

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

[A-428-830]

**Stainless Steel Bar from Germany: Preliminary Results of New Shipper Review**

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

**SUMMARY:** The Department of Commerce (“the Department”) is conducting a new shipper review of the antidumping duty order on stainless steel bar from Germany manufactured by Schmiedewerke Groditz GmbH (“SWG”). The period of review (“POR”) covers March 1, 2005, through February 28, 2006. We preliminarily determine that SWG did not make sales of subject merchandise at less than normal value (“NV”) in the United States during the POR. We invite interested parties to comment on these preliminary results.

**EFFECTIVE DATE:** March 19, 2007.

**FOR FURTHER INFORMATION CONTACT:** Damian Felton, Audrey R. Twyman, or Brandon Farlander, AD/CVD Operations, Office 1, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington DC 20230; telephone (202) 482-0133, (202) 482-3534, or (202) 482-0182, respectively.

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

On March 7, 2002, the Department published an antidumping duty order on stainless steel bar from Germany. See *Notice of Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order: Stainless Steel Bar from Germany*, 67 FR 10382 (March 7, 2002) (“*Investigation Final*”). On October 10, 2003, the Department published an amended antidumping duty order on stainless steel bar from Germany. See *Notice of Amended Antidumping Duty Orders: Stainless Steel Bar from France, Germany, Italy, Korea, and the United Kingdom*, 68 FR 58660 (October 10, 2003).

On March 31, 2006, we received a request for a new shipper review from SWG for the period March 1, 2005, through February 28, 2006. We initiated the review on April 26, 2006. See *Notice of Initiation of New Shipper Antidumping Duty Review: Stainless Steel Bar from Germany*, 71 FR 24642 (April 26, 2006).

On June 9, 2006, and July 13, 2006, SWG responded to Section A and Sections B and C, respectively, of the

antidumping questionnaire. On the extended deadline of October 11, 2006, SWG submitted their supplemental questionnaire response.

On December 4, 2006, we extended the time limit for the preliminary results of this new shipper review to no later than March 15, 2007. See *Stainless Steel Bar from Germany: Extension of Time Limit for the Preliminary Results of the New Shipper Review*, 71 FR 70363 (December 4, 2006).

**Scope of the Order**

For the purposes of this order, the term “stainless steel bar” includes articles of stainless steel in straight lengths that have been either hot-rolled, forged, turned, cold-drawn, cold-rolled or otherwise cold-finished, or ground, having a uniform solid cross section along their whole length in the shape of circles, segments of circles, ovals, rectangles (including squares), triangles, hexagons, octagons, or other convex polygons. Stainless steel bar (“SSB”) includes cold-finished stainless steel bars that are turned or ground in straight lengths, whether produced from hot-rolled bar or from straightened and cut rod or wire, and reinforcing bars that have indentations, ribs, grooves, or other deformations produced during the rolling process.

Except as specified above, the term does not include stainless steel semi-finished products, cut length flat-rolled products (*i.e.*, cut length rolled products which if less than 4.75 mm in thickness have a width measuring at least 10 times the thickness, or if 4.75 mm or more in thickness having a width which exceeds 150 mm and measures at least twice the thickness), products that have been cut from stainless steel sheet, strip or plate, wire (*i.e.*, cold-formed products in coils, of any uniform solid cross section along their whole length, which do not conform to the definition of flat-rolled products), and angles, shapes and sections.

The SSB subject to this order is currently classifiable under subheadings 7222.11.00.05, 7222.11.00.50, 7222.19.00.05, 7222.19.00.50, 7222.20.00.05, 7222.20.00.45, 7222.20.00.75, and 7222.30.00.00 of the *Harmonized Tariff Schedule of the United States* (“HTSUS”). Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of the order is dispositive.

**Verification**

As provided in section 782(i)(3) of the Tariff Act of 1930, as amended (“the Act”), we intend to verify the

information provided by SWG on April 16–18, 2007.

**Bona Fide Analysis**

Consistent with the Department’s practice, we investigated whether the U.S. transaction reported by SWG during the POR was a *bona fide* sale. Among the factors examined was the relationship between SWG and its reported U.S. customer. Petitioners<sup>1</sup> contended that SWG and its customer were affiliated by virtue of a principal/agent relationship. Based on our investigation, we preliminarily determine that SWG and its U.S. customer were not affiliated and that SWG’s sale was made on a *bona fide* basis. For a complete discussion of our analysis, see the Department’s memorandum to the file entitled, “*Bona Fide Nature of Schmiedewerke Groditz GmbH’s Sales in the New Shipper Review for Stainless Steel Bar from Germany*,” dated March 12, 2007, on file in room B-099 of the main Department of Commerce building.

**Comparisons to Normal Value**

To determine whether sales of subject merchandise to the United States by SWG were made at less than NV, we compared the U.S. export price (“EP”) to the NV, as described in the “Export Price” and “Normal Value” sections of this notice, below. In accordance with section 777A(d)(2) of the Act, we calculated monthly weighted-average prices for NV and compared these to the prices of individual EP transactions. We have used the invoice date as the date of sale in both markets. We describe below our calculation of NV and EP.

