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MEMORANDUM TO: David M. Spooner  
Assistant Secretary  
for Import Administration

FROM: Stephen J. Clayes  
Deputy Assistant Secretary  
for Import Administration

SUBJECT: Issues and Decision Memorandum for the Antidumping Duty  
Administrative Review of Certain Hot-Rolled Carbon Steel Flat  
Products from Romania for the Period of Review November 1,  
2003, through October 31, 2004

Summary

We have analyzed the case and rebuttal briefs of interested parties in the administrative review of the antidumping duty order on certain hot-rolled carbon steel flat products from Romania for the period November 1, 2003, through October 31, 2004. As a result of our analysis, we have made changes in the margin calculations. We recommend that you approve the positions we have developed in the Discussion of the Issues section of this memorandum. Below is the complete list of the issues in this administrative review for which we received comments and rebuttal comments by parties:

1. U.S. Indirect Selling Expenses - Treatment of Bonus Expenses
2. U.S. Indirect Selling Expenses - Treatment of Sales Agency Fees
3. U.S. Indirect Selling Expenses - Treatment of Bad-Debt Expenses
4. U.S. Indirect Selling Expenses - Treatment of Sidex Trading's Expenses
5. U.S. Indirect Selling Expenses - Treatment of Interest Expenses
6. U.S. Indirect Selling Expenses - Treatment of Corporate Expenses
7. U.S. Date of Sale
8. U. S. Credit Expenses
9. Universe of Sales in the United States
10. Exchange Rates

Background

On December 8, 2005, the Department of Commerce (the Department) published the preliminary results of the administrative review of the antidumping duty order on certain hot-rolled carbon steel flat products from Romania (70 FR 72984) (Preliminary Results). The review covers Mittal Steel Galati S.A. (MS Galati) and Metalexport Import S.A. (MEI). We are

rescinding the administrative review with respect to MEI which reported no entries, exports, or sales of merchandise subject to this review. We examined customs data and found no evidence of entries from MEI during the period of review. The period of review is November 1, 2003, through October 31, 2004. We invited interested parties to comment on the preliminary results and received case and rebuttal briefs from various interested parties. As a result of certain comments, on February 27, 2006, we sent a supplemental questionnaire to MS Galati and it responded on March 8, 2006. Domestic parties commented on the response on March 17, 2006, and we have incorporated those comments into our discussion of the issues.

#### Other Abbreviations

AFA - adverse facts available  
CEP - constructed export price  
EP - export price  
ISEs - indirect selling expenses  
Nucor - Nucor Corporation (domestic producer)  
POR - period of review  
The Act - The Tariff Act of 1930, as amended  
CIT - Court of International Trade  
USSC - United States Steel Corporation (the petitioner)  
INA - Ispat North America (MS Galati's U.S. affiliate)  
NME - Non-Market Economy  
ME - Market Economy

#### Discussion of the Issues

##### *1. U.S. Indirect Selling Expenses - Treatment of Bonus Expenses*

Comment 1: USSC argues that the Department should revise the U.S. ISE total for INA to include bonus amounts it paid to certain individuals but did not include in its reported ISE figure. Citing Stainless Steel Sheet and Strip from Korea; Final Results and Partial Rescission of Antidumping Administrative Review, 66 FR 64950 (Dec. 17, 2001), and accompanying Issues and Decision Memorandum at Comment 15 and Notice of Final Determination of Sales Less Than Fair Value: Bottle Grade Polyethylene Terephthalate Resin From Thailand, 70 FR 13453 (Mar. 21, 2005), and accompanying Issues and Decision Memorandum at Comment 13, USSC observes that in both cases the Department recognized that salaries and bonus expenses were included properly as indirect selling expenses. Because MS Galati did not provide evidence on the record to support its exclusion of the amount for bonus expenses in the ISE total, USSC requests that the Department include the entire amount of reported bonus expenses in ISEs. In the alternative, USSC requests, the Department should apply an allocation method based on salaries paid between two operational units which MS Galati designated as "corporate" and "services." According to USSC, MS Galati indicated that the category designated as "services" includes operations related to sales whereas the category "corporate" includes operations related

to INA's management and administrative support of steel mills throughout the United States and, at a minimum, some amount of bonus expenses should be allocated to "services" since they are related to sales.

