

expenses in each market also does not support a finding that other selling activities related to the sales process (e.g., sales visits, freight and delivery arrangements) are performed at a substantially higher degree in the home market than the U.S. market. Therefore, we find that AST's claims of additional and more advanced selling functions for home market sales in comparison to CEP sales are either unsubstantiated or insufficient to support a finding of different LOTs. See 19 CFR 412(c)(2). Accordingly, we preliminarily determine that sales in the home market and in the U.S. market were made at the same LOT and have not made a LOT adjustment or CEP offset.

### Preliminary Results of Review

As a result of our review, we preliminarily determine that the following weighted-average dumping margin exists for the period January 4, 1999 through June 30, 2000:

Manufacturer/exporter/reseller	Margin (percent)
AST .....	0.67

The Department will disclose calculations performed within five days of the date of publication of this notice to the parties to this proceeding in accordance with 19 CFR 351.224(b). An interested party may request a hearing within 30 days of publication of these preliminary results. See 19 CFR 351.310(c). Any hearing, if requested, will be held 37 days after the date of publication, or the first working day thereafter. Interested parties may submit case briefs and/or written comments no later than 30 days after the date of publication of these preliminary results of review. Rebuttal briefs and rebuttals to written comments, limited to issues raised in such briefs or comments, may be filed no later than 35 days after the date of publication. 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 comments, within 120 days of publication of these preliminary results.

### Assessment

Upon issuance of the final results of this review, the Department shall determine, and the U.S. Customs Service shall assess, antidumping duties on all appropriate entries. In accordance with 19 CFR 351.212(b), we have calculated exporter/importer-specific assessment rates. We divided the total dumping margins for the reviewed sales by the total entered value of those

reviewed sales for each importer. We will direct the U.S. Customs Service to assess the resulting percentage margin against the entered customs values for the subject merchandise on each of that importer's entries under the relevant order during the review period. Upon completion of this review, the Department will issue appraisement instructions directly to the Customs Service.

### Cash Deposit

The following cash deposit requirements will be effective upon publication of these final results for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of these final results of administrative review, as provided by section 751(a)(1) of the Act: (1) The cash deposit rate for the reviewed company will be the rate listed above (except that if the rate for a particular product is *de minimis*, i.e., less than 0.5 percent, a cash deposit rate of zero will be required for that company); (2) for previously investigated companies not listed above, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review, a prior review, or the original less than fair value ("LTFV") investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and (4) the cash deposit rate for all other manufacturers or exporters will continue to be the "all others" rate of 11.23 percent, which is the all others rate established in the LTFV investigation. These deposit requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

### Notification to Interested Parties

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f)(2) 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 the antidumping duties occurred and the subsequent assessment of double antidumping duties.

This notice also serves as a reminder to parties subject to administrative protective orders ("APOs") of their responsibility concerning the

disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305, that continues to govern business proprietary information in this segment of the proceeding. Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

This determination is issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: July 31, 2001.

**Faryar Shirzad,**

*Assistant Secretary for Import Administration.*

[FR Doc. 01-19781 Filed 8-7-01; 8:45 am]

BILLING CODE 3510-DS-P

## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-201-822]

### Stainless Steel Sheet and Strip in Coils from Mexico; Preliminary Results of Antidumping Duty Administrative Review

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

**ACTION:** Notice of preliminary results of antidumping duty administrative review.

**SUMMARY:** In response to a request by respondent Mexinox S.A. de C.V. (Mexinox) and Mexinox USA, Inc. (Mexinox USA) (collectively, Mexinox), the Department of Commerce (the Department) is conducting an administrative review of the antidumping duty order on stainless steel sheet and strip in coils (S4 in coils) from Mexico (A-201-822). This review covers one manufacturer/exporter (Mexinox) of the subject merchandise to the United States during the period January 4, 1999 to June 30, 2000.

We preliminarily determine that sales of S4 in coils from Mexico have been made below the normal value (NV). If these preliminary results are adopted in our final results of administrative review, we will instruct the U.S. Customs Service to assess antidumping duties based on the difference between United States price and the NV. Interested parties are invited to comment on these preliminary results. Parties who submit argument in these proceedings are requested to submit with the argument (1) a statement of the issues and (2) a brief summary of the argument.

**EFFECTIVE DATE:** August 8, 2001.

**FOR FURTHER INFORMATION CONTACT:**

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

**SUPPLEMENTARY INFORMATION:**

**Applicable Statute and Regulations:**

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (the Tariff Act) are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act by the Uruguay Rounds Agreements Act. In addition, unless otherwise indicated, all citations to the Department's regulations are to 19 CFR Part 351 (April 1, 2000).

