

questionnaires which delayed the planned verification schedules and, therefore, will not allow sufficient time to complete the preliminary results by the scheduled deadline of December 31, 2003.

Because it is not practicable to complete this review within the time specified under the Act, we are extending the time period for issuing the preliminary results of review by 60 days until February 29, 2004, in accordance with section 751(a)(3)(A) of the Act. The final results continue to be due 120 days after the publication of the preliminary results.

Dated: October 17, 2003.

**Barbara E. Tillman,**

*Acting Deputy Assistant Secretary for Import Administration, Group III.*

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## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-421-807]

#### **Certain Hot-Rolled Carbon Steel Flat Products From The Netherlands: Notice of Final Court Decision and Suspension of Liquidation**

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

**ACTION:** Notice of Final Court Decision and Suspension of Liquidation.

**SUMMARY:** On September 29, 2003, in *Corus Staal BV et al. v. United States III*, Consol. Court No. 02-00003, Slip Op. 03-127 (CIT 2003), the United States Court of International Trade (the Court) affirmed the Department of Commerce's (the Department's) remand determination and entered a final judgment order in regards to *Notice of Final Determination of Sales at Less Than Fair Value; Certain Hot-Rolled Carbon Steel Flat Products From The Netherlands*, 66 FR 50408 (October 3, 2001) and accompanying Issues and Decision Memorandum, *as amended*, *Notice of Amended Final Determination of Sales at Less Than Fair Value; Certain Hot-Rolled Carbon Steel Flat Products From The Netherlands*, 66 FR 55637 (November 2, 2001) and *Antidumping Duty Order: Certain Hot-Rolled Carbon Steel Flat Products From The Netherlands*, 66 FR 59565 (November 29, 2001). In its remand determination the Department explained its practice in calculating the provisional measures time period, *i.e.*, explained its interpretation of the term "6 months" in section 733(d) of the

Tariff Act of 1930, as amended (the Tariff Act). *See* "Final Results of Redetermination Pursuant to Court Remand: Certain Hot-Rolled Carbon Steel Flat Products from the Netherlands," Consol. Court No. 02-00003, Slip Op. 03-25 (CIT 2003) (Final Results of Redetermination).

As a result of the remand determination, the Department will amend the antidumping duty order on certain hot-rolled carbon steel flat products (hot-rolled steel) from the Netherlands to lift suspension of liquidation 180 days from the date of publication of the preliminary determination in the **Federal Register**. Because the preliminary determination was published on May 3, 2001, the amended antidumping duty order will indicate October 30, 2001 as the date of termination of suspension of liquidation in this case. In addition, as a result of the remand determination, the Department will inform the Bureau of Customs and Border Protection (Customs) to lift suspension of liquidation on October 30, 2001, and to resume collection of definitive duties on November 29, 2001, the date of publication of the antidumping duty order in the **Federal Register**.

Consistent with the decision of the U.S. Court of Appeals for the Federal Circuit (Federal Circuit) in *Timken Co. v. United States*, 893 F.2d 337 (Fed. Cir. 1990) (*Timken*), the Department will continue to order the suspension of liquidation of the subject merchandise until there is a conclusive decision in this case. If this case is not appealed, or if it is affirmed on appeal, the Department will publish an amended antidumping duty order for hot-rolled steel from the Netherlands in accord with its redetermination, and instruct Customs to terminate the suspension of liquidation for the period October 30, 2001 through November 28, 2001 and to resume collection of cash deposits on November 29, 2001.

