

covered in this or any previous review conducted by the Department, the cash deposit rate will be 51.49 percent, the "All Others" rate established in the LTFV investigation. *See Notice of Antidumping Duty Order and Amended Final Determination of Sales at Less Than Fair Value: Certain Pasta from Turkey*, 61 FR 38546 (July 24, 1996).

These cash deposit requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

#### Notification to Importers

This notice serves as a preliminary 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 administrative review is issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: July 31, 2002.

**Faryar Shirzad,**

Assistant Secretary for Import Administration.

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#### DEPARTMENT OF COMMERCE

#### International Trade Administration

[A-428-825]

#### Stainless Steel Sheet and Strip in Coils From Germany; Notice of Preliminary Results of Antidumping Duty Administrative Review

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

**ACTION:** Notice of Preliminary Results of Antidumping Duty Administrative Review.

**EFFECTIVE DATE:** August 7, 2002.

**SUMMARY:** In response to a request from Allegheny Ludlum, AK Steel Corporation, Butler Armco Independent Union, J&L Specialty Steel, Inc., North American Stainless, United Steelworkers of America, AFL-CIO/CLC, and Zanesville Armco Independent Organization (collectively, petitioners) and respondent Krupp Thyssen Nirosta GmbH (KTN) and Krupp Hoesch Steel

Products, Inc. (KHSP), Krupp Thyssen Nirosta North America, Inc. (KTNNA), Krupp VDM GmbH (VDM), and Krupp VDM Technologies Corporation (VDMT) (collectively, KTN), the Department of Commerce (the Department) is conducting an administrative review of the antidumping duty order on stainless steel sheet and strip in coils (S4) from Germany. The review covers one manufacturer/exporter of the subject merchandise to the United States during the period July 1, 2000 through June 30, 2001.

We preliminarily determine that there are sales at less than normal value by KTN during the period July 1, 2000 through June 30, 2001. If these preliminary results are adopted in our final results of review, we will instruct the U.S. Customs Service to assess antidumping duties based on the difference between the United States Price (USP) and normal value (NV).

Interested parties are invited to comment on these preliminary results. Parties who submit arguments in this proceeding are requested to submit with the arguments: (1) a statement of the issues and (2) a brief summary of the arguments (no longer than five pages, including footnotes).

#### FOR FURTHER INFORMATION CONTACT:

Patricia Tran, Michael Heaney, or Robert James at (202) 482-1121, (202) 482-4475, or (202) 482-0649, 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.

#### SUPPLEMENTARY INFORMATION:

#### Applicable Statute and Regulations:

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (the Tariff Act), are references 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 (2002).

#### Background

The Department published an antidumping duty order on S4 from Germany on July 27, 1999. *See Notice of Amended Final Determination of Sales at Less than Fair Value and Antidumping Duty Order; Stainless Steel Sheet and Strip in Coils from Germany (Antidumping Duty Order)*, 64

FR 40557 (July 27, 1999). On July 2, 2001, the Department published the *Notice of Opportunity to Request Administrative Review* of stainless steel sheet and strip in coils from Germany for the period July 1, 2000 through June 30, 2001 (66 FR 34910), as corrected, July 24, 2001 (66 FR 38455).

On July 31, 2001, petitioners and KTN requested an administrative review of KTN's sales for the period July 1, 2000 through June 30, 2001. On August 20, 2001, we published in the *Federal Register* a notice of initiation of this antidumping duty administrative review covering the period July 1, 2000 through June 30, 2001. *See Notice of Initiation of Antidumping and Countervailing Duty Administrative Reviews and Requests for Revocation in Part*, 66 FR 43570 (August 20, 2001).

Because it was not practicable to complete this review within the normal time frame, on February 25, 2002, we published in the *Federal Register* our notice of the extension of time limits for this review. *See Stainless Steel Sheet and Strips in Coils from Germany; Antidumping Duty Administrative Review; Time Limits; Notice of Extension of Time Limits*, 67 FR 8524 (February 25, 2002). This extension established the deadline for these preliminary results as July 31, 2002.

