

Dated: August 15, 2005.

**Ronald K. Lorentzen,**

*Acting Assistant Secretary for Import Administration.*

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**DEPARTMENT OF COMMERCE**

**International Trade Administration**

**A-351-828**

**Notice of Preliminary Results of the New Shipper Review of the Antidumping Duty Order on Certain Hot-Rolled Flat-Rolled Carbon Quality Steel Products from Brazil**

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

**SUMMARY:** In response to a request by Comphania Siderúrgica de Tubarão (CST), the U.S. Department of Commerce (the Department) is conducting a new shipper review of the antidumping duty order on certain hot-rolled flat-rolled carbon quality steel products (hot-rolled steel products) from Brazil for the period March 1, 2004, through August 31, 2004. We preliminarily determine that during the period of review (POR), CST did not sell subject merchandise at less than normal value (NV). Moreover, we have preliminarily determined that CST's U.S. sales are *bona fide* transactions. Our full analysis is set forth in the Memorandum to Barbara E. Tillman, Acting Deputy Assistant Secretary for Import Administration, Certain Hot-Rolled Flat-Rolled Carbon Quality Steel Products from Brazil: New Shipper Review of Comphania Siderúrgica de Tubarão (CST), dated August 12, 2005 (*Bona Fide Memo*), which is on file in the Central Records Unit (CRU), room B-099 of the main Commerce Building. Interested parties are invited to comment on these preliminary results. If these preliminary results are adopted in the final results of this new shipper review, we will issue instructions to U.S. Customs and Border Protection (CBP) as described in the "Assessment Rates" section below.

**EFFECTIVE DATE:** August 19, 2005.

**FOR FURTHER INFORMATION CONTACT:**

Angelica Mendoza or David Kurt Kraus, AD/CVD Operations, Office 7, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-3019 or (202) 482-7871, respectively.

**SUPPLEMENTARY INFORMATION:**

**Background**

On March 12, 2002, the Department published in the **Federal Register** the antidumping duty order on hot-rolled steel products from Brazil. *See Notice of Antidumping Duty Order and of Sales at Less Than Fair Value: Certain Hot-Rolled Flat-Rolled Carbon Quality Steel Products from Brazil*, 67 FR 11093 (AD Order). On September 27, 2004, we received a request from CST to initiate a new shipper review of CST's U.S. sales of hot-rolled steel products from Brazil. On October 28, 2004, the Department published the notice of initiation of this new shipper antidumping duty review covering the period March 1, 2004, through August 31, 2004. *See Certain Hot-Rolled Flat-Rolled Carbon Quality Steel Products from Brazil: Notice of Initiation of New Shipper Antidumping Duty Review*, 69 FR 62866 (October 28, 2004).

On November 12, 2004, we sent a questionnaire to CST and instructed CST to respond to Sections A-C. On December 3, 2004, CST submitted its response to Section A of the original questionnaire. On January 3, 2005, CST filed a letter stipulating that it would not be submitting a Section E response to the Department's antidumping duty questionnaire as such response is not required or warranted. On January 12, 2005, CST submitted its response to Sections B and C of the questionnaire.

On February 2, 2005 the Department received a sales below-cost allegation from Nucor Corporation, a petitioner in this review. On February 14, 2005, CST responded to this allegation of sales below-cost. The Department issued the first supplemental Sections A-C questionnaire on February 24, 2005. After determining that Nucor Corporation provided a reasonable basis for a sales-below cost allegation, the Department initiated a sale-below cost investigation and issued a modified Section D questionnaire to CST on March 9, 2005. *See Memorandum to Richard O. Weible, Director, Office 7, "Petitioner's Allegation of Sales Below the Cost of Production for Comphania Siderúrgica de Tubarão," dated March 9, 2005 (Sales Below COP Memo).*

The Department issued its first supplemental Sections A-C questionnaire on February 24, 2005. On March 10, 2005, we received CST's response to the first supplemental questionnaire (Sections A-C). On March 23, 2005, the Department received CST's response to Section D of the questionnaire. On April 1, 2005, the Department issued its second supplemental questionnaire. We received CST's second supplemental

questionnaire response on April 13, 2005. On April 20, 2005, we issued a supplemental Section D questionnaire to CST. We received CST's supplemental Section D questionnaire response on May 6, 2005, which included revised cost, home market and U.S. sales databases.

