

**SUPPLEMENTARY INFORMATION:****Background**

On July 1, 2005, the Department initiated and the ITC instituted a sunset review of the antidumping duty order on stainless steel wire rods from India pursuant to section 751(c) of the Tariff Act of 1930, as amended (the Act). See *Initiation of Five-Year (Sunset) Reviews*, 70 FR 38101 (July 1, 2005) and *Stainless Steel Wire Rod from Brazil, France and India*, Investigation Nos. 731-TA-636, 731-TA-637, and 731-TA-638 (Second Review), 70 FR 38207 (July 1, 2005).

As a result of its review, the Department found that revocation of the antidumping duty order would likely lead to continuation or recurrence of dumping, and notified the ITC of the magnitude of the margins likely to prevail were the order to be revoked. See *Stainless Steel Wire Rods from Brazil, France and India: Notice of Final Results of Five-year (Sunset) Reviews of Antidumping Duty Orders*, 70 FR 67447 (November 7, 2005). The ITC determined, pursuant to section 751(c) of the Act, that revocation of the antidumping duty order on stainless steel wire rods from India would likely lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time. See USITC Publication 3866 *Stainless Steel Wire Rod from Brazil, France and India, Investigations Nos. 731-TA-636-638 (Second Review)* (July 2006) and *Stainless Steel Wire Rod From Brazil, France, and India* (Inv. Nos. 731-TA-636-638) 71 FR 42118 (July 25, 2006).

**Scope of the Order**

Imports covered by this order are certain stainless steel wire rods (SSWR) from India. SSWR are products which are hot-rolled or hot-rolled annealed and/or pickled rounds, squares, octagons, hexagons, or other shapes, in coils. SSWR are made of alloy steels containing, by weight 1.2 percent or less of carbon and 10.5 percent of chromium, with or without other elements. These products are only manufactured by hot-rolling and normally sold in coiled form, and are solid cross-section. The majority of SSWR sold in the United States are round in cross-section shape, annealed and pickled. The most common size is 5.5 millimeters in diameter.

The merchandise subject to this order is currently classifiable under subheadings 7221.00.0005, 7221.00.0015, 7221.00.0030, 7221.00.0045, 7221.00.0075 of the Harmonized Tariff Schedule of the

United States (HTSUS).<sup>1</sup> The HTSUS subheadings are provided for convenience and customs purposes. The written description remains dispositive.

**Determination**

As a result of the determinations by the Department and the ITC that revocation of this antidumping duty order would likely lead to continuation or recurrence of dumping and material injury to an industry in the United States, pursuant to section 751(d)(2) of the Act, the Department hereby orders the continuation of the antidumping duty order on stainless steel wire rods from India. U.S. Customs and Border Protection will continue to collect antidumping duty cash deposits at the rates in effect at the time of entry for all imports of subject merchandise.

The effective date of continuation of this order will be the date of publication in the **Federal Register** of this Notice of Continuation. Pursuant to sections 751(c)(2) and 751(c)(6)(A) of the Act, the Department intends to initiate the next five-year review of this order not later than June 2011.

This five-year (sunset) review and this notice are in accordance with section 751(c) of the Act.

Dated: August 1, 2006.

**David M. Spooner,**

*Assistant Secretary for Import Administration.*

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**DEPARTMENT OF COMMERCE****International Trade Administration**

**(A-428-825)**

**Stainless Steel Sheet and Strip in Coils From Germany; Notice of Preliminary Results of Antidumping Duty Administrative Review**

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

**SUMMARY:** In response to requests from Allegheny Ludlum, North American Stainless, United Auto Workers Local 3303, United Steelworkers, and Zanesville Armco Independent Organization, Inc. (collectively, petitioners) and the collapsed

<sup>1</sup> The merchandise subject to the scope of these orders was originally classifiable under all of the following HTS subheadings: 7221.00.0005, 7221.00.0015, 7221.00.0020, 7221.00.0030, 7221.00.0040, 7221.00.0045, 7221.00.0060, 7221.00.0075, and 7221.00.0080. HTSUS subheadings 7221.00.0020, 7221.00.0040, 7221.00.0060, 7221.00.0080 are no longer contained in the HTSUS.

respondents ThyssenKrupp Nirosta GmbH (ThyssenKrupp Nirosta), ThyssenKrupp VDM GmbH (TKVDM), and ThyssenKrupp Nirosta Prazisionsband GmbH (TKNP) (collectively, TKN), the Department of Commerce (the Department) is conducting an administrative review of the antidumping duty order on stainless steel sheet and strip in coils (S4) from Germany. The review covers exports of the subject merchandise to the United States produced by TKN. The period of review (POR) is July 1, 2004, through June 30, 2005.

We preliminarily find that TKN made sales at less than normal value during the POR. If these preliminary results are adopted in our final results of this review, we will instruct U.S. Customs and Border Protection (CBP) to assess antidumping duties based on the difference between the constructed export price (CEP) and normal value (NV).

Interested parties are invited to comment on these preliminary results. Parties who submit arguments in this proceeding are requested to submit with the arguments: (1) a statement of the issues, (2) a brief summary of the arguments (no longer than five pages, including footnotes) and (3) a table of authorities.

**EFFECTIVE DATE:** August 8, 2006.

**FOR FURTHER INFORMATION CONTACT:**

Deborah Scott, Tyler Weinhold, or Robert James, 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) 482-2657, (202) 482-1121 or (202) 482-0649, respectively.

