

of the total amount of antidumping duties calculated for the examined sales during the POR to the total entered value of sales examined during the POR. Because we could not calculate a margin based on sales during the POR, and had to base the margin on adverse FA, we have determined that importer-specific duty assessments rates are not necessary for this review.

Furthermore, the following deposit requirements shall be effective upon publication of this notice of final results of review for all shipments of certain CTL carbon steel plate from Mexico, entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided for by section 751(a)(1) of the Tariff Act: (1) the cash deposit rate for the reviewed company will be the rate stated above; (2) for previously 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 these reviews, 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) if neither the exporter nor the manufacturer is a firm covered in this review, the cash deposit rate for this case will continue to be 49.25 percent, the "All Others" rate in the LTFV investigation. These deposit requirements shall remain in effect until publication of the final results of the next administrative review.

This notice serves as a final 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 notice also serves as a reminder to parties subject to administrative protective orders (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 353.34 (1997). Timely written notification of the return or destruction of APO materials, or conversion to judicial protective order, is hereby requested. Failure to comply with the regulations and terms of an APO is a sanctionable violation.

This administrative review and notice are in accordance with sections

751(a)(1) and 777(i)(1) of the Act and 19 CFR 351.213.

Dated: December 22, 1998.

**Robert S. LaRussa,**

*Assistant Secretary for Import Administration.*

[FR Doc. 98-34799 Filed 12-31-98; 8:45 am]

BILLING CODE 3510-DS-P

## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-484-801]

#### Electrolytic Manganese Dioxide From Greece: Notice of Extension of Time Limits for Preliminary Results of Antidumping Administrative Review

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

**ACTION:** Notice of Extension of Time Limits for Preliminary Results of Antidumping Duty Administrative Review.

**SUMMARY:** The Department of Commerce is extending the time limit for the preliminary results of the antidumping duty administrative review of the antidumping duty order on electrolytic manganese dioxide from Greece. The period of review is April 1, 1997, through March 31, 1998.

**EFFECTIVE DATE:** January 4, 1999.

**FOR FURTHER INFORMATION CONTACT:** Hermes Pinilla or Robin Gray, AD/CVD Enforcement, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-3477 or (202) 482-4023, respectively.

#### The Applicable Statute

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (the Act) by the Uruguay Round Agreements Act.

#### Extension of Time Limits for Preliminary Results

The Department of Commerce (the Department) has received a request to conduct an administrative review of the antidumping duty order on electrolytic manganese dioxide from Greece. On May 29, 1998, the Department initiated this administrative review covering the period April 1, 1997, through March 31, 1998.

Because it is not practicable to complete this review within the time

limits mandated by section 751(a)(3)(A) of the Act (see Memorandum from Richard W. Moreland to Robert S. LaRussa, Extension of Time Limit for Administrative Review of Electrolytic Manganese Dioxide from Greece, December 30, 1998), the Department is extending the time limit for the preliminary results to April 29, 1999. The Department intends to issue the final results of review 120 days after the publication of the preliminary results. This extension of the time limit is in accordance with section 751(a)(3)(A) of the Act and 19 CFR 351.213 (h)(2).

Dated: December 23, 1998.

**Laurie Parkhill,**

*Acting Deputy Assistant Secretary, Import Administration.*

[FR Doc. 98-34800 Filed 12-31-98; 8:45 am]

BILLING CODE 3510-DS-P

## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-412-818]

#### Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Stainless Steel Sheet and Strip in Coils From the United Kingdom

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

**EFFECTIVE DATE:** January 4, 1999.

**FOR FURTHER INFORMATION CONTACT:** Charles Rast at (202) 482-5811 or Nancy Decker at (202) 482-0196, Antidumping and Countervailing Duty Enforcement Group III, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230.

#### Applicable Statute

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (the Tariff Act), are to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to the Department's regulations are to the regulations codified at 19 CFR Part 351, 62 FR 27296 (May 19, 1997).

#### Preliminary Determination

We preliminarily determine that stainless steel sheet and strip in coils (SSSS) from the United Kingdom is being, or is likely to be, sold in the United States at less than fair value (LTFV), as provided in section 733 of

the Tariff Act. The estimated margins of sales at LTFV are shown in the "Suspension of Liquidation" section of this notice.

#### Case History

On June 30, 1998, the Department initiated antidumping duty investigations of imports of SSSS from France, Germany, Italy, Japan, Mexico, South Korea, Taiwan, and the United Kingdom. See Initiation of Antidumping Duty Investigations: Stainless Steel Sheet and Strip in Coils From France, Germany, Italy, Japan, Mexico, South Korea, Taiwan, and the United Kingdom, 63 FR 37521, (July 13, 1998). Since the initiation of this investigation the following events have occurred.

The Department set aside a period for all interested parties to raise issues regarding product coverage. On July 29, 1998, Allegheny Ludlum Corporation, Armco, Inc., J&L Specialty Steel, Inc., Washington Steel Division of Bethlehem Steel Corporation, United Steelworkers of America, AFL-CIO/CLC, Butler Armco Independent Union, and Zanesville Armco Independent Organization, Inc. (collectively "petitioners") filed comments proposing clarifications to the scope of these investigations. Also, from July through October 1998, the Department received numerous responses from respondents aimed at clarifying the scope of the investigations. See Memorandum to Joseph A. Spetrini, December 14, 1998.

During July 1998, the Department requested and received information from the U.S. Embassy in London to identify producers/exporters of the subject merchandise. On July 21, 1998, the Department also requested comments from petitioners, potential respondents, and the British Embassy in Washington regarding the criteria to be used for model matching purposes. On July 27, 1998, petitioners and a potential respondent, Avesta Sheffield Ltd. and Avesta Sheffield NAD, Inc. (collectively "Avesta"), submitted comments on our proposed model matching criteria.