#### Scope of the Review

For purposes of this order, 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 order is classified in the *Harmonized Tariff Schedule of the United States* (HTS) at subheadings: 7219.13.00.31, 7219.13.00.51, 7219.13.00.71, 7219.13.00.81, 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 review is dispositive.

Excluded from the scope of this order 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 order. 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 for 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 order. 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 order. 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 order. 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 order. 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 order. 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

<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

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

#### Fair Value Comparisons

To determine whether sales of S4 in the United States were made at less than fair value, we compared United States Price (USP) to normal value (NV), as described in the "United States Price" and "Normal Value" sections of this notice. In accordance with section 777A(d)(2) of the Tariff Act, we calculated monthly weighted-average NVs and compared these to individual U.S. transactions.

#### Constructed Export Price (CEP)

We calculated CEP in accordance with subsection 772(b) of the Tariff Act, because sales to the first unaffiliated purchaser took place after importation into the United States. We based CEP on the packed, delivered, duty paid or delivered prices to unaffiliated purchasers in the United States. We made adjustments for price or billing errors, where applicable. We also made deductions for movement expenses in accordance with section 772(c)(2)(A) of the Tariff Act; these included, where appropriate, foreign inland freight, marine insurance, U.S. customs duties, U.S. inland freight, foreign brokerage and handling, international freight, foreign inland insurance, and U.S. warehousing expenses. 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, commissions and other direct selling expenses), inventory carrying costs, and indirect selling expenses. We offset credit expenses by the amount of interest revenue on sales. For CEP sales, we also made an adjustment for profit in

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

For those sales in which material was sent to an unaffiliated U.S. processor to be further processed, we made an adjustment based on the transaction-specific further-processing amounts reported by KTN. In addition, KTN's affiliated U.S. reseller, Ken-Mac, performed further processing on some of KTN's U.S. sales. For these sales, we deducted the cost of further processing in accordance with section 772(d)(2) of the Tariff Act. In calculating the cost of further manufacturing for Ken-Mac, we relied upon the further manufacturing information provided by KTN.

#### 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) of the Tariff Act. As KTN'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 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.

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. If sales were not made at arm's-length then the Department used the sale from the affiliated party to the first unaffiliated party. *See* 19 CFR 351.102. To test whether these sales to affiliates 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 the 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 calculated for an affiliated customer because identical merchandise was not sold to unaffiliated customers, we were unable to determine whether these sales were

made at arm's-length prices and, therefore, excluded them from our analysis. *See 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) and *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, 59512 (November 4, 1998). 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 (COP) Analysis

The Department disregarded certain sales made by KTN in the first administrative review because these sales failed the cost test. *See Notice of Final Results of Antidumping Duty Administrative Review: Stainless Steel Sheet and Strip in Coils from Germany*, 67 FR 7668 (February 20, 2002); *see also Stainless Steel Sheet and Strip in Coils from Germany; Notice of Preliminary Results of Antidumping Duty Administrative Review*, 66 FR 42509, 42512 (August 13, 2001). Thus, in accordance with section 773(b)(2)(A)(ii) of the Tariff Act, there are reasonable grounds to believe or suspect that sales of S4 in the home market were made at prices below their cost of production (COP) in the current review period. Accordingly, pursuant to section 773(b) of the Tariff Act, we initiated a cost investigation to determine whether sales made during the POR were at prices below their respective COP.

In accordance with section 773(b)(3) of the Tariff Act, we calculated COP based on the sum of the cost of materials and fabrication for the foreign like product, plus an amount for general and administrative expenses (G&A), interest expenses, and home market packing costs. We relied on the COP data submitted by KTN, except where noted below.

In accordance with section 773(f)(2) of the Tariff Act, where KTN's reported transfer prices for purchases of nickel from an affiliated party were not at arm's length, we increased these prices to reflect the prevailing market prices. *See* KTN Preliminary Results Analysis Memorandum, July 31, 2002.