MS Galati rebuts USSC's argument, asserting that the Department should accept the allocation of the bonus-expense amount based on the ratio of salaries paid to "corporate" and "services" personnel. Further, in its March 8 response on this matter, MS Galati indicated that, although the individuals in question worked in INA's office in Chicago, their activities benefitted the corporate group and they were not employees of INA. MS Galati acknowledges that these individuals performed both trading and corporate activities and that some allocation is proper.

In its March 17 comments, USSC argues that MS Galati's March 8 response to the Department provides no documentation to support the claim that the non-employees of INA performed both trading and corporate activities or that the bonuses paid to the individuals in question should be allocated equally between these activities. Further, USSC argues that MS Galati provided no other documentation to support INA's allocation of the bonus expense between "service" and "corporate" activities. USSC also suggests that the Department apply partial AFA because MS Galati did not provide information the Department requested which is available in its records.

Department's Position: Because MS Galati requested a favorable allocation adjustment to its U.S. ISE figure for bonus expenses it was incumbent upon the firm to demonstrate that it was entitled to the adjustment. See 19 CFR 351.401(b)(1) and Timken Co. v. United States, 673 F. Supp. 495, 513 (CIT 1987) (holding that a respondent bears burden of demonstrating entitlement to favorable adjustment). Although we gave MS Galati an opportunity to justify its claim by requesting additional information on this matter in our letter dated February 27, in its March 8 submission MS Galati did not adequately explain or supply documented support to show how the efforts of the individuals in question benefitted both "services" and "corporate" activities. In fact, the submission contained no documentation beyond amounts paid as bonuses to specific individuals. See MS Galati's March 8, 2006, submission at page 8 and Exhibit 7. Therefore, we have included the total amount of reported bonus expenses in INA's ISE total. Because we have disallowed MS Galati's request for a favorable adjustment to its ISE figure for an allocated portion of its bonus expenses, it is not necessary to apply partial AFA as the petitioner suggests.

## *2. U.S. Indirect Selling Expenses - Treatment of Sales-Agency Fees*

Comment 2: Citing Notice of Final Determination of Sales at Less Than Fair Value and Negative Final Determination of Criminal Circumstances: Prestressed Concrete Steel Wire Strand from Mexico, 68 FR 68350 (Dec. 8, 2003), and accompanying Issues and Decision Memorandum at Comment 2 (SWS from Mexico), USSC asserts that, in calculating the U.S. ISE ratio, it is the Department's well-established practice to match expenses in the numerator with corresponding amounts for sales revenues in the denominator. Because MS Galati excluded expense amounts for INA's corporate activities from the numerator for the calculation of the U.S. ISE total, USSC argues that the Department should remove the corresponding sales-revenue amounts entitled "sales agency fees" from the denominator.

In its rebuttal brief, MS Galati states that the petitioner confuses INA's sales-agency fees with INA's management fees. As such, MS Galati explains, INA's sales-agency fees relate strictly to INA's sales whereas INA's management fees arise from its corporate and management activities. Because the numerator excludes corporate expenses and the denominator includes solely income from INA's sales, MS Galati asserts that the numerator and the denominator of the ISE ratio are symmetrical. Therefore, MS Galati argues, no adjustment is necessary to the denominator because the expenses in the numerator of INA's ISE figure match the sales revenue in the denominator.

Department's Position: We agree with MS Galati that no adjustment is necessary to the denominator of INA's ISE calculation. As stated in the petitioner's case brief, it is the Department's normal practice to ensure that expenses in the numerator match sales revenue in the denominator when calculating the ISE ratio. See SWS From Mexico, 68 FR 68350, and accompanying Issues and Decision Memorandum at Comment 2. Based on the record, we find that the sales-agency fees included in the denominator relate solely to INA's sales activities and do not stem from INA's corporate or management functions. See U.S. Verification Exhibits of MS Galati, Nov. 21-22, 2006, Exhibit 5 at INA 091-093 and Exhibit 9 at INA 578.

Although the petitioner is correct that in calculating an ISE ratio it is our normal practice to ensure that expenses in the numerator match revenue in the denominator, we find the petitioner's argument is without merit given the factual information on the record in this case demonstrating that the figures in the calculation are symmetrical. Therefore, we have not made any adjustments to INA's ISE ratio.

