

FOR FURTHER INFORMATION CONTACT:

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SUPPLEMENTARY INFORMATION:**Background**

On April 9, 1997, the Department of Commerce (the Department) published in the **Federal Register** the final results of the administrative review of the antidumping duty order on gray portland cement and clinker from Mexico (62 FR 17148) (amended May 5, 1997)¹ (*Fifth Review Final Results*).

CEMEX, S.A. de C.V. (CEMEX), GCC Cemento, S.A. de C.V. (GCCC)², and the Southern Tier Cement Committee (the petitioner) contested various aspects of the Department's *Fifth Review Final Results*. On June 18, 1999, the Binational Panel (the Panel) issued an order remanding to the Department the *Fifth Review Final Results*. Specifically, the Panel instructed the Department to implement the following: (1) Exclude the respondents' home-market sales of bagged Type I cement from the foreign like product in the calculation of normal value; (2) re-examine the record evidence to determine whether a constructed-export-price offset should be granted; (3) recalculate the difference-in-merchandise adjustment to reflect the exclusion of home-market sales of bagged cement; (4) correct certain ministerial errors.

On November 15, 1999, the Department issued the final results of redetermination on remand, and on February 10, 2000, the Panel affirmed these results and dismissed the case. See Secretariat File No. USA-97-1904-01. On April 30, 2000, the Department filed an extraordinary challenge petition with the Extraordinary Challenge Committee (ECC). On October 30, 2003, the ECC determined that the Department's petition did not meet the criteria required for an extraordinary challenge review and thus denied the Department's petition. Therefore, as there is now a final and conclusive ECC decision in this action, we are amending our amended final results of review and we will instruct U.S. Customs and

Border Protection (Customs) to liquidate entries subject to this review.

Amendment to Amended Final Results

Pursuant to section 516A(g) of the Tariff Act of 1930, as amended (the Act), we are now amending the amended final results of the administrative review of the antidumping duty order on gray portland cement and clinker from Mexico for the period August 1, 1994, through July 31, 1995. Based on the final results of redetermination on remand, the weighted-average antidumping margin for CEMEX and GCCC changes from 73.69 percent to 44.89 percent.

The Department will determine and Customs will assess appropriate antidumping duties on entries of the subject merchandise exported by firms covered by this review.

We are issuing and publishing this determination and notice in accordance with section 516A(g) of the Act.

Dated: December 17, 2003.

James J. Jochum,

Assistant Secretary for Import Administration.

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DEPARTMENT OF COMMERCE**International Trade Administration**

[A-533-820]

Certain Hot-Rolled Carbon Steel Flat Products from India: Preliminary Results and Rescission in Part of Antidumping Duty Administrative Review

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

ACTION: Notice of Preliminary Results and Rescission in Part of Antidumping Duty Administrative Review.

SUMMARY: In response to requests from Indian producers/exporters of the subject merchandise, the Department of Commerce (the Department) is conducting an administrative review of the antidumping duty order on certain hot-rolled carbon steel flat products (HRS) from India. The review covers one producer/exporter of subject merchandise during the period of review (POR), May 3, 2001, through November 30, 2002. The Department has preliminarily determined that no dumping margin exists for the manufacturer/exporter during the POR. If these preliminary results are adopted in our final results of administrative review, we will instruct U.S. Customs

and Border Protection (CBP) to assess antidumping duties as appropriate. Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: December 23, 2003.

FOR FURTHER INFORMATION CONTACT:

Timothy P. Finn or Kevin Williams, AD/CVD Enforcement, Office IV, Group II, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482-0065 or (202) 482-2371, respectively.

