

This action does not affect current contracts awarded prior to the effective date of this addition or options that may be exercised under those contracts.

**G. John Heyer,**

*General Counsel.*

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## COMMISSION ON CIVIL RIGHTS

### Sunshine Act Notice

**AGENCY:** U.S. Commission on Civil Rights.

**DATE AND TIME:** Friday, September 16, 2005, 9:30 a.m., Commission Meeting.

**PLACE:** U.S. Commission on Civil Rights, 624 9th Street, NW., Room 540, Washington, DC 20425.

#### STATUS:

#### Agenda

- I. Approval of Agenda
- II. Approval of Minutes of Meeting Held Friday, July 22 and Continued on Friday, August 26, 2005
- III. Commission Briefing: The PATRIOT Act as it Relates to Anti-Arab and Anti-Muslim Intolerance
  - Introductory Remarks by Chairman
  - Speakers' Presentations
  - Questions by Commissioners and Staff Director to Speakers
- IV. Announcements
- V. Staff Director's Report
- VI. State Advisory Committee Issues
  - State Advisory Committee Reports
  - Other State Advisory Committee Issues
- VII. Program Planning
  - Elementary and Secondary School Desegregation
- VIII. Discussion of Commission Briefings
  - Stagnation of the Black Middle Class Briefing Report
  - Future Briefing

#### IX. Future Agenda Items

**FOR FURTHER INFORMATION CONTACT:** Terri Dickerson, Press and Communications (202) 376-8582.

**Kenneth L. Marcus,**

*Staff Director, Acting General Counsel.*

[FR Doc. 05-17968 Filed 9-7-05; 8:49 am]

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## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-122-822]

#### Certain Corrosion-Resistant Carbon Steel Flat Products from Canada: Preliminary Results of Antidumping Duty Administrative Review

**AGENCY:** Import Administration, International Trade Administration, U.S. Department of Commerce.  
**SUMMARY:** In response to timely requests, the U.S. Department of Commerce (the Department) is conducting an administrative review of the antidumping duty order on certain corrosion-resistant carbon steel flat products (CORE) from Canada for the period August 1, 2003, through July 31, 2004. The review covers two respondents, Dofasco Inc. and Sorevco and Company, Ltd. (collectively Dofasco), and Stelco Inc. (Stelco).

The Department preliminarily determines that Dofasco made sales to the United States at less than normal value (NV). If these preliminary results are adopted in our final results of this administrative review, we will instruct U.S. Customs and Border Protection (CBP) to assess antidumping duties on entries of Dofasco's merchandise during the period of review. The Department also preliminarily determines that Stelco did not make sales to the United States at less than NV. If these preliminary results are adopted in our final results of this administrative review, we will instruct CBP to liquidate without regard to antidumping duties entries of Stelco's merchandise during the period of review. The preliminary results are listed below in the section titled "Preliminary Results of Review."

**EFFECTIVE DATE:** September 9, 2005.

**FOR FURTHER INFORMATION CONTACT:** Kyle Lamborn or Douglas Kirby, AD/CVD Operations, Office 6, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th & Constitution Avenue, NW, Washington, DC 20230; telephone: 202-482-3586 and 202-482-3782, respectively.

#### SUPPLEMENTARY INFORMATION:

##### Background

The Department published the antidumping duty order on CORE from Canada on August 19, 1993. *See Antidumping Duty Orders: Certain Corrosion-Resistant Carbon Steel Flat Products and Certain Cut-to-Length Carbon Steel Plate From Canada*, 58 FR 44162, as amended by *Amended Final*

*Determinations of Sales at Less Than Fair Value and Antidumping Orders: Certain Corrosion-Resistant Carbon Steel Flat Products and Certain Cut-to-Length Carbon Steel Plate From Canada*, 60 FR 49582 (September 26, 1995) (*Amended Final and Order*). On August 3, 2004, the Department published in the **Federal Register** a notice of "Opportunity to Request Administrative Review" of the antidumping duty order on CORE from Canada for the period August 1, 2003, through July 31, 2004. *See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review*, 69 FR 46496. Based on timely requests, in accordance with section 751(a) of the Tariff Act of 1930, as amended (the Act), the Department initiated an administrative review of the antidumping duty order on CORE from Canada, covering the period August 1, 2003, through July 31, 2004. *See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in Part*, 69 FR 56745 (September 22, 2004). This administrative review covers the following exporters: Dofasco, Impact Steel Canada, Ltd. (Impact Steel), and Stelco. On April 1, 2005, the Department rescinded the administrative review of Impact Steel because Impact Steel timely withdrew its request, and no other party requested an administrative review of Impact Steel. *See Notice of Rescission, in Part, of Antidumping Duty Administrative Review: Corrosion-Resistant Carbon Steel Flat Products From Canada*, 70 FR 17648 (April 7, 2005).

On April 15, 2005, the Department extended the deadline for the preliminary results of this antidumping duty administrative review from May 3, 2005, to August 31, 2005. *Notice of Extension of Time Limit for Preliminary Results of Antidumping Duty Administrative Review: Corrosion-Resistant Carbon Steel Flat Products From Canada*, 70 FR 20863 (April 22, 2005).