In accordance with section 773(b)(1) of the Tariff Act, in determining whether to disregard home market sales made at prices below COP, we examined whether such sales were made within an extended period of time in substantial quantities, and whether such sales were made at prices which

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

would permit recovery of all costs within a reasonable period of time.

Pursuant to section 773(b)(2)(C) of the Tariff Act, where less than 20 percent of KTN's sales of a given model were at prices less than COP, we did not disregard any below-cost sales of that model because these below-cost sales were not made in substantial quantities. Where 20 percent or more of KTN's home market sales of a given model were at prices less than the COP, we disregarded the below-cost sales because such sales were made: (1) in substantial quantities within the POR (*i.e.*, within an extended period of time) in accordance with section 773(b)(2)(B) of the Tariff Act, and (2) at prices which would not permit recovery of all costs within a reasonable period of time, in accordance with section 773(b)(2)(D) of the Tariff Act (*i.e.*, the sales were made at prices below the weighted-average per-unit COP for the POR). We used the remaining sales as the basis for determining NV, if such sales existed, in accordance with section 773(b)(1) of the Tariff Act.

#### 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, including interest expenses, profit, and U.S. packing costs. 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 KTN 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 KTN supplied in its section D supplemental questionnaire response, except for the adjustments that we made for COP, above.

#### Price-based Normal Value

We calculated NV based on prices to unaffiliated customers or prices to affiliated customers that we determined to be at arm's length. We made adjustments for interest revenue, discounts, and rebates where appropriate. We made deductions, where appropriate, for foreign inland freight, handling, and warehousing, pursuant to section 773(a)(6)(B) of the Tariff Act. In addition, when comparing sales of similar merchandise, we made adjustments for differences in cost attributable to differences in physical characteristics of the merchandise pursuant to section 773(a)(6)(C)(ii) of the Tariff Act and 19 CFR 351.411. We also made adjustments 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 warranty expenses. We also made an adjustment, where appropriate, for the CEP offset in accordance with section 773(a)(7)(B) of the Tariff Act. *See Level of Trade and CEP Offset section below.* Finally, we deducted home market packing costs and added U.S. packing costs in accordance with sections 773(a)(6)(A) and (B) of the Tariff Act.

In accordance with section 773(a)(4) of the Tariff Act, we based NV on CV if we were unable to find a contemporaneous home market match of such or similar merchandise. Where appropriate, we made adjustments to CV in accordance with section 773(a)(8) of the Tariff Act. Where we compared CV to CEP, we deducted from CV the weighted-average home market direct selling expenses.

#### Level of Trade and CEP Offset

In accordance with section 773(a)(1)(B)(i) of the Tariff Act, to the extent practicable, we determine NV based on sales in the comparison market at the same level of trade (LOT) as the 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 CEP, it is the level of the constructed sale from the exporter to the importer. Moreover, for CEP sales, we consider only the selling activities reflected in the price after the deduction of expenses and profit, pursuant to section 772(d) of the Tariff Act. *See Micron Technology, Inc. v. United States*, 243 F.3d 1301, 1314-1315 (Fed. Cir. 2001).

To determine whether NV sales are at a different LOT than CEP sales, we examine stages in the marketing process and selling functions along the chain of distribution between the producer and the unaffiliated customer. 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 affects 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 implementing these principles in this review, we asked KTN to identify the specific differences and similarities in selling functions and support services between all phases of marketing in the home market and the United States. KTN identified four channels of distribution in the home market: (1) Mill direct sales (2) mill inventory sales (3) service center inventory sales, and (4) service center processed sales. For all channels KTN performs similar selling functions such as negotiating prices with customers, setting similar credit terms, arranging freight to the customer, and conducting market research and sales calls. The remaining selling activities did not differ significantly by channel of distribution. Because channels of distribution do not qualify as separate levels of trade when the selling functions performed for each customer class or channel are sufficiently similar, we determined one level of trade exists for KTN's home market sales.

