

all entries of subject merchandise by that importer.

Cash Deposit

The following cash deposit requirements will be effective upon publication of these final results for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of these final results of administrative review, as provided by section 751(a)(1) of the Act: (1) The cash deposit rate for each of the reviewed companies will be the rate listed in the final results of review (except that if the rate for a particular product is *de minimis*, i.e., less than 0.5 percent, no cash deposit will be required for that company); (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 this review, a prior review, or the original less than fair value ("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) the cash deposit rate for all other manufacturers or exporters will continue to be the "all others" rate of 2.49 percent, which is the all others rate established in the LTFV investigation. These deposit requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

Notification to Interested Parties

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f)(2) 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 the 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 ("APOs") of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305, that continues to govern business proprietary information in this segment of the proceeding. Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is

hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

This determination is issued and published 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-475-824]

Preliminary Results of Antidumping Duty Administrative Review: Stainless Steel Sheet and Strip in Coils from Italy

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

ACTION: Notice of the preliminary results of the antidumping duty administrative review of stainless steel sheet and strip in coils from Italy.

SUMMARY: In response to requests from domestic interested parties, ThyssenKrupp Acciai Speciali Terni S.p.A. ("TKAST")¹, a producer and exporter of subject merchandise, and ThyssenKrupp AST USA, Inc. ("TKAST USA"), an importer of subject merchandise, the Department of Commerce ("the Department") is conducting an administrative review of the antidumping duty order on stainless steel sheet and strip in coils ("SSSS") from Italy. This review covers imports of subject merchandise from TKAST. The period of review ("POR") is July 1, 2000 through June 30, 2001.

The Department preliminary determines that SSSS from Italy has been sold in the United States at less than normal value during the POR. If these preliminary results are adopted in our final results of this administrative review, we will instruct the U.S. Customs Service ("Customs") to assess antidumping duties equal to the difference between export price and normal value.

EFFECTIVE DATE: August 7, 2002.

FOR FURTHER INFORMATION CONTACT:
Robert A. Bolling at 202-482-3434,

¹ On January 18, 2002 Acciai Speciali Terni S.p.A.'s shareholders voted to change the company's name to ThyssenKrupp Acciai Speciali Terni S.p.A. On February 27, 2002, Acciai Speciali Terni USA, Inc. became ThyssenKrupp AST USA, Inc. Throughout most of the responses, the companies refer to themselves as TKAST and TKAST USA, respectively.

Import Administration, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, N.W., Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

Applicable Statute and Regulations

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended ("Act"), are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act. In addition, unless otherwise indicated, all citations to the Department's regulations are to the regulations codified at 19 C.F.R. part 351 (2001).

Background

On July 2, 2001, the Department published in the Federal Register a notice of opportunity to request an administrative review of the antidumping duty order on stainless steel sheet and strip in coils ("SSSS") from Italy. *See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review*, 66 FR 34910 (July 2, 2001). On July 31, 2001, domestic industry parties from the original investigation ("petitioners"), TKAST and TKAST USA requested that the Department conduct an administrative review of the antidumping duty order. On August 20, 2001, the Department initiated an administrative review of the antidumping duty order on SSSS from Italy with regard to TKAST. *See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Requests for Revocation in Part*, 66 FR 43570 (August 20, 2001).

On August 31, 2001, the Department issued an antidumping duty questionnaire to TKAST. On September 21, 2001, TKAST submitted its response to Section A of the questionnaire. On November 5, 2001, TKAST submitted its responses to Sections A through E of the questionnaire. On November 19, 2001, TKAST submitted its cost reconciliation to the Department. On December 21, 2001, petitioners submitted comments on TKAST's Sections A through C responses, which included concerns regarding TKAST's reported insurance revenues, indirect selling expenses, and export price sales. On January 31, 2002, petitioners submitted comments on TKAST's cost reconciliation, and TKAST's Sections D and E responses, which included concerns regarding tying the Section D cost data to TKAST's financial statements, the use of fiscal year 2000 data in reporting costs,

and supporting documentation on further manufacturing costs.

On March 14, 2002, the Department issued a supplemental questionnaire to Sections A through C. On March 22, 2002, TKAST submitted a letter to the Department asking that the Department reconsider its request that TKAST report downstream home market sales from certain Italian affiliate(s). On March 27, 2002, the Department denied TKAST's request and reiterated to TKAST that, pursuant to section 351.403(d) of the Department's regulations, TKAST was required to report all downstream sales for these Italian affiliate(s). On April 2, 2002, the Department issued a supplemental questionnaire to Sections D and E. On April 8, 2002, TKAST submitted its Section A supplemental response. On April 15, 2002, TKAST submitted its Section B supplemental response. On April 22, 2002, TKAST submitted its Section C supplemental response. On April 30, 2002, TKAST submitted its Sections D and E supplemental responses. On May 1, 2002, petitioners submitted additional comments on TKAST's reported insurance revenue.