**EFFECTIVE DATE:** October 24, 2003.

**FOR FURTHER INFORMATION CONTACT:** Deborah Scott at (202) 482-2657 or Robert James at (202) 482-0649, Antidumping and Countervailing Duty Enforcement Group III, Office Eight, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

#### **SUPPLEMENTARY INFORMATION:**

##### **Background**

On October 3, 2001, the Department published in the **Federal Register** its notice of final determination that sales

of hot-rolled steel from the Netherlands were being sold at less than fair value (LTFV) in the United States, and on November 2, 2001 the Department published an amended final determination regarding the sale of hot-rolled steel from the Netherlands at LTFV in the United States. *See Notice of Final Determination of Sales at Less Than Fair Value; Certain Hot-Rolled Carbon Steel Flat Products From The Netherlands*, 66 FR 50408 (October 3, 2001) and accompanying Issues and Decision Memorandum, *as amended*, *Notice of Amended Final Determination of Sales at Less Than Fair Value; Certain Hot-Rolled Carbon Steel Flat Products From The Netherlands*, 66 FR 55637 (November 2, 2001) (collectively, *Final Determination*). On November 15, 2001, the International Trade Commission (the Commission) published its final determination that an industry in the United States is materially injured by reason of LTFV imports of hot-rolled steel from the Netherlands. *See Hot Rolled Steel Products From China, India, Indonesia, Kazakhstan, The Netherlands, Romania, South Africa, Taiwan, Thailand, and Ukraine*, 66 FR 57482 (November 15, 2001). On November 29, 2001, the Department published the antidumping duty order on hot-rolled steel from the Netherlands. *See Antidumping Duty Order: Certain Hot-Rolled Carbon Steel Flat Products From The Netherlands*, 66 FR 59565 (November 29, 2001).

Subsequent to the publication of the Department's antidumping duty order, the petitioners (National Steel Corporation, Bethlehem Steel Corporation, and United States Steel Corporation) and the respondent (Corus Staal BV and Corus Steel USA Inc. (collectively, Corus)) challenged certain aspects of the Department's *Final Determination* before the Court. In addition, the Department requested a voluntary remand with respect to the inadvertent omission of the proper language from the antidumping duty order to cease collection of provisional measures six months after the publication of the preliminary determination, in accordance with section 733(d) of the Tariff Act. Corus also raised this issue, but argued the Department had interpreted the six month provisional measures period as constituting 180 days, as opposed to six calendar months. This issue arose due to the following chain of events: In the underlying investigation, the Department published its preliminary determination on May 3, 2001. *See Notice of Preliminary Determination of Sales at Less Than Fair Value: Certain*

*Hot-Rolled Carbon Steel Flat Products from the Netherlands*, 66 FR 22146 (May 3, 2001). Following publication of the preliminary determination, Corus requested that the Department extend the deadline for the final determination, and in making this request, agreed to an extension of provisional measures from a four-month period to not more than six months. However, the Department inadvertently excluded language from the antidumping duty order indicating it would lift suspension of liquidation (*i.e.*, cease collection of provisional measures) six months after the date of the preliminary determination, consistent with section 733(d) of the Tariff Act.

On March 7, 2003, the Court issued a remand order to the Department to revise its antidumping duty order to preclude collection of provisional measures beyond the six month period, and to also explain its practice of interpreting the provisional measures time period, *i.e.*, in calendar months or the equivalent in six 30-day periods. See *Corus Staal BV et al. v. United States I*, Consol. Ct. No. 02-00003, Slip Op. 03-25 (March 7, 2003). The Department released its "Draft Redetermination Pursuant to Court Remand" (Draft Results) on March 20, 2003, noting that in cases subsequent to the final determination in the underlying investigation, the Department has followed the practice of interpreting six months to mean 180 days. See, *e.g.*, *Notice of Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order: Antidumping Investigation of Low Enriched Uranium From France*, 67 FR 6680 (February 13, 2002) and *Notice of Antidumping Duty Orders: Carbon and Certain Alloy Steel Wire Rod from Brazil, Indonesia, Mexico, Moldova, Trinidad and Tobago, and Ukraine*, 67 FR 65945, 65947 (October 29, 2002). Because 180 days from the publication of the preliminary determination was October 30, 2001, the Department stated in its Draft Results that provisional measures should not have been collected after October 29, 2001 and therefore it would amend its instructions to Customs to lift suspension of liquidation on October 30, 2001. The Department also clarified in its Draft Results that the appropriate date to resume collection of definitive duties, pursuant to section 737 of the Tariff Act, was the date when the Commission publishes a final injury determination, which in this case was November 15, 2001. Therefore, the Department proposed instructing Customs to resume collection of cash deposits effective November 15, 2001. In