For the U.S. market KTN reported four channels of distribution: (1) Back-to-back CEP sales made through KHSP, KTNNA and Thyssen Marathon Canada (TMC); (2) consignment CEP sales made through KHSP, KTNNA and TMC; (3) inventory sales from KTNNA and TMC; and (4) sales by Ken-Mac. All U.S. sales were CEP transactions. Therefore, the U.S. market has one LOT.

When we compared CEP sales (after deductions made pursuant to section 772(d) of the Tariff Act) to home market sales, we determined that for CEP sales KTN performed fewer customer sales contacts, technical services, delivery services, and warranty services. In addition, the differences in selling functions performed for home market and CEP transactions indicates that home market sales involved a more advanced stage of distribution than CEP sales. In the home market KTN provides marketing further down the chain of distribution by providing certain downstream selling functions that are normally performed by the affiliated resellers in the U.S. market (*e.g.*, technical advice, credit and collection, *etc.*).

Based on our analysis, we determined that CEP and the starting price of home market sales represent different stages in the marketing process, and are thus at different LOTs. Therefore, when we compared CEP sales to HM sales, we examined whether a LOT adjustment may be appropriate. In this case KTN sold at one LOT in the home market;

therefore, there is no basis upon which to determine whether there is a pattern of consistent price differences between levels of trade. Further, we do not have the information which would allow us to examine pricing patterns of KTN's sales of other similar products, and there is no other record evidence upon which such an analysis could be based.

Because the data available do not provide an appropriate basis for making a LOT adjustment but the LOT in Germany for KTN 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 KTN. Where there were commissions in U.S. market but not the home market, we calculated the CEP offset as the lesser of either the U.S. commissions or the home market indirect selling expenses. Where there were commissions in both the U.S. and home markets, we calculated the CEP offset as the lesser of either the home market indirect selling expenses or the difference between the U.S. and home market commissions. Where there were commissions in the home market but not the U.S. market, we set the CEP offset equal to zero. We performed these calculations in accordance with 772(d)(1)(D) of the Tariff Act. We applied the CEP offset to NV, whether based on home market prices or CV.

#### Facts Available

Section 776(a)(2) of the Tariff Act provides that if an interested party: (A) Withholds information that has been requested by the Department; (B) fails to provide such information in a timely manner or in the form or manner requested, subject to subsections 782(c)(1) and (e) of the Tariff Act; (C) significantly impedes a determination under the antidumping statute; or (D) provides such information but the information cannot be verified, the Department shall, subject to subsection 782(d) of the Act, use facts otherwise available in reaching the applicable determination.

In our September 6, 2001 questionnaire we requested KTN to report the physical characteristics of grade (GRADEH), hot/cold rolled (ROLLH), gauge (GAUGEH), finish (FINISHH), metallic coated (MCOATH), non-metallic coating (NONMCOTH), width (WIDTHH), temper (TEMPERH), and edge trim (EDGEH). In its November 6, 2001 response KTN's affiliated home market reseller, Nirosta Service Center GmbH (NSC), was unable to provide the physical characteristics of ROLLH, GAUGEH, FINISHH, WIDTHH, TEMPERH for a small number of sales. The absence of the noted four

characteristics precludes our making proper comparisons to these sales because of the uniqueness of each characteristic.

Section 782(c)(1) of the Tariff Act provides that if an interested party "promptly after receiving a request from [the Department] for information, notifies [the Department] that such party is unable to submit the information requested in the requested form and manner, together with a full explanation and suggested alternative form in which such party is able to submit the information," the Department may modify the requirements to avoid imposing an unreasonable burden on that party.

Also, section 782(d) of the Tariff Act provides that, if the Department determines that a response to a request for information does not comply with the request, the Department will inform the person submitting the response of the nature of the deficiency and shall, to the extent practicable, provide that person the opportunity to remedy or explain the deficiency. If that person submits further information that continues to be unsatisfactory, or this information is not submitted within the applicable time limits, the Department may, subject to section 782(e), disregard all or part of the original and subsequent responses, as appropriate.