SUPPLEMENTARY INFORMATION:**Background**

On December 3, 2001, the Department published in the **Federal Register** the antidumping duty order on HRS from India. See *Notice of Amended Final Antidumping Duty Determination of Sales at Less Than Fair Value and Antidumping Duty Order: Certain Hot-Rolled Carbon Steel Flat Products from India*, 66 FR 60194 (December 3, 2001) (*Amended Final Determination*). On December 2, 2002, the Department published a notice of "Opportunity to Request Administrative Review" of the antidumping duty order on HRS from India. See *Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review*, 67 FR 71533 (December 2, 2002). On December 30 and 31, 2002, Essar Steel Ltd. (Essar) and Tata Iron and Steel Company Ltd. (Tata), Indian producers/exporters of subject merchandise, requested administrative reviews of their entries during the POR. On January 15, 2003, the Department initiated an administrative review of Essar and Tata. National Steel Corporation, Nucor Corporation, and United States Steel Corporation, petitioners in this proceeding, did not request an administrative review. See *Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in Part*, 68 FR 3009 (January 22, 2003).

On January 3, 2003, the Department issued an antidumping questionnaire to Essar and Tata. The Department received Essar's responses to the questionnaire in January and February 2003. On January 15, 2003, Essar requested that it be allowed to report cost and home market sales information for periods other than the POR. On February 25, 2003, the Department allowed Essar to limit the reporting period for its home market sales to the period May 1, 2002, through January 31, 2003. On March 5, 2003, Tata withdrew its request for an administrative review.

¹ See *Gray Portland Cement and Clinker from Mexico: Amended Final Results of Antidumping Duty Administrative Review*, 62 FR 24414 (May 5, 1997).

² Cementos de Chihuahua, S.A. de C.V., was GCCC's formal name during this segment of the proceeding.

On April 29, 2003, the Department allowed Essar to expand the POR for cost reporting purposes to include the month of April 2001. The Department issued supplemental questionnaires to Essar in March, April, May, June and July 2003, and received timely responses. On June 27, 2003, Essar requested that it be excluded from reporting sales from stockyards. On August 6, 2003, the Department granted Essar's request regarding its stockyard sales.

On August 27, 2003 and November 4, 2003, the Department published in the **Federal Register** notices extending the deadline for issuing the preliminary results in this case until no later than November 3, 2003, and December 15, 2003, respectively. See *Certain Hot-Rolled Carbon Steel Flat Products from India: Extension of Time Limit for Preliminary Results of Antidumping Duty Administrative Review*, 68 FR 51557 (August 27, 2003); also see *Certain Hot-Rolled Carbon Steel Flat Products from India: Extension of Time Limit for Preliminary Results of Antidumping Duty Administrative Review*, 68 FR 62430 (November 4, 2003).

Scope of the Review

The products covered by the antidumping duty order are certain hot-rolled carbon steel flat products of a rectangular shape, of a width of 0.5 inch or greater, neither clad, plated, nor coated with metal and whether or not painted, varnished, or coated with plastics or other non-metallic substances, in coils (whether or not in successively superimposed layers), regardless of thickness, and in straight lengths, of a thickness of less than 4.75 mm and of a width measuring at least 10 times the thickness. Universal mill plate (*i.e.*, flat-rolled products rolled on four faces or in a closed box pass, of a width exceeding 150 mm, but not exceeding 1250 mm, and of a thickness of not less than 4.0 mm, not in coils and without patterns in relief) of a thickness not less than 4.0 mm is not included within the scope of the order.

Specifically included within the scope of the order are vacuum degassed, fully stabilized (commonly referred to as interstitial-free (IF)) steels, high strength low alloy (HSLA) steels, and the substrate for motor lamination steels. IF steels are recognized as low carbon steels with micro-alloying levels of elements such as titanium or niobium (also commonly referred to as columbium), or both, added to stabilize carbon and nitrogen elements. HSLA steels are recognized as steels with micro-alloying levels of elements such

as chromium, copper, niobium, vanadium, and molybdenum. The substrate for motor lamination steels contains micro-alloying levels of elements such as silicon and aluminum.

Steel products to be included in the scope of the order, regardless of definitions in the Harmonized Tariff Schedule of the United States (HTSUS), are products in which: (i) iron predominates, by weight, over each of the other contained elements; (ii) the carbon content is 2 percent or less, by weight; and (iii) none of the elements listed below exceeds the quantity, by weight, respectively indicated:

- 1.80 percent of manganese, or
- 2.25 percent of silicon, or
- 1.00 percent of copper, or
- 0.50 percent of aluminum, or
- 1.25 percent of chromium, or
- 0.30 percent of cobalt, or
- 0.40 percent of lead, or
- 1.25 percent of nickel, or
- 0.30 percent of tungsten, or
- 0.10 percent of molybdenum, or
- 0.10 percent of niobium, or
- 0.15 percent of vanadium, or
- 0.15 percent of zirconium.