**SUPPLEMENTARY INFORMATION:****Background**

The Department published an antidumping duty order on S4 from Germany on July 27, 1999. See *Notice of Amended Final Determination of Sales at Less than Fair Value and Antidumping Duty Order; Stainless Steel Sheet and Strip in Coils from Germany*, 64 FR 40557 (July 27, 1999). On July 1, 2005, the Department published the notice of opportunity to request administrative review of S4 from Germany for the period July 1, 2004, through June 30, 2005. See *Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review*, 70 FR 38099 (July 1, 2005).

On July 29, 2005, petitioners and TKN both requested an administrative review

of TKN's sales for the period July 1, 2004, through June 30, 2005. On August 29, 2005, the Department published in the **Federal Register** a notice of initiation of this antidumping duty administrative review. See *Initiation of Antidumping and Countervailing Duty Administrative Reviews and Requests for Revocation in Part*, 70 FR 51009 (August 29, 2005).

On September 7, 2005, the Department issued an antidumping duty questionnaire to TKN. TKN submitted its response to section A of the questionnaire on September 28, 2005, and its response to sections B through D of the questionnaire on November 7, 2005. On February 27, 2006, the Department issued a supplemental questionnaire requesting additional information regarding TKN's response to section D of the questionnaire. On March 20, 2006, the Department issued a supplemental questionnaire for sections A and B, to which TKN responded on April 21, 2006. On March 28, 2006, the Department issued a supplemental questionnaire for section C, to which TKN responded on May 2, 2006. On May 24, 2006, the Department issued another supplemental questionnaire, to which TKN responded on June 12, 2006.

Because it was not practicable to complete this review within the normal time frame, on March 10, 2006, we published in the **Federal Register** a notice of the extension for this review. See *Stainless Steel Sheet and Strip in Coils From Germany: Extension of Time Limit for Preliminary Results of Antidumping Duty Administrative Review*, 71 FR 12342 (March 10, 2006). This extension established the deadline for these preliminary results as July 31, 2006.

### Scope of the Order

The products covered by this order are certain stainless steel sheet and strip in coils. Stainless steel is an alloy steel containing, by weight, 1.2 percent or less of carbon and 10.5 percent or more of chromium, with or without other elements. The subject sheet and strip is a flat-rolled product in coils that is greater than 9.5 mm in width and less than 4.75 mm in thickness, and that is annealed or otherwise heat treated and pickled or otherwise descaled. The subject sheet and strip may also be further processed (e.g., cold-rolled, polished, aluminized, coated, etc.) provided that it maintains the specific dimensions of sheet and strip following such processing. The merchandise subject to this order is currently classifiable in the Harmonized Tariff Schedule of the United States (HTS) at

subheadings: 7219.13.0031, 7219.13.0051, 7219.13.0071, 7219.1300.81<sup>1</sup>, 7219.14.0030, 7219.14.0065, 7219.14.0090, 7219.32.0005, 7219.32.0020, 7219.32.0025, 7219.32.0035, 7219.32.0036, 7219.32.0038, 7219.32.0042, 7219.32.0044, 7219.33.0005, 7219.33.0020, 7219.33.0025, 7219.33.0035, 7219.33.0036, 7219.33.0038, 7219.33.0042, 7219.33.0044, 7219.34.0005, 7219.34.0020, 7219.34.0025, 7219.34.0030, 7219.34.0035, 7219.35.0005, 7219.35.0015, 7219.35.0030, 7219.35.0035, 7219.90.0010, 7219.90.0020, 7219.90.0025, 7219.90.0060, 7219.90.0080, 7220.12.1000, 7220.12.5000, 7220.20.1010, 7220.20.1015, 7220.20.1060, 7220.20.1080, 7220.20.6005, 7220.20.6010, 7220.20.6015, 7220.20.6060, 7220.20.6080, 7220.20.7005, 7220.20.7010, 7220.20.7015, 7220.20.7060, 7220.20.7080, 7220.20.8000, 7220.20.9030, 7220.20.9060, 7220.90.0010, 7220.90.0015, 7220.90.0060, and 7220.90.0080. Although the HTS subheadings are provided for convenience and customs purposes, the Department's written description of the merchandise under this order is dispositive.

Excluded from the scope of the order are the following: (1) Sheet and strip that is not annealed or otherwise heat treated and pickled or otherwise descaled, (2) sheet and strip that is cut to length, (3) plate (i.e., flat-rolled stainless steel products of a thickness of 4.75 mm or more), (4) flat wire (i.e., cold-rolled sections, with a prepared edge, rectangular in shape, of a width of not more than 9.5 mm), and (5) razor blade steel. Razor blade steel is a flat-rolled product of stainless steel, not further worked than cold-rolled (cold-reduced), in coils, of a width of not more than 23 mm and a thickness of 0.266 mm or less, containing, by weight, 12.5 to 14.5 percent chromium, and certified at the time of entry to be used in the manufacture of razor blades. See chapter 72 of the HTS, "Additional U.S. Note" 1(d).