Also on July 24, 1998, the United States International Trade Commission (the Commission) notified the Department of its affirmative preliminary injury determination in this case.

The Department subsequently issued its antidumping questionnaire to Avesta and to Lee Steel Strip Ltd. ("Lee") on August 3, 1998. The questionnaire was divided into five parts, in which we requested that Avesta and Lee respond to section A (general information, corporate structure, sales practices, and merchandise produced), section B (home market or third-country sales),

section C (U.S. sales), and section D (cost of production/constructed value).

Avesta and Lee submitted their responses to section A of the questionnaire on September 8, 1998; Avesta's responses to sections B through D followed on September 28, 1998.

On September 8, 1998, Lee requested to be excused from being a mandatory respondent because it accounted for a minimal share of imports of subject merchandise. On September 10, 1998, petitioners stated that they did not object to Lee's request. On September 14, 1998, the Department granted Lee's request to withdraw from the investigation because of its minimal share of imports of subject merchandise (see Memorandum to Richard Weible, September 14, 1998). On September 21, 1998, the Department decided to (1) limit the examination of producers/exporters of subject merchandise, and (2) not investigate voluntary respondents in this investigation, as well as in the related investigations of Stainless Steel Sheet and Strip in Coils From France, Germany, Italy, Japan, Mexico, South Korea, and Taiwan (see Memorandum to Joseph A. Spetrini, September 21, 1998).

Petitioners filed comments on Avesta's questionnaire responses on September 23 and October 13, 1998. We issued a supplemental questionnaire for section A to Avesta on October 9, 1998, and a supplemental questionnaire for sections B through D on October 28, 1998. Avesta responded to our supplemental questionnaire for section A on November 2, 1998, and to our supplemental questionnaire for sections B through D on November 23, 1998.

On August 28, 1998, Avesta requested that the Department exempt it from reporting certain U.S. resales of rejected merchandise. On September 4, 1998, petitioners argued that the Department should deny Avesta's request because these sales are needed for making a fair comparison of the company's U.S. and home market sales. On October 26, 1998, the Department indicated in a decision memorandum that Avesta should report these U.S. sales subject to its exclusion request. However, if the Department determines based on verification that Avesta's claims about the nature of the resales are correct, they will not be used in the final antidumping margin calculations. (See Memorandum to Joseph A. Spetrini, October 26, 1998.)

On October 6, 1998, petitioners made a timely request for a thirty-day postponement of the preliminary determination pursuant to section 733(c)(1)(A) of the Tariff Act. On October 23, 1998, we postponed the

preliminary determination until no later than December 17, 1998. See Stainless Steel Sheet and Strip From Italy, France, Germany, Mexico, Japan, the Republic of Korea, the United Kingdom, and Taiwan; Notice of Postponement of Preliminary Determinations in Antidumping Duty Investigations, 63 FR 56909 (October 23, 1998).

#### Scope of the Investigation

For purposes of this investigation, the products covered are certain stainless steel sheet and strip in coils. Stainless steel is an alloy steel containing, by weight, 1.2 percent or less of carbon and 10.5 percent or more of chromium, with or without other elements. The subject sheet and strip is a flat-rolled product in coils that is greater than 9.5 mm in width and less than 4.75 mm in thickness, and that is annealed or otherwise heat treated and pickled or otherwise descaled. The subject sheet and strip may also be further processed (e.g., cold-rolled, polished, aluminized, coated, etc.) provided that it maintains the specific dimensions of sheet and strip following such processing.

The merchandise subject to this investigation is classified in the *Harmonized Tariff Schedule of the United States* ("HTSUS") at subheadings: 7219.13.00.30, 7219.13.00.50, 7219.13.00.70, 7219.13.00.80, 7219.14.00.30, 7219.14.00.65, 7219.14.00.90, 7219.32.00.05, 7219.32.00.20, 7219.32.00.25, 7219.32.00.35, 7219.32.00.36, 7219.32.00.38, 7219.32.00.42, 7219.32.00.44, 7219.33.00.05, 7219.33.00.20, 7219.33.00.25, 7219.33.00.35, 7219.33.00.36, 7219.33.00.38, 7219.33.00.42, 7219.33.00.44, 7219.34.00.05, 7219.34.00.20, 7219.34.00.25, 7219.34.00.30, 7219.34.00.35, 7219.35.00.05, 7219.35.00.15, 7219.35.00.30, 7219.35.00.35, 7219.90.00.10, 7219.90.00.20, 7219.90.00.25, 7219.90.00.60, 7219.90.00.80, 7220.12.10.00, 7220.12.50.00, 7220.20.10.10, 7220.20.10.15, 7220.20.10.60, 7220.20.10.80, 7220.20.60.05, 7220.20.60.10, 7220.20.60.15, 7220.20.60.60, 7220.20.60.80, 7220.20.70.05, 7220.20.70.10, 7220.20.70.15, 7220.20.70.60, 7220.20.70.80, 7220.20.80.00, 7220.20.90.30, 7220.20.90.60, 7220.90.00.10, 7220.90.00.15, 7220.90.00.60, and 7220.90.00.80. Although the HTS subheadings are provided for convenience and Customs purposes, the Department's written description of the merchandise under investigation is dispositive.

Excluded from the scope of this investigation are the following: (1) sheet and strip that is not annealed or otherwise heat treated and pickled or otherwise descaled, (2) sheet and strip that is cut to length, (3) plate (*i.e.*, flat-rolled stainless steel products of a thickness of 4.75 mm or more), (4) flat wire (*i.e.*, cold-rolled sections, with a prepared edge, rectangular in shape, of a width of not more than 9.5 mm), and (5) razor blade steel. Razor blade steel is a flat rolled product of stainless steel, not further worked than cold-rolled (cold-reduced), in coils, of a width of not more than 23 mm and a thickness of 0.266 mm or less, containing, by weight, 12.5 to 14.5 percent chromium, and certified at the time of entry to be used in the manufacture of razor blades. See Chapter 72 of the HTSUS, "Additional U.S. Note" 1(d).

