.

Pursuant to section 734(f)(2)(A) of the Act, the suspension of liquidation of all entries of cut-to-length carbon steel plate from the People's Republic of China entered or withdrawn from warehouse, for consumption, as directed in our notice of "Preliminary Determination of Sales at Less Than Fair Value: Cut-to-Length Carbon Steel Plate from the People's Republic of China" and "Postponement of the Final Determination: Cut-to-Length Carbon Steel Plate from the People's Republic of China" is hereby terminated. Any cash deposits on entries of cut-to-length carbon steel plate from the People's Republic of China pursuant to that suspension of liquidation shall be refunded and any bonds shall be released.

On October 14, 1997, we received a request from petitioners requesting that we continue the investigation. We received separate requests for continuation from Bethlehem Steel Corp., U.S. Steel Corp. (A Unit of USX Corporation), and the United Steelworkers of America, interested parties under section 771(9)(D) of the Act. Pursuant to these requests, we have