Flapper valve steel is also excluded from the scope of the order. This product is defined as stainless steel strip in coils containing, by weight, between 0.37 and 0.43 percent carbon, between 1.15 and 1.35 percent molybdenum, and

between 0.20 and 0.80 percent manganese. This steel also contains, by weight, phosphorus of 0.025 percent or less, silicon of between 0.20 and 0.50 percent, and sulfur of 0.020 percent or less. The product is manufactured by means of vacuum arc remelting, with inclusion controls for sulphide of no more than 0.04 percent and for oxide of no more than 0.05 percent. Flapper valve steel has a tensile strength of between 210 and 300 ksi, yield strength of between 170 and 270 ksi, plus or minus 8 ksi, and a hardness (Hv) of between 460 and 590. Flapper valve steel is most commonly used to produce specialty flapper valves in compressors.

Also excluded is a product referred to as suspension foil, a specialty steel product used in the manufacture of suspension assemblies for computer disk drives. Suspension foil is described as 302/304 grade or 202 grade stainless steel of a thickness between 14 and 127 microns, with a thickness tolerance of plus-or-minus 2.01 microns, and surface glossiness of 200 to 700 percent Gs. Suspension foil must be supplied in coil widths of not more than 407 mm, and with a mass of 225 kg or less. Roll marks may only be visible on one side, with no scratches of measurable depth. The material must exhibit residual stresses of 2 mm maximum deflection, and flatness of 1.6 mm over 685 mm length.

Certain stainless steel foil for automotive catalytic converters is also excluded from the scope of this order. This stainless steel strip in coils is a specialty foil with a thickness of between 20 and 110 microns used to produce a metallic substrate with a honeycomb structure for use in automotive catalytic converters. The steel contains, by weight, carbon of no more than 0.030 percent, silicon of no more than 1.0 percent, manganese of no more than 1.0 percent, chromium of between 19 and 22 percent, aluminum of no less than 5.0 percent, phosphorus of no more than 0.045 percent, sulfur of no more than 0.03 percent, lanthanum of less than 0.002 or greater than 0.05 percent, and total rare earth elements of more than 0.06 percent, with the balance iron.

Permanent magnet iron-chromium-cobalt alloy stainless steel strip is also excluded from the scope of this order. This ductile stainless steel strip contains, by weight, 26 to 30 percent chromium, and 7 to 10 percent cobalt, with the remainder of iron, in widths 228.6 mm or less, and a thickness between 0.127 and 1.270 mm. It exhibits magnetic remanence between 9,000 and 12,000 gauss, and a coercivity of between 50 and 300 oersteds. This

<sup>1</sup>Due to changes to the HTS numbers in 2001, 7219.13.0030, 7219.13.0050, 7219.13.0070, and 7219.13.0080 are now 7219.13.0031, 7219.13.0051, 7219.13.0071, and 7219.13.0081, respectively.

product is most commonly used in electronic sensors and is currently available under proprietary trade names such as "Arnokrome III."<sup>2</sup>

Certain electrical resistance alloy steel is also excluded from the scope of this order. This product is defined as a non-magnetic stainless steel manufactured to American Society of Testing and Materials (ASTM) specification B344 and containing, by weight, 36 percent nickel, 18 percent chromium, and 46 percent iron, and is most notable for its resistance to high temperature corrosion. It has a melting point of 1390 degrees Celsius and displays a creep rupture limit of 4 kilograms per square millimeter at 1000 degrees Celsius. This steel is most commonly used in the production of heating ribbons for circuit breakers and industrial furnaces, and in rheostats for railway locomotives. The product is currently available under proprietary trade names such as "Gilphy 36."<sup>3</sup>

Certain martensitic precipitation-hardenable stainless steel is also excluded from the scope of this order. This high-strength, ductile stainless steel product is designated under the Unified Numbering System (UNS) as S45500-grade steel, and contains, by weight, 11 to 13 percent chromium, and 7 to 10 percent nickel. Carbon, manganese, silicon and molybdenum each comprise, by weight, 0.05 percent or less, with phosphorus and sulfur each comprising, by weight, 0.03 percent or less. This steel has copper, niobium, and titanium added to achieve aging, and will exhibit yield strengths as high as 1700 Mpa and ultimate tensile strengths as high as 1750 Mpa after aging, with elongation percentages of 3 percent or less in 50 mm. It is generally provided in thicknesses between 0.635 and 0.787 mm, and in widths of 25.4 mm. This product is most commonly used in the manufacture of television tubes and is currently available under proprietary trade names such as "Durphynox 17."<sup>4</sup>

Finally, three specialty stainless steels typically used in certain industrial blades and surgical and medical instruments are also excluded from the scope of this order. These include stainless steel strip in coils used in the production of textile cutting tools (e.g., carpet knives).<sup>5</sup> This steel is similar to AISI grade 420 but containing, by weight, 0.5 to 0.7 percent of

molybdenum. The steel also contains, by weight, carbon of between 1.0 and 1.1 percent, sulfur of 0.020 percent or less, and includes between 0.20 and 0.30 percent copper and between 0.20 and 0.50 percent cobalt. This steel is sold under proprietary names such as "GIN4 Mo." The second excluded stainless steel strip in coils is similar to AISI 420-J2 and contains, by weight, carbon of between 0.62 and 0.70 percent, silicon of between 0.20 and 0.50 percent, manganese of between 0.45 and 0.80 percent, phosphorus of no more than 0.025 percent and sulfur of no more than 0.020 percent. This steel has a carbide density on average of 100 carbide particles per 100 square microns. An example of this product is "GIN5" steel. The third specialty steel has a chemical composition similar to AISI 420 F, with carbon of between 0.37 and 0.43 percent, molybdenum of between 1.15 and 1.35 percent, but lower manganese of between 0.20 and 0.80 percent, phosphorus of no more than 0.025 percent, silicon of between 0.20 and 0.50 percent, and sulfur of no more than 0.020 percent. This product is supplied with a hardness of more than Hv 500 guaranteed after customer processing, and is supplied as, for example, "GIN6."<sup>6</sup>