**Background**

On July 27, 1999 the Department published in the **Federal Register** the *Notice of Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order* on stainless steel sheet and strip in coils from Mexico (64 FR 40560). On July 20, 2000, the Department published the *Notice of Opportunity to Request Administrative Review* of stainless steel sheet and strip in coils from Mexico for the period January 4, 1999 through June 30, 2000 (65 FR 45035).

In accordance with 19 CFR 351.213 (b)(1), the respondent (Mexinox) requested that we conduct an administrative review of Mexinox in the A-201-822 case. On September 6, 2000, we published in the **Federal Register** a notice of initiation of this antidumping duty administrative review covering the period January 4, 1999 through June 30, 2000 (65 FR 53980).

Because it was not practicable to complete these reviews within the normal time frame, on February 15, 2001, we published in the **Federal Register** our notice of the extension of time limits for the A-201-822 review (66 FR 10483). This extension established the deadline for these preliminary results as July 31, 2001.

**Scope Inquiry**

In response to the Department's March 23, 2001 supplemental questionnaire, on April 20, 2001 Mexinox submitted a database containing information regarding downstream sales made by its affiliate, Mexinox Trading. (For more information about the Department's request, see "Sales Through Affiliated Resellers" below.) In the accompanying

narrative, Mexinox reported that certain of the sales made by Mexinox Trading were of quantities less than 20 kgs. (53 lbs.). Mexinox described this merchandise as "small pieces that have been crudely cut (with scissors) from a coil on a piece-by-piece basis based on length measurements specified by the customer." Mexinox further stated that "these materials are more properly considered cut-to-length sheets than stainless steel sheet and strip in coils. In fact they are curled into a circular shape only for the convenience of the customer for transportation." In the database submitted to the Department, Mexinox coded sales of this merchandise both as outside the ordinary course of trade and as non-subject. See page 7 of Mexinox's April 20, 2001 submission.

On May 10, 2001, the Department requested further information about Mexinox Trading's sales of merchandise of quantities less than 20 kg. In its May 25, 2001 response, Mexinox reiterated the description of the merchandise made in its April 20, 2001 submission, and added that the cut pieces are "rolled up like a poster and held together with a rope or steel band to facilitate transportation." See Mexinox's May 25, 2001 submission at 10. Claiming that the material in question is outside the scope of this review, Mexinox formally requested a scope ruling from the Department pursuant to section 351.225(c), (f)(6), and (k) of the Department's regulations.

Based on the criteria set forth under section 351.225(k) of the Department's regulations, we have determined that materials sold in quantities of less than 20 kg are covered by the scope of this review. First, the Department's written description of the merchandise under review is dispositive. Specifically, the material in question is a stainless steel flat-rolled product that is "rolled up like a poster" (i.e., in coil form), and it meets the width and gauge criteria set forth in the scope of this review (i.e., it is greater than 9.5 mm in width and less than 4.75 mm in thickness; see Appendix III of the Department's September 8, 2000 questionnaire). Therefore, we have concluded that this merchandise complies with the scope description set out in the investigation of S4 in coils from Mexico. For further information, see the Department's Memorandum to the File from Robert James, dated July 31, 2001.

**Scope of the Review**

For purposes of this order, the products covered 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 classified in the Harmonized Tariff Schedule of the United States (HTS) at subheadings: 7219.13.00.31, 7219.13.00.51, 7219.13.00.71, 7219.13.00.81, 7219.14.00.30, 7219.14.00.65, 7219.14.00.90, 7219.32.00.05, 7219.32.00.20, 7219.32.00.25, 7219.32.00.35, 7219.32.00.36, 7219.32.00.38, 7219.32.00.42, 7219.32.00.44, 7219.33.00.05, 7219.33.00.20, 7219.33.00.25, 7219.33.00.35, 7219.33.00.36, 7219.33.00.38, 7219.33.00.42, 7219.33.00.44, 7219.34.00.05, 7219.34.00.20, 7219.34.00.25, 7219.34.00.30, 7219.34.00.35, 7219.35.00.05, 7219.35.00.15, 7219.35.00.30, 7219.35.00.35, 7219.90.00.10, 7219.90.00.20, 7219.90.00.25, 7219.90.00.60, 7219.90.00.80, 7220.12.10.00, 7220.12.50.00, 7220.20.10.10, 7220.20.10.15, 7220.20.10.60, 7220.20.10.80, 7220.20.60.05, 7220.20.60.10, 7220.20.60.15, 7220.20.60.60, 7220.20.60.80, 7220.20.70.05, 7220.20.70.10, 7220.20.70.15, 7220.20.70.60, 7220.20.70.80, 7220.20.80.00, 7220.20.90.30, 7220.20.90.60, 7220.90.00.10, 7220.90.00.15, 7220.90.00.60, and 7220.90.00.80. Although the HTS subheadings are provided for convenience and Customs purposes, the Department's written description of the merchandise under review is dispositive.