##### Period of Review

The period of review (POR) is August 1, 2003, through July 31, 2004.

##### Scope of the Order

The product covered by the order is certain corrosion-resistant steel, and includes flat-rolled carbon steel products, of rectangular shape, either clad, plated, or coated with corrosion-resistant metals such as zinc, aluminum, or zinc-, aluminum-, nickel- or iron-based alloys, whether or not corrugated or painted, varnished or coated with plastics or other nonmetallic substances

in addition to the metallic coating, in coils (whether or not in successively superimposed layers) and of a width of 0.5 inch or greater, or in straight lengths which, if of a thickness less than 4.75 millimeters, are of a width of 0.5 inch or greater and which measures at least 10 times the thickness or if of a thickness of 4.75 millimeters or more are of a width which exceeds 150 millimeters and measures at least twice the thickness, as currently classifiable in the U.S. Harmonized Tariff Schedule (HTSUS) under item numbers 7210.30.0030, 7210.30.0060, 7210.41.0000, 7210.49.0030, 7210.49.0090, 7210.61.0000, 7210.69.0000, 7210.70.6030, 7210.70.6060, 7210.70.6090, 7210.90.1000, 7210.90.6000, 7210.90.9000, 7212.20.0000, 7212.30.1030, 7212.30.1090, 7212.30.3000, 7212.30.5000, 7212.40.1000, 7212.40.5000, 7212.50.0000, 7212.60.0000, 7215.90.1000, 7215.90.3000, 7215.90.5000, 7217.20.1500, 7217.30.1530, 7217.30.1560, 7217.90.1000, 7217.90.5030, 7217.90.5060, and 7217.90.5090. Although the HTSUS subheadings are provided for convenience and customs' purposes, the Department's written description of the merchandise under the order is dispositive.

Included in the order are corrosion-resistant flat-rolled products of non-rectangular cross-section where such cross-section is achieved subsequent to the rolling process (*i.e.*, products which have been "worked after rolling") for example, products which have been beveled or rounded at the edges. Excluded from the order are flat-rolled steel products either plated or coated with tin, lead, chromium, chromium oxides, both tin and lead ("terne plate"), or both chromium and chromium oxides ("tin-free steel"), whether or not painted, varnished or coated with plastics or other nonmetallic substances in addition to the metallic coating. Also excluded from the order are clad products in straight lengths of 0.1875 inch or more in composite thickness and of a width which exceeds 150 millimeters and measures at least twice the thickness. Also excluded from the order are certain clad stainless flat-rolled products, which are three-layered corrosion-resistant carbon steel flat-rolled products less than 4.75 millimeters in composite thickness that consist of a carbon steel flat-rolled product clad on both sides with stainless steel in a 20%-60%-20% ratio.

## ANALYSIS

### Affiliation and Collapsing

For purposes of this review, we have collapsed Dofasco, Sorevco, and Do Sol Galva Ltd. (DSG) and treated them as a single respondent, as we have done in prior segments of the proceeding. There have been no changes to the pertinent facts such as, for example, ownership structure, that warrant reconsideration of our decisions to collapse these companies. As noted on page A-8 of Dofasco's Section A questionnaire response dated December 22, 2004, Sorevco still operates as a 50-50 joint venture between Dofasco and Ispat Sidbec. *See Final Determinations of Sales at Less Than Fair Value: Certain Hot-Rolled Carbon Steel Flat Products, Certain Cold-Rolled Carbon Steel Flat Products, Certain Corrosion-Resistant Carbon Steel Flat Products, and Certain Cut-to-Length Carbon Steel Plate From Canada*, 58 FR 37099, 37107 (July 9, 1993), for our analysis regarding collapsing Sorevco.

Do Sol Galva Ltd. (DSG) is a galvanizing line operated as a limited partnership between Dofasco and Arcelor. As in the prior review; 1) DSG remains a partnership between Dofasco (80% ownership interest), and the European steel producer Arcelor (20% ownership interest); 2) Dofasco continues to operate DSG, which is located at the Dofasco Hamilton plant, and to treat this line as its number five galvanizing line; and 3) all of the DSG production workers are still employed by Dofasco. *See* pages A-5 and A-8 of Dofasco's Section A questionnaire response dated December 22, 2004. For all intents and purposes, DSG is still considered another production line run on Dofasco's property. *See Certain Corrosion-Resistant Carbon Steel Flat Products from Canada: Preliminary Results of Antidumping Duty Administrative Review*, 69 FR 55138, 55139 (September 13, 2004), unchanged in *Certain Corrosion-Resistant Carbon Steel Flat Products From Canada: Final Results of Antidumping Duty Administrative Review*, 70 FR 13458 (March 21, 2005) (*Final Results of 10th Review*), for our analysis regarding collapsing DSG. As we are collapsing Dofasco, Sorevco, and DSG for purposes of the preliminary results, we will instruct CBP to apply Dofasco's rate to merchandise produced, exported, or processed by Sorevco or DSG.