On May 13, 2002, the Department issued a second supplemental questionnaire to Sections A through C. Also on May 13, 2002, TKAST submitted downstream sales information for certain Italian affiliate(s). On May 24, 2002, TKAST submitted its Sections A through C second supplemental responses. On May 30, 2002, TKAST submitted its sales reconciliation information.

Under section 751(a)(3)(A) of the Act, the Department may extend the deadline for completion of an administrative review if it determines that it is not practicable to complete the review within the statutory time limit. On February 26, 2002, the Department extended the time limit for the preliminary results in this administrative review by ninety days. *See Notice of Extension of Time Limit of the Preliminary Results of Antidumping Duty Administrative Review: Stainless Steel Sheet and Strip in Coils From Italy*, 67 FR 9960 (March 5, 2002). On May 3, 2002, the Department extended the time limit for the preliminary results in this administrative review another twenty-five days. *See Notice of Extension of Time Limit of the Preliminary Results of Antidumping Duty Administrative Review: Stainless Steel Sheet and Strip in Coils From Italy*, 67 FR 32015 (May 13, 2002). On July 26, 2002, the Department extended the time limit for the preliminary results in this administrative review another five days.

The Department is conducting this administrative review in accordance with section 751 of the Act.

Period of Review

The POR is July 1, 2000 through June 30, 2001.

Verification

On December 21, 2001, petitioners requested that the Department conduct a verification in this administrative review. *See* petitioners' letter to the Department, at 53 (December 21, 2001). As provided in section 782(i) of the Act, the Department conducted a sales verification of the information provided by TKAST, from June 10, 2002 through June 14, 2002, using standard verification procedures, including an examination of relevant sales, cost, financial records, and a selection of relevant original documentation. Our verification results are outlined in the Report on the Sales Verification of ThyssenKrupp Acciai Speciali Terni S.p.A. (July 11, 2002) ("Verification Report"), a public version of which is available on file in the Central Records Unit, room B-099 of the Herbert C. Hoover Department of Commerce building, 1401 Constitution Avenue, N.W., Washington, D.C.

Scope of the Review

For purposes of this administrative review, 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 review is currently classifiable in the Harmonized Tariff Schedule of the United States ("HTS") at subheadings: 7219.13.0031, 7219.13.0051, 7219.13.0071, 7219.1300.81,² 7219.14.0030, 7219.14.0065, 7219.14.0090, 7219.32.0005, 7219.32.0020, 7219.32.0025, 7219.32.0035, 7219.32.0036, 7219.32.0038, 7219.32.0042,

7219.32.0044, 7219.33.0005, 7219.33.0020, 7219.33.0025, 7219.33.0035, 7219.33.0036, 7219.33.0038, 7219.33.0042, 7219.33.0044, 7219.34.0005, 7219.34.0020, 7219.34.0025, 7219.34.0030, 7219.34.0035, 7219.35.0005, 7219.35.0015, 7219.35.0030, 7219.35.0035, 7219.90.0010, 7219.90.0020, 7219.90.0025, 7219.90.0060, 7219.90.0080, 7220.12.1000, 7220.12.5000, 7220.20.1010, 7220.20.1015, 7220.20.1060, 7220.20.1080, 7220.20.6005, 7220.20.6010, 7220.20.6015, 7220.20.6060, 7220.20.6080, 7220.20.7005, 7220.20.7010, 7220.20.7015, 7220.20.7060, 7220.20.7080, 7220.20.8000, 7220.20.9030, 7220.20.9060, 7220.90.0010, 7220.90.0015, 7220.90.0060, and 7220.90.0080. 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 review 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 HTS, "Additional U.S. Note" 1(d).

Flapper valve steel is also excluded from the scope of this review. This product 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

² Due to changes to the HTS numbers in 2001, 7219.13.0030, 7219.13.0050, 7219.13.0070, and 7219.13.0080 are now 7219.13.0031, 7219.13.0051, 7219.13.0071, and 7219.13.0081, respectively.

