

Administration, Department of Commerce.

ACTION: Notice of decision of panel.

SUMMARY: On March 20, 2001 the binational panel issued its decision in the review of the final antidumping duty determination made by the International Trade Administration, respecting Corrosion-Resistant Carbon Steel Flat Products from Canada, NAFTA Secretariat File Number USA-CDA-98-1904-01. The majority remanded the determination to the Investigating Authority with the following instructions: (1) DOC is required to recalculate Stelco's costs of production, taking account of the year-end return of profits by Baycoat to Stelco. The Panel requires DOC to provide the Panel with the method by which DOC recalculates that cost of production in light of such return of profits. The Panel further requires that DOC explain their methodology in light of the statutory requirements and attendant legislation as interpreted by the Panel; (2) DOC is required to reevaluate the application of 19 U.S.C. 1677 (b)(f)(3) in light of the requirement that DOC adjust the transfer price in accordance with the recalculation set out under (1) immediately above; (3) In its Response Brief, DOC requests a remand to correct any errors on the imputed credit expense and payment date issues, in light of Stelco's complaint. The Panel grants DOC's request and so remands; and (4) DOC is required to provide the Panel with its response to the aforementioned remand instructions within sixty (60) days from the date of this remand. One Panelist concurred in part and dissented in part to the majority opinion. The dissenting Panelist rejects Stelco's challenge to DOC's construction of the applicable statutes and to its findings of facts. In all other respects, he concurred in the remand. Copies of the panel decision are available from the U.S. Section of the NAFTA Secretariat.

FOR FURTHER INFORMATION CONTACT: Caratina L. Alston, United States Secretary, NAFTA Secretariat, Suite 2061, 14th and Constitution Avenue, Washington, D.C. 20230, (202) 482-5438.

SUPPLEMENTARY INFORMATION: Chapter 19 of the North American Free-Trade Agreement ("Agreement") establishes a mechanism to replace domestic judicial review of final determinations in antidumping and countervailing duty cases involving imports from a NAFTA country with review by independent binational panels. When a Request for Panel Review is filed, a panel is

established to act in place of national courts to review expeditiously the final determination to determine whether it conforms with the antidumping or countervailing duty law of the country that made the determination.

Under Article 1904 of the Agreement, which came into force on January 1, 1994, the Government of the United States, the Government of Canada and the Government of Mexico established *Rules of Procedure for Article 1904 Binational Panel Reviews* ("Rules"). These Rules were published in the **Federal Register** on February 23, 1994 (59 FR 8686). The panel review in this matter has been conducted in accordance with these Rules.

Panel Decision

The panel remanded the final determination of the International Trade Administration with instructions listed above. The determination on remand is due on May 21, 2001.

Dated: March 22, 2001.

Caratina L. Alston,

U.S. Secretary, NAFTA Secretariat.

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DEPARTMENT OF COMMERCE

International Trade Administration

Policy Statement Regarding Issuance of *Ex-Parte* Memoranda

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

EFFECTIVE DATE: February 13, 2000.

SUMMARY: The Department of Commerce ("the Department") has revised its policy regarding issuance of *ex-parte* memoranda. We are now announcing this change in policy.

FOR FURTHER INFORMATION CONTACT: Roland MacDonald, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington DC 20230; telephone: (202) 482-1275.

SUPPLEMENTARY INFORMATION: In *Nippon Steel Corp. v. United States*, 118 F. Supp. 2d 1366, 1374 (CIT 2000), the Court of International Trade held that the Department's implementation, in the underlying antidumping duty investigation, of the *ex-parte* memoranda provision of its statute constituted a violation of that statute. The Department acknowledges that the *ex-parte* memoranda in that proceeding contained inadequate information and were not timely placed on the record. In

order to assure better compliance with this provision, the following policy statement was issued to all Import Administration staff. In addition, the Office of the Under Secretary for International Trade and the Office of the Secretary were notified.

Policy Statement on *ex-parte* Memoranda

All Import Administration staff are instructed that *ex-parte* memoranda required by section 777(a)(3) of the Act will be drafted expeditiously in all cases, reviewed by a person in attendance at the meeting, and placed in the record as soon as possible, so that parties may comment effectively on the factual matters presented. The memoranda are required whether or not the factual information received was received previously, is expected to be received later in the proceeding, or is expected to be used or relied on. This statutory provision is included below.

Ex-Parte Meetings

The administering authority and the Commission shall maintain a record of any *ex-parte* meetings between—

(A) interested parties or other persons providing factual information in connection with a proceeding, and

(B) the person charged with making the determination, or any person charged with making a final recommendation to that person, in connection with that proceeding, if information relating to that proceeding was presented or discussed at such meeting.

The record of such an *ex-parte* meeting shall include the identity of the persons present at the meeting, the date, time, and place of the meeting, and a summary of the matters discussed or submitted. The record of the *ex-parte* meeting shall be included in the record of the proceeding.

This policy statement will also be made available on the Department's website at <http://ia.ita.doc.gov/policy/>. Effective January 20, 2001, Bernard T. Carreau is fulfilling the duties of the Assistant Secretary for Import Administration.

Dated: March 12, 2001.

Bernard T. Carreau,

Deputy Assistant Secretary, Import Administration.

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