On June 6, 2005 and June 9, 2005, we issued our sales and cost verification agendas to CST. We conducted verification of CST's sales information from June 13, 2005, through January 17, 2005. We conducted verification of CST's cost information from June 20, 2005, through June 24, 2005. *See Memorandum to the File, through Abdelali Elouaradia, "Verification of Home Market and U.S. Sales Questionnaire Responses Submitted by Comphania Siderúrgica de Tubarão (CST)," dated July 7, 2005 (Sales Verification Report) and Memorandum to Neal M. Halper through Peter Scholl, "Verification Report on the Cost of Production and Constructed Value Data Submitted by Comphania Siderúrgica de Tubarão (CST)," dated August 11, 2005 (Cost Verification Report).* Public versions of both verification reports are on file with the CRU. On July 14, 2005, we requested that CST submit revised home market and U.S. sales databases to reflect minor corrections presented and findings discovered at verification and accepted by the Department. The Department received CST's response on July 20, 2005.

**Period of Review**

The POR for this new shipper review is March 1, 2004, through August 31, 2004.

**Scope of the Order**

For purposes of this order, the products covered are certain hot-rolled flat-rolled carbon-quality steel products, meeting the physical parameters described below, regardless of application.

The hot-rolled flat-rolled carbon-quality steel products subject to this review are of a rectangular shape, of a width of 0.5 inch or greater, neither clad, plated, nor coated with metal and whether or not painted, varnished, or coated with plastics of other non-metallic substances, in coils (whether or not in successively superimposed layers) regardless of thickness, and in straight lengths, of a thickness less than 4.75 mm and of a width measuring at least 10 times the thickness. Specifically included in this scope are vacuum degassed, fully stabilized (IF) steels, high strength low alloy (HSLA) steels, and the substrate for motor lamination steels. Steel products to be included in

the scope of this agreement, regardless of HTSUS definitions, are products in which: (1) iron predominates, by weight, over each of the other contained elements; (2) the carbon content is 2 percent or less, by weight; and (3) none of the elements listed below exceeds certain specified quantities.

The merchandise subject to the order is currently classifiable under subheadings 7208.10.15.00, 7208.10.30.00, 7208.10.60.00, 7208.25.30.00, 7208.25.60.00, 7208.26.00.30, 7208.26.00.60, 7208.27.00.30, 7208.27.00.60, 7208.36.00.30, 7208.36.00.60, 7208.37.00.30, 7208.37.00.60, 7208.38.00.15, 7208.38.00.30, 7208.38.00.90, 7208.39.00.15, 7208.39.00.30, 7208.39.00.90, 7208.40.60.30, 7208.40.60.60, 7208.53.00.00, 7208.54.00.00, 7208.90.00.00, 7210.70.30.00, 7210.90.90.00, 7211.14.00.30, 7211.14.00.90, 7211.19.15.00, 7211.19.20.00, 7211.19.30.00, 7211.19.45.00, 7211.19.60.00, 7211.19.75.30, 7211.19.75.60, 7211.19.75.90, 7212.40.10.00, 7212.40.50.00, and 7212.50.00.00 of the Harmonized Tariff Schedule of the United States (HTSUS). Certain hot-rolled flat-rolled carbon-quality steel covered by this agreement, including vacuum degassed and fully stabilized, high strength low alloy, and the substrate for motor lamination steel may also enter under tariff numbers 7225.11.00.00, 7225.19.00.00, 7225.30.30.50, 7225.30.70.00, 7225.40.70.00, 7225.99.00.90, 7226.11.10.00, 7226.11.90.30, 7226.11.90.60, 7226.19.10.00, 7226.19.90.00, 7226.91.50.00, 7226.91.70.00, 7226.91.80.00, and 7226.99.00.00. Although the HTSUS subheadings are provided for convenience and CBP purposes, the written description of the scope of the order is dispositive.

## Verification

As provided in section 782(i) of the Tariff Act of 1930, as amended (the Act), we conducted verification of the sales and cost information provided by CST. We used standard verification procedures, including examination of relevant sales, financial, and cost records. See Sales Verification Report and Cost Verification Report. Our verification results are detailed in the verification reports placed in the case file in the CRU. We made certain minor revisions to certain sales and cost data based on verification findings

## Product Comparisons

In accordance with section 771(16) of the Act, we considered all products covered by the "Scope of the Order" section above, which were produced and sold by CST in the home market during the POR, to be foreign like product for the purpose of determining appropriate product comparisons to CST's U.S. sales of hot-rolled steel products.