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 review. 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 less than 0.002 or greater than 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."³

Certain electrical resistance alloy steel is also excluded from the scope of this review. 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."⁴

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."⁵

Also excluded are three specialty stainless steels typically used in certain industrial blades and surgical and medical instruments. These include stainless steel strip in coils used in the production of textile cutting tools (e.g., carpet knives).⁶ This steel is similar to AISI grade 420 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."⁷ 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 100 square microns. An example of this product is "GIN5"⁸ 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."⁹

Product Comparisons

In accordance with section 771(16) of the Act, we considered all SSSS products covered by the "Scope of the Review" section of this notice, *supra*, which were produced and sold by TCAST in the home market during the POR, to be foreign like products for the purpose of determining appropriate product comparisons to U.S. sales of SSSS products. We relied on nine characteristics to match U.S. sales of subject merchandise to comparison sales of the foreign like product (listed in order of preference): (1) Grade; (2) hot/cold rolled; (3) gauge; (4) surface finish; (5) metallic coating; (6) non-metallic coating; (7) width; (8) temper; and (9) edge trim. For the grade product characteristic, TCAST reported additional grades which were specifically permitted by the Department's questionnaire. See Analysis Memorandum for ThyssenKrupp Acciai Speciali Terni S.p.A.: Preliminary Results of the 2000-2001 Administrative Review of Stainless Steel Sheet and Strip in Coils from Italy (July 26, 2002) ("Analysis Memo"). 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.

Export Price/Constructed Export Price

In accordance with section 772(a) of the Act, export price ("EP") is the price at which the subject merchandise is first

³ "Arnokrome III" is a trademark of the Arnold Engineering Company.

⁴ "Gilphy 36" is a trademark of Imphy, S.A.

⁵ "Durphynox 17" is a trademark of Imphy, S.A.

⁶ This list of uses is illustrative and provided for descriptive purposes only.

⁷ "GIN4 Mo" is the proprietary grade of Hitachi Metals America, Ltd.

⁸ "GIN5" is the proprietary grade of Hitachi Metals America, Ltd.

⁹ "GIN6" is the proprietary grade of Hitachi Metals America, Ltd.

sold (or agreed to be sold) before the date of importation by the producer or exporter of the subject merchandise outside of the United States to an unaffiliated purchaser in the United States or to an unaffiliated purchaser for exportation to the United States. In accordance with section 772(b) of the Act, constructed export price ("CEP") is the price at which the subject merchandise is first sold (or agreed to be sold) in the United States before or after the date of importation by or for the account of the producer or exporter of such merchandise or by a seller affiliated with the producer or exporter, to a purchaser not affiliated with the producer or exporter.

For purposes of this review, TKAST originally classified its U.S. sales as EP and CEP sales. *See Section A* supplemental response at Exhibit A-32. TKAST also argued that it is entitled to a CEP offset with respect to its CEP sales in the United States. *See Section A* response at A-21. For further discussion on CEP offset, see the "Level of Trade" section, *infra*. TKAST later reclassified its EP sales as CEP sales, pursuant to Departmental request. *See Section C* supplemental response at 3. Based on the information on the record, we preliminarily find that all of TKAST's U.S. sales are appropriately classified as CEP sales.

TKAST reported that it sold the subject merchandise in the United States through three channels (*i.e.*, Channels one, two and three). Channel two sales are made from the inventory of TKAST's U.S. based affiliated reseller, TKAST USA. Channel three sales involve subject merchandise that is sold by TKAST USA to an affiliated U.S. reseller (*i.e.*, Ken-Mac), who may or may not further manufacture the merchandise before reselling it to an unaffiliated customer. Therefore, because sales in channels two and three are sold from the inventory of TKAST's U.S. affiliated resellers, it is appropriate to classify these sales as CEP sales.

With respect to channel one sales, TKAST reported that these sales are shipped directly from the factory in Italy to the U.S. customer. However, TKAST USA serves as the principal point of contact for the U.S. customer. For channel one sales, customers place their orders with TKAST USA, which then places an order with TKAST. Upon confirmation from TKAST, TKAST USA separately issues an invoice to the customer. TKAST USA is solely responsible for collecting payment from the U.S. customer, and separately responsible for paying TKAST for the merchandise. TKAST USA separately invoiced and received payment from

those customers. Accordingly, the Department preliminarily determines that TKAST's channel one sales were made "in the United States" within the meaning of section 772(b) of the Act and should be treated as CEP transactions, consistent with *AK Steel Corp. v. United States*, 226 F.3d 1361, 1374 (Fed. Cir. 2000).