**Product Comparisons**

In accordance with section 771(16) of the Act, we considered all products described by the Scope of the Order section, above, which were produced and sold by SWG in the home market, to be foreign like products for purposes of determining appropriate comparisons to U.S. sales. We made comparisons using the following five model match characteristics: (1) Finish; (2) Grade; (3) Remelting; (4) Final Finishing; (5) Shape; and (6) Size.

**Export Price**

In accordance with section 772(a) of the Act, EP is defined as the price at which the subject merchandise is first sold (or agreed to be sold) before the date of importation by the producer or exporter of the subject merchandise outside of the United States to an

<sup>1</sup> Petitioners are Carpenter Technology Corporation, Valbruna Slater Stainless, Inc., and Electralloy Corporation.

unaffiliated purchaser in the United States, or to an unaffiliated purchaser for exportation to the United States. In accordance with section 772(b) of the Act, constructed export price ("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 subsections (c) and (d). For SWG's sales to the United States, we used EP in accordance with section 772(a) of the Act because its merchandise was sold directly to the first unaffiliated purchaser prior to importation, and CEP was not otherwise warranted based on the facts of record.

We calculated EP based on the prices charged to the first unaffiliated customer in the United States. We based EP on the packed FOB port prices to the first unaffiliated purchasers in the United States. We made deductions for movement expenses in accordance with section 772(c)(2)(A) of the Act, including domestic inland freight, domestic inland insurance, international freight, U.S. customs duty, and U.S. brokerage and handling.

### Normal Value

#### A. Viability

In order to determine whether there is 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 during the POR is equal to or greater than five percent of the aggregate volume of U.S. sales of subject merchandise during the POR), we compared SWG's volume of home market sales of the foreign like product to the volume of U.S. sales of the subject merchandise. *See* section 773(a)(1)(C)(iii) of the Act. Based on SWG's reported home market and U.S. sales quantities, we determine that the volume of aggregate home market sales during the POR is equal to or greater than five percent of the aggregate volume of U.S. sales of subject merchandise during the POR. Accordingly, we find that SWG had a viable home market. Therefore, we based NV on home market sales to unaffiliated purchasers made in the usual quantities and in the ordinary course of trade.

#### B. Price-to-Price Comparisons

We compared U.S. sales with contemporaneous sales of the foreign

like product in Germany. As noted above, we selected the comparison sales based on the following criteria: (1) Finish; (2) Grade; (3) Remelting; (4) Final Finishing; (5) Shape; and (6) Size.

In calculating the net unit price, we used the reported gross unit price. We made adjustments for differences in packing costs between the two markets and for movement expenses in accordance with sections 773(a)(6)(A) and (B) of the Act. We deducted early payment discounts and movement expenses (inland freight and inland insurance). We adjusted for differences in the circumstances of sale ("COS") pursuant to section 773(a)(6)(C)(iii) of the Act and 19 CFR 351.410. We made these COS adjustments by deducting home market direct selling expenses and adding U.S. direct selling expenses. Home market direct selling expenses consisted of imputed credit, administrative charges associated with sales, and financing. U.S. direct selling expenses consisted of imputed credit, bank charges, and administrative charges associated with sales, and financing. Finally, we made adjustments, where appropriate, for physical differences between the U.S. models and the home market models to which they were being compared.

### Level of Trade

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

To determine whether NV sales are at a different LOT than EP or CEP, we examine stages in the marketing process and selling functions along the chain of distribution between the producer and the unaffiliated customer. If the comparison-market sales are at a different LOT and the difference affects price comparability, as manifested in a pattern of consistent price differences between the sales on which NV is based and comparison-market sales at the LOT of the export transaction, we make a LOT adjustment under section 773(a)(7)(A) of the Act. For CEP sales, if the NV level is more remote from the factory than the CEP level and there is no basis for determining whether the difference in the levels between NV and CEP affects price comparability, we

adjust NV under section 773(a)(7)(B) of the Act (the CEP-offset provision). *See Final Determination of Sales at Less Than Fair Value: Certain Cut-to-Length Carbon Steel Plate from South Africa*, 62 FR 61731, 61732-33 (November 19, 1997).

In implementing these principles in this review, we obtained information from SWG about the marketing stages involved in its U.S. and home market sales, including a description of its selling activities in the respective markets. Generally, if the reported levels of trade are the same in the home and U.S. markets, the functions and activities of the seller should be similar. Conversely, if a party reports differences in levels of trade, the functions and activities should be dissimilar.