Excluded from the scope of this order are the following: (1) Sheet and strip that is not annealed or otherwise heat treated and pickled or otherwise descaled; (2) sheet and strip that is cut to length; (3) plate (i.e., flat-rolled stainless steel products of a thickness of 4.75 mm or more); (4) flat wire (i.e., cold-rolled sections, with a prepared edge, rectangular in shape, of a width of not more than 9.5 mm); and (5) razor blade steel. Razor blade steel is a flat-rolled product of stainless steel, not further worked than cold-rolled (cold-reduced), in coils, of a width of not more than 23 mm and a thickness of

0.266 mm or less, containing, by weight, 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 HTSUS, "Additional U.S. Note" 1(d).

In response to comments by interested parties the Department has determined that certain specialty stainless steel products are also excluded from the scope of this order. These excluded products are described below.

Flapper valve steel 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 for 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 between 0.002 and 0.05 percent, and total rare earth elements of more than 0.06 percent, with the balance iron.

Permanent magnet iron-chromium-cobalt alloy stainless strip is also excluded from the scope of this order. This ductile stainless steel strip contains, by weight, 26 to 30 percent chromium, and 7 to 10 percent cobalt, with the remainder of iron, in widths 228.6 mm or less, and a thickness between 0.127 and 1.270 mm. It exhibits magnetic remanence between 9,000 and 12,000 gauss, and a coercivity of between 50 and 300 oersteds. This product is most commonly used in electronic sensors and is currently available under proprietary trade names such as "Arnokrome III."<sup>1</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>2</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>3</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>4</sup> This steel is similar to ASTM grade 440F, 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 square micron. 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>5</sup>

## Verification

As provided in section 782(i) of the Tariff Act, we verified information provided by Mexinox using standard verification procedures such as the examination of relevant sales and financial records, and selection of original documentation containing relevant information. Our verification results are outlined in the public versions of the verification reports, which we will place on file in Room B-099 of the main Commerce building.

<sup>3</sup> "Durphynox 17" is a trademark of Imphy, S.A.

<sup>4</sup> This list of uses is illustrative and provided for descriptive purposes only.

<sup>5</sup> "GIN4 Mo," "GIN5" and "GIN6" are the proprietary grades of Hitachi Metals America, Ltd.

<sup>1</sup> "Arnokrome III" is a trademark of the Arnold Engineering Company.

<sup>2</sup> "Gilphy 36" is a trademark of Imphy, S.A.

## Sales Made Through Affiliated Resellers

### A. U.S. Market

As noted in Mexinox's October 6, 2000 questionnaire response at 11 and 12, both Ken-Mac Metals Inc. (Ken-Mac) and Copper and Brass Sales, Inc. (CBS) are affiliated resellers that sold subject merchandise in the United States during the POR. Thus, we have included in our preliminary margin calculation resales of Mexinox subject merchandise made through Ken-Mac and CBS.

### B. Home Market

Mexinox Trading, S.A. de C.V. (Mexinox Trading) is a wholly-owned subsidiary of Mexinox which sells both subject and non-subject merchandise in the home market. In its October 6, 2000 questionnaire response, Mexinox reported that sales through Mexinox Trading represented less than five percent of Mexinox's total sales of subject merchandise in the home market. Because Mexinox Trading's sales of subject merchandise were less than five percent of home market subject merchandise sales, and because Mexinox reported that these sales passed the Department's arm's-length test, pursuant to section 351.403 (c) and (d) of the Department's regulations, we permitted Mexinox to report its sales to Mexinox Trading rather than require it to report downstream sales to the first unaffiliated customer.

In several letters to the Department, the petitioner alleged that the record contained insufficient information about the role of Mexinox Trading in Mexinox's home market transactions, and therefore urged the Department to collect information regarding downstream sales made by Mexinox Trading. On March 23, 2001, the Department requested that Mexinox report all sales of the foreign like product by Mexinox Trading to the first unaffiliated customer in a separate database, and asked Mexinox to provide more information about Mexinox Trading's operations. The Department did not make a determination at that time as to whether it would use the sales from Mexinox Trading to the first unaffiliated customer in calculating normal value. Instead, as the Department indicated in a separate memorandum, it might include those sales in calculating normal value if it made a determination that Mexinox and Mexinox Trading were functioning as a single entity. See the Memorandum from Deborah Scott to Richard Weible, dated March 23, 2001.