#### Affiliation/Collapsing

Section 351.401(f)(1) of the Department's regulations provides that certain persons found to be affiliated in accordance with section 771(33) of the Tariff Act of 1930, as amended (the Tariff Act), may be treated as a single entity (collapsed), if certain circumstances exist. In the July 1, 2003, to June 30, 2004, administrative review of S4 from Germany, the Department treated ThyssenKrupp Nirosta, TKNP, and TKVDM as a single entity (i.e., collapsed them) because the three companies were affiliated, would not need to engage in major retooling to shift production of S4 from one company to another and were found capable through their sales and production operations of manipulating prices or affecting production decisions. See *Stainless Steel Sheet and Strip in Coils From Germany; Notice of Preliminary Results of Antidumping Duty Administrative Review*, 70 FR 45682, 45684-45685 (August 8, 2005) (unchanged in Final Results, 70 FR 73729 (December 13, 2005)).

As in the previous administrative review, the record establishes that ThyssenKrupp Nirosta and TKVDM are affiliated based on their common

control by ThyssenKrupp Stainless GmbH (TK Stainless), another entity within the ThyssenKrupp group of companies. Section 771(33)(F) of the Tariff Act provides that two or more persons directly or indirectly controlling, controlled by, or under common control of another entity are affiliated. A "person" may be an individual, corporation, or group. Further, as provided by section 771(33) of the Tariff Act, "a person shall be considered to control another person if the person is legally or operationally in a position to exercise restraint or direction over the other person." The Department has analyzed the information on the record of this administrative review regarding the affiliation of ThyssenKrupp Nirosta and TKVDM and has determined preliminarily that ThyssenKrupp Nirosta and TKVDM should be considered affiliated under section 771(33)(F) of the Tariff Act. See Memorandum to Richard Weible, Director, Office 7, AD/CVD Operations, "Antidumping Duty Administrative Review of Stainless Steel Sheet and Strip in Coils from Germany: Affiliation and Collapsing of ThyssenKrupp Nirosta GmbH, ThyssenKrupp Nirosta Präzisionsband GmbH and ThyssenKrupp VDM GmbH," dated June 30, 2006 (Collapsing Memorandum).

Moreover, as in the previous administrative review, the Department has determined preliminarily that ThyssenKrupp Nirosta and TKVDM should be treated as a single entity or "collapsed" for the purpose of calculating an antidumping duty margin. As explained in the Collapsing Memorandum, ThyssenKrupp Nirosta and TKVDM have production facilities to produce similar or identical merchandise without substantial retooling and should be treated as a single entity in accordance with 19 CFR 351.401(f)(1). Additionally, in determining whether there is a significant potential for manipulation of price or production, as contemplated by 19 CFR 351.401(f)(2), the Department considers the totality of the circumstances of the situation and may place more reliance on some factors than others. The totality of the circumstances here shows there is a significant potential for the manipulation of price or production.

In addition to ThyssenKrupp Nirosta and TKVDM, the record also establishes that ThyssenKrupp Nirosta and TKNP are affiliated based on ThyssenKrupp Nirosta's 100 percent ownership of TKNP. Section 771(33)(E) of the Tariff Act provides that "any person directly or indirectly owning, controlling, or

<sup>2</sup> "Arnokrome III" is a trademark of the Arnold Engineering Company.

<sup>3</sup> "Gilphy 36" is a trademark of Imphy, S.A.

<sup>4</sup> "Durphynox 17" is a trademark of Imphy, S.A.

<sup>5</sup> This list of uses is illustrative and provided for descriptive purposes only.

<sup>6</sup> "GIN4 Mo," "GIN5" and "GIN6" are the proprietary grades of Hitachi Metals America, Ltd.

holding with power to vote, 5 percent or more of the outstanding voting stock or shares of any organization and such organization" shall be considered to be affiliated. Further, as provided by section 771(33) of the Tariff Act, "a person shall be considered to control another person if the person is legally or operationally in a position to exercise restraint or direction over the other person." The Department has analyzed the information on the record of this administrative review regarding the affiliation of ThyssenKrupp Nirosta and TKNP and, as in the previous administrative review, has determined preliminarily that the two entities should be considered affiliated under section 771(33)(E) of the Tariff Act. See the Collapsing Memorandum at page 8.

Furthermore, as in the previous administrative review, the Department has also determined preliminarily that ThyssenKrupp Nirosta and TKNP should be treated as a single entity or "collapsed" for the purpose of calculating an antidumping duty margin. As explained in the Collapsing Memorandum, ThyssenKrupp Nirosta and TKNP also have production facilities to produce similar or identical merchandise without substantial retooling and should be treated as a single entity in accordance with 19 CFR 351.401(f)(1). Additionally, information on the record demonstrates there is a significant potential for manipulation of price or production, within the meaning of 19 CFR 351.401(f)(2).