Additionally, section 782(e) of the Tariff Act states that the Department shall not decline to consider information deemed "deficient" under section 782(d) if: (1) The information is submitted by the established deadline; (2) the information can be verified; (3) the information is not so incomplete that it cannot serve as a reliable basis for reaching the applicable determination; (4) the interested party has demonstrated that it acted to the best of its ability; and (5) the information can be used without undue difficulties.

Pursuant to section 782(d) of the Tariff Act, the Department informed KTN of the deficiencies in its response. In the Department's April 8, 2002 supplemental we requested KTN to remedy the missing characteristics or explain in detail why it was not able to provide the requested information. KTN's April 26, 2002 supplemental response stated the company would have to manually review the invoices and that it would not be able to do so within the time permitted. The Department again asked KTN to remedy the deficiencies in a second supplemental questionnaire sent July 2, 2002. KTN's July 19, 2002 response stated the company attempted to the best of its ability to fill in the missing product characteristics but, for a small

number of sales, could not supply the necessary information. However, KTN did not suggest an alternative method to remedy the product characteristics for these sales.

In accordance with section 776(a)(2)(B) of the Tariff Act, in these preliminary results we find it necessary to use partial facts available in those instances where the respondent did not provide us with certain information necessary to conduct our analysis.

Moreover, section 776(b) of the Tariff Act provides that the Department may use an inference adverse when a party has failed to cooperate to the best of its ability to the Department's requests for information. *See also Statement of Administrative Action (SAA) accompanying the URAA, H.R. Rep. No. 103-316 at 870 (1994).*

The Department repeatedly requested KTN to instances to report product characteristics. As stated above, KTN's April 26, 2002, supplemental claimed the company would have to manually review the invoices and it would not be able to do so within the time permitted. KTN's July 19, 2002 supplement response stated again that it was not able to report the product characteristics. Pursuant to section 782(c)(1) of the Tariff Act, KTN had the opportunity to suggest reporting the missing characteristics in an alternative form, yet it failed to do so. During the 1999 - 2000 review of S4 from Germany, a similar situation occurred where KTN initially could not report the physical characteristics of ROLLH, GAUGEH, FINISHH, WIDTHH, and TEMPERH for a number of its home market sales. However, it was able to remedy the missing characteristics by either calculating the average finish, gauge, and width from its packing list data or eventually reporting the actual transaction-specific information. *See KTN's March 2, 2001 supplemental A through C response and May 21, 2001 supplemental B and C response.* KTN is a sophisticated company with experience in the procedures of an antidumping investigation and administrative review. *See Notice of Amended Final Determination of Antidumping Duty Investigation: Stainless Steel Sheet and Strip in Coils from Germany, 67 FR 15178 (March 29, 2002) and Notice of Final Results of Antidumping Duty Administrative Review: Stainless Steel Sheet and Strip in Coils from Germany, 67 FR 7668 (February 20, 2002).* Based on the foregoing, we preliminarily conclude that KTN has not provided all the information necessary to complete our analysis and has not acted to the best of its ability.

Therefore, pursuant to 776(b) of the Tariff Act, an adverse inference is warranted. We have preliminarily determined that, pursuant to section 776(b) of the Tariff Act, it is appropriate to use partial adverse facts available in calculating a margin on these sales. In each instance where KTN failed to provide one or more necessary model match characteristics, we matched this product to the lowest-priced product of the same grade sold in the United States by assigning the home market transaction the corresponding U.S. control number. For any home market sales of grades not sold in the United States which had missing characteristics, we assigned this product the home market control number of the highest-priced product of the same grade in the home market.

#### Preliminary Results of Review

As a result of our review, we preliminarily determine the following weighted-average dumping margin exists for the period July 1, 2000 through June 30, 2001:

Manufacturer / Exporter	Weighted Average Margin (percentage)
KTN .....	5.34

The Department will disclose calculations performed within five days of the date of publication of this notice in accordance with 19 CFR 351.224(b). An interested party may request a hearing within thirty days of publication. *See* CFR 351.310(c). Any hearing, if requested, will be held 37 days after the date of publication, or the first business day thereafter, unless the Department alters the date pursuant to 19 CFR 351.310(d). Interested parties may submit case briefs no later than 30 days after the date of publication of these preliminary results of review. Rebuttal briefs, limited to issues raised in the case briefs, may be filed no later than 35 days after the date of publication of this notice. Parties who submit argument in these proceedings are requested to submit with the argument (1) a statement of the issue, (2) a brief summary of the argument and (3) a table of authorities. Further, we would appreciate it if parties submitting written comments would provide the Department with an additional copy of the public version of any such comments on diskette. The Department will issue final results of these administrative reviews, including the results of our analysis of the issues in any such written comments or at a

hearing, within 120 days of publication of these preliminary results.