### 3. *U.S. Indirect Selling Expenses - Treatment of Bad-Debt Expense*

Comment 3: Citing Stainless Steel Sheet and Strip in Coils from Mexico; Final Results of Antidumping Duty Administrative Review, 70 FR 73444 (Dec. 12, 2005), and accompanying Issues and Decision Memorandum at Comment 15 and Notice of Final Results of the Tenth Administrative Review and New Shipper Review of the Antidumping Duty Order on Certain Corrosion-Resistant Carbon Steel Flat Products from the Republic of Korea, 70 FR 12443 (Mar. 14, 2005), and accompanying Issues and Decision Memorandum at Comment 21, USSC asserts that the Department's practice is to treat a provision for bad debt recognized during a POR as an expense which should be included as an ISE. Because the record indicates that INA recognized a provision of bad debt as an offset against accounts receivable, the petitioner argues that the Department should include the amount for the bad-debt provision in the pool of INA's ISEs. Further, the petitioner argues that MS Galati did not provide documentation to support the exclusion of the bad-debt provision from the calculation of U.S. ISEs as required by 19 CFR 351.401(b)(1), which states that an interested party that is in possession of relevant information has the burden of establishing to the satisfaction of the Secretary the amount and nature of a particular adjustment. As such, USSC requests that the Department include the bad-debt provision in the U.S. ISE total.

MS Galati responds that adoption of the petitioner's request would be inconsistent with INA's accounting practices and amount to double-counting MS Galati's bad-debt expenses because the ISE total it provided includes all credit-insurance premiums which INA incurred

during the regular course of business to cover the company's potential bad-debt expenses. Further, MS Galati argues that the petitioner did not raise this issue in a timely fashion when the Department had a meaningful opportunity to address it at verification. As such, MS Galati urges the Department to accept the figures as submitted.

Department's Position: Because MS Galati provided sufficient documentation in its March 8 submission to support its assertion that INA did not recognize any actual bad-debt expenses during the POR nor make any provision for bad debt (see MS Galati's March 8, 2006, submission, Ex.1-6.), we have accepted the exclusion of bad-debt expenses from the figure for INA's U.S. ISEs.

INA maintained credit-insurance policies during the POR to cover potential bad debt and during the POR it received cash proceeds from the credit-insurance company for defaulted payments from customers. *Id.* at 2-3. As such, INA received compensation for any actual bad-debt loss from the insurance company, thereby eliminating actual bad-debt loss. Although INA recovered its bad-debt losses during the POR through insurance compensation, the firm still incurred the expense of its insurance premiums for bad-debt losses. Therefore, the credit-insurance premium INA paid during the POR is properly captured in the U.S. ISE total and, under the circumstances, including any additional amount of bad-debt expenses would result in impermissible double-counting. See 19 CFR 351.401(b)(2).

Further, in its March 8 submission MS Galati explained that accounting entries in its records that appear to indicate the existence of bad-debt reserves have nothing to do with provisions of future bad debt. Rather, it explained, these accounting entries are offset journal entries for cash that INA received from the insurance company during the POR due to payments customers did not make, *i.e.*, defaulted payments. See March 8 submission at 3. Although the petitioner argues that MS Galati's March 8 submission only documented part of the bad-debt proceeds that it received from the insurance company, we are satisfied that MS Galati's documentation of its expenses proves adequately that it was reimbursed and therefore is entitled to the adjustment of its ISE figure. See 19 CFR 351.401(b)(2). Accordingly, we have included the amount for INA's credit-insurance premiums in the calculation of U.S. ISEs but not any amount for the provision of bad debt.

#### 4. *U.S. Indirect Selling Expenses - Treatment of Sidex Trading's Expenses*

Comment 4: Citing Oil Country Tubular Goods, Other Than Drill Pipe from Korea: Final Results of New Shipper Review and Antidumping Duty Administrative Review, 68 FR 2313 (Jan. 16, 2003), and accompanying Issues and Decision Memorandum at Comment 2 and 19 CFR 351.402(b), USSC argues that the Department should deduct the ISEs which MS Galati's affiliated trading company, Sidex Trading, incurred in Romania from the calculation of CEP because these expenses are "associated with commercial activities in the United States that relate to the sale to an unaffiliated purchaser...." Because MS Galati made all U.S. sales through Sidex Trading and Sidex Trading was the importer of record for all sales, the petitioner argues that Sidex Trading's ISEs incurred in Romania also relate to U.S. economic activities for sales to unaffiliated customers in the United States.