In summary, we find that: (1) ThyssenKrupp Nirosta is affiliated with both TKNP and TKVDM under section 771(33) of the Tariff Act; (2) a shift in production between ThyssenKrupp Nirosta and TKVDM or between ThyssenKrupp Nirosta and TKNP would not require substantial retooling of the facilities of these companies; and (3) there is a significant potential for price and production manipulation between ThyssenKrupp Nirosta and TKVDM and also between ThyssenKrupp Nirosta and TKNP. Therefore, the Department preliminarily finds that ThyssenKrupp Nirosta is affiliated with both TKNP and TKVDM and should be treated as a single entity or "collapsed" for the purpose of calculating an antidumping duty margin for this administrative review.

#### Fair Value Comparisons

To determine whether sales of S4 in the United States were made at less than fair value, we compared U.S. price to normal value (NV), as described in the "Constructed Export Price" and "Normal Value" sections of this notice. In accordance with section 777A(d)(2)

of the Tariff Act, we calculated monthly weighted-average NVs and compared these to individual U.S. transactions. Because TKN made no "export price" transactions during the POR, we used only CEP sales in our comparisons.

#### Product Comparisons

In accordance with section 771(16) of the Tariff Act, we considered all products produced by TKN 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. We relied on nine characteristics to match U.S. sales of subject merchandise to comparison sales of the foreign like product (listed in order of priority): 1) grade; 2) cold/hot rolled; 3) gauge; 4) surface finish; 5) metallic coating; 6) non-metallic coating; 7) width; 8) temper; and 9) edge trim. 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 product characteristics and reporting instructions listed in the Department's September 7, 2005, questionnaire. Because there were sales of identical or similar merchandise in the home market suitable for comparison to each U.S. sale, we did not compare any U.S. sales to constructed value (CV).

#### Constructed Export Price (CEP)

In accordance with section 772(b) of the Tariff Act, CEP is the price at which the subject merchandise is first sold (or agreed to be sold) in the United States before or after the date of importation by or for the account of the producer or exporter of such merchandise, or by a seller affiliated with the producer or exporter, to a purchaser not affiliated with the producer or exporter, as adjusted under sections 772(c) and (d) of the Tariff Act. In accordance with section 772(b) of the Tariff Act, we used CEP for all of TKN's U.S. sales because TKN sold merchandise to affiliated companies in the United States which, in turn, sold subject merchandise to unaffiliated U.S. customers. TKN reported that sales made through its affiliated importers ThyssenKrupp Nirosta North America, Inc. (TKNNA), Mexinox USA, Inc. (MXXUSA), and ThyssenKrupp VDM USA, Inc. (TKVDMUSA) consisted of two channels of distribution: back-to-back sales and inventory sales. See ThyssenKrupp Nirosta's November 7, 2005, questionnaire response at C-15 and C-16 and TKVDM's November 7,

2005, questionnaire response at C-15 and C-16. We have preliminarily found that TKN's U.S. sales are properly classified as CEP sales because these sales occurred in the United States and were made through TKN's U.S. affiliates to unaffiliated U.S. customers.

We based CEP on the packed, delivered duty paid or FOB warehouse prices to unaffiliated purchasers in the United States. We made adjustments for price or billing errors and early payment discounts, where applicable. We also made deductions for movement expenses in accordance with section 772(c)(2)(A) of the Tariff Act, which included, where appropriate, foreign inland freight, foreign brokerage and handling, international freight, marine insurance, war risk insurance, customs duties, U.S. brokerage, U.S. inland freight, and U.S. warehousing expenses. In accordance with section 772(d)(1) of the Tariff Act, we deducted those selling expenses associated with economic activities occurring in the United States, including direct selling expenses (credit costs, warranty expenses, and commissions), inventory carrying costs, and indirect selling expenses. We also made an adjustment for profit in accordance with section 772(d)(3) of the Tariff Act. Finally, for those sales in which merchandise was sent to an unaffiliated U.S. processor to be further processed, we made an adjustment based on the transaction-specific further processing amounts reported by TKN; for sales through MXXUSA that were further processed in Mexico prior to importation into the United States, we made an adjustment to account for these expenses.

#### Normal Value

##### A. Selection of Comparison Market

In order to determine whether there was a sufficient volume of sales in the home market to serve as a viable basis for calculating NV (*i.e.*, the aggregate volume of home market sales of the foreign like product was equal to or greater than five percent of the aggregate volume of U.S. sales), we compared the respondent's volume of home market sales of the foreign like product to the volume of U.S. sales of the subject merchandise, in accordance with section 773(a)(1) of the Tariff Act. As TKN's aggregate volume of home market sales of the foreign like product was greater than five percent of its aggregate volume of U.S. sales of the subject merchandise, we determined the home market was viable. Therefore, we have based NV on home market sales in the usual commercial quantities and in the ordinary course of trade.

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

Sales to affiliated customers in the home market not made at arm's-length prices were excluded from our analysis because we considered them to be outside the ordinary course of trade. See 19 CFR 351.102. If sales were not made at arm's-length, then the Department used the sale from the affiliated party to the first unaffiliated party. 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 billing adjustments, early payment discounts, rebates, movement charges, commissions, direct selling expenses, imputed credit expense, and packing. Where, for the tested models of subject merchandise, prices to the affiliated party were, on average, between 98 and 102 percent of the price of identical or comparable merchandise to the unaffiliated parties, we determined that sales made to the affiliated party were at arm's length. See 19 CFR 351.403(c). In instances where no price ratio could be calculated for an affiliated customer because identical or similar merchandise was not sold to unaffiliated customers, we were unable to determine whether these sales were made at arm's-length prices. Therefore, we excluded any such sales from our analysis.