We calculated CEP in accordance with section 772(b) of the Act. We based CEP on the packed, CIF or FOB prices to the first unaffiliated customer in the U.S. market. We made adjustments to the starting price for billing adjustments and the alloy surcharge, where applicable. Where appropriate, we made deductions from the starting price for credit, repacking, skid charges, and Ken-Mac commissions. We also made deductions for the following movement expenses, where appropriate, in accordance with section 772(c)(2)(A) of the Act: international freight, U.S. inland freight from warehouse/plant to the unaffiliated customer, Ken-Mac's U.S. inland freight from warehouse/plant to the unaffiliated customer, Ken-Mac warehousing expense, other U.S. transportation expense, U.S. Customs duties, and freight equalization charges. In accordance with section 772(d)(1) of the Act, we deducted selling expenses associated with economic activities occurring in the United States, including technical services expenses, inventory carrying costs, and other indirect selling expenses. We recalculated the insurance revenue factor based on subject merchandise only. *See Analysis Memo and Verification Report.*

For products that were further manufactured after importation, we adjusted for all costs of further manufacturing in the United States in accordance with section 772(d)(2) of the Act. We deducted the profit allocated to expenses deducted under sections 772(d)(1) and (d)(2) in accordance with sections 772(d)(3) and 772(f) of the Act. In accordance with section 772(f) of the Act, we computed profit based on total revenues realized on sales in both the U.S. and home markets, less all expenses associated with those sales. We then allocated profit to expenses incurred with respect to U.S. economic activity, based on the ratio of total U.S. expenses to total expenses for both the U.S. and home market.

Normal Value

After testing home market viability, we calculated NV as noted in the "Price-to-CV Comparisons" and "Price-to-Price Comparisons" sections of this notice.

1. Home Market Viability

In accordance with section 773(a)(1)(C) of the Act, to determine whether there was a sufficient volume of sales in the home market to serve as a viable basis for calculating normal value ("NV") (*i.e.*, the aggregate volume of home market sales of the foreign like product is greater than or equal to five percent of the aggregate volume of U.S. sales), we compared TKAST's volume of home market sales of the foreign like product to the volume of its U.S. sales of the subject merchandise. Pursuant to sections 773(a)(1)(B) and (C) of the Act, because TKAST'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 for the subject merchandise, we determined that sales in the home market provide a viable basis for calculating NV. We therefore based NV on home market sales to unaffiliated purchasers and to those affiliated customer sales which passed the arm's length test, as discussed in the "Arm's Length Test" section of this notice, *infra*, made in the usual commercial quantities and in the ordinary course of trade.

Thus, we used as NV the prices at which the foreign like product was first sold for consumption in Italy, in the usual commercial quantities, in the ordinary course of trade, and, to the extent possible, at the same level of trade ("LOT") as the constructed export price ("CEP") or NV sales, as appropriate. After testing home market viability and whether home market sales were at below-cost prices, we calculated NV as noted in the "Price-to-Price Comparisons" and "Price-to-Constructed Value ("CV") Comparisons" sections of this notice.

Arm's Length Test

During the POR, TKAST reported that it made sales of subject merchandise in the home market to affiliated customers (resellers and end-users). If any sales to affiliated customers in the home market were not made at arm's length prices, we excluded them from our analysis because we considered them to be outside the ordinary course of trade. 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 billing adjustments, rebates, movement charges, direct selling expenses, and home market 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 determine that

sales made to the affiliated party were at arm's-length. *See* 19 CFR 351.403(c); *Antidumping Duties; Countervailing Duties; Final Rule*, 62 FR 27296, 27355 (May 19, 1997). In our home market NV calculation, we have included TKAST's sales to certain of its affiliated customers because these entities passed the Department's arm's length test criteria. Conversely, certain other affiliated customers did not pass the arm's length test and have therefore been excluded from our home market NV calculation. For a further discussion of home market sales made by TKAST to affiliated resellers who failed the arm's length test, please see the "Facts Available" section below.

Price-to-Price Comparisons

For those product comparisons for which there were sales at prices above the COP, we based NV on the home market delivered prices to unaffiliated customers or prices to affiliated customers that we determined to be at arm's length. We made adjustments, where appropriate, for physical differences in the merchandise in accordance with section 773(a)(6)(C)(ii) of the Act. Where appropriate, we deducted early payment discounts, rebates, credit expenses, warranty expenses, and inland freight. We also adjusted the starting price for billing adjustments and the alloy surcharge. In accordance with section 773(a)(6), we deducted home market packing costs and added U.S. packing costs. Finally, in accordance with section 773(b)(1) of the Act, where there were no usable contemporaneous matches to a U.S. sale observation, we based NV on CV.

We have recalculated certain billing adjustments to be early payment discounts because it appears that early payment discounts were applicable only on certain home market sales during the POR. When a certain payment term code was reported and a billing adjustment was applied, the Department has recategorized the billing adjustment as an early payment discount in those instances. *See Analysis Memo*.

Additionally, we have disallowed TKAST's home market insurance revenue adjustment. At verification, the Department discovered that TKAST could have reported home market insurance revenue on a sales specific basis and should not have allocated this adjustment over the entire home market database. *See Analysis Memo and Verification Report*. Also, we have recalculated TKAST's inventory carrying costs to include the alloy surcharge in the gross unit price and a new average inventory days. At verification, we discovered that

TKAST's average days in inventory did not include fiscal year 2001. *See Analysis Memo and Verification Report*.