MS Galati argues that the Department should not deduct Sidex Trading's ISEs from U.S.

price because the record demonstrates clearly that the activities of Sidex Trading relate solely to sales to INA and do not relate to selling activities in the United States.

Department's Position: We agree with MS Galati that, under 19 CFR 351.402(b), we do not make an adjustment for any expense that relates solely to sales made to affiliated importers in the United States. As such, we stated in Certain Small Diameter Carbon and Alloy Seamless Standard, Line, and Pressure Pipe from Romania (Feb. 11, 2005), 70 FR 7237, and accompanying Issues and Decision Memorandum, Comment 4 at 14, that it is our practice not to subtract from the CEP calculation ISEs incurred outside the United States if the ISEs support sales to the affiliated purchasers and not the unaffiliated customer. See also Porcelain-on-Steel Cookware From Mexico: Final Results of Antidumping Duty Administrative Review, 63 FR 38373, 38381 (Jul. 16, 1998), and Notice of Final Determination of Sales at Less Than Fair Value: Silicomanganese From Kazakhstan, 67 FR 15535 (Apr. 2, 2002).

Contrary to the petitioner's suggestion, there is no evidence on the record which supports a finding that Sidex Trading incurred expenses for selling activities related to sales of subject merchandise to unaffiliated U.S. customers. In this review, the record demonstrates that all of Sidex Trading's activities relate solely to its sales to the U.S. affiliate, INA. See MS Galati's Supplemental Questionnaire Response, Jul. 8, 2005, at Ex. 6. As such, we agree that the reported ISEs concerned respondent's sales to its affiliate. Accordingly, we have not made the adjustment to U.S. price as USSC suggests.

#### 5. *U.S. Indirect Selling Expenses - Treatment of Interest Expenses*

Comment 5: Nucor argues that MS Galati improperly excluded an amount for interest expense from its U.S. ISEs because it did not provide sufficient information on the record to justify the exclusion. As such, Nucor urges the Department to apply its uniform practice of including interest expenses in the calculation of ISEs.

MS Galati argues that the Department should continue to exclude reported interest expenses from INA's ISEs because INA accounted for its interest expenses in the imputed credit expenses to be deducted from CEP price and that Nucor's proposed adjustment would result in double-counting.

Department's Position: Although our normal practice is to include interest expense in our calculation of ISEs, the regulations at 19 CFR 351.401(b)(2) state that we will not double-count adjustments. In Certain Corrosion Resistant Carbon Steel Flat Products from the Republic of Korea: Notice of Preliminary Results of Antidumping Duty Administrative Review and Antidumping Duty New Shipper Review, 69 FR at 54106 (Sep. 7, 2005), the Department articulated an interest-expense methodology whereby the Department included net financial expenses incurred by the respondent's U.S. affiliate in the U.S. ISEs but added U.S. interest expenses only after deducting U.S. imputed credit expenses and U.S. inventory carrying costs so as to eliminate the possibility of double-counting U.S. interest expenses. Also see Final Results of Antidumping Duty Administrative Reviews: Cold-Rolled and Corrosion Resistant Carbon Steel Flat Products From Korea, 67 FR 11976 (Mar. 18, 2002), and accompanying Issues and Decision Memorandum at Comment 1.

Similarly, for this review we have reduced the total amount of reported interest expenses

by the total amount of credit expenses that we already deducted from U.S. price and added the remainder to INA's U.S. ISEs to avoid double-counting such expenses. See Analysis Memorandum for the Final Results of the 2003-2004 Administrative Review of Certain Hot-Rolled Carbon Steel Flat Products from Romania: Mittal Steel Galati, S.A., May 22, 2006 (Final Analysis Memo), at 2.