In response to comments by interested parties the Department has determined that certain specialty stainless steel products are also excluded from the scope of this investigation. These excluded products are described below:

Flapper valve steel is defined as stainless steel strip in coils containing, by weight, between 0.37 and 0.43 percent carbon, between 1.15 and 1.35 percent molybdenum, and between 0.20 and 0.80 percent manganese. This steel also contains, by weight, phosphorus of 0.025 percent or less, silicon of between 0.20 and 0.50 percent, and sulfur of 0.020 percent or less. The product is manufactured by means of vacuum arc remelting, with inclusion controls for sulphide of no more than 0.04 percent and for oxide of no more than 0.05 percent. Flapper valve steel has a tensile strength of between 210 and 300 ksi, yield strength of between 170 and 270 ksi, plus or minus 8 ksi, and a hardness (Hv) of between 460 and 590. Flapper valve steel is most commonly used to produce specialty flapper valves in compressors.

Also excluded is a product referred to as suspension foil, a specialty steel product used in the manufacture of suspension assemblies for computer disk drives. Suspension foil is described as 302/304 grade or 202 grade stainless steel of a thickness between 14 and 127 microns, with a thickness tolerance of plus-or-minus 2.01 microns, and surface glossiness of 200 to 700 percent Gs. Suspension foil must be supplied in coil widths of not more than 407 mm, and with a mass of 225 kg or less. Roll marks may only be visible on one side, with no scratches of measurable depth. The material must exhibit residual stresses of 2 mm maximum deflection, and flatness of 1.6 mm over 685 mm length.

Certain stainless steel foil for automotive catalytic converters is also excluded from the scope of this investigation. This stainless steel strip in coils is a specialty foil with a thickness of between 20 and 110 microns used to produce a metallic substrate with a honeycomb structure for use in automotive catalytic converters. The steel contains, by weight, carbon of no more than 0.030 percent, silicon of no more than 1.0 percent, manganese of no more than 1.0 percent, chromium of between 19 and 22 percent, aluminum of no less than 5.0 percent, phosphorus of no more than 0.045 percent, sulfur of no more than 0.03 percent, lanthanum of between 0.002 and 0.05 percent, and total rare earth elements of more than 0.06 percent, with the balance iron.

Permanent magnet iron-chromium-cobalt alloy stainless strip is also excluded from the scope of this investigation. This ductile stainless steel strip contains, by weight, 26 to 30 percent chromium, and 7 to 10 percent cobalt, with the remainder of iron, in widths 228.6 mm or less, and a thickness between 0.127 and 1.270 mm. It exhibits magnetic remanence between 9,000 and 12,000 gauss, and a coercivity of between 50 and 300 oersteds. This product is most commonly used in electronic sensors and is currently available under proprietary trade names such as "Arnokrome III."<sup>1</sup>

Certain electrical resistance alloy steel is also excluded from the scope of this investigation. This product is defined as a non-magnetic stainless steel manufactured to American Society of Testing and Materials (ASTM) specification B344 and containing, by weight, 36 percent nickel, 18 percent chromium, and 46 percent iron, and is most notable for its resistance to high temperature corrosion. It has a melting point of 1390 degrees Celsius and displays a creep rupture limit of 4 kilograms per square millimeter at 1000 degrees Celsius. This steel is most commonly used in the production of heating ribbons for circuit breakers and industrial furnaces, and in rheostats for railway locomotives. The product is currently available under proprietary trade names such as "Gilphy 36."<sup>2</sup>

Certain martensitic precipitation-hardenable stainless steel is also excluded from the scope of this investigation. This high-strength, ductile stainless steel product is designated under the Unified Numbering System (UNS) as S45500-

grade steel, and contains, by weight, 11 to 13 percent chromium, and 7 to 10 percent nickel. Carbon, manganese, silicon and molybdenum each comprise, by weight, 0.05 percent or less, with phosphorus and sulfur each comprising, by weight, 0.03 percent or less. This steel has copper, niobium, and titanium added to achieve aging, and will exhibit yield strengths as high as 1700 Mpa and ultimate tensile strengths as high as 1750 Mpa after aging, with elongation percentages of 3 percent or less in 50 mm. It is generally provided in thicknesses between 0.635 and 0.787 mm, and in widths of 25.4 mm. This product is most commonly used in the manufacture of television tubes and is currently available under proprietary trade names such as "Durphynox 17."<sup>3</sup>

Finally, three specialty stainless steels typically used in certain industrial blades and surgical and medical instruments are also excluded from the scope of this investigation. These include stainless steel strip in coils used in the production of textile cutting tools (*e.g.*, carpet knives).<sup>4</sup> This steel is similar to ASTM grade 440F, but containing, by weight, 0.5 to 0.7 percent of molybdenum. The steel also contains, by weight, carbon of between 1.0 and 1.1 percent, sulfur of 0.020 percent or less, and includes between 0.20 and 0.30 percent copper and between 0.20 and 0.50 percent cobalt. This steel is sold under proprietary names such as "GIN4 Mo." The second excluded stainless steel strip in coils is similar to AISI 420-J2 and contains, by weight, carbon of between 0.62 and 0.70 percent, silicon of between 0.20 and 0.50 percent, manganese of between 0.45 and 0.80 percent, phosphorus of no more than 0.025 percent and sulfur of no more than 0.020 percent. This steel has a carbide density on average of 100 carbide particles per square micron. An example of this product is "GIN5" steel. The third specialty steel has a chemical composition similar to AISI 420 F, with carbon of between 0.37 and 0.43 percent, molybdenum of between 1.15 and 1.35 percent, but lower manganese of between 0.20 and 0.80 percent, phosphorus of no more than 0.025 percent, silicon of between 0.20 and 0.50 percent, and sulfur of no more than 0.020 percent. This product is supplied with a hardness of more than Hv 500 guaranteed after customer processing,

<sup>1</sup>"Arnokrome III" is a trademark of the Arnold Engineering Company.