All products that meet the physical and chemical description provided above are within the scope of the order unless otherwise excluded. The following products, by way of example, are outside or specifically excluded from the scope of the order:

- Alloy hot-rolled steel products in which at least one of the chemical elements exceeds those listed above (including, *e.g.*, American Society for Testing and Materials (ASTM) specifications A543, A387, A514, A517, A506).
- Society of Automotive Engineers (SAE)/American Iron & Steel Institute (AISI) grades of series 2300 and higher.
- Ball bearing steels, as defined in the HTSUS.
- Tool steels, as defined in the HTSUS.
- Silico-manganese (as defined in the HTSUS) or silicon electrical steel with a silicon level exceeding 2.25 percent.
- ASTM specifications A710 and A736.
- USS abrasion-resistant steels (USS AR 400, USS AR 500).
- All products (proprietary or otherwise) based on an alloy ASTM specification (sample specifications: ASTM A506, A507).
- Non-rectangular shapes, not in coils, which are the result of having been processed by cutting or stamping and which have assumed the character of articles or products classified outside chapter 72 of the HTSUS.

The merchandise subject to the order is classified in the HTSUS at subheadings: 7208.10.15.00, 7208.10.30.00, 7208.10.60.00,

7208.25.30.00, 7208.25.60.00, 7208.26.00.30, 7208.26.00.60, 7208.27.00.30, 7208.27.00.60, 7208.36.00.30, 7208.36.00.60, 7208.37.00.30, 7208.37.00.60, 7208.38.00.15, 7208.38.00.30, 7208.38.00.90, 7208.39.00.15, 7208.39.00.30, 7208.39.00.90, 7208.40.60.30, 7208.40.60.60, 7208.53.00.00, 7208.54.00.00, 7208.90.00.00, 7211.14.00.90, 7211.19.15.00, 7211.19.20.00, 7211.19.30.00, 7211.19.45.00, 7211.19.60.00, 7211.19.75.30, 7211.19.75.60, and 7211.19.75.90. Certain hot-rolled carbon steel flat products covered by the order, including: vacuum degassed fully stabilized; high strength low alloy; and the substrate for motor lamination steel may also enter under the following tariff numbers: 7225.11.00.00, 7225.19.00.00, 7225.30.30.50, 7225.30.70.00, 7225.40.70.00, 7225.99.00.90, 7226.11.10.00, 7226.11.90.30, 7226.11.90.60, 7226.19.10.00, 7226.19.90.00, 7226.91.50.00, 7226.91.70.00, 7226.91.80.00, and 7226.99.00.00. Subject merchandise may also enter under 7210.70.30.00, 7210.90.90.00, 7211.14.00.30, 7212.40.10.00, 7212.40.50.00, and 7212.50.00.00. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise under investigation is dispositive.

Period of Review

The POR is May 3, 2001, through November 30, 2002.

Final Partial Rescission of Review

As provided in 19 CFR 351.213(d)(1), "the Secretary will rescind an administrative review under this section, in whole or in part, if a party that requested a review withdraws the request within 90 days of the date of publication of notice of initiation of the requested review." Tata withdrew its request for an administrative review within 90 days of the date of publication of the notice of initiation of the instant administrative review and no other party requested an administrative review of Tata. Therefore, the Department is rescinding the instant administrative review with respect to Tata.

Verification

As provided in section 782(i) of the Tariff Act of 1930, as amended (the Act), the Department conducted a verification of the sales and cost information provided by Essar. The Department conducted this verification using standard verification procedures

including: on-site inspection of the manufacturer's facilities, examination of relevant sales, cost, production and financial records and selection of relevant source documentation as exhibits. The Department's verification findings are identified in the sales and cost verification memoranda dated December 15, 2003, the public versions of which are on file in the Central Records Unit (CRU), room B099 of the main Commerce building.