Based on the additional information provided by Mexinox as well as our

findings at verification, we find that Mexinox and Mexinox Trading are functioning as separate and distinct entities. Therefore, for this preliminary determination, we find no reason to use the downstream sales through Mexinox Trading in calculating normal value. Rather, pursuant to section 351.403 (c) and (d) of the Department's regulations, we have used the sales from Mexinox to Mexinox Trading, since they constitute less than five percent of sales of the foreign like product in the home market, and because those sales pass the arm's-length test.

### Fair Value Comparisons

To determine whether sales of S4 in coils from Mexico to the United States were made at less than fair value, we compared the export price (EP) or constructed export price (CEP) to the normal value (NV), as described in the "Export Price and Constructed Export Price" and "Normal Value" sections of this notice, below. In accordance with section 777A(d)(2) of the Tariff Act, we compared individual EPs and CEPs to monthly weighted-average NVs.

### Transactions Reviewed

For its home market and U.S. sales, Mexinox reported the date of invoice as the date of sale, in keeping with the Department's stated preference for using the invoice date as the date of sale (section 19 CFR 351.401(i)). Mexinox stated that the invoice date represented the date when the essential terms of sales, *i.e.*, price and quantity, are definitively set, and that up to the time of shipment and invoicing, these terms were subject to change. Because petitioners alleged that Mexinox did not provide adequate support for its claim that price and quantity may change at any time between the final order acceptance date (confirmation date) and the final invoice date, the Department requested that Mexinox provide additional information concerning the nature and frequency of price and quantity changes occurring between the date of order and date of invoice. Mexinox responded to our request on December 22, 2000 and provided a final revised version of its analysis on April 20, 2001. In addition, for purposes of completeness, Mexinox voluntarily revised its home market and U.S. databases in order to include sales transactions having order dates within the POR (regardless of sale date). Based on our analysis of the information submitted by Mexinox, we have preliminarily determined that the date of invoice is the appropriate indicator of the actual date of sale because record evidence indicates that in a substantial

number of instances the price and quantity changed between the date of the order acceptance and the date of invoice. Therefore, we find that Mexinox's claim that price and quantity terms are subject to negotiation until the date of invoice is substantiated.

### Product Comparisons

In accordance with section 771(16) of the Tariff Act, we considered all products produced by the respondent covered by the description in the "Scope of the Review" 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 next most similar foreign like product on the basis of the characteristics and reporting instructions listed in the Department's questionnaire.

### Level of Trade

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 EP or CEP transaction. The NV LOT is that of the starting price of the comparison sales in the home market or, when NV is based on CV, that of the sales from which we derive selling, general, and administrative (SG&A) expenses and profit. For EP the LOT is also the level of the starting price sale, which is usually from the exporter to the importer. For CEP it is the level of the constructed sale from the exporter to the importer.

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

We asked Mexinox 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. Mexinox identified two channels of distribution in the home market: (1) retailers and (2) end-users. For both channels, Mexinox performs similar selling functions such as pre-sale technical assistance and after-sales warranty services. *See, e.g., Attachment A-34 of Mexinox's April 16, 2001 submission.* Because channels of distribution do not qualify as separate LOTs when the selling functions performed for each customer class are sufficiently similar, we determined that there exists one LOT for Mexinox's home market sales. *See Certain Stainless Steel Wire Rods from France: Final Results of Antidumping Duty Administrative Review*, 63 FR 30185, 30190 (June 3, 1998).

For the U.S. market Mexinox reported two LOTs: (1) EP sales consisting, in some cases, of sales made directly to unaffiliated U.S. customers, and in other cases of sales made from the stock of finished goods held at the Mexican factory in San Luis Potosi (SLP Stock sales) to unaffiliated U.S. customers; and (2) CEP sales made through Mexinox USA's Brownsville warehouse to service centers and end users. The Department examined the selling functions performed by Mexinox for both EP and CEP sales (after deductions made pursuant to section 772(d) of the Tariff Act). These selling functions included customer sales contacts (*i.e.*, visiting current or potential customers and promotion of new products), technical services, and inventory maintenance. We found that Mexinox provided a qualitatively different degree of these services on EP sales than it did on CEP sales, and that the selling functions were sufficiently different to warrant a determination that two separate LOTs exist in the United States.

When we compared EP sales to home market sales, we determined that both sales were made at the same LOT. For both EP and home market transactions, Mexinox sold directly to the customer, and provided similar levels of customer sales contacts, technical services, and inventory maintenance. For CEP sales (as adjusted), Mexinox performed fewer customer sales contacts, technical services, inventory maintenance, and warranty services. In addition, the differences in selling functions performed for home market and CEP transactions indicate that home market sales involved a more advanced stage of distribution than CEP sales. In the home market, Mexinox provides marketing

further down the chain of distribution by providing certain downstream selling functions that are normally performed by service centers in the U.S. market (*e.g.*, technical advice, credit and collection, etc.).

