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**DEPARTMENT OF COMMERCE****International Trade Administration**

[A-427-827]

**Sodium Metal from France: Notice of Final Determination of Sales at Less Than Fair Value and Negative Critical Circumstances**

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

**SUMMARY:** The Department of Commerce (the Department) has determined that sodium metal from France is being, or is likely to be, sold in the United States at less than fair value (LTFV), as provided in section 735 of the Tariff Act

of 1930, as amended (the Act). The estimated margins of sales at LTFV are listed below in the section entitled "Continuation of Suspension of Liquidation."

**EFFECTIVE DATE:** October 20, 2008.

**FOR FURTHER INFORMATION CONTACT:**

Dennis McClure or Joy Zhang, AD/CVD Operations, Office 3, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone (202) 482-5973 or (202) 482-1168, respectively.

**SUPPLEMENTARY INFORMATION:** On May 28, 2008, the Department published in the *Federal Register* its preliminary determination in the antidumping duty investigation of sodium metal from France. See *Sodium Metal from France: Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination*, 73 FR 30605 (May 28, 2008) (*Preliminary Determination*).

In the *Preliminary Determination*, based on our examination of E.I. DuPont de Nemours & Co. Inc.'s (the petitioner) targeted dumping allegation filed on April 21, 2008, we determined that there is no pattern of constructed export prices for comparable merchandise that differs significantly among purchasers. Therefore, we applied the average-to-average methodology to all U.S. sales by MSSA S.A.S., MSSA Co., and Columbia Sales International (collectively, MSSA). In the *Preliminary Determination*, the Department invited comments regarding the overall application of the targeted dumping test applied in this proceeding. Accordingly, we received comments within the case briefs submitted by the petitioner and MSSA on July 25, 2008. The petitioner and MSSA submitted rebuttal comments on July 30, 2008.

We conducted sales and cost verifications of the responses submitted by MSSA. See Memorandum to the File from Dennis McClure and Joy Zhang, Case Analysts, through James Terpstra, Program Manager, Office 3, entitled "Verification of the Sales Response of MSSA S.A.S., MSSA Co., and Columbia Sales International in the Antidumping Duty Investigation of Sodium Metal from France," dated July 18, 2008 (Sales Verification Report); see also Memorandum to the File through Neal M. Halper, from LaVonne Clark, entitled "Verification of the Cost Response of MSSA S.A.S. in the Antidumping Investigation of Sodium Metal from France," dated July 1, 2008 (Cost Verification Report). All verification reports are on file and available in the

Central Records Unit (CRU), Room 1117 of the main Department of Commerce building.

Based on the Department's findings at verification, as well as the minor corrections presented by MSSA at the start of its respective verifications, we requested during verification that respondents submit revised sales databases. As requested, MSSA submitted its revised sales databases at verification on July 16, 2008.

On September 15, 2008, the petitioner submitted an allegation of critical circumstances. MSSA submitted comments responding to the petitioner's allegation of critical circumstances on September 25, 2008.

**Period of Investigation**

The period of investigation (POI) is October 1, 2006, to September 30, 2007. This period corresponds to the four most recent fiscal quarters prior to the month of the filing of the petition.

**Scope of the Investigation**

The merchandise covered by this investigation includes sodium metal (Na), in any form and at any purity level. Examples of names commonly used to reference sodium metal are sodium metal, sodium, metallic sodium, and natrium. The merchandise subject to this investigation is classified in the Harmonized Tariff Schedule of the United States subheading 2805.11.0000. The American Chemical Society Chemical Abstract Service (CAS) has assigned the name "Sodium" to sodium metal. The CAS registry number is 7440-23-5. For purposes of the investigation, the narrative description is dispositive, not the tariff heading, CAS registry number or CAS name, which are provided for convenience and customs purposes.

**Analysis of Comments Received**

All issues raised in the case and rebuttal briefs by parties to this antidumping investigation are addressed in the "Issues and Decision Memorandum for the Antidumping Duty Investigation of Sodium Metal from France" from Stephen J. Claeys, Deputy Assistant Secretary for Import Administration, to David M. Spooner, Assistant Secretary for Import Administration (Decision Memorandum), dated October 10, 2008, which is hereby adopted by this notice. A list of the issues which parties have raised and to which we have responded, all of which are in the Decision Memorandum, is attached to this notice as an appendix. Parties can find a complete discussion of all issues raised in this investigation and the

corresponding recommendations in the Decision Memorandum, which is on file in the CRU. In addition, a complete version of the Decision Memorandum can be accessed directly on the Web at <http://ia.ita.doc.gov/frn/>. The paper copy and electronic version of the Decision Memorandum are identical in content.

