

Pursuant to 19 CFR 351.224, the Department will disclose to any party to the proceeding, within five days of publication of this notice, the calculations performed. Any interested party may request a hearing within 30 days of publication. Any hearing, if requested, will normally be held 37 days after the date of publication, or the first working day thereafter. Interested parties may submit case briefs and/or written comments no later than 30 days after the date of publication. Rebuttal briefs and rebuttals to written comments, limited to issues raised in such briefs or comments, may be filed no later than 35 days after the date of publication. Parties who submit arguments 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, the Department requests that parties submitting written comments provide the Department with an additional copy of the public version of any such comments on a computer diskette. The Department will publish the final results of this administrative review, which will include the results of its analysis of issues raised in any such written comments or at a hearing, within 120 days after the publication of this notice.

#### Assessment

Upon issuance of the final results of review, the Department shall determine, and CBP shall assess, antidumping duties on all appropriate entries. The Department will issue appraisal instructions directly to CBP within fifteen days of publication of the final results of review. The final results of this review shall be the basis for the assessment of antidumping duties on entries of merchandise covered by the results and for future deposits of estimated duties. For duty assessment purposes, we calculated an importer-specific assessment rate by dividing the total dumping margins calculated for the U.S. sales to the importer by the total entered value of these sales. If the preliminary results are adopted in the final results of review, this rate will be used for the assessment of antidumping duties on all entries of the subject merchandise by that importer during the POR.

#### Cash Deposits

The following deposit requirements will be effective upon completion of the final results of this administrative review for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication of the final results

of this administrative review, as provided in section 751(a)(1) of the Act: (1) The cash deposit rate for U&A France will be that established in the final results of this review; (2) for previously reviewed or investigated companies not covered in this review, 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 in 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 or any previous review conducted by the Department, the cash deposit rate will continue to be the "all others" rate established in the LTFV investigation, which was 9.38 percent. *See Antidumping Duty Order*, 64 FR at 40565.

#### Notification to Interested Parties

This notice serves as a preliminary reminder to importers of their responsibility under regulation 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 and notice is published in accordance with sections 751(a)(1) and 777(I)(1) of the Act.

Dated: July 29, 2004.

**Jeffrey A. May,**

*Acting Assistant Secretary for Import Administration.*

[FR Doc. 04-18034 Filed 8-5-04; 8:45 am]

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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.

**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, ThyssenKrupp Nirosta GmbH, ThyssenKrupp VDM GmbH, ThyssenKrupp Nirosta North America, Inc., and ThyssenKrupp VDM USA, Inc. (collectively, TKN), 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 of review (POR) July 1, 2002, through June 30, 2003.

We preliminarily determine that TKN made sales at less than fair value during the POR. If these preliminary results are adopted in our final results of review, we will instruct U.S. Customs and Border Protection (Customs) 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) and (3) a table of authorities.

**DATES:** *Effective Date:* August 6, 2004.

#### FOR FURTHER INFORMATION CONTACT:

Patricia Tran or Robert James at (202) 482-1121 or (202) 482-0649, respectively, Antidumping and Countervailing Duty Enforcement Office 6, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

#### SUPPLEMENTARY INFORMATION:

##### 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*, 64 FR 40557 (July 27, 1999) (Antidumping Duty Order). The Department published the *Notice of Opportunity to Request Administrative Review* of S4 from Germany for the period July 1, 2002, through June 30, 2003, on July 2, 2003 (67 FR 44172).

On July 24 and 29, 2003, respectively, TKN and petitioners requested an

administrative review of TKN's sales for the period July 1, 2002, through June 30, 2003. On August 22, 2003, the Department published in the **Federal Register** a notice of initiation of this antidumping duty administrative review. See *Notice of Initiation of Antidumping and Countervailing Duty Administrative Reviews and Requests for Revocation in Part*, 68 FR 50750 (August 22, 2003).

On September 12, 2003, the Department issued an antidumping duty questionnaire to TKN. TKN submitted its response to section A of the questionnaire on October 17, 2003, and its response to sections B through D of the questionnaire on November 24, 2003.<sup>1</sup> On March 23, 2004, the Department issued a supplemental questionnaire for sections A, B, and C, to which TKN responded on April 20 and 26, 2004. On May 05, 2004, the Department issued a supplemental questionnaire for section D. TKN responded to this supplemental questionnaire on May 19, 2004. Finally, on July 23, 2004, the Department issued a third supplemental questionnaire, for section B, to which TKN responded on July 27, 2004.

Because it was not practicable to complete this review within the normal time frame, on March 10, 2004, 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; Extension of Time Limit for Preliminary Results*, 69 FR 11386 (March 10, 2004). This extension established the deadline for these preliminary results as July 30, 2004.