The Department shall determine, and the U.S. Customs Service shall assess, antidumping duties on all appropriate entries. In accordance with 19 CFR 351.212(b)(1), we will calculate *ad valorem* assessment rates for the merchandise based on the ratio of the total amount of antidumping duties calculated for the examined sales made during the POR to the total customs value of the sales used to calculate those duties. This rate will be assessed uniformly on all entries that particular importer made during the POR. The Department will issue appropriate appraisement instructions directly to the Customs Service upon completion of the review.

Furthermore, the following deposit requirements will be effective upon completion of the final results of this administrative review for all shipments of S4 in coils from Germany entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of this administrative review, as provided by section 751(a)(1) of the Tariff Act:

- 1) The cash deposit rate for KTN will be the rate established in the final results of review;
- 2) If the exporter is not a firm covered in this review or the 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
- 3) If neither the exporter nor the manufacturer is a firm covered in this or any previous review conducted by the Department, the cash deposit rate will be 13.48 percent (*see Notice of Amended Final Determination of Antidumping Duty Investigation: Stainless Steel Sheet and Strip in Coils from Germany*, 67 FR 15178 (March 29, 2002)).

This notice also serves as a preliminary 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.

We are issuing and publishing this notice in accordance with sections 751(a)(1) and 777(i)(1) of the Tariff Act.

Dated: July 31, 2002.

**Faryar Shirzad,**

*Assistant Secretary for Import Administration.*

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#### DEPARTMENT OF COMMERCE

##### International Trade Administration

[A-201-822]

#### **Stainless Steel Sheet and Strip in Coils from Mexico; Preliminary Results of Antidumping Duty Administrative Review**

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

**ACTION:** Notice of Preliminary Results of Antidumping Duty Administrative Review.

**SUMMARY:** In response to requests from respondent ThyssenKrupp Mexinox S.A. de C.V. (Mexinox) and ThyssenKrupp Mexinox USA, Inc. (Mexinox USA) (collectively, Mexinox)<sup>1</sup>, and Allegheny Ludlum, AK Steel Corporation (formerly Armco, Inc.), J&L Specialty Steel, Inc., North American Stainless, Butler-Armco Independent Union, Zanesville Armco Independent Union, and the United Steelworkers of America, AFL-CIO/CLC (collectively, petitioners), the Department of Commerce (the Department) is conducting an administrative review of the antidumping duty order on stainless steel sheet and strip in coils (S4 in coils) from Mexico (A-201-822). This review covers one manufacturer/exporter (Mexinox) of the subject merchandise to the United States during the period July 1, 2000 to June 30, 2001.

We preliminarily determine that sales of S4 in coils from Mexico have been made below the normal value (NV). If these preliminary results are adopted in our final results of administrative review, we will instruct the U.S. Customs Service to assess antidumping duties based on the difference between the constructed export price (CEP) and NV. Interested parties are invited to comment on these preliminary results. Parties who submit argument in these proceedings are requested to submit with the argument: (1) a statement of the

<sup>1</sup> On July 26, 2002, we published in the **Federal Register** the final results of our determination that ThyssenKrupp Mexinox S.A. de C.V. is the successor-in-interest to Mexinox S.A. de C.V. for purposes of determining antidumping duty liability. *See Stainless Steel Sheet and Strip in Coils from Mexico: Final Results of Changed Circumstances Antidumping Duty Administrative Review*, 67 FR 48878 (July 26, 2002).