Consistent with our determination in past segments of this proceeding, in these preliminary results, we have not collapsed Dofasco and its toll producer DJ Galvanizing Ltd. Partnership (DJG)

(formerly DNN Galvanizing Ltd. Partnership (DNN)). Therefore, for CORE that is processed by DJG before it is exported to the United States, we will, for assessment and cash deposit purposes, instruct CBP to: (1) Apply Dofasco's rate on merchandise supplied by Dofasco or DSG; (2) apply the company specific rate on merchandise supplied by other previously reviewed companies; and, (3) apply the "all others" rate for merchandise supplied by companies which have not been reviewed in the past.

### Model-Match Criteria

In its questionnaire response, Dofasco reported "surface type" as a physical characteristic, and argued that it should be incorporated as a model-match criterion in order to capture the different applications and uses of the products based on that criterion. *See* Dofasco's section B questionnaire response dated January 12, 2005, at pages B-7 to B-9. Dofasco claims that the higher cost of CORE for exposed, as opposed to unexposed, applications also justifies the inclusion of a new model-match criterion.

For purposes of the preliminary results, we have not changed the model-match criteria to account for "surface type." We excluded this field in the prior administrative review because: (1) Dofasco has not defined its proposed new product characteristic in sufficiently precise terms for the Department to consider integrating this characteristic into its model match hierarchy; (2) Dofasco has not demonstrated that any industry-wide, commercially accepted standards exist that recognize the material characteristics of exposed products made only from the hot-dipped galvanized process; (3) we do not find significant cost differences between exposed and unexposed galvanized steels; (4) we continue to find a degree of interchangeability of use for Dofasco's Extragal products that can reasonably be attributed to the subjective preferences of the customer rather than commercially significant differences in the physical characteristics of the product; and, (5) the record evidence demonstrates that there have been no new technological advancements in this field since the original investigation. *See Final Results of 10th Review*, and accompanying Issues and Decision Memorandum at Comment 1. Dofasco has provided the same information on the record of this administrative review. Therefore, because no new information has been provided to warrant our reconsideration in the instant review, we continue to find that it is

inappropriate to incorporate “surface type” as a physical characteristic into our model match hierarchy.

### Product Comparisons

In accordance with section 771(16) of the Act, we considered all products produced by the respondents that are covered by the description in the “Scope of the Order” section, above, and sold in the home market during the POR, to be foreign like products for purposes of determining appropriate product comparisons to U.S. sales. 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 most similar foreign like product on the basis of the characteristics listed in Appendix V of the Department’s November 9, 2004, antidumping questionnaires.

### Normal Value Comparisons

To determine whether sales of subject merchandise to the United States were made at less than NV, we compared the export price (EP) or the constructed export price (CEP) to NV, as described in the “Export Price and Constructed Export Price,” and “Normal Value” sections of this notice. In accordance with section 777A(d)(2) of the Act, we calculated monthly weighted-average prices for NV and compared these to individual U.S. transaction prices.

### Export Price and Constructed Export Price

#### A. Classification of U.S. Sales

In accordance with section 772(a) of the Act, we used EP when the subject merchandise was sold, directly or indirectly, to the first unaffiliated purchaser in the United States prior to importation, and CEP was not otherwise warranted by facts on the record. In accordance with section 772(b) of the Act, CEP is the price at which subject merchandise is first sold (or agreed to be sold) in the United States before or after the date of importation by or for the account of the producer or exporter of such merchandise, or by a seller affiliated with the producer or exporter. As discussed below, based on evidence on the record, we conclude that certain sales are made by Dofasco’s U.S. affiliate, Dofasco U.S.A. (DUSA), and should thus be classified as CEP sales. Also, as discussed below, we conclude that Dofasco’s other sales are EP, and that all Stelco’s sales are EP.

Dofasco’s sales in the United States through its affiliate, DUSA, were reported as channel 2 (shipped directly to the U.S. customer) or channel 3 (shipped indirectly to the U.S.

customer) sales. We find that for these sales, both parties to the transaction (DUSA and the unaffiliated customer) were located in the United States, and that the transfer of ownership was executed in the United States. See Dofasco’s section A questionnaire response at A-26. Therefore, consistent with our determination in prior reviews, we are classifying Dofasco’s Channels 2 and 3 sales as CEP sales. See *Certain Corrosion-Resistant Carbon Steel Flat Products From Canada: Final Results of Antidumping Duty Administrative Review*, 69 FR 2566 (January 16, 2004), and accompanying Issues and Decision Memorandum (*Final Results of 9th Review*) at Comment 1, and *Final Results of 10th Review* at Comment 5.

We have classified Dofasco’s Channel 1 (direct shipments) and 4 (direct through commission agents) sales, and all of Stelco’s U.S. sales, as EP sales. As in prior reviews, we find these to be direct sales made in Canada without the involvement of any affiliated party in the United States. *Id.* Accordingly, we are treating these respective sales as EP sales for both Dofasco and Stelco.