SWG reported one channel of distribution and one LOT in the home market contending that all home market sales were to end users. *See* SWG's June 9, 2006, Section A submission at A-12. SWG further contends it provided substantially the same level of customer support on its U.S. sale as it provided on its home market sales to end users. We examined the selling activities reported by SWG and determined that they are identical with respect to sales and marketing, inventory maintenance, warranties, and freight and delivery. For example, SWG did not incur freight and delivery or warehousing expenses in either market, and SWG performed similar activities with respect to sales and marketing and warranties. *See* SWG's June 9, 2006, Section A submission at A-13 and Exhibit A-5. The Department has determined that we will find sales to be at the same LOT when the selling functions performed for each customer class are sufficiently similar. *See* 19 CFR 351.412(c)(2). We find SWG performed virtually the same level of customer support services on its U.S. EP sale as it did on its home market sales.

Therefore, based on our analysis of the selling functions performed on SWG's EP sale in the United States, and its sales in the home market, we determine that the EP and the starting price of home market sales represent the same stage in the marketing process, and are thus at the same LOT. Accordingly, we preliminarily find that no level of trade adjustment is appropriate for SWG.

### Currency Conversions

We made currency conversions into U.S. dollars in accordance with section 773(a) of the Act, based on the exchange rates in effect on the dates of the U.S. sales, as certified by the Federal Reserve Bank.

### Preliminary Results of Review

As a result of our review we preliminarily find that a weighted-average dumping margin of 0.00 percent exists for SWG for the period March 1, 2005, through February 28, 2006.

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 30 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 or written comments no later than 30 days after the date of publication of these preliminary results of new shipper review. Rebuttal briefs and rebuttals to written comments, limited to issues raised in the case briefs and comments, may be filed no later than 5 days after the date of submission of case briefs and written comments. Parties who submit argument in these proceedings are requested to submit with the argument (1) a statement of the issue, (2) a brief summary of the argument, and (3) a table of authorities. Further, 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 new shipper review, including the results of our analysis of the issues raised in any such written comments or at a hearing, within 90 days of publication of these preliminary results.

### Assessment Rates

Upon issuance of the final results of this review, the Department shall determine, and CBP shall assess, antidumping duties on all appropriate entries. Pursuant to 19 CFR 351.212(b)(1), for the U.S. sale made by the respondent for which they have reported the importer of record and entered value, we have calculated an importer-specific assessment rate based on the ratio of the total amount of antidumping duties calculated for the examined sales to the total entered value of the U.S. sale. To determine whether the duty assessment rates were *de minimis*, in accordance with the requirement set forth in 19 CFR 351.106(c)(2), we calculated an importer-specific *ad valorem* rate based on the reported entered value. Where the assessment rate is above *de minimis*, we will instruct CBP to assess duties on all entries of subject merchandise by

that importer. Pursuant to 19 CFR 351.106(c)(2), we will instruct CBP to liquidate without regard to antidumping duties any entries for which the assessment rate is *de minimis* (*i.e.*, less than 0.50 percent).

The Department clarified its "automatic assessment" regulation on May 6, 2003 (68 FR 23954). This clarification will apply to entries of subject merchandise during the period of review produced by reviewed companies for which these 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. For a full discussion of this clarification, see *Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties*, 68 FR 23954 (May 6, 2003).

### Cash Deposit Requirements

The following cash deposit rate will be effective upon publication of the final results of this new shipper review for shipments of stainless steel bar from Germany entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided by section 751(a)(2)(C) of the Act. For subject merchandise produced and exported by SWG, the cash deposit rate will be the rate established in the final results of this review, except if the rate is less than 0.50 percent and, therefore, *de minimis*, the cash deposit rate will be zero. This cash deposit requirement, when imposed, shall remain in effect until further notice.

### Notification to Interested Parties

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: March 12, 2007.

**David M. Spooner**,  
Assistant Secretary for Import  
Administration.

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## DEPARTMENT OF COMMERCE

### International Trade Administration

[C-580-835]

### Stainless Steel Sheet and Strip in Coils from the Republic of Korea: Final Results of Countervailing Duty Changed Circumstances Review

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

**SUMMARY:** On December 19, 2006, the Department of Commerce ("the Department") published in the **Federal Register** its preliminary results of the changed circumstances review of the countervailing duty ("CVD") order on stainless steel sheet and strip in coils ("SSSS") from the Republic of Korea ("Korea"). See *Preliminary Results of Countervailing Duty Changed Circumstances Review: Stainless Steel Sheet and Strip in Coils from the Republic of Korea*, 71 FR 75937 (December 19, 2006) ("*Preliminary Results*"). The Department preliminarily determined that: (1) Hyundai Steel Company ("Hyundai") is the successor-in-interest to INI Steel Company ("INI"), formerly Incheon Iron and Steel Co., Ltd.; and (2) upon publication of these final results of this review, INI's current CVD cash deposit rate shall be applied to entries of subject merchandise made by Hyundai. We did not receive any comments on our preliminary results and have made no revisions to those results.

**EFFECTIVE DATE:** March 19, 2007.

**FOR FURTHER INFORMATION CONTACT:** Preeti Tolani, AD/CVD Operations, Office 3, Import Administration, International Trade Administration, U.S. Department of Commerce, Room 4014, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone (202) 482-0395.

### SUPPLEMENTARY INFORMATION:

#### 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