<sup>2</sup>"Gilphy 36" is a trademark of Imphy, S.A.

<sup>3</sup>"Durphynox 17" is a trademark of Imphy, S.A.

<sup>4</sup>This list of uses is illustrative and provided for descriptive purposes only.

and is supplied as, for example, "GIN6".<sup>5</sup>

### Period of Investigation

The period of investigation (POI) is April 1, 1997, through March 31, 1998.

### Postponement of Final Determination and Extension of Provisional Measures

Pursuant to Section 735(a)(2) of the Tariff Act, on December 8 and 9, 1998, Avesta requested that, in the event of an affirmative preliminary determination in this investigation, the Department postpone its final determination until not later than 135 days after the date of the publication of an affirmative preliminary determination in the **Federal Register**, and request to extend the provisional measures to not more than six months. In accordance with 19 CFR 351.210(b), because (1) our preliminary determination is affirmative, (2) Avesta accounts for a significant proportion of exports of the subject merchandise, and (3) no compelling reasons for denial exist, we are granting the respondent's request and are postponing the final determination until no later than 135 days after the publication of this notice in the **Federal Register**. Suspension of liquidation will be extended accordingly.

### Fair Value Comparisons

To determine whether sales of SSSS from the United Kingdom to the United States were made at less than fair value, we compared export price (EP) or constructed export price (CEP) to the normal value (NV), as described in the "Export Price and Constructed Export Price" and "Normal Value" sections of this notice, below. In accordance with section 777A(d)(1)(A)(i) of the Tariff Act, we calculated weighted-average EPs and CEPs for comparison to weighted-average NVs.

On January 8, 1998, the Court of Appeals for the Federal Circuit issued a decision in *CEMEX v. United States*, 1998 WL 3626 (Fed Cir.). In that case, based on the pre-URAA version of the Tariff Act, the Court discussed the appropriateness of using constructed value (CV) as the basis for foreign market value when the Department finds home market sales to be outside the "ordinary course of trade." The URAA amended the definition of sales outside the "ordinary course of trade" to include sales below cost. See Section 771(15) of the Tariff Act. Consequently, the Department has reconsidered its practice in accordance with this court

decision and has determined that it would be inappropriate to resort directly to CV, in lieu of foreign market sales, as the basis for NV if the Department finds foreign market sales of merchandise identical or most similar to that sold in the United States to be outside the "ordinary course of trade." Instead, the Department will use sales of similar merchandise, if such sales exist. The Department will use CV as the basis for NV only when there are no above-cost sales that are otherwise suitable for comparison.

### Transactions Investigated

For its home market and U.S. sales, Avesta reported the date of invoice as the date of sale, in keeping with the Department's stated preference for using the invoice date as the date of sale. Avesta stated that the invoice date best reflects the date on which the material terms of sale are established and that price and/or quantity can and do change between order date and invoice date. However, petitioners have alleged that the sales documentation indicates that the order date appears to be the date when the material terms of sale are set for the majority of Avesta's sales of SSSS. Given the relevance of petitioners' comments and the nature of marketing these types of made-to-order products, petitioners' claims have some merit. Consequently, on October 9 and 28, 1998, the Department requested that Avesta provide additional information concerning the nature and frequency of price and quantity changes occurring between the date of order and date of invoice. We also asked Avesta to report order date for all home market and U.S. sales and to ensure that all sales with order or invoice dates within the POI are reported. On November 2 and 23, 1998, Avesta reiterated that invoice date is the appropriate date of sale and stated that it is unable to gather the data within a reasonable period of time. Avesta did not report order date for home market sales. However, Avesta reported the order date for U.S. sales, including sales with order dates within the POI but invoices after the POI. The Department is preliminarily using the invoice date as the date of sale for both home market and U.S. sales. We intend to fully examine this issue at verification, and we will incorporate our findings, as appropriate, in our analysis for the final determination. If we determine that order confirmation is the appropriate date of sale, we may resort to facts available for the final determination to the extent that this information has not been reported.

In its September 28, 1998, response, Avesta noted that slabs, which are

initially produced in the U.K., are hot-rolled outside of the U.K. (i.e., in Sweden), and then returned to the U.K. for annealing and pickling. Avesta asserts that hot-rolled merchandise, which is sold only in the home market, should be considered a product of Sweden and, thus, sales of hot-rolled merchandise should be excluded from the Department's analysis. Avesta also asserts that a small amount of merchandise reported in the U.S. and/or home market databases is: (1) hot-rolled and cold-rolled in Sweden, and then further cold-rolled, annealed and finally processed in the U.K. (affecting U.S. and home markets); and (2) hot-rolled and cold-rolled in Sweden and then further processed in the U.K. (affecting the home market). Avesta claims that this cold-rolled merchandise should also be considered a product of Sweden and, as such, it should be excluded from the Department's analysis. In Stainless Steel Plate from Sweden, we determined that hot bands rolled in Sweden from British slab are within the scope of that antidumping finding (see Memorandum to Joseph A. Spetrini, December 22, 1997, the public version of which is attached to our Preliminary Determination Analysis Memorandum, December 17, 1998). Therefore, we preliminarily determine, pending the results of verification, to exclude from our analysis (1) Avesta's hot-rolled sales, and (2) those sales of merchandise that are first cold-rolled in Sweden. The Department invites parties to submit information and comment on this issue. Interested parties are instructed to submit their comments, along with any additional supporting information, to the Department by January 7, 1998.