### C. *Cost of Production Analysis*

In the segment of this proceeding most recently completed at the time of our initiation of this review, the Department disregarded certain sales made by TKN in the home market because these sales were made at prices less than the cost of production (COP). See *Stainless Steel Sheet and Strip in Coils from Germany; Notice of Preliminary Results of Antidumping Duty Administrative Review*, 69 FR 47900, 47903 (August 6, 2004); *Stainless Steel Sheet and Strip in Coils from Germany; Notice of Final Results of Antidumping Duty Administrative Review*, 69 FR 75930 (December 20, 2004). Thus, in accordance with section 773(b)(2)(A)(ii) of the Tariff Act, there are reasonable grounds to believe or suspect that TKN's sales of the foreign like product in the home market were made at prices below their COP in the current review period. Accordingly, pursuant to section 773(b)(1) of the Tariff Act, we initiated a cost investigation to determine whether TKN's sales made during the POR were at prices below their respective COP.

### D. *Calculation of Cost of Production*

In accordance with section 773(b)(3) of the Tariff Act, we calculated COP based on the sum of the cost of materials and fabrication for the foreign like product, plus an amount for home market selling, general and administrative (SG&A) expenses and interest expenses. We relied on the COP data submitted by TKN, except for the changes noted below.

In accordance with section 773(f)(2) of the Tariff Act, where TKN's reported transfer prices for purchases of nickel from an affiliated party were not at arm's-length, we increased these prices to reflect the prevailing market prices. See Memorandum to Neal Halper, "Cost of Production and Constructed Value Adjustments for the Preliminary Results," dated July 31, 2006 (COP/CV Adjustment Memorandum). We also revised the interest expense ratio for ThyssenKrupp Nirosta, TKVDM, and TKNP to exclude packing costs from the denominator of the financial expense calculation. See *id.* Finally, we revised TKVDM's general and administrative expense rate to include other operating incomes and expenses. See *id.*

### E. *Test of Home Market Prices*

We compared the weighted-average COP of TKN's home market sales to home market sales prices (net of billing adjustments, early payment discounts, rebates, any applicable movement expenses, direct and indirect selling expenses, commissions, and packing) of the foreign like product as required under section 773(b) of the Tariff 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, in accordance with sections 773(b)(1)(A) and (B) of the Tariff Act, whether such sales were made in substantial quantities within an extended period of time, and whether such sales were made at prices which would permit recovery of all costs within a reasonable period of time.

### F. *Results of the Cost Test*

Pursuant to section 773(b)(2)(C) of the Tariff Act, where less than 20 percent of TKN's sales of a given model were at prices less than the COP, we did not disregard any below-cost sales of that model because these below-cost sales were not made in substantial quantities. Where 20 percent or more of TKN's home market sales of a given model were at prices less than the COP, we disregarded the below-cost sales because such sales were made: (1) in substantial quantities within the POR

(*i.e.*, within an extended period of time) in accordance with section 773(b)(2)(B) of the Tariff Act, and (2) at prices which would not permit recovery of all costs within a reasonable period of time, in accordance with section 773(b)(2)(D) of the Tariff Act (*i.e.*, the sales were made at prices below the weighted-average per-unit COP for the POR). We used the remaining sales as the basis for determining NV, if such sales existed, in accordance with section 773(b)(1) of the Tariff Act. In this review, we have found sales below the COP and have, as described above, disregarded such sales from our margin calculations.

### G. *Price-to-Price Comparisons*

We calculated NV based on prices to unaffiliated customers or prices to affiliated customers that we determined to be at arm's length. We made adjustments for billing adjustments, early payment discounts, and rebates, where appropriate. We made deductions, where appropriate, for foreign inland freight and warehousing, pursuant to section 773(a)(6)(B) of the Tariff Act. In addition, when comparing sales of similar merchandise, we made adjustments for differences in cost attributable to differences in physical characteristics of the merchandise (*i.e.*, DIFMER) pursuant to section 773(a)(6)(C)(ii) of the Tariff Act and 19 CFR 351.411. We also made adjustments for differences in circumstances of sale (COS) in accordance with section 773(a)(6)(C)(iii) of the Tariff Act and 19 CFR 351.410. We made COS adjustments for commissions, imputed credit expenses and warranty expenses; we offset imputed credit expenses by interest revenue. We also made an adjustment, where appropriate, for the CEP offset in accordance with section 773(a)(7)(B) of the Tariff Act. See "Level of Trade and CEP Offset" section below. In accordance with 19 CFR 351.410(e), we made an adjustment (*i.e.*, the commission offset) to account for commissions paid in one market but not the other. Finally, we deducted home market packing costs and added U.S. packing costs in accordance with sections 773(a)(6)(A) and (B) of the Tariff Act.

### H. *Constructed Value (CV)*

In accordance with section 773(a)(4) of the Tariff Act, we base NV on CV if we are unable to find a contemporaneous comparison market match of such or similar merchandise for the U.S. sale. Section 773(e) of the Tariff Act provides that CV shall be based on the sum of the cost of materials and fabrication employed in making the subject merchandise, SG&A expenses,

profit, and U.S. packing costs. We calculate the cost of materials and fabrication for TKN based on the methodology described in the COP section of this notice. In accordance with section 773(e)(2)(A) of the Tariff Act, we base 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. However, for these preliminary results, we did not base NV on CV in any instances.

