

table of authorities. Case and rebuttal briefs and comments must be served on interested parties in accordance with section 351.303(f) of the Department's regulations.

Also, an interested party may request a hearing within 30 days of the date of publication of this notice. See section 351.310(c) of the Department's regulations. Unless otherwise specified, the hearing, if requested, will be held two days after the date for submission of rebuttal briefs, or the first business day thereafter. The Department will issue the final results of this administrative review, including the results of its analysis of the issues raised in any briefs or comments at a hearing, within 120 days of publication of these preliminary results.

#### Assessment Rates

Upon completion of this administrative review, the Department will determine, and CBP shall assess, antidumping duties on all appropriate entries. In accordance with 19 CFR 351.212(b)(1), we have calculated an importer-specific *ad valorem* rate for merchandise subject to this review. The Department will issue appropriate assessment instructions directly to CBP within 15 days of publication of the final results of review. If these preliminary results are adopted in the final results of review, we will direct CBP to assess the resulting assessment rates (*ad valorem*) against the entered customs values for the subject merchandise on each of the importer's entries during the review period.

#### Cash Deposit Requirements

The following cash deposit requirements will be effective upon completion of the final results of this administrative review for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of this administrative review, as provided by section 751(a)(1) of the Act: (1) the cash deposit rate for CSN will be the rate established in the final results of the administrative review (except that no deposit will be required if the rate is zero or *de minimis*, i.e., less than 0.50 percent); (2) for previously reviewed or investigated companies not covered in this review, 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, a prior review or the original less-than-fair-value (LTFV) 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; and (4) if neither the exporter nor the manufacturer is a firm covered in this review, any prior review, or the original LTFV investigation, the cash deposit rate for all other manufacturers or exporters will continue to be 42.12 percent, the "all others" rate established in the LTFV investigation. See *AD Order*, 67 FR at 11094.

#### Notification to Interested Parties

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f) 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.

These preliminary results are issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: March 31, 2005.

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

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## DEPARTMENT OF COMMERCE

### International Trade Administration

A-427-820

#### Stainless Steel Bar from France: Preliminary Results of Antidumping Duty Administrative Review

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

**SUMMARY:** In response to a timely request by the petitioners,<sup>1</sup> the Department of Commerce (the Department) is conducting an administrative review of the antidumping duty order on stainless steel bar (SSB) from France with respect to UGITECH S.A. (UGITECH). The period of review is March 1, 2003, through February 29, 2004.

We preliminarily determine that sales have been made below normal value. Interested parties are invited to

comment on the preliminary results. If the preliminary results are adopted in our final results of administrative review, we will instruct U.S. Customs and Border Protection (CBP) to assess antidumping duties on all appropriate entries.

In addition, the Department has received information sufficient to warrant a successor-in-interest analysis in this administrative review. Based on this information, we preliminarily determine that UGITECH S.A. is the successor-in-interest to Ugine-Savoie Imphy S.A. (Ugine-Savoie) for purposes of determining antidumping duty liability. Interested parties are invited to comment on the preliminary results.

**EFFECTIVE DATE:** April 6, 2005.

#### FOR FURTHER INFORMATION CONTACT:

Terre Keaton or David J. Goldberger, AD/CVD Operations, Office 2, Import Administration—Room B099, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-1280 or (202) 482-4136, respectively.

#### SUPPLEMENTARY INFORMATION:

##### Background

On March 7, 2002, the Department published in the **Federal Register** an antidumping duty order on SSB from France. See 67 FR 10385. On March 31, 2004, the petitioners submitted a letter timely requesting that the Department conduct an administrative review of the sales of SSB made by Ugine-Savoie. Also in this letter, the petitioners claimed that Ugine-Savoie had recently gone through a change in corporate structure and that the corporate entity is now known as UGITECH. The Department published a notice of initiation of an administrative review with respect to UGITECH, formerly known as Ugine-Savoie. See 69 FR 23170, (April 28, 2004).

On May 6, 2004, we issued a antidumping duty questionnaire to UGITECH which included successor-in-interest questions. Responses to the original questionnaire were received in July 2004. We issued a supplemental questionnaire in October 2004, and received responses in October and November 2004 and January 2005.

On November 5, 2004, we extended the time limit for the preliminary results in this review until March 30, 2005. See *Stainless Steel Bar from France: Notice of Extension of Time Limit for Preliminary Results in Antidumping Duty Administrative Review*, 69 FR 64563.

<sup>1</sup> The petitioners include the following companies: Carpenter Technology Corporation; Crucible Specialty Metals Division, Crucible Materials Corporation; and Electroalloy Corporation, a Division of G.O. Carlson, Inc.

In November 2004, we conducted a verification of certain portions of UGITECH's questionnaire responses, in accordance with 19 CFR 351.307. The results of this verification are described in the Memorandum to the File dated January 13, 2005, from Terre Keaton and David J. Goldberger, International Trade Compliance Analysts, through Irene Darzenta Tzafolias, Program Manager, entitled: *Sales Verification in Ugine, France of UGITECH S.A. (UGITECH Verification Report)*.