For reasons discussed below in the "Level of Trade" section, we have not granted TKAST a CEP offset.

Price-to-CV Comparisons

In accordance with section 773(a)(4) of the 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, selling, general and administrative expenses ("SG&A"), and profit. In accordance with section 773(e)(2)(A) of the 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 Italy. 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 Act. We deducted from CV the weighted-average home market direct selling expenses.

2. Cost of Production

In the original investigation, the Department determined that TKAST made sales in the home market at prices below the cost of production ("COP") and, therefore, excluded such sales from NV. *See Notice of Final Determination of Sales at Less Than Fair Value: Stainless Steel Sheet and Strip in Coils From Italy*, 64 FR 30750, 30754-55 (June 8, 1999). Accordingly, the Department had reasonable grounds to believe or suspect that TKAST made sales in the home market at prices below the COP for this POR. *See* section 773(b)(2)(A)(ii) of the Act. As a result, pursuant to section 773(b)(1) of the Act, we conducted a COP analysis of home market sales by TKAST.

A. Calculation of the COP

In accordance with section 773(b)(3) of the Act, we calculated the COP based on the sum of TKAST's cost of materials and fabrication for the foreign like product, plus amounts for home market selling, general and administrative expenses ("SG&A"), interest expenses, and packing costs. We relied on the COP data submitted by TKAST in its original and supplemental cost questionnaire responses. For these preliminary results, we did not make any adjustments to TKAST's submitted costs.

B. Test of Home Market Prices

We compared the weighted-average COP for TKAST to its home market sales of the foreign like product, as required under section 773(b) of the Act, in order to determine whether these sales had been made at prices below the COP. In determining whether to disregard home market sales made at prices less than the COP, we examined whether such sales were made: (1) in substantial quantities within an extended period of time; and (2) at prices which permitted the recovery of all costs within a reasonable period of time, in accordance with sections 773(b)(1)(A) and (B) of the Act. We compared the COP to home market prices, less any applicable billing adjustments, movement charges, discounts, and direct and indirect selling expenses.

C. Results of the COP Test

Pursuant to section 773(b)(2)(C) of the Act, where less than 20 percent of TKAST's sales of a given product were, within an extended period of time, 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 20 percent or more of TKAST's sales of a given product during the POR were at prices less than the COP, we determined such sales to have been made in "substantial quantities" within an extended period of time, in accordance with sections 773(b)(2)(B) of the Act. In such cases, because we used POR average costs, we also determined that such sales were not made at prices which would permit recovery of all costs within a reasonable period of time, in accordance with section 773(b)(2)(D) of the Act. We compared the COP for subject merchandise to the reported home market prices less any applicable movement charges. Based on this test, we disregarded below-cost sales. Where all sales of a specific product were at prices below the COP, we disregarded all sales of that product.

D. Calculation of Constructed Value

In accordance with section 773(e)(1) of the Act, we calculated constructed value ("CV") based on the sum of TKAST's cost of materials, fabrication, SG&A (including interest expenses), U.S. packing costs, direct and indirect selling expenses, and profit. As noted in the "Calculation of the COP" section, *supra*, we made no adjustments to TKAST's reported cost. In accordance with section 773(e)(2)(A) of the Act, we based SG&A and profit on the amounts incurred and realized by TKAST in

connection with the production and sale of the foreign like product in the ordinary course of trade, for consumption in the foreign country. For selling expenses, we used the actual weighted-average home market direct and indirect selling expenses.

Level of Trade

In accordance with section 773(a)(1)(B) of the Act, to the extent practicable, we determine NV 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 SG&A expenses and profit. For EP sales, the LOT is also the level of the starting-price sale, which is usually from the exporter to the importer. For CEP sales, the LOT the level of the constructed sale from the exporter to the affiliated importer. *See* 19 C.F.R. 351.412(c)(1). As noted in the "Export Price/Constructed Export Price" section, *supra*, we preliminarily find that all of TKAST's U.S. sales are appropriately classified as CEP sales.

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 between the producer and the unaffiliated customer. Substantial differences in selling activities are a necessary, but not sufficient condition for determining that there is a difference in the stage of marketing. *See* 19 C.F.R. 351.412(c)(2). 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 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 Act (the CEP offset provision). *See Notice of Final Determination of Sales at Less Than Fair Value: Certain Cut-to-Length Carbon Steel Plate from South Africa*, 62 FR 61731, 61732 (November 19, 1997).