#### Level of Trade and CEP Offset

In accordance with section 773(a)(1)(B)(i) of the Tariff Act, to the extent practicable, we determine NV based on sales in the comparison market at the same level of trade (LOT) as the CEP transaction. The NV LOT is based on the starting price of sales in the comparison market or, when NV is based on CV, that of the sales from which we derive SG&A expenses and profit. For CEP, it is the level of the constructed sale from the exporter to the affiliated importer after the deductions required under section 772(d) of the Tariff Act.

To determine whether NV sales are at a different LOT than CEP sales, we examine stages in the marketing process and selling functions along the chain of distribution between the producer and the unaffiliated customer. *See, e.g., Final Determination of Sales at less Than Fair Value: Greenhouse Tomatoes From Canada*, 67 FR 8781 (February 26, 2002) and the accompanying Issues and Decisions Memorandum at Comment 8. If the comparison market sales are at a different LOT, and the difference affects price comparability, as manifested in a pattern of consistent price differences between the sales on which NV is based and comparison market sales at the LOT of the export transaction, we make a LOT adjustment under section 773(a)(7)(A) of the Tariff Act. If the NV level is more remote from the factory than the CEP level and there is no basis for determining whether the differences in the levels between NV and CEP affect price comparability, we adjust NV under section 773(a)(7)(B) of the Tariff Act (the CEP offset provision). *See e.g., Certain Hot-Rolled Flat-Rolled Carbon Quality Steel Products From Brazil; Preliminary Results of Antidumping Duty Administrative Review*, 70 FR 17406, 17410 (April 6, 2005) (unchanged in Final Results, 70 FR 58683 (October 7, 2005)); *Certain Stainless Steel Butt-Weld Pipe Fittings from Taiwan: Final Results and Final Rescission in Part of Antidumping Duty*

*Administrative Review*, 67 FR 78417 (December 24, 2002).

In implementing these principles in this review, we asked TKN to identify the specific differences and similarities in selling functions and support services between all phases of marketing in the home market and the United States. TKN reported home market sales made through four channels of distribution: (1) mill direct sales, (2) mill inventory sales, (3) service center inventory sales, and (4) service center processed sales. *See ThyssenKrupp Nirosta's November 7, 2005, questionnaire response at B-20, TKVDM's November 7, 2005, questionnaire response at B-21, and TKNP's November 7, 2005, questionnaire response at B-16 to B-17.* For all channels, TKN performs similar selling functions such as negotiating prices with customers, setting credit terms and collecting payment, arranging freight to the customer, conducting sales calls and visits, providing technical service, and processing customer orders. *See, e.g., TKN's September 28, 2005, questionnaire response at Exhibit 3.* The remaining selling activities did not differ significantly by channel of distribution. Because channels of distribution do not qualify as separate LOTs when the selling functions performed for each customer class or channel are sufficiently similar, we determined that one LOT exists for TKN's home market sales.

In the U.S. market, TKN made sales of subject merchandise through TKNNA, MXXUSA, and TKVDMUSA. As stated above, TKN reported that sales made through these affiliated importers consisted of two channels of distribution, back-to-back sales and inventory sales. *See ThyssenKrupp Nirosta's November 7, 2005, questionnaire response at C-15 to C-16 and TKVDM's November 7, 2005, questionnaire response at C-15 to C-16.* All U.S. sales were CEP transactions and TKN performed the same selling functions in its sale to the affiliated importer in each instance. *See, e.g., TKN's September 28, 2005, questionnaire response at A-23 to A-25 and Exhibit 3.* Therefore, the U.S. market has one LOT.

When we compared CEP sales (after deductions made pursuant to section 772(d) of the Tariff Act) to home market sales, we determined that for CEP sales TKN performed fewer customer sales contacts, technical services, delivery services, and warranty services. In addition, the differences in selling functions performed for home market and CEP transactions indicate home market sales involved a more advanced stage of distribution than CEP sales. In

the home market TKN provides marketing further down the chain of distribution by providing certain downstream selling functions that are normally performed by the affiliated resellers in the U.S. market (*e.g., technical advice, sales calls and visits*).

Based on our analysis, we determined that CEP and the starting price of home market sales represent different stages in the marketing process, and are thus at different LOTs. Therefore, when we compared CEP sales to comparison market sales, we examined whether a LOT adjustment may be appropriate. In this case, because TKN sold at one LOT in the home market, there is no basis upon which to determine whether there is a pattern of consistent price differences between LOTs. Further, we do not have the information which would allow us to examine pricing patterns of TKN's sales of other similar products, and there is no other record evidence upon which such an analysis could be based.

Because the data available do not provide an appropriate basis for making a LOT adjustment and the LOT of TKN's home market sales is at a more advanced stage than the LOT of CEP sales, a CEP offset is appropriate in accordance with section 773(a)(7)(B) of the Tariff Act, as claimed by TKN. We based the amount of the CEP offset on home market indirect selling expenses, and limited the deduction for home market indirect selling expenses to the amount of indirect selling expenses deducted from CEP in accordance with section 772(d)(1)(D) of the Tariff Act. We applied the CEP offset to NV, whether based on home market prices or CV.

#### Currency Conversions

In accordance with section 773A(a) of the Tariff Act, we made Euro-U.S. Dollar currency conversions based on the exchange rates in effect on the dates of the U.S. sales, as certified by the Federal Reserve Board. For certain U.S. sales made by MXXUSA, we converted adjustments denominated in Mexican pesos to U.S. dollars based on the exchange rates in effect on the dates of the U.S. sales, as certified by the Federal Reserve Board. Finally, for certain U.S. sales denominated in Canadian dollars, we made currency conversions based on the exchange rates in effect on the dates of the U.S. sales, as certified by the Federal Reserve Board.