In January 2005, as instructed by the Department, UGITECH submitted revised sales data pursuant to verification findings and revised cost data pursuant to cost supplemental questionnaires. In February 2005, the petitioner and the respondent submitted comments for purposes of the preliminary results. On March 15, 2005, we issued UGITECH a supplemental questionnaire concerning certain cost of production (COP) issues. We received UGITECH's response on March 23, 2005.

#### Scope of the Order

For purposes of this order, the term "stainless steel bar" includes articles of stainless steel in straight lengths that have been either hot-rolled, forged, turned, cold-drawn, cold-rolled or otherwise cold-finished, or ground, having a uniform solid cross section along their whole length in the shape of circles, segments of circles, ovals, rectangles (including squares), triangles, hexagons, octagons, or other convex polygons. Stainless steel bar includes cold-finished stainless steel bars that are turned or ground in straight lengths, whether produced from hot-rolled bar or from straightened and cut rod or wire, and reinforcing bars that have indentations, ribs, grooves, or other deformations produced during the rolling process.

Except as specified above, the term does not include stainless steel semi-finished products, cut length flat-rolled products (*i.e.*, cut length rolled products which if less than 4.75 mm in thickness have a width measuring at least 10 times the thickness, or if 4.75 mm or more in thickness having a width which exceeds 150 mm and measures at least twice the thickness), products that have been cut from stainless steel sheet, strip or plate, wire (*i.e.*, cold-formed products in coils, of any uniform solid cross section along their whole length, which do not conform to the definition of flat-rolled products), and angles, shapes and sections.

The stainless steel bar subject to this order is currently classifiable under subheadings 7222.11.00.05,

7222.11.00.50, 7222.19.00.05, 7222.19.00.50, 7222.20.00.05, 7222.20.00.45, 7222.20.00.75, and 7222.30.00.00 of the *Harmonized Tariff Schedule of the United States* (HTSUS). Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of this order is dispositive.

#### Successor-In-Interest Analysis

In its July 2, 2004, section A response (hereafter section A response), UGITECH reported that on November 28, 2003, the shareholders of Ugine-Savoie voted to change the company's name to UGITECH S.A. UGITECH claimed that Ugine-Savoie and UGITECH remain the same legal entity and there was no change in ownership associated with the change in name. According to the section A response, prior to the name change, Ugine-Savoie Imphy dissolved one of its wholly-owned French subsidiaries (*i.e.*, Ugine-Savoie France S.A.) and integrated that company's operations as an internal department within Ugine-Savoie Imphy. Similarly, shortly after the name change, UGITECH dissolved another wholly-owned French subsidiary (*i.e.*, Sprint Metal S.A.) and integrated its operations as an internal department within UGITECH. Also at that time, the former chief executive officer of Sprint Metal was made vice president of sales at UGITECH. Other than the name change and the incorporation of the two former subsidiaries into the company, UGITECH operations and facilities remain essentially unchanged.

Thus, in accordance with section 751(b) of the Act, the Department is conducting a successor-in-interest analysis to determine whether UGITECH is the successor-in-interest to Ugine-Savoie Imphy S.A. for purposes of determining antidumping liability with respect to the subject merchandise. In making such a successor-in-interest determination, the Department examines several factors including, but not limited to, changes in: (1) management; (2) production facilities; (3) supplier relationships; and (4) customer base. *See, e.g.*, *Polychloroprene Rubber from Japan: Final Results of Changed Circumstances Review*, 67 FR 58 (January 2, 2002) (*Polychloroprene Rubber from Japan*), and *Brass Sheet and Strip from Canada: Final Results of Antidumping Duty Administrative Review*, 57 FR 20460 (May 13, 1992) (*Canadian Brass*). While no individual factor or combination of these factors will necessarily provide a dispositive indication, the Department will generally consider the new company to be the successor to the

previous company if its resulting operation is not materially dissimilar to that of its predecessor. *See, e.g.*, *Polychloroprene Rubber from Japan, Industrial Phosphoric Acid from Israel: Final Results of Changed Circumstances Review*, 59 FR 6944 (February 14, 1994), *Canadian Brass, and Fresh and Chilled Atlantic Salmon from Norway: Initiation and Preliminary Results of Changed Circumstances Antidumping Duty Administrative Review*, 63 FR 50880 (September 23, 1998). Thus, if the evidence demonstrates that, with respect to the production and sale of the subject merchandise, the new company operates as the same business entity as the former company, the Department will accord the new company the same antidumping duty treatment as its predecessor.