In the present administrative review, TKAST requested a CEP offset. To determine whether a CEP offset was necessary, in accordance with the principles discussed above, we examined information regarding the distribution systems in both the United

States and Italian markets, including the selling functions, classes of customer, and selling expenses.

TKAST reported one LOT in the home market, with two channels of distribution: (1) direct factory sales to end-users, manufacturers, service centers and distributors; and (2) warehouse sales to end-users, service centers and distributors. TKAST performed the same selling functions for sales in both home market channels of distribution, including production guidance, price negotiations, sales calls and services, arranging for freight and delivery, technical assistance and general selling activities. The only differences are that in warehouse sales TKAST initiates the sale (whereas direct sales are initiated by either party) by distributing a "Pronto" list of available inventory to potential customers, and warehouse sales typically carry no guarantee or warranty. Accordingly, because these selling functions are substantially similar for both channels of distribution, we preliminarily determine that there is one LOT in the home market.

TKAST reported two LOTs in the U.S. market, with three channels of distribution: (1) Direct factory sales through TKAST USA to end-users and service centers; (2) warehouse sales from the inventory of TKAST USA to end-users and service centers; and (3) sales from the mill through TKAST USA to Ken-Mac, its affiliated U.S. further manufacturer/reseller, which then sells to unaffiliated customers. TKAST performed many of the same selling functions for sales in all three U.S. market channels of distribution, including approaching the customer in conjunction with TKAST USA, processing TKAST USA inquiries and purchase orders, offering production and pricing guidance, invoicing TKAST USA, arranging for freight and delivery to the U.S. port, and general selling activities. Accordingly, because these selling functions are substantially similar for the three channels of distribution, we preliminarily determine that there is one LOT in the U.S. market.

In comparing TKAST's home market and U.S. market sales, it appears that TKAST offered many of the same selling functions in both market, including production and pricing guidance, invoicing, arranging for freight and delivery, technical service and other general selling activities. Accordingly, we preliminarily determine that sales in the home market and in the U.S. market were made at the same LOT and have not granted a CEP offset.

Facts Available

We preliminarily determine that the use of facts available is appropriate for one element of TKAST's dumping margin calculation. Section 776(a)(2) of the 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 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.

Consistent with section 776(a)(2)(A)(B) and (C) of the Act, we preliminarily determine that use of facts available is warranted for home market sales made to certain affiliated resellers who failed the arm's length test. The Department's original August 31, 2001, section B questionnaire requests that TKAST "report only the resales by the affiliated reseller to unaffiliated customers." The Department further requested in the August 31, 2001 section A questionnaire that TKAST exclude its "sales to affiliated resellers" and instead report the "resales by the affiliates to unaffiliated customers." On March 14, 2002, the Department further stated that TKAST must report the downstream sales of the affiliates with whom its sales were not on an arm's length basis.

On September 21, 2001, TKAST submitted a letter to the Department which stated that it did not intend to submit home market sales data by the customer that it claimed failed the arm's length test because it accounted for only a portion of TKAST's total home market sales during the POR. TKAST further stated that TKAST did not have access to the sales and other data for companies that are not majority owned by it and could not compel such companies to provide such information. On November 5, 2001, TKAST stated that it had only reported the "home market sales to, rather than downstream sales by, its affiliated resellers of the foreign like product in the home market." Regarding those affiliates to whom TKAST maintained that it sold on an arm's length basis, TKAST stated that their downstream sales would not be used by the Department for matching purposes in any event. It further stated that "such sales are not necessary to the Department's analysis because home market sales of the same or similar products to unaffiliated companies

provide ample matches" to TKAST's U.S. sales. On March 21, 2002, TKAST submitted a letter in which it requested that the Department not require the reporting of downstream sales by a certain affiliate of TKAST.

On March 27, 2002, the Department denied this request in a letter to TKAST. The Department stated the following:

As stated in the Department's original questionnaire, dated August 31, 2001, at G-6: You must report all your sales to affiliated customers. If the Department determines that your sales to affiliated customers are at arm's length, the Department will use these sales in its analysis. For sales to affiliated resellers, you must report the sales from the affiliated resellers to the unaffiliated customers. However, if sales to all affiliated customers constitute less than 5% of your total sales in the foreign market, or if you are unable to collect information on such resales, please notify the official in charge in writing immediately so that the Department may consider a possible exemption.

In your September 21, 2001 section A response, at A-3, you failed to show that sales to all affiliated customers constituted less than 5% of your total sales in the foreign market, nor did you indicate you were unable to collect information on resales by the affiliate, although you recognized that sales to this affiliate failed the arm's length test. Accordingly, the Department restated in its Supp. A-C questionnaire, at question 3, that pursuant to section 351.403(d):

As the table on your affiliates' percentage of sales (at A-30) indicates that your sales to *all* affiliated parties do not account for less than five percent of the total sales, you must report the downstream home market sales by {the affiliate} and revise your database accordingly.