### Product Comparisons

In accordance with section 771(16) of the Tariff Act, we considered all products produced by the respondent covered by the description in the "Scope of the Investigation" section, above, and sold in the home market during the POI, to be foreign like products for purposes of determining appropriate product comparisons to U.S. sales. Where there were no sales of identical merchandise in the home market to compare to U.S. sales, we compared U.S. sales to the next most similar foreign like product on the basis of the characteristics and reporting instructions listed in the Department's questionnaire.

### Level of Trade

In accordance with section 773(a)(1)(B) of the Tariff Act, to the extent practicable, we determine NV

<sup>5</sup> "GIN4 Mo", "GIN5" and "GIN6" are the proprietary grades of Hitachi Metals America, Ltd.

based on sales in the comparison market at the same level of trade (LOT) as the EP or CEP transaction. The NV LOT is that of the starting-price sales in the comparison market or, when NV is based on CV, that of the sales from which we derive selling, general and administrative (SG&A) expenses and profit. For EP it is the level of the sale from the exporter to the importer. For CEP, it is the level of the constructed sale from the exporter to the importer. If the sales being compared are at different LOTs, and the difference affects price comparability, as manifested in a pattern of consistent price differences between the sales on which NV is based and the U.S. sales being compared, we make a LOT adjustment under section 773(a)(7)(A) of the Tariff Act.

To determine whether NV sales are at a different LOT than EP or CEP sales, we examine stages in the marketing process and selling functions along the chain of distribution. If the comparison market sales are at a different LOT, and the difference affects price comparability, as manifested in a pattern of consistent price differences between the sales on which NV is based and comparison market sales at the LOT of the export transaction, we make a LOT adjustment under section 773(a)(7)(A) of the Tariff Act. Finally, for CEP sales, if the NV level is more remote from the factory than the CEP level and there is no basis for determining whether the differences in the levels between NV and CEP sales affect price comparability, we adjust NV under section 773(A)(7)(B) of the Tariff Act (the CEP offset provision). (See, e.g., *Certain Carbon Steel Plate from South Africa, Final Determination of Sales at Less Than Fair Value*, 62 FR 61731 (November 19, 1997).)

In the home market, Avesta made sales to distributors and end-users. The company claims five channels of distribution with respect to these sales: (1) mill "super direct" sales (i.e., sales shipped directly to affiliated and unaffiliated end-user customers and invoiced from the producing mill); (2) mill "direct" sales to unaffiliated distributor and end-user customers (i.e., sales shipped directly from the mill, using Avesta Sheffield Distribution Ltd. (AVSD), an affiliated sales company/service center, as a sales agent); (3) AVSD "service center distributor" sales (i.e., the producing mills sell to AVSD, which resells the merchandise in original form or following further processing); (4) Billing Stainless, an affiliated sales company, sales (i.e., resales of offcuts and non-prime merchandise from the mills); and (5) AVSD consignment sales. Avesta claims

that each channel of distribution represents a separate LOT. In the U.S. market, Avesta reported sales made to distributors and end-users, claiming three channels of distribution for these sales: (1) Mill "direct" sales (i.e., sales shipped directly from the mill to the unaffiliated U.S. distributor and end-user customers, using Avesta Sheffield, Inc. (ASI), an affiliated sales company, as a sales agent); (2) sales from warehouse stock which includes ASI "master distributor" sales; and (3) ASI consignment sales. Avesta claims two LOTs in the U.S.: (1) CEP sales; and (2) EP sales. The first channel of distribution (i.e., mill direct sales) includes both CEP and EP sales, while the other two channels of distribution (i.e., ASI master distributor and ASI consignment sales) consist solely of CEP sales. Avesta also asserts that prices charged to customers in the United States and in the United Kingdom tend to vary across channels of distribution and that these variations typically reflect differences in the selling activities performed. Avesta claims that CEP sales were made at a LOT comparable to "super direct" mill sales in the home market. Avesta requests that the Department make a LOT adjustment or, alternatively, grant a CEP offset to the extent ASI's CEP sales cannot be compared to sales at the same LOT.

In determining whether separate LOT actually existed in the home market, we first examined whether Avesta's sales involved different marketing stages (or their equivalent) and selling functions along the chain of distribution between Avesta and its unaffiliated customers. We found that Avesta provided no detailed narrative explanation supporting its claim that the channels of distribution represent different LOTs, nor did it explain why each of these channels represents a different stage of marketing. Normally, stages of marketing focus on whether sales are to service centers or end-users, in some instances taking into account whether or not sales are made through intermediate parties. On this basis, it appears that Avesta's mill super direct sales may be at a different stage of marketing than its other sales because these sales were sold directly from the mill to the unaffiliated customer, whereas sales through the other four channels of distribution involved an affiliated intermediary before going to the unaffiliated customer. This would indicate that Avesta has, at most, two home market LOTs, rather than five.

In further analyzing Avesta's LOT claims in the home market, we reviewed available information on the record

about the company's selling functions at each marketing stage. Avesta identified 30 different selling functions (see Attachment SRA-5 of Avesta's November 2, 1998, supplemental section A response). We closely examined these functions and concluded that the following ten functions do not appear to be selling functions relevant to the Department's LOT analysis because they do not characterize significant services provided to customers: issuing purchase order confirmations; inputting orders; sending a mill certificate; sending packing lists; issuing invoices; buying coils from mills; acting as commission agent; buying merchandise on account; repacking; and issuing product brochures and data sheets. We also decided to combine several other functions because we found that they were not sufficiently different to warrant being treated as unique selling functions. Thus, we consolidated negotiating price/discounts/rebates to unaffiliated and affiliated customers and maintaining internal and external warehouses into two single categories. Similarly, we have combined several sales and marketing support functions (i.e., identifying customers, acting as mill and customer liaison, promoting new products, maintaining sales department, sales and marketing support, and developing sales strategies) into a single sales and marketing support selling function. As a result of our analysis, we concluded that Avesta performed 13 separate selling functions in its home market, rather than 30.