We relied on the following eleven product characteristics to match U.S. sales of subject merchandise to sales in Brazil of the foreign like product (listed in order of preference): painted or not-painted, quality, carbon content, yield strength, nominal thickness, width, form of merchandise, *i.e.*, cut-to-length or coil, temper rolled or skin passed, pickled or not pickled, edge trimmed, *i.e.*, trimmed or mill-edged, and with patterns in relief or without patterns in relief. In instances 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. See Appendix V of the Department's antidumping duty questionnaire to CST dated November 12, 2004.

## Fair Value Comparisons

To determine whether CST made sales of hot-rolled steel products to the United States at less than fair value, we compared the export price (EP) to the NV, as described in the "Export Price" and "Normal Value" sections of this notice, below. In accordance with section 777A(d)(2) of the Act, we compared the EPs of individual U.S. transactions to monthly weighted-average NVs.

## Export Price

Section 772(a) of the Act defines EP as the price at which the subject merchandise is first 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, as adjusted under section 772(c) of the Act.

In the instant review, CST sold subject merchandise to the United States through its wholly-owned subsidiary, CST Overseas Ltd., located in Georgetown, Grand Cayman Islands, and this Cayman Islands-based trading company sold the subject merchandise to the first unaffiliated U.S. customer.

CST reported all of its U.S. sales of subject merchandise as EP transactions. After reviewing the evidence on the record of this review, we have preliminarily determined that CST's transactions are classified properly as EP sales because these sales were first sold before the date of importation by CST's subsidiary, CST Overseas Ltd., to an unaffiliated purchaser in the United States.

Such a determination is consistent with section 772(a) of the Act and the U.S. Court of Appeals for the Federal Circuit's (Court of Appeals') decision in *AK Steel Corp. et al. v. United States*, 226 F.3d 1361, 1374 (Fed. Cir. 2000) (*AK Steel*). In *AK Steel*, the Court of Appeals examined the definitions of EP and constructed export price (CEP), noting "the plain meaning of the language enacted by Congress in 1994, focuses on where the sale takes place and whether the foreign producer or exporter and the U.S. importer are affiliated, making these two factors dispositive of the choice between the two classifications." *AK Steel*, at 226 F.3d at 1369. The Court of Appeals declared, "the critical differences between EP and CEP sales are whether the sale or transaction takes place inside or outside the United States and whether it is made by an affiliate," and noted that the phrase "outside the United States" had been added to the 1994 statutory definition of EP. *AK Steel*, at 226 F.3d at 1368–70. Thus, the classification of a sale as either EP or CEP depends upon where the contract for sale was concluded (*i.e.*, in or outside the United States) and whether the foreign producer or exporter is affiliated with the U.S. importer. In this case, the exporter is not affiliated and the sale took place outside of the U.S.

For these EP sales transactions, we calculated price in conformity with section 772(a) of the Act. We based EP on the packed, delivered duty-paid prices to an unaffiliated purchaser in the United States. We also made deductions from the EP starting price, where appropriate, for movement expenses in accordance with section 772(c)(2)(A) of the Act; these included foreign inland freight from the plant/warehouse to the port of exportation, foreign brokerage and handling, and international freight. Pursuant to section 772(c)(1)(B), we adjusted the EP starting price for the per unit amount of any import duties imposed by the country of exportation, which have been rebated, or which have not been collected, by reason of the exportation of the subject merchandise to the United States, *i.e.*, duty drawback.

## Normal Value

### A. Home Market Viability

In order to determine whether there is 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 is equal to or greater than five percent of the aggregate volume of U.S. sales), we compared CST's volume of home market sales of the foreign like product to the volume of its U.S. sales of the subject merchandise, in accordance with section 773(a)(1)(B) of the Act. Pursuant to section 773(a)(1)(B) of the Act and section 351.404(b) of the Department's regulations, because CST'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 determine that sales in the home market provide a viable basis for calculating NV. See CST's Section A questionnaire response at Exhibit A-1. Moreover, there is no evidence on the record supporting a particular market situation in the exporting company's country that would not permit a proper comparison of home market and U.S. prices. Therefore, we based NV on home market sales in the usual commercial quantities and in the ordinary course of trade.