The Department calculated EP or CEP based on packed prices to customers in the United States. We made deductions from the starting price (net of discounts and rebates) for movement expenses (foreign and U.S. movement, U.S. customs duty and brokerage, and post-sale warehousing) in accordance with section 772(c)(2) of the Act and section 351.401(e) of the Department’s regulations. In addition, for CEP sales, in accordance with sections 772(d)(1) and (2) of the Act, we deducted from the starting price credit expenses, indirect selling expenses, including inventory carrying costs, commissions, royalties, and warranty expenses incurred in the United States and Canada associated with economic activities in the United States. As in prior reviews, certain Dofasco sales have undergone minor further processing in the United States as a condition of sale. The Department has deducted the price charged to Dofasco by the unaffiliated contractor for this minor further processing from gross unit price to determine U.S. price, consistent with section 772(d)(2) of the Act. See *Certain Corrosion Resistant Carbon Steel Flat Products From Canada: Preliminary Results of Antidumping Duty Administrative Review*, 68 FR 53105, 53106 (September, 9, 2003), for a discussion of this adjustment, finalized in *Final Results of 9th Review* at 69 FR 2566, 2567.

### Date of Sale

As provided in section 351.401(i) of the Department’s regulations, we

determined the date of sale based on the date on which the exporter or producer established the material terms of sale. See *Allied Tube and Conduit Corp. v. United States*, 127 F. Supp. 2d 207, 219 (CIT 2000). Dofasco reported, as in the prior review, that except for long-term contracts and sales of secondary products, the date on which all material terms of sale are established is the final order acknowledgment or re-acknowledgment date, where prices and quantity are binding upon buyer and seller. See page A-23 of Dofasco’s Section A questionnaire response dated December 22, 2004. Therefore, for these sales, we used this reported date as the date of sale. For Dofasco’s sales made pursuant to long-term contracts, we used the date of the contract as date of sale, which is when prices are fixed and the customer agrees to purchase one hundred percent of its requirements for a particular part from Dofasco. *Id.* page A-24. For Dofasco’s sales of secondary products for which there is no order acknowledgment date, we preliminarily determine that date of shipment best reflects the date on which the material terms of sale are established since date of shipment is almost always the day before the invoice is produced. *Id.* page A-23. Accordingly, for these sales, we have relied on the date of shipment as the date of sale. See, e.g., *Notice of Final Determination of Sales at Less Than Fair Value: Certain Durum Wheat and Hard Red Spring Wheat from Canada*, 68 FR 52741 (Sept. 5, 2003) and accompanying Issues and Decision Memorandum at Comment 3 (*Wheat from Canada*). Dofasco did not have sales of secondary products to the United States during the POR.

Stelco reported that, generally, the quantity and product specifications are not set until the date of shipment, which is the date on which the invoice is issued. Therefore, for Stelco’s sales, we determined that the date of invoice reflects the date of sale since this is when the material terms of the sale are fixed. In those instances when the date of shipment occurred prior to the date of invoice (when Stelco ships directly from a processor to a customer and the paperwork necessary to invoice the customer is delayed), Stelco reported, and we used, the date of shipment as the date of sale. See Stelco Section B questionnaire response, dated December 23, 2004, at B-2; see, e.g., *Wheat from Canada* at Comment 3.

### B. Universe of Sales in Margin Calculation

Section 751(a)(2)(A) of the Act states that a dumping calculation should be performed for each entry during the

POR. Our standard practice for EP sales is to use entry date to determine the universe of U.S. sales in the margin calculation. See *Circular Welded Non-Alloy Steel Pipe From the Republic of Korea; Final Results of Antidumping Duty Administrative Review*, 63 FR 32833, 32836 (June 6, 1998), and accompanying Issues and Decision Memorandum at Comment 2.

Accordingly, we have included in our analysis for these final results all entries of EP sales made during the POR.

The Department's normal practice for CEP sales is to review each transaction that has a date of sale within the POR. See section 351.212 of the Department's regulations and the preamble to that section in *Antidumping Duties; Countervailing Duties; Final Rule*, 62 FR 27296, 27314-15 (May 19, 1997).

However, in *Notice of Final Results of Antidumping Duty Administrative Review of Circular Welded Non-alloy Steel Pipe from the Republic of Korea*, 66 FR 18747 (April 11, 2001), at Comment 2, the Department recognized unique circumstances that could lead us to base the margin for CEP sales on the sales of merchandise entered, rather than sold during the POR. In that case, there was no dispute that the respondents could tie their sales to specific entries during the POR because their U.S. sales were made to order, the date of sale occurred prior to the date of entry, the merchandise was shipped directly from the factory to the final customer, and the respondents were generally the importer of record.