6. *U.S. Indirect Selling Expenses - Treatment of Corporate Expenses*

Comment 6: Nucor argues that MS Galati excluded certain amounts designated as corporate expenses from its U.S. ISEs without providing sufficient information on the record to justify that these ISEs relate solely to non-subject merchandise or corporate activity for other steel mills in the United States.

MS Galati argues that the Department should continue to accept its exclusion of corporate expenses because the record shows that INA's accounting books and records segregate these expenses through the use of different suffixes in the regular course of business. Further, MS Galati argues that the record includes supporting documentation which the Department examined during the CEP verification.

Department's Position: We verified the category of expenses INA designated as "corporate" expenses by randomly selecting several line items under the corporate expense category and by reviewing all supporting documentation. We found no discrepancies. See U.S. Sales Verification Report (Dec. 16, 2005), at 6. We also observed that the corporate expenses we selected randomly at verification did not involve INA's sales but rather were expenses relating to the management of other mills in the United States. *Id.* Therefore, we have continued to exclude corporate expenses from INA's ISE calculation for these final results of review.

7. *U.S. Date of Sale*

Comment 7: Citing Allied Tube Conduit Corp. V. United States, 25 CIT 23, 25, 132 F. Supp. 2d 1087, 1090 (2001), and 19 CFR 351.401(i), Nucor argues that the Department should use invoice date as the date of sale rather than the date of the customer order acknowledgment because of Department precedent and because MS Galati did not provide sufficient information on the record to demonstrate that the customer order acknowledgment reflects the final terms, thereby not meeting its burden of proof for the Department to shift from using the date of invoice as the date of sale.

MS Galati maintains that the Department should not reverse its decision in the preliminary results to treat the customer order acknowledgment as the date of sale for U.S. sales.

Department's Position: Under 19 CFR 351.401(i), the Department will normally use the invoice date to determine the date of sale. We will use a different date, however, if we are satisfied that it better reflects the date on which the material terms of the sale are established. See 19 CFR 351.401(i). Based on our verification of MS Galati's U.S. sales response, we confirmed that the customer order acknowledgment represents the point in time when the parties agree on all material terms of sale including, *inter alia*, price and quantity. U.S. Verification Exhibits of MS Galati, Nov. 21-22, 2006 at 3. Furthermore, the record shows that quantity

changes from the original customer order acknowledgments to the final invoices did not exceed the accepted industry tolerance. *Id.* at 3-4 and Ex. 6. Compare Certain Cut-to-Length Carbon Steel Plate from Romania: Preliminary Results of the Antidumping Duty Administrative Review and Partial Rescission (C-T-L Plate from Romania), 70 FR 53333, 53335 (Sept. 8, 2005) (rejecting the date of the customer order acknowledgment date as date of sale in part because “quantities changed in excess of allowable variations,” unchanged in the final results of review, 70 FR 7008). Accordingly, the customer order acknowledgment date better reflects the date on which the material terms of the sale were established and we have used such date to establish the date of each U.S. sale.

#### 8. *U. S. Credit Expenses*

Comment 8: MS Galati argues that the Department should revise its calculation for U.S. credit expense to exclude the period of shipment from Romania to arrival in the United States because MS Galati sold merchandise to its U.S. affiliate, INA, which, in turn, sold the merchandise to non-affiliated U.S. customers. As such, MS Galati concludes that the Department’s calculation of U.S. credit expense violates section 772(d)(1) of the Act and is inconsistent with 19 CFR 351.402(b).

The petitioner and Nucor argue that the Department should not revise the calculation for U.S. credit expense because the commercial reality of the transactions between MS Galati, INA, and U.S. customers was such that the goods which were produced to order and shipped directly to the U.S. customer were never sold from INA’s inventory in the United States. As such, they contend, the Department’s calculation of U.S. credit expense from the date of shipment of goods from Romania to the date of payment of the U.S. customer was proper.