As such, we used as NV the prices at which the foreign like product was first sold for consumption in Brazil, in the usual commercial quantities, in the ordinary course of trade and, to the extent possible, at the same level of trade (LOT) as EP sales, as appropriate.

### B. Arm's-Length Test

CST reported that during the POR, it made sales in the home market to affiliated and unaffiliated original equipment manufacturers (OEMs) or end-users and service centers. If any sales to affiliated customers in the home market were not made at arm's-length prices, we excluded them from our analysis as we consider such sales to be outside the ordinary course of trade. See 19 CFR § 351.102(b). To test whether 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 discounts and rebates, movement expenses, direct selling expenses, and home market packing expenses. In accordance with the Department's current practice, if the prices charged to an affiliated party were, on average, between 98 and 102 percent of the prices charged to unaffiliated parties for merchandise

identical or most similar to that sold to the affiliated party, we consider the sales to be at arm's-length prices. See 19 CFR § 351.403(c). Conversely, where the affiliated party did not pass the arm's-length test, all sales to that affiliated party have been excluded from the NV calculation. See *Antidumping Proceedings: Affiliated Party Sales in the Ordinary Course of Trade*, 67 FR 69186 (November 15, 2002) (*Modification to Affiliated Party Sales*). Because CST's affiliated customers in the home market processed the subject merchandise into non-subject merchandise during the POR, we analyzed only the sales to the affiliates to determine whether they passed the arm's length test. We discovered that certain sales to affiliated purchasers in the home market did not pass the arm's length test; accordingly, we have excluded all sales to these affiliated parties from the NV calculation.

### C. Cost of Production Analysis

In accordance with section 773(b)(2)(A) of the Act, in order to initiate a sales below the cost of production (COP) investigation the Department must have "reasonable grounds" to believe or suspect that sales in the home market or a third country, if appropriate, have been made at prices below the COP. An allegation will be deemed to demonstrate reasonable grounds if: 1) a reasonable methodology is used in the calculation of the COP including the use of the respondent's actual data, if available; 2) using this methodology, sales are shown to be made at prices below the COP; and 3) the sales allegedly made at below cost are representative of a broader range of foreign models that may be used as a basis for normal value.

As noted above, the Department found that the petitioner's methodology for evaluating sales at below the cost of production was reasonable. See Sales-Below COP Memo dated March 9, 2005. Therefore, the Department initiated a sales below cost or production investigation on the basis that it has reasonable grounds to believe or suspect, pursuant to section 773(b)(2)(A)(ii) of the Act, that CST made sales in the home market at prices below the COP for this POR. As a result, in accordance with section 773(b)(1) of the Act, we examined whether CST's sales in the home market were made at prices below the COP.

### 1. Calculation of COP

We compared sales of the foreign like product in the home market with POR model-specific COP. In accordance with section 773(b)(3) of the Act, we

calculated COP based on the sum of the costs of materials and fabrication employed in producing the foreign like product, plus selling, general and administrative (SG&A) expenses, interest expenses, and all costs and expenses incidental to placing the foreign like product in packed condition and ready for shipment. In our sales-below-cost analysis, we relied on home market sales and COP information provided by CST in its questionnaire responses, except where noted below:

1. We increased CST's reported cost of manufacturing by allocating certain unreported manufacturing expenses to hot-rolled coil products.
2. We reduced CST's reported production quantity to reflect the verified quantity.
3. We increased the costs reported for certain third party services to reflect the actual costs paid for the services.
4. We reclassified certain expenses from manufacturing costs to general and administrative expenses.
5. We revised the reported financial expenses by excluding certain financial gains.
6. In accordance with section 773(f)(3) of the Act, we increased the cost of certain major material inputs purchased from an affiliated supplier during the POR.

For further details regarding these adjustments, see the Memorandum to Neal M. Halper, Director, Office of Accounting, "Cost of Production and Constructed Value Calculation Adjustments for the Preliminary Results" (COP Memorandum), dated August 12, 2005.