Please note that if you fail to provide accurately the information requested within the time provided, the Department may be required to base its findings on the facts available. If you fail to cooperate with the Department by not acting to the best of your ability to comply with a request for information, the Department may use information that is adverse to your interest in conducting its analysis.

Accordingly, the Department is requiring that AST report the downstream sales of the aforementioned affiliate. However, we are granting AST an extension of time in which to report the affiliate's downstream sales until c.o.b. April 29, 2002. If you are unable to collect the requested information on the affiliates resales, please notify the official in charge in writing immediately. We note that failure to

provide the requested information may require us to use information that is based on facts available. Moreover, should the Department find that you failed to cooperate by not acting to your best of your ability, we may use information that is based on adverse facts available.

On May 1, 2002, in response to TKAST's request of April 29, 2002, the Department further extended the deadline for the reporting of downstream sales to May 13, 2002.

On May 13, 2002, TKAST provided a limited amount of downstream sales information. TKAST maintained in this submission that the information it provided was the best that it was able to extract and that it was not in a "position to compel the companies to comply with requests for information."

TKAST failed to provide its downstream sales made by certain affiliated resellers as requested by the Department in its August 31, 2001, and March 14 and 27, 2002, original questionnaire and supplemental questionnaires, respectively, in a format that is usable by the Department. Therefore, consistent with section 776(a)(2)(A)(B) and (C) of the Act, TKAST withheld information that had been requested by the Department, failed to provide such information in a timely manner or in the form or manner requested, and significantly impeded the determination under the antidumping statute, justifying the use of facts otherwise available in reaching the applicable determination. Therefore, we preliminarily determine that use of facts available is warranted for home market sales made to certain affiliated resellers who failed the arm's length test.

For these preliminary results, the Department has disregarded all affiliated resellers sales that failed the arm's length test, and has used the remaining home market sales in its margin calculation.

Currency Conversion

For purposes of the preliminary results, we made currency conversions in accordance with section 773A of the Act, based on the official exchange rates in effect on the dates of the U.S. sales as certified by the Federal Reserve Bank of New York. Section 773A(a) of the Act directs the Department to use the daily exchange rate in effect on the date of sale in order to convert foreign currencies into U.S. dollars, unless the daily rate involves a "fluctuation." In accordance with the Department's practice, we have determined as a general matter that a fluctuation exists when the daily exchange rate differs from a benchmark by 2.25 percent. See,

e.g., *Certain Stainless Steel Wire Rods from France; Preliminary Results of Antidumping Duty Administrative Review*, 61 FR 8915, 8918 (March 6, 1998), and *Policy Bulletin 96-1: Currency Conversations*, 61 FR 9434 (March 8, 1996). The benchmark is defined as the rolling average of rates for the past 40 business days. When we determine a fluctuation exists, we substitute the benchmark for the daily rate.

Preliminary Results of Review

As a result of our review, we preliminarily determine that the following weighted-average dumping margin exists for the POR:

Producer/Manufacturer/ Exporter	Weighted-Average Margin
ThyssenKrupp	3.49%
Acciai Speciali Terni S.p.A.	

In accordance with 19 CFR 351.224(b), the Department will disclose to the parties to this proceeding the calculations performed in connection with these preliminary results within five days of the date of publication of this notice.

Pursuant to 19 CFR 351.309, interested parties may submit written comments and/or case briefs on these preliminary results. Comments and case briefs must be submitted no later than thirty days after the date of publication of this notice. Rebuttal comments and briefs must be limited to issues raised in the case briefs and comments, and must be submitted no later than five days after time limit for filing case briefs and comments. Parties submitting arguments in this proceeding are requested to submit with the argument: (1) a statement of the issue, and (2) a brief summary of the argument. Case and rebuttal briefs and comments must be served on interested parties in accordance with 19 CFR 351.303(f). Also, within thirty days of the date of publication of this notice, an interested party may request a public hearing on the arguments to be raised in the case and rebuttal briefs and comments. See 19 CFR 351.310(c). Unless otherwise specified, the hearing, if requested, will be held two days after the date for submission of rebuttal briefs, or the first working day thereafter. The Department will issue the final results of this administrative review, including the results of its analysis of issues raised in any case and rebuttal briefs and comments, within 120 days of publication of these preliminary results.

Assessment

Upon issuance of the final results of this administrative review, the Department shall determine, and the U.S. Customs Service ("Customs") shall assess, antidumping duties on all appropriate entries. In accordance with 19 CFR 351.212(b), we have calculated exporter/importer-specific assessment rates. We calculated importer-specific duty assessment rates by dividing the total dumping margins for the reviewed sales by the total entered value of those reviewed sales for each importer. If these preliminary results are adopted in our final results, we will direct Customs not to assess antidumping duties on the merchandise subject to review. Upon completion of this review, the Department will issue appraisement instructions directly to Customs.