We preliminarily determine that UGITECH is the successor-in-interest to Ugine-Savoie. UGITECH submitted documentation supporting its claims that its name change resulted in no significant changes in either production facilities, supplier relationships, customer base, or management. This documentation consisted of: (1) a copy of the board meeting minutes for the name change; (2) a copy of the article of incorporation for UGITECH; (3) copies of the official registration of Ugine-Savoie (before the name change) and UGITECH (after the name change); and (4) copies of the statements of dissolution for Ugine-Savoie France S.A. and Sprint Metal S.A. These documents, which the Department examined thoroughly at verification, demonstrate that UGITECH operates as the same business entity as Ugine-Savoie. Because UGITECH has presented evidence to establish a *prima facie* case of its successorship status, we preliminarily find that UGITECH should receive the same antidumping duty treatment with respect to SSB as the former Ugine-Savoie.

#### Fair Value Comparisons

To determine whether sales of SSB by UGITECH to the United States were made at less than normal value (NV), we compared constructed export price (CEP) to the NV, as described in the "Constructed Export Price" and "Normal Value" sections of this notice.

Pursuant to section 777A(d)(2) of the Act, we compared the CEPs of individual U.S. transactions to the weighted-average NV of the foreign like product where there were sales made in the ordinary course of trade, as discussed in the "Cost of Production Analysis" section below.

## Product Comparisons

In accordance with section 771(16) of the Act, we considered all products produced by UGITECH covered by the description in the "Scope of the Order" section, above, to be foreign like products for purposes of determining appropriate product comparisons to U.S. sales. We compared U.S. sales to sales made in the home market within the contemporaneous window period, which extends from three months prior to the month of the U.S. sale until two months after the sale. Where there were no sales of identical merchandise in the comparison market made in the ordinary course of trade to compare to U.S. sales, we compared U.S. sales to sales of the most similar foreign like product made in the ordinary course of trade. In making the product comparisons, we matched foreign like products based on the physical characteristics reported by UGITECH in the following order: general type of finish; grade; remelting process; type of final finishing operation; shape; and size range.

For the preliminary results, we have reclassified UGITECH's separate grade codes 0760 and 0780 as a single grade code because the information on the record indicates that these grades are essentially identical (they have exactly the same specifications for nickel, chromium, molybdenum, sulphur and carbon components).

UGITECH identified its sales of reinforcing bar under the final finishing product characteristic (FFINISHH/U) but did not identify it under the shape product characteristic (SHAPEH/U). We have preliminarily determined that this type of bar should be identified under the SHAPEH/U variable, as such SSB normally features indentations, ribs, grooves, or other deformations produced during the rolling process. Accordingly, we have identified the reinforcing SSB under the SHAPEH/U variable. In addition, based on the information provided by UGITECH in its March 14, 2005, letter, we reclassified the FFINISHH/U product characteristics for reinforcing bar.

In addition, UGITECH reported sales of hot-rolled bar that was peeled or descaled, and added a FFINISHH/U code for this characteristic at the end of the FFINISHH/U hierarchy. Based on our analysis of UGITECH's production flow chart at Appendix SA-1 of the October 28, 2004, supplemental questionnaire response, we believe that it is more appropriate to place the peeled or descaled characteristic between "shot blasted" and "rough-turned," rather than after "centerless

ground," as reported by UGITECH. Consequently, we have revised UGITECH's coding of the final finishing characteristic in order to provide more appropriate model matches.

## Constructed Export Price

We calculated CEP in accordance with section 772(b) of the Act because the subject merchandise was sold for the account of UGITECH by its subsidiary Ugine Stainless & Alloy, Inc. (US&A) in the United States to unaffiliated purchasers. In addition, UGITECH reported sales of SSB which were further processed by US&A in the United States. For the subject merchandise further processed in the United States, we used the starting price of the subject merchandise and deducted the costs of the further processing to determine CEP for such merchandise, in accordance with section 772(d)(2) of the Act. To calculate the cost of further manufacturing, we relied on UGITECH's reported cost of further manufacturing materials, labor, and overhead, plus amounts for further manufacturing general and administrative expenses (G&A) and financial expenses, as reported in the January 14, 2005, supplemental section E questionnaire response.

We based CEP on the packed prices to unaffiliated purchasers in the United States. We identified the correct starting price, by adjusting for alloy surcharges, freight revenue, other revenue and billing adjustments associated with the sale, and by making deductions for discounts, where applicable. We also made deductions for movement expenses in accordance with section 772(c)(2)(A) of the Act. These expenses included, where appropriate, foreign inland freight (including freight from the plant/warehouse to the port of exportation), brokerage and handling, ocean freight, marine insurance, U.S. inland freight expenses (including freight from the U.S. port to the warehouse, freight between warehouses, and freight from the warehouse to the unaffiliated customer), and U.S. customs duties and fees (including harbor maintenance fees and merchandise processing fees). In accordance with section 772(d)(1) of the Act, we deducted those selling expenses associated with economic activities occurring in the United States, including direct selling expenses (commissions, credit expenses, warranty expenses, other direct selling expenses and repacking expenses) and indirect selling expenses (indirect selling expenses and inventory carrying costs) incurred in the country of exportation and the United States. For the sales

where the payment date was not reported, we set the payment date equal to the preliminary results date (*i.e.*, March 30, 2005). Where US&A reported a shipment date that preceded the invoice date, we set the sale date equal to the shipment date. We also deducted an amount for further-manufacturing costs, where applicable, in accordance with section 772(d)(2) of the Act, and made an adjustment for profit in accordance with section 772(d)(3) of the Act.