### 2. Test of Home Market Prices

We compared CST's weighted-average COPs to its home market sales prices of the foreign like product, as required under section 773(b) of the Act, to determine whether these sales had been made at prices below COP. On a product-specific basis, we compared the COP to home market prices net of any applicable indirect taxes which were not included in CST's reported manufacturing costs, *i.e.*, state tax on sales of merchandise and services (ICMS) and federal tax on industrialized products (IPI), and any applicable movement charges.

In determining whether to disregard home market sales made at prices below the COP, we examined, in accordance with sections 773(b)(1)(A) and (B) of the Act, whether such sales were made in (1) 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 the normal course of trade.

### 3. Results of the COP Test

Pursuant to section 773(b)(1), where less than 20 percent of the respondent's sales of a given product are at prices less than the COP, we do not disregard any below-cost sales of that product, because we determine that in such instances the below-cost sales were not made in "substantial quantities." Where 20 percent or more of a respondent's sales of a given product are at prices less than the COP, we determine that the below-cost sales represent "substantial quantities" within an extended period of time, in accordance with section 773(b)(1)(A) of the Act. In such cases, we also determine whether such sales were made at prices which would not permit recovery of all costs within a reasonable period of time, in accordance with section 773(b)(1)(B) of the Act.

Our cost test revealed that more than twenty percent of CST's home market sales of certain products were made at below-cost prices during the reporting period and the below-cost sales were made at prices which would not permit recovery of all costs within a reasonable period of time. Therefore, we disregarded those below-cost sales, while retaining the above-cost sales for our analysis.

#### D. Price-to-Price Comparisons

We based NV on home market prices to unaffiliated and affiliated customers. Home market starting prices were based on packed prices to affiliated or unaffiliated purchasers in the home market. We adjusted gross unit prices for billing adjustments, interest revenue, and Brazilian state and federal taxes (*i.e.*, state tax on sales of merchandise and services (ICMS) and federal tax on industrialized products (IPI), and federal taxes applied to gross invoice values less IPI tax (PIS and COFINS)). We made deductions, where appropriate, for inland freight from the plant to the customer or to the port of exit and domestic brokerage and handling pursuant to section 773(a)(6)(B) of the Act. In addition, 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 Act and section 351.411 of the Department's regulations. In accordance with section 773(a)(6)(C)(iii) of the Act and section 351.410 of our regulations, we adjusted home market starting prices for differences in circumstances of sale, *i.e.*, imputed credit and warranty expenses. 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 Act.

For sales to a particular home market customer, CST ships hot-rolled steel products on ocean-going vessels departing from its port, Praia Mole, to the port closest to its customer. During our review of CST's reporting of domestic brokerage and handling expenses related to a pre-selected home market sale to this customer, we discovered discrepancies which were not presented by CST at the outset of verification as minor corrections that call into question CST's reporting of these expenses for all sales to this customer, *i.e.*, double-counting of packing expenses and failure to include additional charges for demurrage. Moreover, CST failed to comply with the verifier's request for documentation to support the total demurrage charges reported on page 1 of Verification Exhibit 1 for the shipment in question. See Sales Verification Report at 40. Because CST failed to properly report these charges and we were unable to verify fully the domestic brokerage and handling expenses incurred by CST on certain home market sales, we find it necessary, under section 776(a)(2) of the Act, to use facts otherwise available as the basis for the preliminary results of this new shipper review with respect to domestic brokerage and handling expenses. See Sales Verification Report at 34–41 and Verification Exhibit 11B.

According to section 776(b) of the Act, if the Department finds that an interested party "has failed to cooperate by not acting to the best of its ability to comply with a request for information," the Department may use information that is adverse to the interests of the party as facts otherwise available. Adverse inferences are appropriate "to ensure that the party does not obtain a more favorable result by failing to cooperate than if it had cooperated fully." See *Statement of Administrative Action (SAA)* accompanying the URAA, H. Doc. No. 316, 103d Cong., 2d Session at 870 (1994). Furthermore, "an affirmative finding of bad faith on the part of the respondent is not required before the Department may make an adverse inference." See *Nippon Steel Corporation v. United States*, 337 F. 3d 1373, 2003 Fed. Cir. (*Nippon Steel*) ("Compliance with the 'best of its ability' standard is determined by assessing whether respondent has put forth its maximum effort to provide Commerce with full and complete answers to all inquiries \* \* \*").