Cash Deposit

The following cash deposit requirements will be effective upon publication of the final results of this administrative review for all shipments of the subject merchandise 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 Act: (1) The cash deposit rate for the reviewed company will be the rate established in the final results of this administrative review (except that no deposit will be required if the rate is zero or *de minimis*, *i.e.*, less than 0.5 percent); (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 this review, a prior review, 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, a prior review, or the original LTFV investigation, the cash deposit rate will continue to be the "all others" rate of 11.23 percent, which is the all others rate established in the LTFV investigation. *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 Italy*, 64 FR 40567 (July 27, 1999). These deposit requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

Notification to Interested Parties

This notice also serves as a preliminary reminder to importers of their responsibility under 19 C.F.R. 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this administrative 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 determination 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.

[FR Doc. 02-19993 Filed 8-6-02; 8:45 am]

BILLING CODE 3510-DS-S

DEPARTMENT OF COMMERCE

Notice of Availability of Revised Draft Restoration Plan and Environmental Assessment for the Applied Environmental Services (Shore Realty) Superfund Site

AGENCY: National Oceanic and Atmospheric Administration, Department of Commerce

ACTION: Notice of availability; request for comments.

SUMMARY: The National Oceanic and Atmospheric Administration (NOAA), of the U.S. Department of Commerce, hereby gives notice of the availability of the Revised Draft Restoration Plan and Environmental Assessment for the Applied Environmental Services (Shore Realty) Superfund Site for public review. NOAA, the U.S. Fish and Wildlife Service (USFWS), of the U.S. Department of the Interior (DOI), and the State of New York (New York), share trusteeship authority over natural resources adversely affected by releases of hazardous substances from the Shore Realty Superfund Site (the Site) and are collectively referred to as the Natural Resource Trustees (the Trustees) for the Site. NOAA, the lead administrative Trustee, in consultation with the USFWS and New York, prepared this Revised Draft Restoration Plan and Environmental Assessment (Revised Draft RP/EA).

The original Draft RP/EA was published in the **Federal Register** on November 9, 2001 and a 30-day public notice and comment period was provided. See **Federal Register**, Volume

66, Number 218. No public comments were received. The primary difference between this Revised Draft RP/EA and the original Draft RP/EA is that the Trustees now propose to use all or part of an additional \$50,000 in natural resources damages which was paid to the Federal Trustees by the Performing Parties Group (an entity composed of cooperating past and current owners, operators and generators who share liability for the releases from the Site, hereinafter referred to as "the PPG"), and set it aside to be used for off-site, compensatory restoration, to supplement the preferred restoration alternative—the North Hempstead Bar Beach Lagoon Project.

The public is invited to submit written comments on this Revised Draft RP/EA to the Trustees. Any and all written comments received on or before August 22, 2002 will be considered. The Trustees will respond to any comments received through revision of this Revised Draft RP/EA, incorporation into the Final Restoration Plan, or by letter to the commentor, after the close of the comment period. The Final Restoration Plan will then be published.

DATES: The Trustees will accept written comments on the Revised Draft Restoration Plan and Environmental Assessment through August 22, 2002.

ADDRESSES: A copy of this Revised Draft Restoration Plan and Environmental Assessment is available for review during office hours at the following locations: (1) Michelle Schimel, Town Clerk, Town of North Hempstead, 200 Plandome Road, Manhasset, NY 11030 (516-869-7646); (2) EPA Administrative Records Office, 290 Broadway, 18th Floor, New York, NY 10007 (212-637-4308); (3) Bryant Library, 2 Paper Mill Road, Roslyn, NY (516-621-2240); (4) Port Washington Library, Manorhaven Blvd., Port Washington (515-883-4400); (5) Lisa Holst, Long Island Sound Study Habitat Restoration, NYSDEC Bureau of Marine Resources, 205 North Belle Meade Road, Suite 1, East Setauket, NY (631-444-0469); (6) Steve Sanford, NYSDEC, Division of Fish, Wildlife, and Marine Resources, 625 Broadway, Albany, NY (518-402-8997). It is also available on NOAA's web page (<http://response.restoration.noaa.gov/cpr/library/publications.html>) or through a link on USFWS's web page (<http://contaminants.fws.gov/Issues/Restoration.cfm>). NOAA will accept written comments addressed to: Lisa Rosman, NOAA/CPRD, via fax to 212-637-4207 or email at lisa.rosman@noaa.gov.