Based on the above 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 home market sales, we examined whether a level-of-trade adjustment may be appropriate. In this case, Mexinox sold at one LOT in the home market; therefore, there is no basis upon which to determine whether there is a pattern of consistent price differences between levels of trade. Further, we do not have the information which would allow us to examine pricing patterns of Mexinox's sales of other similar products, and there are no other respondents or other record evidence on which such an analysis could be based.

Because the data available do not provide an appropriate basis for making a LOT adjustment and the level of trade in Mexico for Mexinox is at a more advanced stage than the level of trade of the CEP sales, a CEP offset is appropriate in accordance with section 773(a)(7)(B) of the Tariff Act, as claimed by Mexinox. We based the CEP offset amount on the amount of 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.

In addition to the three U.S. channels of distribution discussed above (direct sales, SLP stock sales, and sales through Mexinox's affiliate, Mexinox USA), Mexinox reported U.S. sales through two other channels of distribution: CEP sales through Ken-Mac and CEP sales through CBS (*see* the section on "Affiliation" above). In all cases, CBS resold subject merchandise from inventory which it purchased from Ken-Mac. For purposes of this preliminary determination, we treated both of these channels of distribution as equivalent to the CEP level of trade as described above.

#### **Export Price and Constructed Export Price**

Mexinox reported some of its sales of subject merchandise sold to unaffiliated U.S. customers through its affiliated company, Mexinox USA, as EP transactions. For EP sales, the price terms were set by management in

Mexico before importation into the United States, and the products were shipped directly to the customer through Mexinox USA without being introduced into U.S. inventory. Furthermore, we reviewed the information Mexinox submitted about the sales process for these sales and determined that the role Mexinox USA played was ancillary at most. Mexinox reported as CEP transactions its sales of subject merchandise sold to Mexinox USA for its own account. Mexinox USA then resold the subject merchandise after importation to unaffiliated customers in the United States.

We calculated EP in accordance with section 772(a) of the Tariff Act for those sales where the merchandise was sold to the first unaffiliated purchaser in the United States prior to importation and CEP methodology was not otherwise warranted, based on the facts of record. We based EP on packed prices to unaffiliated purchasers in the United States. We made deductions for discounts, rebates, and debit/credit notes. We also made adjustments for movement expenses in accordance with section 772(c)(2)(A) of the Tariff Act; these included, where appropriate, foreign inland freight, foreign brokerage and handling, foreign inland insurance, U.S. inland freight, U.S. brokerage and handling, U.S. customs duty, and U.S. warehousing. We also added duty drawback to the starting price, in accordance with section 772(c)(1)(B) of the Tariff Act.

We calculated CEP in accordance with section 772(b) of the Tariff Act for those sales to the first unaffiliated purchaser that took place after importation into the United States. We based CEP on packed prices to unaffiliated purchasers in the United States. We made adjustments for discounts, rebates, and debit/credit notes where applicable. We also made deductions for movement expenses in accordance with section 772(c)(2)(A) of the Tariff Act; these included, where appropriate, U.S. customs duties, U.S. inland freight, foreign brokerage and handling, and foreign inland insurance. 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 and warranty expenses), inventory carrying costs, and other indirect selling expenses. We also made an adjustment for profit in accordance with section 772(d)(3) of the Tariff Act, and added duty drawback to the starting price in accordance with section 772(c)(1)(B) of the Tariff Act. For those sales in which material was sent to an unaffiliated U.S.

processor to be further processed, we made an adjustment based on the transaction-specific further-processing amounts reported by Mexinox. In addition, the entities Ken-Mac and CBS performed some further manufacturing of some of Mexinox's U.S. sales. For these sales, we deducted the cost of further processing in accordance with 772(d)(2) of the Tariff Act. In calculating the cost of further manufacturing for Ken-Mac and CBS, we relied upon the further manufacturing information provided by Mexinox.