An adverse inference may include reliance on information derived from the petition, the final determination in the investigation, any previous review, or any other information placed on the record. See section 776(b) of the Act. In

the Department's verification outline issued to CST on June 6, 2005, we requested that CST be prepared to provide all supporting documentation relating to its reporting of domestic brokerage and handling expenses, which includes demurrage charges. See Letter to CST from Abdelali Elouaradia, Program Manager, Office 7, Sales Verification Outline, dated June 6, 2005 at 12. As described in the Sales Verification Report, CST failed to provide supporting documentation for demurrage charges within the time frame allowed during verification. See Sales Verification Report at 40. Because CST did not make sufficient effort to provide the requested information for domestic brokerage and handling expenses in a timely manner, we preliminarily determine that CST failed to cooperate to the best of their ability with respect to this claimed expense. For purposes of these preliminary results, as facts available, we have set domestic brokerage and handling expenses to zero (*i.e.*, making no adjustment) for CST's sales to this customer for the POR. See Memorandum to the File, through Abdelali Elouaradia, Program Manager, Office 7, "Analysis of the Data Submitted by Comphania Siderúrgica de Tubarão (CST) for the Preliminary Results of New Shipper Review," dated August 12, 2005 (Prelim Analysis Memo) for details.

#### Level of Trade

In accordance with section 773(a)(1)(B)(i) of the Act, to the extent practicable, we determine NV based on sales in the home market at the same level of trade (LOT) as the export transaction. See also section 351.412 of the Department's regulations. The NV LOT is based on the level of the starting-price sales in the comparison market or, when NV is based on CV, the level of the sales from which we derive SG&A expenses and profits. For EP sales, the U.S. LOT is based on the level of the starting-price sale, which is usually from the exporter to the importer. See section 351.412(c)(1) of the Department's regulations. As noted in the "Export Price" section above, we preliminarily find that all of CST's direct U.S. sales to unrelated customers are properly classified as EP sales.

To determine whether NV sales are at a different LOT than EP 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 than EP sales, and the difference affects price comparability, as

manifested in a pattern of consistent price differences between 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.

In analyzing differences in selling functions, we determine whether the LOTs identified by the respondent are meaningful. *See Antidumping Duties; Countervailing Duties, Final Rule*, 62 FR 27296, 27371 (May 19, 1997). If the claimed LOTs are the same, we expect that the functions and activities of the seller should be similar. Conversely, if a party claims that LOTs are different for different groups of sales, the functions and activities of the seller should be dissimilar. *See Porcelain-on-Steel Cookware from Mexico: Final Results of Administrative Review*, 65 FR 30068 (May 10, 2000).

In determining whether separate LOTs existed in the home and U.S. markets for the respondent, we examine whether the respondent's sales involved different marketing stages (or their equivalent) based on the channel of distribution, customer categories, and selling functions (or services offered) (*i.e.*, order input/processing, packing, freight, delivery warranty, engineering, technical assistance, and after-sale services) to each customer or customer category, in both markets.

With respect to sales to the United States, CST stated that it had one channel of distribution in which it sold to unaffiliated U.S. trading companies. Although CST stated that it incurred no services for its U.S. sales, our review of the record indicates that at a minimum CST provided order input/processing, packing, freight, and delivery services for its sales to unaffiliated U.S. trading companies. *See* CST's Section A questionnaire response at Exhibit A-8. Based upon this information, we preliminarily find there to be one LOT for U.S. sales.

In this review, CST stated that it made sales of hot-rolled steel products in the home market via three channels of distribution: 1) to unaffiliated OEMs, *i.e.*, end-users, 2) to unaffiliated service centers, and 3) to affiliated OEMs. For each home market channel of distribution, CST stated that it provided minimal services which included engineering services, technical assistance, and after-sale services. In particular, we noted at verification that CST's engineering and technical assistance services involves answering customer inquiries as to which product best suits a particular application. We also noted that CST's after-sales services consists of a brief follow-up with the customer via telephone to

inquire as to how the product is working for them. *See* Sales Verification Report at 13. In reviewing CST's questionnaire responses and information presented at verification, we find that CST also provided the following services, at the same level, for sales via all three channels of distribution and to all customer categories: order input/processing, warranty services (*i.e.*, negotiation of appropriate compensation), packing, freight and delivery services. *See* CST's Section A questionnaire response at Exhibit A-8 and A-19-A-21. *See also* Sales Verification Report at 10-11. Based upon this information, we preliminarily find there to be one LOT for home market sales.