We find that Dofasco's Channel 2 and 3 CEP sales follow a similar fact pattern and therefore, we consider the date of entry to be the appropriate date for establishing the universe of sales for purposes of calculating a margin. First, we are able to tie almost all these sales to entries since Dofasco, in the instant review, provided exact entry dates for the vast majority of its U.S. sales. As was done in the previous review, for the few CEP transactions where the entry date was not obtained from its customs broker, Dofasco reasonably reported shipment date as the entry date because entry into the United States normally occurs the same day as shipment from its factory. See Dofasco's January 12, 2005, section C questionnaire response at page C-71. Second, the merchandise was shipped directly from the factory to the location specified by the customer. See Dofasco's December 22, 2004, section A questionnaire response at page A-14 and A-15. Third, since the vast majority of these sales were made pursuant to long-term contracts, and the date of the long-term contract was used as the date of sale, the dates of sale

occurred prior to the dates of entry. See Dofasco's December 22, 2004, section A questionnaire response at page A-28. Therefore, for these reasons, we have performed a margin calculation on each Channel 2 and 3 CEP sale, entered during the POR. The date of sale for these entries is primarily the date of contract. Also included is a limited number of entries of "spot" sales for which the date of sale is based on date of order acknowledgment. See page A-26 of Dofasco's section A questionnaire response dated December 22, 2004. This is consistent with our finding in the *Final Results of 10th Review* at Comment 5.

## 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 five percent or more of the aggregate volume of U.S. sales), we compared the volume of each respondent's home market sales of the foreign like product to the volume of U.S. sales of subject merchandise. Based on this comparison, we determined for both Dofasco and Stelco, that the quantity of sales in their home market exceeded five percent of their sales of CORE to the United States. See section 351.404(b) of the Department's regulations. Therefore, in accordance with section 773(a)(1)(B)(i) of the Act, we have based NV on the price at which the foreign like product was first sold for consumption in the home market, in the usual commercial quantities, in the ordinary course of trade, and, to the extent practicable, at the same level of trade (LOT) as the EP or CEP. See "Level of Trade" section below.

### B. Affiliated Party Transactions and Arm's-Length Test

We used sales to affiliated customers in the home market only where we determined such sales were made at arm's-length prices (*i.e.*, at prices comparable to the prices at which the respondent sold identical merchandise to unaffiliated customers). To test whether the sales to affiliates were made at arm's-length prices, we compared the unit prices of sales to affiliated and unaffiliated customers net of all movement charges, direct selling expenses, discounts and packing. In accordance with the Department's 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 section 351.403(c) of the Department's regulations. Where the affiliated party transactions did not pass the arm's-length test, all sales to that affiliated party have been excluded from the NV calculation. Because the aggregate volume of sales to these affiliates is less than 5 percent of total home market sales, we did not request downstream sales. See section 351.403(d) of the Department's regulations; see also *Antidumping Proceedings: Affiliated Party Sales in the Ordinary Course of Trade*, 67 FR 69186 (November 15, 2002).

### C. Cost of Production Analysis

The Department disregarded certain Dofasco and Stelco sales that failed the cost test in the prior review. We, therefore, have reasonable grounds to believe or suspect, pursuant to section 773(b)(2)(A)(ii) of the Act, that sales of the foreign like product under consideration for the determination of NV in this review may have been made at prices below the cost of production (COP). Thus, pursuant to section 773(b)(1) of the Act, we examined whether Dofasco's and Stelco's sales in the home market were made at prices below the COP.

We compared sales of the foreign like product in the home market with model-specific COP figures in the POR. 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, and all costs and expenses incidental to placing the foreign like product in a packed condition and ready for shipment. In our sales-below-cost analysis, we used home market sales and COP information provided by Dofasco and Stelco in their questionnaire responses.

We compared the weighted-average COPs to home market sales of the foreign like product, as required under section 773(b) of the Act, in order to determine whether these sales had been made at prices below the COP. In determining whether to disregard home market sales made at prices below the COP, we examined whether such sales were made (1) within an extended period of time in substantial quantities, and (2) at prices which permitted the recovery of all costs within a reasonable period of time in the normal course of trade, in accordance with section 773(b)(1)(A) and (B) of the Act. On a product-specific basis, we compared

the COP to home market prices, less any movement charges, discounts, and direct and indirect selling expenses.

Pursuant to section 773(b)(2)(C) of the Act, where less than 20 percent of a respondent's sales of a given model were at prices less than the COP, we did not disregard any below-cost sales of that model because the below-cost sales were not made in substantial quantities within an extended period of time. Where 20 percent or more of a respondent's sales of a given model were at prices less than the COP, we disregarded the below-cost sales because they were made in substantial quantities within an extended period of time, in accordance with sections 773(b)(2)(B) and (C) of the Act. Because we compared prices to average costs in the POR, we also determined that the below-cost prices did not permit the recovery of costs within a reasonable period of time, in accordance with section 773(b)(1)(B) of the Act.