#### Facts Available

In accordance with section 776(a)(1) of the Tariff Act, in these preliminary results we find it necessary to use partial facts available in those instances where the respondent did not provide us with certain information necessary to conduct our analysis. In a small number of cases, Mexinox's affiliated U.S. reseller, Ken-Mac, was unable to confirm the origin of the subject merchandise it sold during the POR. Therefore, Mexinox provided data about these particular resales through Ken-Mac in a separate database. At page KM-3 of its March 5, 2001 submission, Mexinox reported that it allocated these sales of "unattributable" merchandise "amongst the potential suppliers of the material based on relative percentage, by volume, of stainless steel and strip purchased during the POR by Ken-Mac from each supplier." In addition to Mexinox, "potential suppliers" of this merchandise include, among others, Krupp Thyssen Nirosta GmbH (KTN), a producer which is subject to the companion antidumping duty administrative review covering S4 in coils from Germany. At our sales verification of Ken-Mac, we thoroughly reviewed this issue and determined that Ken-Mac had acted to the best of its ability in attempting to trace the origin of the subject merchandise that it sold during the POR.

Because of the unknown origin of certain of Ken-Mac's resales of subject merchandise, Mexinox has, in effect, not provided all the information necessary to complete our analysis. Therefore, we have preliminarily determined that, pursuant to section 776(a) of the Tariff Act, it is appropriate to use the facts otherwise available in calculating a margin on these sales. Section 776(a) of the Tariff Act provides that the Department will, subject to section 782(d), use the facts otherwise available in reaching a determination if "necessary information is not available on the record." Therefore, for these preliminary results, we have calculated a margin on Ken-Mac's "unattributable"

resales by applying the overall margin calculated on all other sales/resales of subject merchandise to the weighted-average price of these "unattributable" sales. We then weighted the result using a portion of the "unattributable" database representing the ratio of Ken-Mac's purchases of stainless steel from Mexinox to stainless steel purchases from all vendors.

#### Normal Value

##### A. Selection of Comparison Market

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 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)(B) of the Tariff Act. Because the respondent's aggregate volume of home market sales of the foreign like product was greater than five percent of its aggregate volume of U.S. sales for the subject merchandise, we determined that the home market was viable.

##### 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(b). To test whether these sales were made at arm's-length prices, we compared on a model-specific basis the starting prices of sales to affiliated and unaffiliated customers minus all movement charges, direct selling expenses, and packing. Where, for the tested models of subject merchandise, prices to the affiliated party were on average 99.5 percent or more of the price to the unaffiliated parties, we determined that sales made to the affiliated party were at arm's length. See 19 CFR 351.403(c). In instances where no price ratio could be calculated for an affiliated customer because identical merchandise was not sold to unaffiliated customers, we were unable to determine that these sales were made at arm's-length prices and, therefore, excluded them from our margin calculation. See, e.g., *Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Emulsion Styrene-Butadiene Rubber from Brazil*, 63 FR 59509 (Nov. 8, 1998), citing to *Final Determination of Sales at Less*

*Than Fair Value: Certain Cold-Rolled Carbon Steel Flat Products from Argentina*, 58 FR 37062 (July 9, 1993). Where the exclusion of such sales eliminated all sales of the most appropriate comparison product, we made a comparison to the next most similar model.

##### C. Cost of Production Analysis

Because we disregarded sales of certain products made at prices below the cost of production (COP) in our investigation of S4 in coils from Mexico (see *Notice of Final Determination of Sales at Less Than Fair Value: Stainless Steel Sheet and Strip in Coils From Mexico*, 64 FR 30790 (June 8, 1999), we have reasonable grounds to believe or suspect that sales of the foreign like product under consideration for the determination of NV in this review for Mexinox may have been made at prices below the COP, as provided by section 773(b)(2)(A)(ii) of the Tariff Act. Therefore, pursuant to section 773(b)(1) of the Tariff Act, we initiated a COP investigation of sales by Mexinox.

We calculated the COP based on the sum of the respondent's cost of materials and fabrication for the foreign like product, plus amounts for SG&A and packing costs, in accordance with section 773(b)(3) of the Tariff Act.

We used the respondent's reported COP amounts to compute weighted-average COPs during the POR. We compared the weighted-average COP figures to home market sales prices 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 COP. On a product-specific basis, we compared the COP to the home market prices, less any applicable movement charges and discounts.

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: (1) whether within an extended period of time, such sales were made in substantial quantities; and (2) whether such sales were made at prices which permitted the recovery of all costs within a reasonable period of time in the normal course of trade.

Where twenty percent or more of the respondent's sales of a given product were at prices below the COP, we found that sales of that model were made in "substantial quantities" within an extended period of time, in accordance with sections 773(b)(2) (B) and (C) of the Tariff Act. Based on our comparison of prices to the weighted-average per-unit cost of production for the POR, we determined whether the below-cost

prices were such as to provide for recovery of costs within a reasonable period of time, in accordance with section 773(b)(2)(D) of the Tariff Act.