Use of Partial Adverse Facts Available

Section 776(a)(2) of the Act provides that, if an interested party (A) withholds information requested by the Department, (B) fails to provide such information by the deadline for submission of the information, or in the form and manner requested, (C) significantly impedes an antidumping or countervailing proceeding, or (D) provides information that cannot be verified, the Department shall use, subject to section 782(d) of the Act, facts otherwise available in reaching the applicable determination. In selecting from among the facts otherwise available, section 776(b) of the Act provides that if the Department finds that an interested party failed to cooperate by not acting to the best of its ability to comply with a request for information, the Department may use an inference that is adverse to the interests of the party. The Act provides that an adverse inference may include reliance on information derived from the petition, a final determination in an antidumping investigation or review, or any other information placed on the record. See section 776(b)(1), (2), (3), and (4) of the Act.

During the administrative review, Essar withheld certain information requested by the Department regarding its relationships with certain companies, and reported information regarding such relationships that does not agree with the Department's verification findings. Moreover, the record indicates that Essar significantly impeded the proceeding with respect to the issue of affiliation and did not cooperate by acting to the best of its ability to comply with the Department's requests for information regarding its relationships with the companies at issue. Therefore, as partial adverse facts available, the Department has preliminarily determined that Essar is affiliated with all of the companies in the Essar Group, as well as the companies identified in footnote 41 of Essar's 2001/2002 Annual Report. Additionally, we applied an adverse inference by determining that Essar did not engage in arm's-length transactions

with the Essar Group companies and the footnote 41 companies that it failed to identify as affiliated parties. Specifically, we determined that the costs that Essar incurred as a result of its transactions with these companies are less than the costs it would have incurred had the transactions been conducted with unaffiliated parties. Transactions with these companies affect Essar's general and administrative (G&A) expenses, financing expenses, and manufacturing overhead expenses. As adverse facts available, we recalculated the G&A ratio used by Essar using information contained in Ispat Industries Ltd.'s (Ispat) 2000–2001 financial statements. We also adjusted Essar's manufacturing overhead expenses and financial expenses based on available information regarding the amount by which the costs that Essar incurred as a result of its transactions with affiliated parties are less than market prices. For a complete discussion of our use of adverse facts available, see the memorandum from Thomas F. Futtner, Acting Director, Office IV, to Holly A. Kuga, Acting Deputy Assistant Secretary, dated December 15, 2003 (Facts Available Memorandum), which is on file in the CRU.

Section 776(c) of the Act provides that when the Department relies on secondary information rather than on information obtained in the course of an investigation or review, it shall, to the extent practicable, corroborate that information from independent sources that are reasonably at its disposal. The percentage used to increase Essar's manufacturing overhead and financial expenses is not considered secondary information because it is based on information obtained during the course of this review from Essar. Therefore, the Department is not required to corroborate this percentage. With respect to the G&A expenses, we obtained Ispat's 2000–2001 financial statements from the public record of the investigation of certain cold-rolled carbon steel flat products from India. See *Certain Cold-Rolled Carbon Steel Flat Products From Argentina, Australia, Belgium, Brazil, France, Germany, India, Japan, Korea, the Netherlands, New Zealand, the People's Republic of China, the Russian Federation, South Africa, Spain, Sweden, Taiwan, Thailand, Turkey, and Venezuela; Notice of Initiation of Antidumping Duty Investigations*, 66 FR 54198, 54207 (October 26, 2001). These financial statements cover the period April 1, 2000, through March 31, 2001, which predates the POR by one fiscal

year. Publicly available data from independent sources that relate to the relevant time period are generally considered to be both relevant and reliable because they are contemporaneous with the period under consideration and not generated for purposes of the trade action. Because Ispat is an Indian producer of hot-rolled carbon steel flat products and its 2000–2001 financial statements are publicly available and cover a period close in time to the POR, the Department considers these statements to have probative value, and therefore, to be corroborated.