#### D. Constructed Value

In accordance with section 773(a)(4) of the Act, we used constructed value (CV) as the basis for NV when there were no above-cost contemporaneous sales of identical or similar merchandise in the comparison market. We calculated CV in accordance with section 773(e) of the Act. We included the cost of materials and fabrication, SG&A, and profit. In accordance with section 773(e)(2)(A) of the Act, we based SG&A expenses and profit on the amounts incurred and realized by the respondent in connection with the production and sale of the foreign like product in the ordinary course of trade for consumption in the foreign country. For selling expenses, we used the weighted-average home market selling expenses.

For those product comparisons for which there were sales at prices above the COP, we based NV on home market prices to affiliated (when made at prices determined to be arms-length) or unaffiliated parties, in accordance with section 773(a)(1)(A) and (B) of the Act. 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 for circumstance-of-sales (COS) differences, in accordance with section 773(a)(6)(C)(iii) of the Act and section 351.410 of the Department's regulations. We relied on our model match criteria in order to match U.S. sales of subject merchandise to comparison sales of the foreign like product based on the reported physical characteristics of the subject merchandise. 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.

Home market starting prices were based on packed prices net of discounts and rebates. We made adjustments, where applicable, for packing and movement expenses, in accordance with sections 773(a)(6)(A) and (B) of the Act. For comparisons to EP, we made COS adjustments to NV by deducting home market packing, movement, and direct selling expenses (e.g., credit, warranties, and royalties), and adding U.S. packing, movement, and direct selling expenses. For comparison to CEP, we made COS adjustments by deducting home market direct selling expenses pursuant to section 773(a)(6)(C)(iii) of the Act and section 351.410 of the Department's regulations. We offset commissions paid on sales to the United States by the lesser of U.S. commissions or comparison (home) market indirect selling expenses.

#### Level of Trade

Section 773(a)(1)(B)(i) of the Act states that, to the extent practicable, the Department will calculate NV based on sales at the same LOT as the EP or CEP. Sales are made at different LOTs if they are made at different marketing stages (or their equivalent). See section 351.412(c)(2) of the Department's regulations. Substantial differences in selling activities are a necessary, but not sufficient, condition for determining that there is a difference in the stages of marketing. *Id.*; see also *Notice of Final Determination of Sales at Less Than Fair Value: Certain Cut-to-Length Carbon Steel Plate From South Africa*, 62 FR 61731, 61732 (November 19, 1997) (*South African Plate Final*). In order to determine whether the comparison sales were at different stages in the marketing process than the U.S. sales, we reviewed the distribution system in each market (i.e., the chain of distribution),<sup>1</sup> including selling functions,<sup>2</sup> class of customer (customer

<sup>1</sup> The marketing process in the United States and in the comparison markets begins with the producer and extends to the sale to the final user or consumer. The chain of distribution between the two may have many or few links, and the respondents' sales occur somewhere along this chain. In performing this evaluation, we considered the narrative responses of each respondent to properly determine where in the chain of distribution the sale occurs.

<sup>2</sup> Selling functions associated with a particular chain of distribution help us to evaluate the level(s) of trade in a particular market. For purposes of this preliminary determination, we have organized the

category), and the level of selling expenses for each type of sale.

Pursuant to section 773(a)(1)(B)(i) of the Act, in identifying levels of trade for EP and comparison market sales (i.e., NV based on either home market or third country prices<sup>3</sup>), we consider the starting prices before any adjustments. For CEP sales, we consider only the selling activities reflected in the price after the deduction of expenses and profit under section 772(d) of the Act. See *Micron Technology, Inc. v. United States*, 243 F. 3d 1301, 1314–1315 (Fed. Cir. 2001).

When the Department is unable to match U.S. sales to sales of the foreign like product in the comparison market at the same LOT as the EP or CEP, the Department may compare the U.S. sale to sales at a different LOT in the comparison market. In comparing EP or CEP sales at a different LOT in the comparison market, where available data make it practicable, we make a LOT adjustment under section 773(a)(7)(A) of the Act. Finally, for CEP sales only, if a NV LOT is more remote from the factory than the CEP LOT and we are unable to make a level of trade adjustment, the Department shall grant a CEP offset, as provided in section 773(a)(7)(B) of the Act. See *South African Plate Final* at 62 FR 61731, 61732–33 (November 19, 1997).

#### A. Dofasco LOT Analysis

We obtained information from Dofasco regarding the marketing stages involved in making the reported home market and U.S. sales, including a description of the selling activities performed by the respondents for each channel of distribution. In the current review, as in the previous review, Dofasco claimed that sales in both the home market and the United States market were made at different LOTs. In the previous review, we concluded that Dofasco did sell at different LOTs. See *Final Results of 10th Review*.

We examined the chain of distribution and the selling activities associated with sales reported by Dofasco to three distinct customer categories (automotive, construction, and service centers) in its single channel of distribution in the home market. See *Memorandum from Kyle Lamborn (AD/CVD Financial Analyst) through Sean Carey (Acting Program Manager) to the*

common selling functions into four major categories: sales process and marketing support, technical service, freight and delivery, and inventory maintenance.

<sup>3</sup> Where NV is based on CV, we determine the NV LOT based on the LOT of the sales from which we derive selling expenses, G&A and profit for CV, where possible.