Department’s Position: Although 19 CFR 351.402(b) explains that the Department will not make adjustments for expenses related solely to a sale to a U.S. affiliated importer, MS Galati’s sales for this review do not fall under that regulatory guideline. MS Galati produced its merchandise to order such that the subject merchandise had already been sold to the U.S. customer when it left Romania. See MS Galati’s Questionnaire Response, March 7, 2005, Section A, at A-ME-14 (claiming that “typically, all export sales, including U.S. sales, are shipped to order”). Further, as the petitioner and Nucor point out, the U.S. sale is not sold from INA’s inventory to the U.S. customer. Instead, INA unloads the subject merchandise from the ship onto the dock where the customer picks it up. See MS Galati’s Questionnaire Response, March 7, 2005, Section C, at C-32, C-33, and C-34. As such, the credit expenses MS Galati incurred relate to sales destined for specific unaffiliated U.S. customers. Under these circumstances, our normal practice is to calculate credit expense from the date the merchandise is first shipped to the customer to the date of payment by that customer. See Notice of Final Results of Antidumping Duty Administrative Review: Carbon and Certain Alloy Steel Wire Rod from Trinidad and Tobago, 70 FR 12648 (Mar. 15, 2005), and accompanying Issues and Decision Memorandum at Comment 6. Accordingly, we have calculated U.S. credit expenses from the date the merchandise left Romania to the date of payment by the U.S. customer.



9. *Universe of Sales in the United States*

Comment 9: Nucor argues that the universe of sales for this review should be based on the date of entry rather than based on the date of sale. Accordingly, Nucor asserts, the Department should eliminate certain U.S. sales from its analysis because the respective entry dates into the United States occurred beyond the POR. Nucor cites the language of the Department's questionnaire which asks respondents to report sales entered for consumption during the POR *except* for certain EP sales and CEP sales made *after* importation. Because all of MS Galati's CEP sales were made before importation, Nucor claims, the questionnaire's language and Department's practice support a date-of-entry analysis.

MS Galati argues that the Department has the discretion to define the universe of sales based on date of sale and, therefore, it should not eliminate any U.S. sales which occurred during the POR despite the corresponding date of entry's occurrence outside the POR.

Department's Position: We have adjusted our calculations to analyze only those sales for which entry of the merchandise occurred during the POR. The arguments and cases MS Galati cites address only the general rules and practices, not the circumstances reflected by the specific facts of this case. In Corus Staal BV v. United States, the CIT explained that, "although Commerce's general preference is to use the date of entry, it often uses date of sale as the selection criterion for CEP sales. This is because, in many CEP situations, the sale is made after importation and it is often difficult or impossible to tie entries to sales" (387 F. Supp. 2d 1291, 1303 (CIT 2005) citing Helmerich & Payne v. United States, 24 F. Supp. 2d 304, 313 (CIT 1998)).

While the Department normally uses the date of sale to define the universe of sales in CEP cases, the Department uses date of entry in CEP cases when four factors are present: (1) all sales can be tied to specific entries, (2) the dates of sale occurred prior to the corresponding dates of entry, (3) merchandise was shipped from the factory directly to the final customer, and (4) the respondent is generally the importer of record. See the preamble to Antidumping Duties; Countervailing Duties, 62 FR 27296, 27314 (May 19, 1997) ("{w}here a respondent can tie its entries to its sales . . . we conduct the review on that basis"); Certain Corrosion-Resistant Carbon Steel Flat Products From Canada: Preliminary Results of Antidumping Administrative Review, 70 FR 53621, 53624 (Sept. 9, 2005); Certain Corrosion-Resistant Carbon Steel Flat Products From Canada: Final Results of Antidumping Duty Administrative Review, 70 FR 13458 (Mar. 21, 2005), and accompanying Issues and Decision Memorandum at Comment 5. MS Galati and its affiliate, INA, meet substantially all elements for the date-of-entry exception in our case. See U.S. Sales Verification Report, at Ex. US-VE 8 (INA609) (sales can be tied to specific entries and date of sale occurs prior to date of entry); MS Galati's Questionnaire Response, March 7, 2005, Section A, at A-ME-14 and MS Galati's Questionnaire Response, March 7, 2005, Section C, at C-32, C-33, and C-34 (merchandise effectively shipped from factory directly to U.S. customer without being placed in U.S. warehouse or inventory); MS Galati's Supplemental Questionnaire Response, July 8, 2005, at 37 (respondent is importer of record); see also C-T-L Plate from Romania, 70 FR at 53335 (determining universe of sales based on date of entry under identical circumstances with the same respondent, MS Galati, unchanged in final (70 FR 7008)).