Date of Sale

Essar reported the invoice date for both its home market and U.S. sales to be the date of sale. Although the Department maintains a presumption that the invoice date is the date of sale (19 CFR 351.401(i)), “[i]f the Department is presented with satisfactory evidence that the material terms of sale are finally established on a date other than the date of invoice, the Department will use that alternative date as the date of sale.” *Antidumping Duties; Countervailing Duties: Final Rule*, 62 FR 27296, 27349 (May 19, 1997) (Preamble). Because the record evidence does not indicate that the material terms of home market sales are finally established on a date other than the date of the invoice, consistent with the methodology employed with respect to Essar in the investigation, the Department is preliminarily using the invoice date as the date of Essar's home market sales. However, with respect to Essar's U.S. sales, the Department found no evidence of changes to the material terms of sale after the contract date (e.g., changes to the price, quantity, production or shipment schedules). Therefore, the Department is preliminarily using the contract date as the date of Essar's U.S. sales.

Fair Value Comparison

In order to determine whether Essar sold HRS to the United States at less than normal value (NV), the Department compared the export price (EP) of individual U.S. sales to the monthly weighted-average NV of sales of the foreign like product made in the ordinary course of trade (see section 777A(d)(2) of the Act; see also section 773(a)(1)(B)(i) of the Act). The methodology used to compare sales and to calculate EP and NV are described in the “Comparison Methodology”, “Export Price,” and “Normal Value” sections of this notice.

Comparison Methodology

In accordance with section 771(16) of the Act, the Department considered all products within the scope of this review that Essar produced and sold in the comparison market during the POR to be foreign like products for purposes of determining appropriate product comparisons to HRS sold in the United States. The Department determined that the home market is the appropriate comparison market because the aggregate quantity of Essar's home market sales of foreign like product is more than five percent of the aggregate quantity of its U.S. sales of subject merchandise (see section 773(a)(1)(C) of the Act and the "Normal Value" section of this notice, below). The Department compared U.S. sales to sales made in the home market within the contemporaneous window period, which extends from three months prior to the U.S. sale until two months after the sale. Where there were no sales of identical merchandise made in the home market in the ordinary course of trade, the Department compared U.S. sales to sales of the most similar foreign like product made in the ordinary course of trade. In making product comparisons, the Department selected identical and most similar foreign like products based on the physical characteristics reported by Essar in the following order of importance: painted or not painted; quality; carbon content; yield strength; thickness; width; cut-to-length or coil; tempered or not tempered; pickled or not pickled; edge trim; and with or without patterns in relief.

Level of Trade

In accordance with section 773(a)(1)(B) of the Act, to the extent practical, the Department determined NV based on sales in the home market at the same level of trade (LOT) as the EP sales. The NV LOT is that of the starting-price sales in the home market. For EP sales, the U.S. LOT is also the level of the starting-price sale.

To determine whether NV sales are at a different LOT than the EP sales, we examined stages in the marketing process and selling activities along the chain of distribution between the producer and the unaffiliated customer. If the home market sales are at a different LOT, and the difference affects price comparability, as manifested in a pattern of consistent price differences between the home market sales on which NV is based and the home market sales at the LOT of the export transaction, we make a LOT adjustment under section 773(a)(7)(A) of the Act.

In determining whether separate LOTs exist, we obtained information from Essar about the marketing stages for the reported U.S. and home market sales, including a description of the selling activities performed by Essar for each channel of distribution. In identifying LOTs for EP and home market sales, we considered the selling functions reflected in the starting price before any adjustments. See 19 CFR 351.412(c)(1)(i) and (iii). We expect that, if claimed LOTs are the same, the selling functions and activities of the seller at each level should be similar. Conversely, if a party claims that LOTs are different for different groups of sales, the selling functions and activities of the seller for each group should be dissimilar.