Next, we tested whether these selling functions are provided consistently across all five channels of distribution in the home market, finding that the following eight functions were provided across all channels of distribution: negotiating prices; performing credit checks; extending credit; collecting payment; assuming warranty obligations; maintaining inventory; arranging shipment logistics; and providing sales and marketing support. Of the remaining five selling functions, we noted the following differences: processing services are not provided on super direct and mill direct sales; warehousing services are not provided on mill direct sales; technical services and market research are not provided on Billing Stainless sales; and R&D is only provided on super direct sales.

In conclusion, while Avesta claimed differences in selling functions in connection with each channel of distribution, we find that the actual differences in selling functions between channels are relatively minor. Thus, we conclude that the company did not

adequately support these claims. Therefore, we preliminarily determine that only one LOT existed for Avesta in the home market.

In determining whether two LOTs existed in the U.S. market, as Avesta claims, we examined the selling functions performed by Avesta for both EP and CEP sales. According to Avesta, it provides no selling functions in support of its CEP sales, when the expenses associated with the sales by ASI to the unaffiliated buyer are excluded pursuant to the Department's practice. Avesta reported that the following selling functions were provided for EP sales: sales and marketing support (including negotiating prices); logistics; credit checks; credit; collecting payment; and assuming warranty obligations. Based on our analysis of the information on the record, we find that these functions were not provided for Avesta's CEP sales. Consequently, we determine that Avesta provided significantly different selling functions for its EP sales than it did on CEP sales.

In analyzing the differences between stages of marketing, we have also concluded that Avesta's EP and CEP sales are at two separate stages of marketing. See Preliminary Analysis Memorandum, December 17, 1998, a public version of which is on file in room B-099 of the main Commerce building. Based on our analysis, we have preliminarily determined that Avesta has two separate LOTs in the United States.

We next compared EP sales to home market sales to determine whether they were made at the same LOT. To perform this analysis, we compared the selling functions offered by Avesta on its EP sales to the functions performed by it on its home market sales. The information on the record indicates that, for both EP and home market transactions, Avesta performed numerous similar selling functions, such as sales and marketing support, negotiating prices, logistics, credit checks, extending credit, collecting payment and assuming warranty obligations. We also noted that there were some selling functions performed by Avesta that were not common to its EP and home market sales (e.g., inventory maintenance, processing services, R&D, warehousing, technical support and market research). We believe these differences are qualitatively and quantitatively significant. See Preliminary Analysis Memorandum, December 17, 1998. Because we compared these EP sales to home market sales at a different LOT, we examined whether a LOT adjustment may be appropriate. In this case, Avesta

sold at one LOT in the home market; therefore, there is no basis upon which Avesta has demonstrated a pattern of consistent price differences between LOTs. Further, we do not have the information which would allow us to examine pricing patterns of Avesta's sales of other similar products, and there are no other respondents or other record evidence on which such an analysis could be based. Therefore, we cannot make a LOT adjustment, and a CEP offset, pursuant to section 773(a)(7)(B) of the Tariff Act, is not appropriate because these are EP sales.

Avesta requested a CEP offset in this investigation. Section 773(a)(7)(B) of the Tariff Act establishes that a CEP "offset" may be made when two conditions exist: (1) NV is established at a LOT which constitutes a more advanced stage of distribution than the LOT of the CEP; and (2) the data available do not provide an appropriate basis to determine a LOT adjustment. In this case, we note that for CEP sales, after excluding the expenses associated with the sales by ASI to the unaffiliated buyers in the United States, Avesta performed no services for the customer. Therefore, the differences in selling functions between home market sales and CEP sales are even greater than those described above. Because Avesta's home market sales are at a more advanced stage of distribution than its CEP sales, these sales are at a different LOT. See Preliminary Analysis Memorandum, December 17, 1998.

Because we compared these CEP sales to home market sales at a different LOT, we examined whether a LOT adjustment may be appropriate. See discussion above. Because the data available do not provide an appropriate basis for making a LOT adjustment, but the home market LOT is at a more advanced stage than the LOT of the CEP sales, a CEP offset is appropriate in accordance with section 773(a)(7)(B) of the Tariff Act, as claimed by Avesta. We based the CEP offset amount on the amount of home market indirect selling expenses, and limited the deduction for home market indirect selling expenses to the amount of indirect selling expenses deducted from CEP in accordance with section 772(d)(1)(D) of the Tariff Act. We applied the CEP offset to NV, whether based on home market prices or CV.

#### **Export Price and Constructed Export Price**

Avesta reported as EP transactions its sales of subject merchandise to unaffiliated U.S. customers, in which sales arrangements are negotiated with sales representatives at the U.K.-producing mill, although paperwork,

invoicing, and shipment are handled by ASI. For EP sales, Avesta has claimed that the prices are negotiated by sales representatives in the United Kingdom before importation into the United States, and the products were shipped directly to the customer through ASI without being introduced into U.S. inventory. Avesta reported as CEP transactions its sales of subject merchandise sold to ASI for its own account. ASI then resold the subject merchandise to unaffiliated customers in the United States.