**Targeted Dumping**

In the *Preliminary Determination*, with respect to targeted dumping, we followed the methodology outlined in the post-preliminary targeted dumping analysis in the investigations of Certain Steel Nails from the PRC and the UAE. SEE Memorandum to David M. Spooner, Assistant Secretary for Import Administration, from Stephen J. Claeys, Deputy Assistant Secretary for Import Administration, RE: Antidumping Duty Investigation of Certain Steel Nails from the Peoples Republic of China (PRC) and the United Arab Emirates (UAE), Subject: Post-Preliminary Determinations on Targeted Dumping, dated April 21, 2008 (April 21, 2008 Nails decision memorandum).<sup>1</sup> Based on the targeted dumping test that we applied in the *Preliminary Determination*, we did not find a pattern of constructed export prices for comparable merchandise that differ significantly among customers.<sup>2</sup> As a result, we applied the average-to-average methodology to the constructed export prices of all of MSSA's sales to the United States during the POI and calculated a preliminary margin of 62.62 percent for MSSA.<sup>3</sup>

In the *Preliminary Determination*, the Department applied the Nails targeted dumping test based on the methodology outlined in the April 21, 2008 Nails decision memorandum and found no targeted dumping. We have analyzed the case and rebuttal briefs<sup>4</sup> with respect to targeted dumping issues submitted for the record in this investigation and considered the changes made to the targeted dumping test applied in the final determinations of UAE and PRC Nails and PRC Tires.<sup>5</sup>

<sup>1</sup> See *Preliminary Determination* at 30606.

<sup>2</sup> *Id.* at 30607.

<sup>3</sup> *Id.* at 30609.

<sup>4</sup> See the petitioner's case brief, dated July 25, 2008; see also: MSSA's rebuttal brief, dated July 30, 2008, respectively.

<sup>5</sup> See *Certain Steel Nails from the United Arab Emirates: Notice of Final Determination of Sales at Not Less Than Fair Value*, 73 FR 33985 (June 16, 2008) and accompanying Issues and Decision Memorandum (*Steel Nails from the UAE*) dated June 6, 2008, at Comment 5; see also: *Certain Steel Nails from the People's Republic of China: Final Determination of Sales at Less Than Fair Value and Partial Affirmative Determination of Critical*

As a result of our analysis, we utilized the Nails targeted dumping test from the *Preliminary Determination* and applied certain modifications from *Nails and PRC Tires* for purposes of the final determination.<sup>6</sup>

As in the *Preliminary Determination*, we did not find a pattern of export prices for comparable merchandise that differ significantly among customers. For further discussion, see Comments 2 and 3 of the Decision Memorandum and the Memorandum to James Terpstra, Program Manager for the Office of AD/CVD Operations, from Dennis McClure and Joy Zhang, Analysts for the Office of AD/CVD Operations, RE: Antidumping Duty Investigation of Sodium Metal from France, Subject: Final Analysis Memorandum for Sales MSSA, dated October 10, 2008 (Final Analysis Memorandum).

**Critical Circumstances**

On September 15, 2008, the petitioner filed a critical circumstances allegation with respect to imports of sodium metal from France. On September 25, 2008, MSSA submitted comments and monthly shipment data in response to the petitioner’s allegation. Although the Department found that in accordance with section 735(a)(3)(A)(ii) of the Act, the person by whom, or for whose account, the merchandise was imported knew or should have known that the exporter was selling the subject merchandise at less than its fair value and there was likely to be material injury of such sales, the Department has made a final negative determination concerning critical circumstances for MSSA and all other French manufacturers and exporters because, in accordance with section 735(a)(3)(B) of the Act, and based on MSSA’s shipment data, MSSA and all other companies did not have massive imports during a relatively short period. See Memorandum to Stephen J. Claeys, Deputy Assistant Secretary for Import Administration, from Melissa Skinner, Director, AD/CVD Operations, Subject: Antidumping Duty Investigation of Sodium Metal from France, Regarding: Final Negative Determination of Critical

Circumstances, dated October 10, 2008, which is hereby adopted by this notice.

**Verification**

As provided in section 782(i) of the Act, we verified the sales and cost information submitted by MSSA for use in our final determination. We used standard verification procedures including an examination of relevant accounting and production records, and original source documents provided by MSSA. See Sales Verification Report and Cost Verification Report.

**Changes Since the Preliminary Determination**

Based on our analysis of the comments received and our findings at verification, we have made certain changes to the margin calculation for MSSA. For a discussion of these changes, see the Decision Memorandum at Comments 6, 8, 10, and 11, Final Analysis Memorandum, and Memorandum to Neal M. Halper, Director, Office of Accounting, from LaVonne Clark, Senior Accountant, Reference: Antidumping Duty Investigation of Sodium Metal from France, Subject: Cost of Production and Constructed Value Calculation Adjustments for the Final Determination MSSA S.A.S., MSSA Co., and Columbia Sales International, Inc. (collectively “MSSA”), dated October 10, 2008.