### Scope of the Review

The products covered by this order 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

<sup>1</sup> Section A of the questionnaire requests general information concerning a company's corporate structure and business practices, the merchandise under review that it sells, and the manner in which it sells that merchandise in all of its markets. Section B requests a complete listing of all home market sales, or, if the home market is not viable, of sales in the most appropriate third-country market (this section is not applicable to respondents in non-market economy cases). Section C requests a complete listing of U.S. sales. Section D requests information on the cost of production of the foreign like product and the constructed value of the merchandise under review. Section E requests information on further manufacturing.

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 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,<sup>2</sup> 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 review 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,

<sup>2</sup> 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.

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 the order. 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 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 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 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."<sup>3</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>4</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>5</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>6</sup> 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." 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" 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>7</sup>

#### Duty Absorption

On September 22, 2003, petitioners requested that the Department determine whether antidumping duties had been absorbed during the POR by the respondent. Section 751(a)(4) of the Tariff Act provides for the Department, if requested, to determine, during an administrative review initiated two or four years after the publication of the order, whether antidumping duties have been absorbed by a foreign producer or exporter, if the subject merchandise is sold in the United States through an affiliated importer. Because TKN sold subject merchandise to unaffiliated customers in the United States through an importer that is affiliated (i.e., TKNSA, TKSSNA, and TKVDM USA), and because this review was initiated four years after the publication of the order, we will make a duty absorption

determination in this segment of the proceeding within the meaning of section 751(a)(4) of the Tariff Act.

In its July 12, 2004, supplemental questionnaire, the Department requested evidence from the respondent to demonstrate that unaffiliated U.S. purchasers will pay any antidumping duties ultimately assessed on entries during this POR. On July 14, 2004, TKN stated it "does not believe that there is any basis for concluding that {respondents} absorbed antidumping duties in this review or will do so after they are assessed as a result of this review." In determining whether antidumping duties have been absorbed by the respondent during the POR, we presume that the duties will be absorbed for those sales that have been made at less than normal value (NV). This presumption can be rebutted with evidence (e.g., an agreement between the affiliated importer and unaffiliated purchaser) that the unaffiliated purchaser will pay the full duty ultimately assessed on the subject merchandise. Despite TKN's claim, it provided no evidence on the record showing that unaffiliated purchasers will pay the full duty ultimately assessed on the subject merchandise. Therefore, we preliminarily find that antidumping duties have been absorbed by TKN on all U.S. sales made through its affiliated importers.

#### Verification

As provided in section 782(i) of the Tariff Act, the Department conducted a home market sales verification at TKN's headquarters in Krefeld, Germany and at its affiliate, Nirosta Service Center (NSC), in Wilsndorf-Anzhausen, Germany. We used standard verification procedures, including on-site inspection of the facility, examination of relevant records, and selection of original documents containing relevant information. The sales verification report will be released after the preliminary results.

#### Fair Value Comparisons

To determine whether sales of S4 in the United States were made at less than fair value, we compared USP to NV, as described in the "Constructed Export 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

<sup>3</sup> "Arnokrome III" is a trademark of the Arnold Engineering Company.

<sup>4</sup> "Gilphy 36" is a trademark of Imphy, S.A.

<sup>5</sup> "Durphynox 17" is a trademark of Imphy, S.A.

<sup>6</sup> This list of uses is illustrative and provided for descriptive purposes only.

<sup>7</sup> "GIN4 Mo," "GIN5" and "GIN6" are the proprietary grades of Hitachi Metals America, Ltd.

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 freight, 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 other 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 TKN.

#### Home Market

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 TKN'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 between 98 and 102 percent of the price of identical or comparable merchandise 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 TKN in the preceding administrative review because these sales were below cost. *See Stainless Steel Sheet and Strip in Coils from Germany: Notice of Final Results of Antidumping Duty Administrative Review*, 69 FR 6262, (February 10, 2004); *see also Stainless Steel Sheet and Strip in Coils from Germany; Notice of Preliminary Results of Antidumping Duty Administrative Review*, 68 FR 47039, 47041–42 (August 7, 2003). 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 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 TKN, except for the two changes noted below.

In accordance with section 773(f)(2) of the Tariff Act, where TKN'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* TKN's Preliminary Results Analysis Memorandum, July 29, 2004. For both TKN and VDM, we revised the interest expense ratio by recalculating the short-term interest income offset and including the net miscellaneous financial expense. *See id.*

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 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 TKN'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 TKN'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. We did not make use of constructed value, as all U.S. sales were matched to home market sales.