In Appendix SA-2 of the November 22, 2004, supplemental questionnaire response, UGITECH reported that the terms of its sales agreement with a certain U.S. customer involved the transfer of specific equipment from UGITECH to the customers. While it may be appropriate to consider the cost of this equipment to be a direct selling expense attributable to all sales covered by the agreement, the per-unit amount for such an expense, according to UGITECH's February 23, 2005, letter at page 8, is well under 0.33 percent *ad valorem*, the Department's threshold under 19 CFR 351.413 for insignificant adjustments. Therefore, we have disregarded any adjustment for this selling expense in accordance with section 777A(a)(2) of the Act and 19 CFR 351.413.

## Normal Value

### A. Home Market Viability

In order to determine whether there was a sufficient volume of sales in the home market to serve as a viable basis for calculating NV, we compared the volume of home market sales of the foreign like product to the volume of U.S. sales of the subject merchandise, in accordance with section 773(a)(1)(C) of the Act.

Because UGITECH's aggregate volume of home market sales of the foreign like product was greater than five percent of its aggregate volume of U.S. sales for the subject merchandise, we determined that its home market was viable.

### B. Affiliated-Party Transactions and Arm's-Length Test

During the POR, UGITECH sold the foreign like product to affiliated customers. To test whether these sales were made at arm's-length prices, we compared, on a product-specific basis, the starting prices of sales to affiliated and unaffiliated customers, net of all discounts and rebates, movement charges, direct selling expenses (including commissions), and packing expenses. Where the price to the affiliated party was, on average, within a range of 98 to 102 percent of the price

of the same or comparable merchandise sold to unaffiliated parties, we determined that sales made to the affiliated party were at arm's-length. See 19 CFR 351.403(c). Sales to affiliated customers in the home market that were not made at arm's-length prices were excluded from our analysis because we considered these sales to be outside the ordinary course of trade. See 19 CFR 351.102(b).

#### Level of Trade

Section 773(a)(1)(B)(i) of the Act states that, to the extent practicable, the Department will calculate NV based on sales at the same level of trade (LOT) as the EP or CEP. Sales are made at different LOTs if they are made at different marketing stages (or their equivalent). See 19 CFR 351.412(c)(2). Substantial differences in selling activities are a necessary, but not sufficient, condition for determining that there is a difference in the stages of marketing (id.); see also *Notice of Final Determination of Sales at Less Than Fair Value: Certain Cut-to-Length Carbon Steel Plate From South Africa*, 62 FR 61731, 61732 (November 19, 1997) (*Plate from South Africa*). In order to determine whether the comparison sales were at different stages in the marketing process than the U.S. sales, we reviewed the distribution system in each market (i.e., the "chain of distribution"), including selling functions, class of customer ("customer category"), and the level of selling expenses for each type of sale.

Pursuant to section 773(a)(1)(B)(i) of the Act, in identifying levels of trade for EP and comparison market sales (i.e., NV based on either home market or third country prices<sup>2</sup>), we consider the starting prices before any adjustments. For CEP sales, we consider only the selling activities reflected in the price after the deduction of expenses and profit under section 772(d) of the Act. See *Micron Technology, Inc. v. United States*, 243 F. 3d 1301, 1314–1315 (Fed. Cir. 2001).

When the Department is unable to match U.S. sales of the foreign like product in the comparison market at the same LOT as the EP or CEP, the Department may compare the U.S. sale to sales at a different LOT in the comparison market. In comparing EP or CEP sales at a different LOT in the comparison market, where available data make it practicable, we make an LOT adjustment under section

773(a)(7)(A) of the Act. Finally, for CEP sales only, if the NV LOT is more remote from the factory than the CEP LOT and there is no basis for determining whether the difference in LOTs between NV and CEP affects price comparability (i.e., no LOT adjustment was practicable), the Department shall grant a CEP offset, as provided in section 773(a)(7)(B) of the Act. See *Plate from South Africa* at 61731. We obtained information from UGITECH regarding the marketing stages involved in making the reported foreign market and U.S. sales, including a description of the selling activities performed for each channel of distribution.

UGITECH sold SSB to end-users and distributors in both the U.S. and home markets. UGITECH claims that it made CEP sales in the U.S. market (through its U.S. affiliate, US&A) through the following two channels of distribution: 1) sales of UGITECH-produced SSB purchased from UGITECH, and 2) sales of UGITECH-produced SSB purchased from Trafilerie Bedini, S.r.l (Bedini)<sup>3</sup>. We compared the selling activities performed in each channel, and found that the same selling functions (e.g., production planning, warranty, technical service, and freight & delivery) were performed at the same relative level of intensity in both channels of distribution. Accordingly, we find that all CEP sales constitute one LOT.