When it appears in CEP cases that we should use the date of entry to define the universe

of sales, the preamble to the Department's regulations directs additional analysis to determine whether using date of entry would create distortions. Accordingly, the Department looks at three additional factors to evaluate the possibility of distortions: (1) overlapping or missing sales from review to review, (2) the respondent's ability to link sales to specific entries in the past and ability to continue to link sales to specific entries in the future, and (3) the consistency of methodology with prior reviews. See Preamble, 62 FR at 27314. The additional analysis in this case shows that using date of entry to define the universe of sales will not create distortions. First, there is no possibility of overlapping or missing sales between the previous review and the present review. In the previous review, no sales were made during the final ten months of the POR. See Certain Hot-Rolled Carbon Steel Flat Products from Romania: Preliminary Results of Antidumping Duty Administrative Review, 69 FR 70644, 70645 (Dec. 7, 2004) (2002-2003 Prelim) (unchanged in the final). In this review, there was an initial period without sales. See U.S. Verification Exhibits of MS Galati, Nov. 21-22, 2006, Ex. 8. at INA 609. Accordingly, there is a significant period with no U.S. sales which eliminates the possibility of overlapping or missing sales between reviews.

Second, we tied all of MS Galati's sales to their specific entries. *Id.* Further, MS Galati is likely to be able to continue to tie sales to specific entries because of its made-to-order business model. See MS Galati's Questionnaire Response, March 7, 2005, Section A at A-ME-19 to A-ME-20. That is, it produces merchandise after having received an order for a specific quantity. *Id.* Months later, after production is completed, MS Galati ships the merchandise to the ultimate purchaser with some assistance from MS Galati's U.S. affiliate. *Id.* Thus, not only is it likely that MS Galati will continue to be able to tie sales to entries, but this ability virtually eliminates the possibility of overlapping or missing sales from review to review in the future.

Third, the universe of sales considered in the single previous review was based on date of sale. See 2002-2003 Prelim, 69 FR at 70644 (unchanged in final, 70 FR 34448). But in that review, all sales during the POR were EP sales, not CEP sales. *Id.* at 70647 (unchanged in final, 70 FR 34448). Further, Romania experienced a transition from NME status to ME status during that POR, with all of MS Galati's sales falling in the NME period. *Id.* at 70647-48 (unchanged in final, 70 FR 3448). These facts are significantly different from the facts of the current review and do not establish a strong precedent for this review. Thus, the more pertinent analysis of the additional considerations shows that using date of entry to define the universe of sales in this review will not create distortions. Accordingly, we have used date of entry to define the universe of sales we analyzed for this review. Because we have based the universe of sales on date of entry, we have revised the universe of sales for use in our calculations by removing sales for which the date of entry occurred in the next POR.

#### *10. Exchange Rates*

Comment 10: Nucor argues that the Department should apply exchange rates currently posted on the IA website as opposed to the exchange rates available during the POR or provide an explanation for the departure.

MS Galati provided no comments on this matter in its rebuttal brief.

Department's Position: After examination of the exchange rates on the IA website, we

have determined that it is not necessary to revise the exchange rates we used in our preliminary results because the IA website only provides exchange rates based on Romania's new currency which are inapplicable to this POR.

As of July 1, 2005, Romania's legal tender (previously coded as ROL) was re-denominated such that ROL 10,000 are exchanged for one unit of the new currency - the new leu (coded as RON). In October 2005, the Department revised the exchange rates for Romania on the IA website to reflect the new currency. The Department did not include the exchange rates for the old currency. Because MS Galati reported all values in its sales and cost data files under the old Romanian currency, we have continued to use the corresponding exchange rates denominated as ROL. Furthermore, we have provided all interested parties with these exchange rates. See Memo to Files from Case Analyst, Dunyako Ahmadu through the Program Manager, Richard Rimlinger, May 22, 2006.

#### Recommendation

Based on our analysis of the comments received, we recommend adopting all of the above positions. If these recommendations are accepted, we will publish the final results of the review and the final dumping margin for MS Galati in the Federal Register.

Agree \_\_\_\_\_ Disagree \_\_\_\_\_

\_\_\_\_\_  
David M. Spooner  
Assistant Secretary  
for Import Administration

\_\_\_\_\_  
Date