We calculated EP, in accordance with section 772(a) of the Tariff Act, for those sales where the merchandise was sold to the first unaffiliated purchaser in the United States prior to importation and CEP methodology was not otherwise warranted, based on the facts of record. We based EP on the packed, delivered, duty paid price to unaffiliated purchasers in the United States. We made deductions for freight charged to the customer and other movement expenses in accordance with section 772(c)(2)(A) of the Tariff Act; these included, where appropriate, freight charged to the customer (the amount included in reported gross unit price), foreign inland freight, foreign inland insurance, international freight, marine insurance, U.S. inland freight, U.S. inland insurance, unloading charges, U.S. duty, and foreign and U.S. brokerage and handling.

We calculated CEP, in accordance with subsection 772(b) of the Tariff Act, for those sales made by ASI to unaffiliated purchasers in the United States. We based CEP on the packed, delivered, duty paid prices to unaffiliated purchasers in the United States. We made adjustments for discounts and rebates, where applicable. We also made deductions for freight charged to the customer and other movement expenses in accordance with section 772(c)(2)(A) of the Tariff Act; these included, where appropriate, foreign inland freight, foreign inland insurance, international freight, marine insurance, U.S. inland freight, U.S. warehousing, U.S. inland insurance, unloading charges, U.S. duty, and foreign and U.S. brokerage and handling. In accordance with section 772(d)(1) of the Tariff Act, we deducted those selling expenses associated with economic activities occurring in the United States, including direct selling expenses (credit costs, warranty expenses), inventory carrying costs, and indirect selling expenses. In accordance with section 772(d)(2) of the Tariff Act, we deducted the cost of further manufacturing (slitting costs). For CEP sales, we also made an adjustment for

profit in accordance with section 772(d)(3) of the Tariff Act.

#### Normal Value

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 (i.e., the aggregate volume of home market sales of the foreign like product was equal to or greater than five percent of the aggregate volume of U.S. sales), we compared the respondent's 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 Tariff Act. As Avesta'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 of the subject merchandise, we determined that the home market was viable. Therefore, we have based NV on home market sales in the usual commercial quantities and in the ordinary course of trade.

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

Sales to affiliated customers in the home market not made at arm's-length prices (if any) were excluded from our analysis because we considered them to be outside the ordinary course of trade. See 19 CFR 351.102. To test whether these sales were made at arm's-length prices, we compared, on a model-specific basis, the starting prices of sales to affiliated and unaffiliated customers net of all movement charges, direct selling expenses, and packing. Where, for the tested models of subject merchandise, prices to the affiliated party were on average 99.5 percent or more of the price to unaffiliated parties, we determined that sales made to the affiliated party were at arm's length. See 19 CFR 351.403(c). In instances where no price ratio could be constructed for an affiliated customer because identical merchandise was not sold to unaffiliated customers, we were unable to determine that these sales were made at arm's-length prices and, therefore, excluded them from our LTFV analysis. See, e.g., Final Determination of Sales at Less Than Fair Value: Certain Cold-Rolled Carbon Steel Flat Products from Argentina, 58 FR 37062, 37077 (July 9, 1993); Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Emulsion Styrene-Butadiene Rubber from Brazil, 63 FR 59509 (Nov. 8, 1998), citing to Final Determination of Sales at Less Than Fair Value: Certain Cold-Rolled Carbon Steel Flat Products from Argentina, 58 FR

37062 (July 9, 1993). Where the exclusion of such sales eliminated all sales of the most appropriate comparison product, we made a comparison to the next most similar model.

#### Cost of Production Analysis

Based on a cost allegation filed by petitioners, the Department found reasonable grounds to believe or suspect that Avesta's sales of the foreign like product were made at prices which represent less than the cost of production (COP). See section 773(b)(2)(A) of the Tariff Act. As a result, the Department has initiated an investigation to determine whether the respondent made home market sales during the POI at prices below their respective COPs, within the meaning of section 773(b) of the Tariff Act. (See Initiation, 63 FR 37521, July 13, 1998).

In accordance with section 773(b)(3) of the Tariff Act, we calculated COP based on the sum of Avesta's cost of materials and fabrication for the foreign like product, plus an amount for G&A, interest expenses, and packing costs. In addition, on a transaction specific basis, we added to COP, tolling costs for slitting work done by an unaffiliated party.

We used the information from Avesta's section D questionnaire responses to calculate COP. We compared the weighted-average COP for Avesta to home market sales prices of the foreign like product, as required under section 773(b) of the Tariff Act. In determining whether to disregard home market sales made at prices less than the COP, we examined whether such sales were made (i) in substantial quantities over an extended period of time, and (ii) at prices which permitted the recovery of all costs within a reasonable period of time. On a product-specific basis, we compared COP to home market prices, less any applicable movement charges, billing adjustments, and discounts and rebates.

Pursuant to section 773(b)(2)(C)(i) of the Tariff Act, where less than twenty percent of a respondent's sales of a given product were at prices less than the COP, we did not disregard any below-cost sales of that product because we determined that the below-cost sales were not made in "substantial quantities." Where twenty percent or more of a respondent's sales of a given product during the POI were at prices less than the COP, we determined such sales to have been made in substantial quantities, in accordance with section 773(b)(2)(C)(i) of the Tariff Act. In addition, we determined that such below-cost sales were made within an

extended period of time, in accordance with section 773(b)(2)(B) of the Tariff Act. In such cases, pursuant to section 773(b)(2)(D) of the Tariff Act, we also determined that such sales were not made at prices which would permit recovery of all costs within a reasonable period of time. Therefore, we disregarded the below-cost sales. Where all sales of a specific product were at prices below the COP, we disregarded all sales of that product and relied on similar merchandise to match, if available (see *CEMEX v. United States*, 1998 WL 3626 (Fed. Cir.)).

Our cost test for Avesta revealed that less than twenty percent of Avesta's home market sales of certain products were at prices below Avesta's COP. We retained all such sales in our analysis. For other products, more than twenty percent of Avesta's sales were at below-cost prices. In such cases we disregarded the below-cost sales, while retaining the above-cost sales for our analysis. See Preliminary Determination Analysis Memorandum, December 17, 1998.