**Final Determination Margins**

We determine that the following weighted-average dumping margin exists for the period October 1, 2006, to September 30, 2007:

| Manufacturer/Exporter | Weighted-Average Margin (percent) |
|-----------------------|-----------------------------------|
| MSSA S.A.S. ....      | 66.64                             |
| All Others .....      | 66.64                             |

**Disclosure**

We will disclose the calculations performed within five days of the date of publication of this notice to parties in this proceeding in accordance with 19 CFR 351.224(b).

**Continuation of Suspension of Liquidation**

Pursuant to section 735(c)(1)(B) of the Act, we will instruct Customs and Border Protection (CBP) to continue to suspend liquidation of all entries of subject merchandise from France, entered, or withdrawn from warehouse, for consumption on or after May 28, 2008, the date of publication of the *Preliminary Determination*. We will instruct CBP to require a cash deposit or the posting of a bond equal to the

weighted-average dumping margin, as indicated in the chart above, as follows: (1) the rate for MSSA S.A.S. will be 66.64 percent; (2) if the exporter is not a firm identified in this investigation, but the producer is, the rate will be the rate established for the producer of the subject merchandise; (3) the rate for all other producers or exporters will be 66.64 percent. The suspension of liquidation instructions will remain in effect until further notice.

**International Trade Commission Notification**

In accordance with section 735(d) of the Act, we have notified the International Trade Commission (ITC) of our final determination. As our final determination is affirmative and in accordance with section 735(b)(2) of the Act, the ITC will determine, within 45 days, whether the domestic industry in the United States is materially injured, or threatened with material injury, by reason of imports or sales (or the likelihood of sales) for importation of the subject merchandise. If the ITC determines that material injury or threat of material injury does not exist, the proceeding will be terminated and all securities posted will be refunded or canceled. See section 735(c)(2) of the Act. If the ITC determines that such injury does exist, the Department will issue an antidumping duty order directing CBP to assess antidumping duties on all imports of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the effective date of the suspension of liquidation.

**Notification Regarding APO**

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

This determination is issued and published pursuant to sections 735(d) and 777(i)(1) of the Act.

*Circumstances*, 73 FR 33977 (June 16, 2008) and accompanying Issues and Decision Memorandum (*Steel Nails from the PRC*) dated June 6, 2008, at Comments 3, 5, and 9 (collectively, *Nails*); see also: *Certain New Pneumatic Off-The-Road Tires from the People’s Republic of China: Final Affirmative Determination of Sales at Less Than Fair Value and Partial Affirmative Determination of Critical Circumstances*, 73 FR 40480 (July 15, 2008) and accompanying Issues and Decision Memorandum (*PRC Tires*) dated July 7, 2008, at Comments 23. B and 23.G.

<sup>6</sup> *Id.*

Dated: October 10, 2008.

**David M. Spooner,**

*Assistant Secretary for Import  
Administration.*

**Appendix -- Issues in Decision  
Memorandum**

**ISSUES**

*Comment 1:* Whether the Department  
Should Include "Form" As Part of  
Model Match Criteria

*Comment 2:* Whether the Department  
Should Calculate the Antidumping Duty  
Margin using the Transaction-to-  
Transaction Methodology

*Comment 3:* Whether the Department's  
Targeted Dumping Test is Flawed and  
Should be Replaced with the  
"preponderance at two percent test" (P/  
2 test)

*Comment 4:* Whether the Department  
Should Alter Its Level of Trade Analysis

*Comment 5:* Whether the Department  
Should Calculate Certain Home Market  
Packing Expenses Based on Facts  
Available

*Comment 6:* Whether the Department  
Should Re-allocate Indirect Selling  
Expenses Based on Sales Value

*Comment 7:* Whether the Department  
Should Deduct Freight from Transfer  
Price Before Calculating Domestic  
Indirect Selling Expenses

*Comment 8:* Whether the Department  
Should Correct MSSA Co.'s Inventory  
Carrying Costs in the United States

*Comment 9:* Whether the Department  
Incorrectly Characterized MSSA Co.'s  
Quantity and Value Reconciliation

*Comment 10:* Whether the Department  
Correctly Calculated Indirect Selling  
Expenses Incurred in the Home Market  
for Purposes of the CEP Deduction

*Comment 11:* Whether the Department  
Should Consider Certain Expenses  
Reported as Indirect Selling Expenses as  
Direct Deductions from the U.S. Price

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