#### Preliminary Results of Review

As a result of our review, we preliminarily find the following weighted-average dumping margin

exists for the period July 1, 2004, through June 30, 2005:

| Manufacturer/Exporter | Weighted Average Margin (percentage) |
|-----------------------|--------------------------------------|
| TKN .....             | 2.51%                                |

The Department will disclose calculations performed within five days of the date of publication of this notice in accordance with 19 CFR 351.224(b). An interested party may request a hearing within thirty days of publication. See 19 CFR 351.310(c). Any hearing, if requested, will be held 37 days after the date of publication, or the first business day thereafter, unless the Department alters the date pursuant to 19 CFR 351.310(d). Interested parties may submit case briefs no later than 30 days after the date of publication of these preliminary results of review. Rebuttal briefs, limited to issues raised in the case briefs, may be filed no later than 35 days after the date of publication of this notice. Parties who submit arguments in these proceedings are requested to submit with the argument: 1) A statement of the issue; 2) a brief summary of the argument; and 3) a table of authorities. Further, parties submitting written comments should provide the Department with an additional copy of the public version of any such comments on diskette. The Department will issue final results of this administrative review, including the results of our analysis of the issues in any such written comments or at a hearing, within 120 days of publication of these preliminary results.

The Department shall determine, and CBP shall assess, antidumping duties on all appropriate entries. Upon completion of this administrative review, pursuant to 19 CFR 351.212(b), the Department will calculate an assessment rate on all appropriate entries. TKN has reported entered values for all of its sales of subject merchandise to the U.S. during the POR. Therefore, in accordance with 19 CFR 351.212(b)(1), we will calculate importer-specific duty assessment rates on the basis of the ratio of the total amount of antidumping duties calculated for the examined sales to the total entered value of the examined sales of that importer. These rates will be assessed uniformly on all entries the respective importers made during the POR if these preliminary results are adopted in the final results of review. Where the assessment rate is above *de minimis*, we will instruct CBP to assess duties on all entries of subject merchandise by that importer. The Department will issue appropriate

appraisal instructions directly to CBP within fifteen days of publication of the final results of review.

Furthermore, the following deposit requirements will be effective upon completion of the final results of this administrative review for all shipments of S4 from Germany entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of this administrative review, as provided by section 751(a)(1) of the Tariff Act:

- 1) The cash deposit rate for TKN will be the rate established in the final results of review;
- 2) If the exporter is not a firm covered in this review or the less-than-fair-value (LTFV) investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and
- 3) If neither the exporter nor the manufacturer is a firm covered in this or any previous review conducted by the Department, the cash deposit rate will be the "all others" rate of 13.48 percent from the LTFV investigation. See Stainless Steel Sheet and Strip in Coils from Germany: Amended Final Determination of Antidumping Duty Investigation, 67 FR 15178 (March 29, 2002).

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

We are issuing and publishing this notice in accordance with sections 751(a)(1) and 777(i)(1) of the Tariff Act.

Dated: July 31, 2006.  
**David M. Spooner**,  
*Assistant Secretary for Import Administration.*  
 [FR Doc. E6-12798 Filed 8-7-06; 8:45 am]  
**BILLING CODE 3510-DS-S**

**DEPARTMENT OF COMMERCE**

**International Trade Administration**

[A-A-351-819, A-427-811]

**Stainless Steel Wire Rods From Brazil and France: Revocation of Antidumping Duty Order**

**AGENCY:** Import Administration, International Trade Administration, Department of Commerce.  
**SUMMARY:** On July 1, 2005, the Department of Commerce (the Department) initiated sunset reviews of the antidumping duty (AD) orders on stainless steel wire rods from Brazil, France, and India, pursuant to section. Pursuant to section 751(c) of the Tariff Act of 1930, as amended (the Act), the International Trade Commission (the ITC) determined that revocation of these orders would not be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time. Therefore, pursuant to section 751(d)(2) of the Act and 19 CFR 351.222(i)(1)(iii), the Department is revoking the AD orders on stainless steel wire rods from Brazil and France.  
**EFFECTIVE DATE:** August 2, 2005.

**FOR FURTHER INFORMATION CONTACT:** Jacqueline Arrowsmith or Dana Mermelstein, AD/CVD Operations, Office 6, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street & Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482-5255 and (202) 482-1391, respectively.

**SUPPLEMENTARY INFORMATION:**

**Scope of the Orders**

Imports covered by these orders are certain stainless steel wire rods (SSWR) from Brazil and France. SSWR are products which are hot-rolled or hot-rolled annealed and/or pickled rounds, squares, octagons, hexagons, or other shapes, in coils. SSWR are made of alloy steels containing, by weight 1.2 percent or less of carbon and 10.5 percent of chromium, with or without other elements. These products are only manufactured by hot-rolling and normally sold in coiled form, and are solid cross-section. The majority of SSWR sold in the United States are round in cross-section shape, annealed and pickled. The most common size is 5.5 millimeters in diameter.

The merchandise subject to these orders is currently classifiable under subheadings 7221.00.0005, 7221.00.0015, 7221.00.0030, 7221.00.0045, 7221.00.0075 of the