With respect to the home market, UGITECH claimed five channels of distribution (channels 3 through 7) described as follows: 3) factory direct sales; 4) ex-inventory sales of standard SSB; 5) ex-inventory sales of SSB for special applications; 6) sales of ex-inventory French-origin standard SSB purchased from Bedini; and 7) sales of ex-inventory French-origin SSB for special applications purchased from Bedini. According to UGITECH, the direct sales (channel 3), the ex-inventory standard SSB sales (channels 4 and 6), and the ex-inventory SSB with special application sales (channels 5 and 7) constitute three distinct levels of trade in the home market.

In determining whether separate LOTs exist in the home market, we compared the selling functions performed across all channels of distribution. We found that, except for inventory maintenance, all selling functions were performed across all channels of distribution with only slight variances in the levels of intensity for a few sales activities listed within certain selling functions. We note that the

selling functions (e.g., strategy planning and marketing, customer sales contact, production/planning/order evaluation, advertising, warranty, technical service, computer systems and freight and delivery) were all generally performed at varying levels of intensity for both the direct ex-works sales and the inventory sales. In certain activities such as strategy planning and marketing, customer sales contact and production/planning/order evaluation, the level of intensity for direct ex-works sales and the inventory sales was identical. Based on this analysis, we find that, although the level of intensity varies within a few of the selling activities performed for UGITECH's direct ex-works and inventory sales, these variances are not so significant to constitute distinct LOTs.

With respect to inventory maintenance, we find that there is a significant difference in the level of intensity reported for the three activities (i.e., light general warehouse services, further manufacturing/special services and pre-sale warehousing) being performed under this selling function by the inventory sales channels. However, we note that, although UGITECH has classified light general warehouse services (e.g., cutting and grinding), further manufacturing and special services performed on SSB for special applications as selling activities, we do not consider these activities to be selling functions and thus they are not relevant to the LOT analysis. See *Notice of Preliminary Determination of Sales at Less Than Fair Value: Stainless Steel Bar From France*, 66 FR 40201 (August 2, 2001); continued in *Notice of Final Determination of Sales at Less Than Fair Value: Stainless Steel Bar From France*, 67 FR 3143 (January 23, 2002) (*See Stainless Steel Bar From France*). In addition, we find that the pre-sale warehousing selling activity which UGITECH defined as "the holding of merchandise after production and before sale and shipment" is not a sufficient basis in and of itself to distinguish separate LOTs between direct ex-works and inventory sales. Therefore, based on the analysis above, taken as a whole, we find that all home market sales were made at the same LOT.

Finally, we compared the CEP LOT to the home market LOT and found that the selling functions performed for home market customers are either performed at a higher degree of intensity or are greater in number than the selling functions performed for the U.S. customer. For example, in comparing the selling activities noted under the various selling functions reported (e.g.,

<sup>2</sup> Where NV is based on constructed value (CV), we determine the NV LOT based on the LOT of the sales from which we derive selling expenses, G&A expenses, and profit for CV, where possible.

<sup>3</sup> Bedini is an affiliated Italian company which purchases SSB from UGITECH, further processes it and then resells the SSB to the United States.

strategy planning/marketing and customer sales contact), UGITECH performed each of these selling activities at a higher level of intensity in the home market than in the U.S. market. Similarly, we noted that the advertising selling function was performed at the highest level of intensity in the home market, whereas, in the U.S. market it was not performed at all. Therefore, we conclude that UGITECH's home market sales are at a more advanced LOT than its U.S. sales.

As home market and U.S. sales were made at different LOTs, we could not match CEP sales to home market sales at the same LOT. Moreover, as we found only one LOT in the home market, it was not possible to make an LOT adjustment to home market sales because such an adjustment is dependent upon our ability to identify a pattern of consistent price differences between the home market sales on which NV is based and home market sales at the LOT of the export transaction. Furthermore, we have no other information that provides an appropriate basis for determining an LOT adjustment. Because the data available do not form an appropriate basis for making an LOT adjustment, but the home market LOT is at a more advanced stage of distribution than the CEP LOT, we have made a CEP offset to NV in accordance with section 773(a)(7)(B) of the Act. The CEP offset is calculated as the lesser of: (1) the indirect selling expenses on home market sales, or (2) the indirect selling expenses deducted from the starting price in calculating CEP.

#### Cost of Production Analysis

In the less-than-fair-value (LTFV) investigation, the Department disregarded certain sales made by UGITECH that failed the cost test (see *Stainless Steel Bar From France* at 3143). Thus, in accordance with section 773(b)(2)(A)(ii) of the Act, there are reasonable grounds to believe or suspect that UGITECH made sales in the home market at prices below the cost of producing the merchandise in the current review period. Accordingly, we initiated a COP investigation covering UGITECH's home market sales.