In analyzing CST's selling activities for its home and U.S. markets, we have preliminarily determined that essentially the same level of services were provided for both markets. Other than warranty, engineering, technical assistance, and after-sales services, which were solely provided on home market sales but did not involve significant activities, in both markets CST provided a similar level of services for order input/processing, packing, freight, and delivery services. *See* CST's Section A questionnaire response at A-19-A-21. For further discussion on the selling activities provided by CST in both markets, *see* the Prelim Analysis Memo. Based upon our review of this information, we do not consider the selling functions to vary significantly between the U.S. and home market LOTs. Therefore, we have preliminarily determined that the LOT for all EP sales is the same as the LOT for all sales in the home market. Based on our analysis of selling functions and because we find home market and U.S. sales at the same LOT, there is no basis for a LOT adjustment under section 773(a)(7)(A) of the Act for CST.

#### Currency Conversion

For purposes of these preliminary results, we made currency conversions in accordance with section 773A(a) of the Act and section 351.415 of the Department's regulations, based on the exchange rates in effect on the dates of the U.S. sales, as certified by Dow Jones Business Interactive, LLC (trading as Factiva).

#### Preliminary Results of New Shipper Review

As a result of our review, we preliminarily determine that the weighted-average dumping margin for the period March 1, 2004, through August 31, 2004, to be as follows:

Manufacturer/Exporter	Weighted-Average Margin (percent)
Comphania Siderúrgica de Tubarão .....	0.00

The Department will disclose the calculations performed within 5 days of the date of publication of this notice to the parties of this proceeding in accordance with 19 CFR § 351.224(b). An interested party may request a hearing within 30 days of publication of these preliminary results. *See* 19 CFR § 351.310(c). Any hearing, if requested, ordinarily will be held 37 days after the date of publication of these preliminary results, or the first working day thereafter. Interested parties may submit case briefs no later than 30 days after the date of publication of these preliminary results. *See* 19 CFR § 351.309(c)(ii). Rebuttal briefs limited to issues raised in such briefs, may be filed no later than 35 days after the date of publication. *See* 19 CFR § 351.309(d).

Parties who submit arguments are requested to submit with the argument (1) a statement of the issue and (2) a brief summary of the argument. The Department will issue the final results of this review, which will include the results of its analysis of issues raised in any such comments, or at a hearing, if requested, not later than 90 days after the date of issuance of the preliminary results.

#### Assessment Rates

Upon completion of this new shipper review, the Department will determine, and CBP shall assess, antidumping duties on all appropriate entries. Upon issuance of the final results of this new shipper review, if any calculated importer-specific assessment rates are above *de minimis* (*i.e.*, at or above 0.5 percent), the Department will issue appropriate assessment instructions directly to CBP within 15 days of publication of the final results of this review.

#### Cash Deposit Requirements

CST may continue to post a bond or other security in lieu of cash deposits for certain entries of subject merchandise exported by CST. As CST has certified that it both produced and exported the subject merchandise, CST's bonding option is limited only to such merchandise for which it is both the producer and exporter. Bonding will no longer be permitted to fulfill security requirements for CST's shipments after publication of the final results of this new shipper review.

The following deposit rate will be effective upon publication of the final

results of this new shipper review for shipments of hot-rolled steel products from Brazil entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided by section 751(a)(2)(C) of the Act: (1) for subject merchandise that is both produced and exported by CST, the cash deposit rate will be the rate established in the final results of this review, except if the rate is less than 0.5 percent and, therefore, *de minimis*, the cash deposit will be zero, (2) for previously reviewed or 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 42.12 percent, which is the "all others" rate established in the LTFV investigation. See AD Order, 67 FR at 11094. These cash deposit requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

#### **Notification to Importers**

This notice serves as a preliminary reminder to importers of their responsibility under 19 CFR § 351.402(f) to file a certificate regarding the reimbursement of antidumping and/or countervailing 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 and/or countervailing duties occurred and the subsequent increase in antidumping duties by the amount of antidumping and/or countervailing duties reimbursed.

This new shipper review is issued and published in accordance with sections 751(a)(2)(B) and 777(i)(1) of the Act.

Dated: August 12, 2005.