#### 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.

**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 affect price comparability, we adjust NV under section 773(a)(7)(B) of the Tariff Act (the CEP offset provision). See e.g., *Certain Carbon Steel Plate from South Africa, Final Determination of Sales at*

*Less Than Fair Value*, 62 FR 61731, 61733 (November 19, 1997).

In implementing these principles in this review, we asked TKN 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. TKN 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, TKN 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 that one level of trade exists for TKN's home market sales.

For the U.S. market, TKN reported three channels of distribution: (1) Back-to-back CEP sales made through ThyssenKrupp Nirosa North America, Inc. (TKNNA) or ThyssenKrupp Specialty Steels NA, Inc. (TKSSNA); (2) consignment CEP sales made through TKNNA or TKSSNA; and (3) inventory sales from TKNNA and TKSSNA. All U.S. sales were CEP transactions and TKN performed the same selling functions in each instance. 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 TKN 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 indicate that home market sales involved a more advanced stage of distribution than CEP sales. In the home market, TKN 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 TKN

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 TKN'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 TKN 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 TKN. Where there were commissions in the U.S. market but not the home market, we calculated the CEP offset as the lesser of either the U.S. commissions plus the U.S. indirect selling expenses 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 U.S. indirect selling expense plus 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 calculated the CEP offset as the less of either the U.S. indirect selling expenses or the amount that the home market selling expenses exceed the home market commissions. 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.

**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, 2002, through June 30, 2003:

Manufacturer/exporter	Weighted average margin (percent)
TKN .....	9.95

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 an 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 this administrative review, 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 Customs shall assess, antidumping duties on all appropriate entries. In accordance with 19 CFR 351.212(b)(1), we will calculate importer-specific *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 for each importer. These rates will be assessed uniformly on all entries the respective importers made during the POR if these preliminary results are adopted in the final results of review. The Department will issue appropriate appraisal instructions directly to Customs within fifteen days of publication of the final results of 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 rates for TKN will be the rates established in the final results of review;

(2) If the exporter is not a firm covered in this review or the 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

(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 the "all others" rate of 13.48 percent from the LTFV investigation (*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 29, 2004.

**Jeffrey A. May,**

*Acting Assistant Secretary for Import Administration.*

[FR Doc. 04-18038 Filed 8-5-04; 8:45 am]

**BILLING CODE 3510-DS-P**

## 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 S.A.) and Mexinox USA, Inc. (Mexinox USA) (collectively, Mexinox) and petitioners,<sup>1</sup> 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 administrative review covers imports of subject merchandise from Mexinox S.A. during the period July 1, 2002 to June 30, 2003.

We preliminarily determine that sales of S4 in coils from Mexico have been

<sup>1</sup> Petitioners are Allegheny Ludlum, AK Steel Corporation (formerly Armco, Inc.), J&L Specialty Steel, Inc., North American Stainless, Butler-Armco Independent Union, Zanesville Armco Independent Organization, Inc. and the United Steelworkers of America, AFL-CIO/CLC.

made below normal value (NV). If these preliminary results are adopted in our final results of administrative review, we will instruct U.S. Customs and Border Protection (CBP) 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 issues, (2) a brief summary of the argument, and (3) a table of authorities.

**EFFECTIVE DATE:** August 6, 2004.

**FOR FURTHER INFORMATION CONTACT:**

Deborah Scott or Robert James, AD/CVD Operations, Enforcement Office 6, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230, telephone: (202) 482-2657 or (202) 482-0649, respectively.

**SUPPLEMENTARY INFORMATION:**

**Background**

On July 27, 1999, the Department published in the **Federal Register** the *Notice of Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order* on stainless steel sheet and strip in coils from Mexico (64 FR 40560). On July 1, 2002, the Department published the *Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity To Request Administrative Review*, of, *inter alia*, stainless steel sheet and strip in coils from Mexico for the period July 1, 2002 through June 30, 2003 (68 FR 39511).

In accordance with 19 CFR 351.213(b)(1), Mexinox and petitioners requested that we conduct an administrative review. On August 22, 2003, we published in the **Federal Register** a notice of initiation of this antidumping duty administrative review covering the period July 1, 2002, through June 30, 2003. *See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in Part*, 68 FR 50750 (August 22, 2003).

On September 15, 2003, the Department issued an antidumping duty questionnaire to Mexinox. Mexinox submitted its response to section A of the questionnaire on October 14, 2003, and its response to sections B through E of the questionnaire on November 20, 2003.<sup>2</sup> On March 1, 2004, the

<sup>2</sup> Section A of the questionnaire requests general information concerning a company's corporate structure and business practices, the merchandise

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