#### A. Calculation of Cost of Production

In accordance with section 773(b)(3) of the Act, we calculated UGITECH's COP and constructed value (CV) based on the sum of UGITECH's costs of materials and conversion for the foreign like product, plus amounts for G&A expenses and interest expenses (see "Test of Home Market Sales Prices" section below for treatment of home

market selling expenses). The Department relied on the COP data submitted by UGITECH in its most recent supplemental section D questionnaire response, dated January 14, 2005, for the COP calculation, except in the following instances:

1. For the preliminary results, we relied on UGITECH's weighted-average costs during the POR. UGITECH argued that the standard methodology of weight-averaging costs over a single cost-reporting period is distortive in this instance. UGITECH reported weighted-average direct materials costs in six separate cost reporting periods, arguing that the prices of certain raw material alloys fluctuated significantly during the POR. We preliminarily determine that weighted-average costs over the POR are not distortive.
2. UGITECH reported its G&A expense ratio on a division-specific basis by allocating company-wide G&A expenses to the Ugine and Imphy divisions, rather than on a company-wide basis. We have divided UGITECH's total company-wide G&A expenses by the company's total cost of goods sold (COGS), which we adjusted for packing expenses, freight-out expenses, and custom taxes, to derive a company-wide G&A expense ratio.
3. In fiscal year 2003, UGITECH accrued restructuring costs related to a multi-year restructuring plan which is expected to be completed in 2007. Although UGITECH's home-country GAAP require the company to accrue the total estimated costs during the year in which the costs are probable and reasonably estimable, UGITECH reported that the accrued costs relate to activities which occurred or are expected to occur in five separate fiscal years (2003 through 2007). Therefore, we estimated the current portion of the restructuring costs as one-fifth of the total accrued amount.
4. UGITECH recognized expenses related to R&D costs during fiscal year 2003, including an amount for amortization expense of capitalized R&D expenditures and an amount of direct R&D expenses. Prior to fiscal year 2003, UGITECH did not capitalize any R&D expenditures. During fiscal year 2003, UGITECH changed its accounting methodology, and began to capitalize certain R&D expenditures, amortizing them over a period of five years. Thus, the R&D amortization expense represents one-fifth of the capitalized R&D expenditures which were incurred during 2003. We adjusted UGITECH's reported R&D costs to reflect the accounting method used historically by the company. As such, we added the

entire amount of 2003 capitalized R&D costs to UGITECH's G&A expenses.

5. In accordance with its home country GAAP, UGITECH incurred and recognized a loss for the impairment of fixed assets during fiscal year 2003. Impairment is the condition that exists when the carrying amount of a long-lived asset or asset group exceeds its fair value and the excess carrying amount is unrecoverable. (See UGITECH's January 14, 2005 supplemental section D response at 8). However, UGITECH excluded the loss from the company's reported G&A expenses for purposes of this administrative review. Because the impairment loss relates to the general operations of the company during the 2003 fiscal year, we included UGITECH's recognized impairment in the company-wide G&A expenses.
6. For the purpose of calculating the financial expense ratio, because UGITECH's parent, Arcelor, does not report COGS, UGITECH estimated Arcelor's COGS by calculating UGITECH's division-specific COGS-to-operating costs and applying that ratio to Arcelor's total operating costs, deriving an estimate of Arcelor's COGS. Rather than attempting to estimate Arcelor's unreported COGS, we recalculated the financial expense ratio based on Arcelor's actual total operating expenses. Arcelor's total operating expenses include Arcelor's COGS and G&A expenses. Therefore, we applied the resulting financial expense ratio to UGITECH's per-unit COM and G&A expenses to derive the total per-unit COP of subject merchandise.
7. To calculate the short-term interest income offset to UGITECH's financial expense ratio, UGITECH estimated the short-term interest income recognized by Arcelor by analyzing the experience of Arcelor's two largest subsidiaries. UGITECH included income from mutual fund investments in the total short-term interest income of the two largest subsidiaries. We revised UGITECH's calculations to exclude the mutual fund income from the calculation of the short-term interest income offset. We also added "Charges linked to securitization programmes" to Arcelor's total financial expenses for purposes of calculating UGITECH's financial expense ratio. This expense was recognized in Arcelor's audited financial statement as a financial expense, but was excluded from the calculations in UGITECH's responses.

Our revisions to UGITECH's COP data are discussed in the Memorandum from Joseph Welton, Accountant, to Neal Halper, Director, entitled *Cost of Production and Constructed Value Calculation Adjustments for the*

*Preliminary Determination - UGITECH, S.A.*, dated March 30, 2005.

#### *B. 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, in order to determine whether the sale prices were below the COP. For purposes of this comparison, we used COP exclusive of selling and packing expenses. The prices (inclusive of interest revenue, where appropriate) were exclusive of any applicable movement charges, rebates, discounts, and direct and indirect selling expenses and packing expenses, revised where appropriate, as discussed below under "Price-to-Price Comparisons." In determining whether to disregard home market sales made at prices less than their COP, we examined, in accordance with sections 773(b)(1)(A) and (B) of the Act, whether such sales were made: (1) within an extended period of time, (2) in substantial quantities, and (3) at prices which did not permit the recovery of all costs within a reasonable period of time.

