respondent is subject to de facto governmental control of its export functions: (1) whether the export prices are set by or subject to the approval of a governmental authority; (2) whether the respondent has authority to negotiate and sign contracts and other agreements; (3) whether the respondent has autonomy from the government in making decisions regarding the selection of management; and (4) whether the respondent retains the proceeds of its export sales and makes independent decisions regarding disposition of profits or financing of losses (see Silicon Carbide).

Regarding the absence of de jure control, the three exporters of the subject merchandise, Metagrimex, Metanef and Metalexportimport, have provided their business licenses issued by the Romanian Chamber of Commerce and Industry. According to each of the three exporters, this license does not require renewal, does not impose any limitations on or create any entitlements for the operations of these exporters, and can only be revoked by the issuing authorities if the requirements of the license are not fulfilled. The three exporters have also provided copies of several laws which they claim provide for the elimination of the state monopoly in the economy and foreign trade. We have reviewed these laws and have found no evidence to contradict

The three exporters have also asserted absence of governmental control based on all the *de facto* criteria. All three respondents have stated that: (1) they establish their own export prices; (2) they negotiate contracts, without guidance from any governmental entities or organizations; and (3) there are no restrictions on the use of their export revenues and they make independent decisions regarding disposition of profits or financing of losses. Concerning autonomy from the government in making decisions regarding the selection of management, both Metagrimex and Metanef have each asserted that their Council of Administration, which selects the management of the company and is similar to a board of directors, is free from government control and the companies are therefore able to make their own management personnel decisions. Metalexportimport has asserted that its five member Council of Administration includes one member appointed by the state ownership fund 1

(SOF) and one member appointed by the private ownership fund ² (POF). The SOF and POF were created by the Romanian government to help privatize Romanian companies. Therefore, although Metalexportimport's Council of Administration includes one member appointed by the SOF and one member appointed by the POF, the council is made up of five members and, thus, the SOF and POF have a minority representation. There is, therefore, no evidence that the central government controls the selection of management for Metalexportimport. All of these statements will be subject to verification.

Consequently, we preliminarily determine that the information provided by these three companies supports a preliminary finding that there is de jure and *de facto* absence of governmental control of export functions. Therefore, these three companies have preliminarily met the criteria for the application of separate rates. For a further discussion of the Department's preliminary determination that these three companies are entitled to separate rates, see the November 13, 1995, memorandum from the team to Gary Taverman, Acting Director, Office of Antidumping Investigations.

Fair Value Comparisons

To determine whether sales of pipe from Romania to the United States by Metagrimex, Metalexportimport and Metanef were made at less than fair value, we compared the Export Price (EP) to the NV, as specified in the "Export Price" and "Normal Value" sections of this notice.

Export Price

For all three exporters, we calculated EP in accordance with section 772(a) of the Act, because the subject merchandise was sold directly to the first unaffiliated purchaser in the United States prior to importation. The constructed export price under section 772(b) is not otherwise warranted on the basis of the facts of this investigation.

We calculated EP based on packed, FOB Romanian port or C&F U.S. port prices to unaffiliated purchasers in the United States, as appropriate. We made deductions from the starting price, where appropriate, for foreign brokerage and handling, foreign inland freight and ocean freight. Given that foreign brokerage and handling and foreign inland freight were services provided by Romanian companies, we valued these

expenses in Thailand (*see* the Surrogate Country section above).

Normal Value

In accordance with section 773(c) of the Act, we calculated NV based on factors of production reported by Tepro, which produced the pipe for Metagrimex, Metalexportimport and Metanef. To calculate NV, the reported unit factor quantities were multiplied by publicly available Colombian values, where possible. As stated above, we used values from other countries for certain other factors where Colombian values were not available. The selection of the surrogate values applied in this determination was based on the quality and contemporaneity of the data. As appropriate, we adjusted input prices to make them delivered prices. For those values not contemporaneous with the period of investigation (POI), we adjusted for inflation using wholesale price indices or, in the case of labor rates, consumer price indices, published in the International Monetary Fund's International Financial Statistics.

In presenting their suggestions to the Department on the appropriate values to use in this investigation, Tepro and the petitioners have raised two issues. The first issue involves the quality of steel to be valued. Tepro has stated that it uses secondary, not prime, steel, in producing the subject merchandise. Furthermore, Tepro claimed that the grade of steel it uses is different than that contained in the steel valuation suggestions presented by the petitioners. Thus, Tepro argued that the Department should discount any value it uses to account for the difference between primary and secondary steel. The petitioners refuted Tepro's arguments, claiming that Tepro did not provide sufficient support for its claim that it uses secondary steel in the production of the subject merchandise. The Department agrees with the petitioners and has preliminarily denied Tepro's claim for a discount on the value we have used for steel. This decision was based on: (1) the fact that Tepro's reported scrap rates do not appear to be indicative of a producer who's chief material input is second quality; and (2) the results of a test submitted by the petitioners which showed that the grade of steel used by Tepro is identical to the grade of steel used by U.S. and other world producers of the subject merchandise.

The second issue involves the different sources of information presented to value the steel factor. Both Tepro and the petitioners claimed that the information provided by the other was not appropriate. We have

¹ This fund holds the state—s shares in this company and all other companies in which the state owns shares. The state is required to privatize a certain number of the shares it holds every year until it no longer holds any shares in any company.

²This fund possesses the —Certificates of Ownership— which were distributed to all qualified Romanian citizens and will become actual shares of Romanian companies after five years.