*File; Certain Corrosion-Resistant Carbon Steel Flat Products from Canada: Analysis of Dofasco Inc. (Dofasco) and Sorevco for the Preliminary Results*, (August 31, 2005) (Dofasco Analysis Memo, on file in the Central Record Unit (CRU), room B-099 of the main Commerce building. We found that sales to the construction and service center customer categories, were similar with respect to technical service, freight services, and warehouse/inventory maintenance, and that they differed only slightly with respect to sales process. Therefore, we found that these customer categories constituted a distinct level of trade (LOTH2). We found that sales to automotive customer category differed significantly from LOTH2 with respect to sales process and technical service and therefore, constitute a distinct level of trade (LOTH1). Thus, based upon our analysis of the home market, we found that LOTH1 and LOTH2 constitute two different levels of trade.

Dofasco reported EP sales through two channels of distribution: Channel 1 including sales to automotive, service centers, and construction, and Channel 4 sales to construction. We examined the chain of distribution and the selling activities associated with sales to construction and service center categories through these channels and found them to be similar with respect to technical service, freight services, and warehouse/inventory maintenance; they differed only slight with respect to the sales process. Therefore, we found that these two channels of distribution to these customer categories constituted a distinct level of trade (LOTU2). We found that sales to the automotive customer category differed significantly from LOTU2 with respect to sales process and technical service, but were similar with respect to freight service and warehouse/inventory maintenance. Since the sales process and technical service functions comprise significant selling activities, we find that these factors are determinative in finding that sales to this automotive customer category constitute a separate level of trade (LOTU1). Thus, based upon our analysis of Dofasco's EP sales, we find that LOTU1 and LOTU2 constitute two different levels of trade.

We then compared the two EP levels of trade to the two home market LOTs. We found that LOTU2 differed considerably from LOTH1 with respect to sales process, technical services and freight services. However, LOTU2 was similar to LOTH2 with respect to sales process, technical service, and warehouse/inventory maintenance. We also found that LOTU1 differed

considerably from LOTH2 with respect to sales process, technical services, and freight services. However, LOTU1 was similar to LOTH1 with respect to sales process, technical service, and warehouse/inventory maintenance. Consequently, we matched LOTU2 sales to sales at the same level of trade in the home market (LOTH2), and LOTU1 sales to sales at the same level of trade in the home market (LOTH1). Where we did not match products at the same LOT, and there was a pattern of consistent prices differences between different LOTs, we made a LOT adjustment. See section 773(a)(7)(A) of the Act; see, also *Dofasco Analysis Memo* at page 2.

Dofasco had two channels of distribution related to its CEP sales to automotive customers through Dofasco USA. These channels of distribution had the same selling functions and thus constitute a single level of trade (LOTU3). We compared LOTU3 to our two home market LOTs. We found that LOTU3 differed considerably from LOTH2 with respect to sales process, technical services and freight services. However, the LOTU3 was similar to LOTH1 with respect to sales process, technical service, and warehouse/inventory maintenance. Consequently, we matched LOTU3 sales to sales at the same LOT in the home market (LOTH1) and, where possible, we matched CEP sales to NV based on home market sales in LOTH1 and made no CEP offset adjustment. Where we did not match products at the same LOT, and there was a pattern of consistent prices differences between different LOTs, we made a LOT adjustment. See section 773(a)(7)(A) of the Act. Where we are unable to make a LOT adjustment, we considered granting a CEP offset as provided for in section 773(a)(7)(B) of the Act. After comparing the CEP LOT (LOTU3) with the LOTH1, we have preliminarily determined that the LOTH1 is not more remote from the factory than the LOTU3. As indicated by Exhibit I.A.8 of Dofasco's Section A response, dated December 22, 2004, as well as elsewhere in Dofasco's response, the vast majority of selling functions for both U.S. and home market sales are performed by Dofasco in Canada. Therefore, a CEP offset is not warranted under section 773(a)(7)(B) of the Act.

#### *B. Stelco LOT Analysis*

Stelco stated in its response that it was not claiming a LOT adjustment. However, Stelco did provide a chart of its selling functions, which we analyzed. In the home market, Stelco sold directly to end-users and service centers. Stelco performed a variety of

distinct selling functions in both home market channels of distribution, including research and development, engineering services, personnel training, and technical advice. All of Stelco's U.S. sales are EP sales to end-users.

We examined Stelco's chain of distribution and the selling activities in the home market, and categorized its channel of sales under two customer categories, sales to end-users and service centers. See *Memorandum to the File, From Douglas Kirby Through Sean Carey, re: Analysis of Stelco for the Preliminary Results*, dated August 31, 2004 (*Stelco Preliminary Analysis Memorandum*), on file in the CRU. We found that sales to end-users (LOTH1) differed significantly from sales to service centers (LOTH2) with respect to sales process and technical service, and slightly with regard to freight services. Therefore, we found that these customer categories in the home market constitute two distinct levels of trade in the home market.