#### Constructed Value

In accordance with section 773(e)(1) of the Tariff Act, we calculated CV based on the sum of respondent's cost of materials, fabrication, SG&A, interest expenses, and profit. In accordance with section 773(e)(2)(A) of the Tariff Act, we based SG&A and profit on the amounts incurred and realized by Avesta in connection with the production and sale of the foreign like product in the ordinary course of trade for consumption in the foreign country. We used the CV data Avesta supplied in its section D questionnaire responses.

#### Price-to-Price Comparisons

We calculated NV based on FOB or delivered prices to unaffiliated customers or prices to affiliated customers that we determined to be at arm's-length prices. We made adjustments for billing adjustments and discounts and rebates. We made deductions, where appropriate, for foreign inland freight, warehousing, and inland insurance, pursuant to section 773(a)(6)(B) of the Tariff Act. In addition, we made adjustments for differences in physical characteristics of the merchandise pursuant to section 773(a)(6)(C)(ii) of the Tariff Act, as well as for differences in circumstances of sale (COS) in accordance with section 773(a)(6)(C)(iii) of the Tariff Act and 19 CFR 351.410. We made COS adjustments for imputed credit expenses and warranties. Finally, we deducted home market packing costs and added U.S. packing costs in accordance with



section 773(a)(6)(A) and (B) of the Tariff Act.

#### Price-to-CV Comparisons

In accordance with section 773(a)(4) of the Tariff Act, we based NV on CV if we were unable to find a home market match of identical or similar merchandise. We calculated CV based on the costs of materials and fabrication employed in producing the subject merchandise, SG&A, and profit. In accordance with section 773(a)(2)(A) of the Tariff Act, we based SG&A expense and profit on the amounts incurred and realized by the respondent in connection with the production and sale of the foreign like product in the ordinary course of trade for consumption in the United Kingdom. For selling expenses, we used the weighted-average home market selling expenses. Where appropriate, we made adjustments to CV in accordance with section 773(a)(8) of the Tariff Act. For comparisons to EP, we made COS adjustments by deducting home market direct selling expenses and adding U.S. direct selling expenses. When we compared CV to CEP, we deducted from CV the weighted-average home market direct selling expenses.

#### Currency Conversion

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

#### Verification

As provided in section 782(i) of the Tariff Act, we will verify all information relied upon in making our final determination.

#### Suspension of Liquidation

In accordance with section 733(d) of the Tariff Act, we are directing the Customs Service to suspend liquidation of all imports of subject merchandise that are entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**. We will instruct the Customs Service to require a cash deposit or the posting of a bond equal to the weighted-average amount by which the NV exceeds the export price, as indicated below. These suspension-of-liquidation instructions will remain in effect until further notice. The weighted-average dumping margins are as follows:

Exporter/manufacturer	Weighted-average margin (percentage)
Avesta Sheffield .....	13.45
All Others .....	13.45

#### Commission Notification

In accordance with section 733(f) of the Tariff Act, we have notified the Commission of our determination. If our final determination is affirmative, the Commission will determine before the later of 120 days after the date of this preliminary determination or 45 days after our final determination whether imports of stainless steel sheet and strip in coils are materially injuring, or threaten material injury to, the U.S. industry.

#### Public Comment

Case briefs or other written comments may be submitted to the Assistant Secretary for Import Administration no later than fifty days after the date of publication of this notice, and rebuttal briefs, limited to issues raised in case briefs, no later than fifty-five days after the date of publication of this preliminary determination. A list of authorities used and an executive summary of issues should accompany any briefs submitted to the Department. This summary should be limited to five pages total, including footnotes. In accordance with section 774 of the Tariff Act, we will hold a public hearing, if requested, to afford interested parties an opportunity to comment on arguments raised in case or rebuttal briefs. Tentatively, any hearing will be held fifty-seven days after publication of this notice at the U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230, at a time and location to be determined. Parties should confirm by telephone the date, time, and location of the hearing 48 hours before the scheduled time.

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, U.S. Department of Commerce, Room 1870, 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 the issues to be discussed. At the hearing, each party may make an affirmative presentation only on issues raised in that party's case brief, and may make rebuttal presentations only on arguments included in that party's rebuttal brief. See 19 CFR 351.310(c). If this investigation proceeds normally, we

will make our final determination by no later than 135 days after the publication of this notice in the **Federal Register**.

This determination is issued and published in accordance with sections 733(d) and 777(i)(1) of the Tariff Act.

Dated: December 17, 1998.

**Richard W. Moreland,**

*Acting Assistant Secretary for Import Administration.*

[FR Doc. 98-34460 Filed 12-31-98; 8:45 am]

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## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-428-825]

#### Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination; Stainless Steel Sheet and Strip in Coils From Germany

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

**ACTION:** Notice of Preliminary Determination of Sales at Less Than Fair Value.

**EFFECTIVE DATE:** January 4, 1999.

**FOR FURTHER INFORMATION CONTACT:** Charles Ranado, Robert James, or Stephanie Arthur at (202) 482-3518, (202) 482-5222 or (202) 482-6312, respectively, Antidumping and Countervailing Duty Enforcement Group III, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230.

#### Applicable Statute and Regulations:

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (the Tariff Act), are to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to the Department's regulations are to the regulations codified at 19 CFR Part 351 (May 19, 1998).

#### Preliminary Determination

We preliminarily determine that stainless steel sheet and strip in coil (SSSS) from Germany is being, or is likely to be, sold in the United States at less than fair value (LTFV), as provided in section 733 of the Tariff Act. The estimated margins of sales at LTFV are shown in the "Suspension of Liquidation" section of this notice.