**Barbara E. Tillman,**  
Acting Assistant Secretary for Import Administration.

#### **APPENDIX I**

Unpublished Memorandum to Barbara E. Tillman, Acting Deputy Assistant Secretary for Import Administration Certain Hot-Rolled Flat-Rolled Carbon Quality Steel Products from Brazil: New Shipper

Review of Companhia Siderúrgica de Tubarão (CST), dated August 12, 2005. [FR Doc. E5-4542 Filed 8-18-05; 8:45 am]  
**BILLING CODE 3510-DS-S**

#### **DEPARTMENT OF COMMERCE**

##### **International Trade Administration (A-122-838)**

#### **Notice of Final Results of Antidumping Duty Changed Circumstances Review: Certain Softwood Lumber Products from Canada**

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

**SUMMARY:** The Department of Commerce (the Department) has determined, pursuant to section 751(b) of the Tariff Act of 1930, as amended (the Act), that Western Forest Products Inc. (WFP) and its subsidiaries, WFP Products Limited, WFP Western Lumber Ltd., and WFP Lumber Sales Limited (collectively, "the WFP Entities"), are the successors-in-interest to Doman Industries Limited, Doman Forest Products Limited, and Doman Western Lumber Ltd. (collectively, "the Doman Entities") and, as a result, should be accorded the same treatment previously accorded to the Doman Entities in regard to the antidumping order on certain softwood lumber products from Canada as of the date of publication of this notice in the **Federal Register**.

**EFFECTIVE DATE:** August 19, 2005.

**FOR FURTHER INFORMATION CONTACT:** Constance Handley or David Neubacher, at (202) 482-0631 or (202) 482-5823, respectively; AD/CVD Operations, Office 1, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street & Constitution Avenue, NW, Washington, DC 20230.

#### **SUPPLEMENTARY INFORMATION:**

##### **Background**

On May 27, 2005, WFP requested that the Department initiate and conduct an expedited changed circumstances review, in accordance with section 751(b) of the Act and section 351.216(b) of the Department's regulations, to confirm that the WFP Entities are the successors-in-interest to the Doman Entities. On June 29, 2005, the Department initiated this review and simultaneously issued its preliminary results that the WFP Entities are the successors-in-interest to the Doman Entities and should receive the Doman Entities' cash deposit rate of 3.78 percent. See *Notice of Initiation and*

*Preliminary Results of Antidumping Duty Changed Circumstances Review: Certain Softwood Lumber Products from Canada*, 70 FR 37327 (June 29, 2005) (*Preliminary Results*). In the *Preliminary Results*, we stated that interested parties could request a hearing or submit case briefs and/or written comments to the Department no later than 30 days after publication of the *Preliminary Results* notice in the **Federal Register**, and submit rebuttal briefs, limited to the issues raised in those case briefs, seven days subsequent to the due date of the case briefs. We did not receive any hearing requests or comments on the *Preliminary Results*.

#### **Scope of the Order**

The products covered by this order are softwood lumber, flooring and siding (softwood lumber products). Softwood lumber products include all products classified under headings 4407.1000, 4409.1010, 4409.1090, and 4409.1020, respectively, of the Harmonized Tariff Schedule of the United States (HTSUS), and any softwood lumber, flooring and siding described below. These softwood lumber products include:

- (1) coniferous wood, sawn or chipped lengthwise, sliced or peeled, whether or not planed, sanded or finger-jointed, of a thickness exceeding six millimeters;
- (2) coniferous wood siding (including strips and friezes for parquet flooring, not assembled) continuously shaped (tongued, grooved, rabbeted, chamfered, v-jointed, beaded, molded, rounded or the like) along any of its edges or faces, whether or not planed, sanded or finger-jointed;
- (3) other coniferous wood (including strips and friezes for parquet flooring, not assembled) continuously shaped (tongued, grooved, rabbeted, chamfered, v-jointed, beaded, molded, rounded or the like) along any of its edges or faces (other than wood moldings and wood dowel rods) whether or not planed, sanded or finger-jointed; and
- (4) coniferous wood flooring (including strips and friezes for parquet flooring, not assembled) continuously shaped (tongued, grooved, rabbeted, chamfered, v-jointed, beaded, molded, rounded or the like) along any of its edges or faces, whether or not planed, sanded or finger-jointed.

Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise under investigation is