Our cost test for Mexinox revealed that less than twenty percent of Mexinox's home market sales of certain products were at prices below Mexinox's COP. We therefore concluded that for such products, Mexinox had not made below-cost sales in substantial quantities. See section 773 (b)(2)(C)(i) of the Tariff Act. We therefore retained all such sales in our analysis. For other products, more than twenty percent of Mexinox's sales were at below-cost prices. In such cases we disregarded the below-cost sales, while retaining the above-cost sales for our analysis. See Preliminary Results Analysis Memorandum dated July 31, 2001, a public version of which is on file in room B-009 of the main Commerce building. We relied on the respondent's COP and CV amounts as reported.

#### D. Constructed Value

In accordance with section 773(e) of the Tariff Act, we calculated CV based on the sum of the respondent's cost of materials, fabrication, SG&A expenses, profit, and U.S. packing costs. In accordance with section 773(e)(2)(A) of the Tariff 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. We deducted from CV the weighted-average home market direct selling expenses incurred on sales made in the ordinary course of trade.

#### E. 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 debit/credit notes, interest revenue, discounts, rebates, insurance revenue, and freight revenue, where appropriate. We made deductions, where appropriate, for foreign inland freight, insurance, handling, and warehousing, pursuant to section 773(a)(6)(B) of the Tariff Act. In addition, we made adjustments for differences in cost attributable to differences in physical characteristics of the merchandise pursuant to section 773(a)(6)(C)(ii) of the Tariff Act and 19 CFR 351.411, as well as for differences in circumstances of sale (COS) in accordance with section 773(a)(6)(C)(iii) of the Tariff Act and 19 CFR 351.410. We made COS adjustments for imputed credit expenses and warranty expenses.

We also made an adjustment, where appropriate, for the CEP offset in accordance with section 773(a)(7)(B) of the Tariff Act. 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.

#### F. Price-to-CV Comparisons

In accordance with section 773(a)(4) of the Tariff Act, we based NV on CV if we were unable to find a home market match of such or similar merchandise. Where appropriate, we made adjustments to CV in accordance with section 773(a)(8) of the Tariff Act. For comparisons to EP, we made COS adjustments by deducting home market direct selling expenses and adding U.S. direct selling expenses. Where we compared CV to CEP, we deducted from CV the weighted-average home market direct selling expenses. We also made an adjustment, where appropriate, for the CEP offset in accordance with section 773(a)(7)(B) of the Tariff Act.

#### Currency Conversion

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

#### Preliminary Results of Review

As a result of our review we preliminarily determine the following weighted-average dumping margin exists for the period January 4, 1999 through June 30, 2000:

*Manufacturer/Exporter:* Mexinox.  
*Weighted Average Margin (percentage):* 4.03.

The Department will disclose calculations performed within five days of the date of publication of this notice in accordance with 19 CFR 351.224(b). An interested party may request a hearing within thirty days of publication. See CFR 351.310(c). Any hearing, if requested, will be held 37 days after the date of publication, or the first business day thereafter, unless the Department alters the date per 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 review. Rebuttal briefs and rebuttals to written comments, limited to issues raised in the case briefs and comments, may be filed no later than 35 days after the date of publication of this notice. 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, we would appreciate it if parties submitting written comments would provide the Department with an additional copy of the public version of any such comments on diskette. The Department will issue final results of this administrative review, including the results of our analysis of the issues in any such written comments or at a hearing, within 120 days of publication of these preliminary results.

The Department shall determine, and the U.S. Customs Service shall assess, antidumping duties on all appropriate entries. In accordance with 19 CFR 351.212(b)(1), we will calculate importer-specific *ad valorem* assessment rates for the merchandise based on the ratio of the total amount of antidumping duties calculated for the examined sales made during the POR to the total customs value of the sales used to calculate those duties. This rate will be assessed uniformly on all entries of that particular importer made during the POR. The Department will issue appropriate appraisement instructions directly to the Customs Service upon completion of the review.

Furthermore, the following deposit requirements will be effective upon completion of the final results of this administrative review for all shipments of S4 in coils from Mexico 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 Mexinox 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 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 from the investigation (30.85 percent; 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 Mexico*, 64 FR 40560, 40562 (July 27, 1999)).

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, 2001.

**Faryar Shirzad,**

*Assistant Secretary for Import Administration.*

[FR Doc. 01-19782 Filed 8-7-01; 8:45 am]

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## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-580-834]

#### **Stainless Steel Sheet and Strip in Coils From the Republic of Korea: Preliminary Results and Partial Rescission of Antidumping Duty Administrative Review**

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

**ACTION:** Notice of preliminary results and partial rescission of antidumping duty administrative review of stainless steel sheet and strip in coils from the Republic of Korea.