response to the Department's Draft Results, Corus submitted comments on March 31, 2003, stating that while it agreed with the Department on the date of termination of suspension of liquidation, it disagreed with the Department on the date on which the collection of definitive duties was to resume. Instead, Corus argued, the collection of cash deposits should resume on the date of publication of the antidumping duty order, *i.e.*, November 29, 2001.

On April 7, 2003, the Department filed with the Court its Final Results of Redetermination, stating that upon approval by the Court it would issue an amended antidumping duty order and instructions to Customs including language lifting suspension of liquidation "180 days from the publication of the preliminary determination until publication of the Commission's final affirmative determination." On August 12, 2003, the Court sustained the portion of the Department's Final Results of Redetermination which stated that provisional measures should not have been collected more than 180 days after the preliminary determination. However, the Court ruled that the issue of the end date of the provisional measures time period could not be raised on remand. Thus, the Court ordered the Department to amend its remand determination to declare the date of publication of the antidumping duty order (*i.e.*, November 29, 2001) to be the end date for the termination of suspension of liquidation in this case. See *Corus Staal BV et al. v. United States II*, Consol. Ct. No. 02-00003, Slip Op. 03-101 (August 12, 2003). Pursuant to the Court's order in *Corus Staal BV v. United States II*, on September 2, 2003 the Department filed a revised final results of redetermination stating that consistent with the Court's order, the end date for the termination of suspension of liquidation in this case was November 29, 2001. The Department also indicated that upon issuance of a final and conclusive decision by the Court, it would publish an amended antidumping duty order and issue instructions to Customs to resume the collection of cash deposits effective November 29, 2001. See "Final Results of Redetermination Pursuant to Second Court Remand: Certain Hot-Rolled Carbon Steel Flat Products from the Netherlands," Consol. Court No. 02-00003, Slip Op. 03-101 (CIT 2003). On September 29, 2003, the Court affirmed the Department's amended remand redetermination and entered a final judgment order with regards to the *Final*

*Determination*. See *Corus Staal BV et al. v. United States III*, Consol. Court No. 02-00003, Slip Op. 03-127 (CIT September 29, 2003). As there is now a final court decision with respect to this litigation, we are publishing this notice of final court decision affirming our remand redetermination.

### Suspension of Liquidation

In *Timken*, the Federal Circuit held that the Department must publish notice of a decision made by the Court or the Federal Circuit which is not "in harmony" with the Department's final determination or final results. The Federal Circuit also held that the Department must suspend liquidation of the subject merchandise until there is a "conclusive" decision in the case. Therefore, pursuant to *Timken*, the Department must continue to suspend liquidation for all subject merchandise entered, or withdrawn from warehouse, for consumption between October 30, 2001 and November 28, 2001, inclusive, pending the expiration of the period of appeal for *Corus Staal BV v. United States III*, or, if that decision is appealed, pending a final decision by the Federal Circuit. Upon expiration of the period of appeal or completion of any future litigation in this matter, the Department will issue instructions to Customs to liquidate all entries of subject merchandise made between October 30, 2001 and November 28, 2001, inclusive, without regard to antidumping duties (*i.e.*, release all bonds and refund all cash deposits). The Department will also instruct Customs to resume collection, effective November 29, 2001, of a cash deposit equal to the estimated weighted-average antidumping duty margins published in the *Final Determination*.

Dated: October 20, 2003.

**James J. Jochum,**

*Assistant Secretary for Import Administration.*

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## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-588-046]

### Notice of Preliminary Results of Antidumping Duty Changed Circumstances Review: Polychloroprene Rubber from Japan

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