#### *C. Results of the COP Test*

Pursuant to section 773(b)(1) 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 in such instances the below-cost sales were not made in "substantial quantities." Where 20 percent or more of a respondent's sales of a given product are at prices less than the COP, we determine the below-cost sales represent "substantial quantities" within an extended period of time, in accordance with section 773(b)(1)(A) of the Act. In such cases, we also determine whether such sales were made at prices which would not permit recovery of all costs within a reasonable period of time, in accordance with section 773(b)(1)(B) of the Act.

We found that, for certain specific products, more than 20 percent of UGITECH'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. We therefore excluded these sales and used the remaining sales as the basis for determining NV, in accordance with section 773(b)(1) of the Act.

#### **Price-to-Price Comparisons**

We calculated NV based on delivered prices to unaffiliated customers or prices to affiliated customers that were

determined to be at arm's length. We made adjustments, where appropriate, to the starting price for billing corrections, early payment discounts and rebates. We made deductions, where appropriate, from the starting price for inland freight (from the plant to the warehouse or plant to the customer), warehousing expenses, and inland insurance, under section 773(a)(6)(B)(ii) of the Act.

For the sales where the payment date was not reported, we set the payment date equal to the preliminary results date (*i.e.*, March 30, 2005). Where UGITECH reported a shipment date that preceded the invoice date, we set the sale date equal to the shipment date.

We made adjustments for differences in costs attributable to differences in the physical characteristics of the merchandise in accordance with section 773(a)(6)(C)(ii) of the Act and 19 CFR 351.411. In addition, we made adjustments under section 773(a)(6)(C)(iii) of the Act and 19 CFR 351.410 for differences in circumstances of sale for imputed credit expenses and warranty expenses.

We also deducted home market packing costs and added U.S. packing costs, in accordance with section 773(a)(6)(A) and (B) of the Act. Finally, as discussed above under the Level of Trade section, we made a CEP offset pursuant to section 773(a)(7)(B) of the Act and 19 CFR 351.412(f). We calculated the CEP offset as the lesser of the indirect selling expenses on the comparison-market sales or the indirect selling expenses deducted from the starting price in calculating CEP.

#### **Currency Conversion**

We made currency conversions in accordance with section 773A of the Act based on the exchange rates in effect on the dates of the U.S. sales as certified by the Federal Reserve Bank.

#### **Preliminary Results of Review**

As a result of this review, we preliminarily determine that the weighted-average dumping margin for the period March 1, 2003, through February 29, 2004, is as follows:

Manufacturer/Exporter	Percent Margin
UGITECH S.A. (Successor-in-interest to Ugine-Savoie Imphy S.A.) .....	17.71

We will disclose the calculations used in our analysis to parties to this proceeding within five days of the publication date of this notice. *See* 19 CFR 351.224(b). Any interested party may request a hearing within 30 days of

publication. *See* 19 CFR 351.310(c). If requested, a hearing will be scheduled after determination of the briefing schedule.

Interested parties who wish to request a hearing or to participate if one is requested, must submit a written request to the Assistant Secretary for Import Administration, Room B-099, within 30 days of the date of publication of this notice. Requests should contain: (1) the party's name, address and telephone number; (2) the number of participants; and (3) a list of issues to be discussed. *See* 19 CFR 351.310(c).

Issues raised in the hearing will be limited to those raised in the respective case briefs. Case briefs from interested parties and rebuttal briefs, limited to the issues raised in the respective case briefs, may be submitted in accordance with a schedule to be determined. Parties who submit case briefs or rebuttal briefs in this proceeding are requested to submit with each argument (1) a statement of the issue and (2) a brief summary of the argument. Parties are also encouraged to provide a summary of the arguments not to exceed five pages and a table of statutes, regulations, and cases cited.

The Department will issue the final results of this administrative review, including the results of its analysis of issues raised in any written briefs, not later than 120 days after the date of publication of this notice, pursuant to section 751(a)(3)(A) of the Act.

#### **Assessment Rates**

The Department shall determine, and CBP shall assess, antidumping duties on all appropriate entries, in accordance with 19 CFR 351.212. The Department will issue appropriate appraisal instructions for the companies subject to this review directly to CBP within 15 days of publication of the final results of this review.

For assessment purposes, we calculated importer- or customer-specific ad valorem duty assessment rates based on the ratio of the total amount of dumping margins calculated for the examined sales to the total entered value of those same sales.

We will instruct CBP to assess antidumping duties on all appropriate entries covered by this review if any importer- or customer-specific assessment rate calculated in the final results of this review is above *de minimis* (*i.e.*, at or above 0.50 percent). *See* 19 CFR 351.106(c)(1). The final results of this review shall be the basis for the assessment of antidumping duties on entries of merchandise covered by the final results of this

review and for future deposits of estimated duties, where applicable.