**SUMMARY:** The Department of Commerce ("the Department") is conducting an administrative review of the antidumping duty order on stainless steel sheet and strip in coils from the Republic of Korea in response to a request from respondents Pohang Iron & Steel Co., Ltd. ("POSCO"), Samwon Precision Metals Co., Ltd. ("Samwon"), Daiyang Metal Co., Ltd. ("DMC"), and petitioners,<sup>1</sup> who requested a review of Sammi Steel Co. ("Sammi") and any of its affiliates within the meaning of section 771(33) of the Tariff Act of 1930, as amended ("the Act"), including any successor or surviving company to Sammi. This review covers imports of subject merchandise from POSCO, Samwon, DMC and Sammi. The period of review ("POR") is January 4, 1999 through June 30, 2000.

Our preliminary results of review indicate that Samwon and DMC have sold subject merchandise at less than normal value ("NV") during the POR and that POSCO did not make any sales

below normal value during the POR. In addition, we have preliminarily determined to rescind the review with respect to Sammi because it had no shipments of subject merchandise to the United States during the period of review. If these preliminary results are adopted in our final results of review, we will instruct the U.S. Customs Service to assess antidumping duties on suspended entries for Samwon and DMC.

We invite interested parties to comment on these preliminary results. Parties who submit arguments in this segment of the proceeding should also submit with each argument (1) a statement of the issue and (2) a brief summary of the argument.

**EFFECTIVE DATE:** August 8, 2001.

#### **FOR FURTHER INFORMATION CONTACT:**

Laurel LaCivita (POSCO); Stephen Shin (Samwon); Amy Ryan (DMC), Brandon Farlander (Sammi); or Rick Johnson, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482-4243, (202) 482-0413, (202) 482-0961, (202) 482-0182 or (202) 482-3818, respectively.

#### **SUPPLEMENTARY INFORMATION:**

##### **The Applicable Statute and Regulations**

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended, are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act ("URAA"). In addition, unless otherwise indicated, all citations to the Department's regulations are to the regulations codified at 19 CFR Part 351 (2001).

##### **Background**

On July 20, 2000, the Department published in the **Federal Register** a notice of "Opportunity to Request Administrative Review" of the antidumping duty order on stainless steel sheet and strip in coils from the Republic of Korea (65 FR 45035). On July 27, 2000, petitioners requested a review of Sammi and its affiliates within the meaning of section 771(33) of the Act. On July 31, 2000, POSCO, Samwon, and DMC, producers and exporters of subject merchandise during the POR, in accordance with 19 CFR 351.213(b)(2), requested administrative reviews of the antidumping order covering the period January 4, 1999, through June 30, 2000. On September 6, 2000, the Department published in the **Federal Register** a notice of initiation of

administrative review of this order (65 FR 53980).

On September 20, 2000, and in subsequent submissions on September 28, 2000, October 13, 2000, and November 3, 2000, Sammi informed the Department that it had no shipments of subject merchandise to the United States during the POR. We have confirmed this with the Customs Service. See the Memorandum from Brandon Farlander to the File, "U.S. Customs Data Query for Entries During the 1999-2000 Antidumping Duty Administrative Review on Stainless Steel Sheet and Strip in Coils From the Republic of Korea," dated July 31, 2001. Consequently, in accordance with 19 CFR 351.213(d)(3) and consistent with our practice, we are preliminarily rescinding our review with respect to Sammi. For further discussion, see the "Partial Rescission of Review" section of this notice, below.

On November 27, 2000, and December 4, 2000, petitioners requested the Department to initiate a sales below cost investigation on Samwon and DMC, respectively. On February 2, 2001 and March 7, 2001, the Department initiated the sales below cost investigation on Samwon and DMC, respectively.

Under section 751(a)(3)(A) of the Act, the Department may extend the deadline for completion of an administrative review if it determines that it is not practicable to complete the review within the statutory time limit. On January 5, 2001, the Department extended the time limit for the preliminary results in this review to July 2, 2001. See *Stainless Steel Sheet and Strip in Coils From the Republic of Korea: Extension of Time Limit for the Preliminary Results of the Antidumping Duty Administrative Review*, 66 FR 1085 (January 5, 2001). On March 14, 2001, the Department extended the time limit for the preliminary results in this review for an additional 30 days. The preliminary results are now due on July 31, 2001. See *Stainless Steel Sheet and Strip in Coils From the Republic of Korea: Extension of Time Limit for the Preliminary Results of the Antidumping Duty Administrative Review*, 66 FR 14891 (March 14, 2001).

The Department is conducting this administrative review in accordance with section 751 of the Act.

##### **Scope of the Review**

For purposes of this administrative review, the products covered 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

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