Stelco reported only EP sales through one channel of distribution to just one customer category in the United States, end-users (LOTU3). Therefore, Stelco has only a single LOT in the United States. We compared the EP LOT to the two home market LOTs. We found that LOTU3 differed significantly from LOTH1 with respect to sales process and slightly with regard to technical services. Even though both LOTU3 and LOTH1 comprise end-users, Stelco noted in its response that its selling activities for its U.S. sales were made at a lesser intensity than for its home market sales, and that they included sales of samples at "small quantities of non-repeat business that is directed to a die developer rather than to the customer's stamping facility." See Stelco's Sections A, B and C supplemental questionnaire response, dated May 20, 2005 at 4. We then compared LOTU3 to LOTH2 and found that they differed with respect to technical support and freight services.

Our comparisons of the EP LOT to the two NV LOTs noted above, taken in conjunction with the narrative description that characterizes some types of U.S. customers as being distinct from typical end-users or service centers, leads us to conclude that the EP LOT is significantly different from those found in the home market. Therefore, we disregarded level of trade and we compared LOTU3 EP sales to all home market LOTs.

#### **Currency Conversion**

For purposes of the preliminary results, in accordance with section 773(a) of the Act, we made currency

conversions based on the official exchange rates in effect on the dates of the U.S. sales as certified by the Federal Reserve Bank of New York.

#### Preliminary Results of Review

As a result of this review, we preliminarily find that the following weighted-average dumping margins exist:

Producer/Manufacturer/Exporter	Weighted-Average Margin
Dofasco Inc., Sorevco Inc., Do Sol Galva Ltd. ....	11.08 %
Stelco Inc. ....	De minimis

#### Cash Deposit Requirements

If the preliminary results are adopted in the final results of review, 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 Dofasco, Sorevco, and DSG will be that established in the final results of this review for Dofasco (and entities collapsed with Dofasco); (2) the cash deposit rate for Stelco will be that established in the final results of this review (currently *de minimis*); (3) 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; (4) if the exporter is not a firm covered in this review, a prior 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 subject merchandise; and (5) if neither the exporter nor the manufacturer is a firm covered in this or any previous proceeding conducted by the Department, the cash deposit rate will continue to be the "all others" rate established in the LTFV investigation, which is 18.71 percent. *See Amended Final and Order*. For shipments processed by DJG we will, (1) apply Dofasco's rate on merchandise supplied by Dofasco or DSG; (2) apply the company specific rate on merchandise supplied by other previously reviewed companies; and, (3) apply the "all others" rate for merchandise supplied by companies which have not been reviewed in the past. These cash deposit requirements, when imposed, shall

remain in effect until publication of the final results of the next administrative review.

#### Duty Assessment

Upon publication of the final results of review, the Department shall determine, and CBP shall assess, antidumping duties on all appropriate entries. The Department will issue appraisement instructions directly to CBP on the 41st day after the date 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 this review and for future deposits of estimated duties. For duty assessment purposes, we calculate an importer-specific assessment rate by dividing the total dumping margins calculated for the U.S. sales of each importer by the respective 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.

The Department clarified its "automatic assessment" regulation on April 30, 2003. *See Notice of Policy Concerning Assessment of Antidumping Duties*, 68 FR 23954 (May 6, 2003). This clarification will apply to entries of subject merchandise during the POR produced by companies included in these final results of review for which the reviewed companies did not know their merchandise was destined for the United States. In such instances, we will instruct CBP to liquidate unreviewed entries at the "all others" rate if there is no rate for the intermediate company(ies) involved in the transaction.

#### Public Comment

Pursuant to section 351.224(b) of the Department's regulations, the Department will disclose to any party to the proceeding the calculations performed in connection with these preliminary results, within five days after the date of publication of this notice. Pursuant to section 351.309 of the Department's regulations, interested parties may submit case briefs in response to these preliminary results no later than 30 days after the date of publication of this notice. Rebuttal briefs, limited to issues raised in case briefs, may be filed no later than 5 days after the time limit for filing case briefs. Parties who submit arguments in this proceeding 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 briefs provide the Department with an additional copy of the public version of any such comments on a computer diskette. Case and rebuttal briefs must be served on interested parties in accordance with section 351.303(f) of the Department's regulations. Any interested party may request a hearing within 30 days of publication of this notice. Any hearing, if requested, will normally be held two days after the date for submission of rebuttal briefs. The Department will issue 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, unless extended. *See* section 351.213(h) of the Department's regulations.

#### Notification to Importers

This notice serves as a preliminary reminder to importers of their responsibility under section 351.402(f) of the Department's regulations 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.

These preliminary results of this administrative review and notice are issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: August 31, 2005.

**Barbara E. Tillman,**

*Acting Assistant Secretary for Import Administration.*

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## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-580-807]

#### Polyethylene Terephthalate Film from Korea; Five-year (Sunset) Reviews of Antidumping Duty Order; Final Results

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

**SUMMARY:** On February 2, 2005, the Department of Commerce (the Department) initiated a sunset review of the antidumping duty order on polyethylene terephthalate (PET) film