#### Cash Deposit Requirements

The following cash deposit requirements will be effective for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of this administrative review, as provided by section 751(a)(1) of the Act: (1) the cash deposit rate for the reviewed company will be that established in the final results of this review, except if the rate is less than 0.50 percent, and therefore, *de minimis* within the meaning of 19 CFR 351.106(c)(1), in which case the cash deposit rate will be zero; (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, a prior review, or the original LTFV 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; and (4) the cash deposit rate for all other manufacturers or exporters will continue to be 3.90 percent, the "All Others" rate made effective by the LTFV investigation (*see Notice of Antidumping Duty Order: Stainless Steel Bar From France*, 67 FR 10385 (March 7, 2002)). These requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

#### Notification to Importers

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f) 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.

This administrative review and notice are published in accordance with sections 751(a)(1) and 777(i)(1) of the Act and 19 CFR 351.221.

Dated: March 30, 2005.

**Joseph A. Spetrini,**

*Acting Assistant Secretary for Import Administration.*

[FR Doc. E5-1577 Filed 4-5-05; 8:45 am]

**BILLING CODE 3510-DS-S**

#### DEPARTMENT OF COMMERCE

##### National Oceanic and Atmospheric Administration

[I.D. 040105B]

##### Pacific Fishery Management Council; Public Meeting

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

**ACTION:** Notice of public meeting.

**SUMMARY:** The Pacific Fishery Management Council's (Council) Ad Hoc Groundfish Trawl Individual Quota Committee (TIQC) will hold a working meeting which is open to the public.

**DATES:** The TIQC working meeting will begin Tuesday, May 10, 2005 at 8:30 a.m. and may go into the evening if necessary to complete business for the day. The meeting will reconvene from 8:30 a.m. and continue until business for the day is complete on Wednesday, May 11, 2005.

**ADDRESSES:** The meeting will be held in the Broadway Room at the Residence Inn by Marriott-Portland Downtown, RiverPlace, 2115 SW River Parkway, Portland, OR 97201. Telephone: 503-552-9500

*Council address:* Pacific Fishery Management Council, 7700 NE Ambassador Place, Suite 200, Portland, OR 97220-1384.

**FOR FURTHER INFORMATION CONTACT:** Mr. Jim Seger, Staff Officer (Economist), 503-820-2280.

**SUPPLEMENTARY INFORMATION:** The purpose of the TIQC working meeting is to continue to review results from public scoping and some preliminary analysis, and refine recommendations to the Council on an individual quota program to cover limited entry trawl landings in the West Coast groundfish fishery.

Although nonemergency issues not contained in the TIQC meeting agenda may come before the TIQC for discussion, those issues may not be the subject of formal TIQC action during these meetings. TIQC action will be restricted to those issues specifically listed in this notice and to any issues arising after publication of this notice requiring emergency action under Section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the TIQC's intent to take final action to address the emergency.

#### Special Accommodations

The meeting is physically accessible to people with disabilities. Requests for

sign language interpretation or other auxiliary aids should be directed to Ms. Carolyn Porter at 503-820-2280 at least 5 days prior to the meeting date.

Dated: April 1, 2005.

**Emily Menashes,**

*Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.*

[FR Doc. E5-1556 Filed 4-5-05; 8:45 am]

**BILLING CODE 3510-22-S**

#### DEPARTMENT OF COMMERCE

##### National Oceanic and Atmospheric Administration

[I.D. 040105A]

##### Pacific Fishery Management Council; Public Meeting

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

**ACTION:** Notice of public meeting.

**SUMMARY:** The Pacific Fishery Management Council's (Council) Highly Migratory Species Management Team (HMSMT) will hold a work session, which is open to the public.

**DATES:** The work session will be Thursday, May 12, 2005, from 1 p.m. until 5 p.m. and Friday, May 13, 2005, from 9 a.m. until business for the day is completed.

**ADDRESSES:** The work session will be held at the National Marine Fisheries Service, Southwest Fisheries Science Center, Large Conference Room, 8604 La Jolla Shores Drive, Room D-203, La Jolla, CA 92037, (858) 546-7000

*Council address:* Pacific Fishery Management Council, 7700 NE Ambassador Place, Suite 200, Portland, OR 97220-1384.

**FOR FURTHER INFORMATION CONTACT:** Dr. Kit Dahl, Pacific Fishery Management Council (503) 820-2280.

**SUPPLEMENTARY INFORMATION:** The main purpose of this work session is for the HMSMT to review issues related to the implementation of the HMS fishery management plan and make recommendations to the Council on future action on these issues. Issues discussed could include the Council's response to overfishing of bigeye tuna and other HMS so declared in the future, developing sea turtle bycatch mitigation measures for the West Coast high seas longline fishery, establishing a limited entry program for the West Coast high seas longline fishery, implementation of an observer coverage plan, and review of exempted fishing permits, among others. This HMSMT