In its questionnaire responses, Essar reported that during the POR, it sold the foreign like product in the home market through one channel of distribution and in the United States through one channel of distribution. We found that Essar engaged in similar selling activities for all home market sales. There are also no differences in the selling functions performed in the U.S. channel of distribution. Based on the similarity of the selling functions, we have determined that Essar sold HRS at one LOT in the home market and one LOT in the U.S. market. We also found that the selling activities performed by Essar in the home market are similar to those performed in the U.S. market. Specifically, Essar engaged in price negotiations, contacted customers, processed orders, made freight arrangements, collected payments and extended credit, and provided warranty services in both markets at similar levels of intensity. Therefore, we have preliminarily determined that the LOTs in the home and U.S. markets are the same LOT. Thus, a LOT adjustment is not required for comparison of U.S. sales to home market sales.

Export Price

In calculating U.S. price, the Department used EP, as defined in section 772(a) of the Act, because the merchandise was sold, prior to importation, by Essar to unaffiliated purchasers in the United States. We calculated EP based on the packed, delivered prices charged to unaffiliated customers in the United States. In accordance with section 772(c)(2)(A) of the Act, we made deductions from the starting price, where applicable, for foreign movement expenses (including brokerage and handling and inland freight), international freight, U.S. duties and importer handling fees. In accordance with section 772(c)(1)(C) of

the Act, we increased EP by the countervailing duty (CVD) rate attributable to the export subsidies found in the CVD investigation of HRS from India (the ongoing first administrative review of the CVD order has not yet been completed).

Essar claimed an adjustment for duty drawback under the Duty Free Remission Scheme (DFRC). The Department applies a two-pronged test to determine whether to grant a respondent a duty drawback adjustment pursuant to section 772(c)(1)(B) of the Act. Specifically, the Department grants a respondent a duty drawback adjustment if it finds that: (1) Import duties and rebates are directly linked to, and are dependent upon, one another, and (2) the company claiming the adjustment can demonstrate that there are sufficient imports of raw materials to account for the duty drawback received on exports of the manufactured product. See *Steel Wire Rope from the Republic of Korea; Final Results of Antidumping Duty Administrative Review*, 61 FR 55965, 55968 (October 30, 1996).

However, Essar failed to demonstrate that it received a duty drawback from the Government of India (GOI) under the DFRC program. In fact, Essar indicated that its application for the DFRC program had not yet been approved. See Essar's April 22, 2003 supplemental questionnaire response at 62. At verification, company officials again reported that Essar had yet to receive approval of its application for the DFRC program. Because there is no evidence that Essar received duty drawback under the DFRC program, we have not increased U.S. price by the amount of drawback claimed by Essar.

Normal Value

After testing home market viability, whether sales to affiliates were at arm's-length prices, and whether home market sales failed the cost test, we calculated NV as noted in subsection 4, "Calculation of NV," below.

1. Home Market Viability

In order to determine whether there is a sufficient volume of sales in the home market to serve as a viable basis for calculating NV (i.e., whether the aggregate volume of home market sales of the foreign like product is equal to or greater than five percent of the aggregate volume of U.S. sales), see 19 CFR 351.404(b)(2), we compared Essar's volume of home market sales of the foreign like product to the volume of its U.S. sales of subject merchandise, in accordance with section 773(a)(1) of the Act. Because Essar's aggregate volume of home market sales of the foreign like

product is greater than five percent of its aggregate volume of U.S. sales of subject merchandise, we determined that the home market is viable and have used the home market as the comparison market.

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

The Department may calculate NV based on a sale to an affiliated party only if it is satisfied that the price to the affiliated party is comparable to the price at which sales are made to parties not affiliated with the exporter or producer, *i.e.*, sales at arm's-length. See 19 CFR 351.403(c). Sales to affiliated customers for consumption in the home market that were determined not to be at arm's-length were excluded from our analysis. Essar reported sales of the foreign like product to affiliated end-users and resellers. To test whether these sales were made at arm's-length prices, the Department compared the prices of sales of comparable merchandise to affiliated and unaffiliated customers, net of all rebates, movement charges, direct selling expenses, and packing. Pursuant to 19 CFR 351.403(c), and in accordance with the Department's practice, when the prices charged to an affiliated party were, on average, between 98 and 102 percent of the prices charged to unaffiliated parties for merchandise comparable to that sold to the affiliated party, we determined that the sales to the affiliated party were at arm's-length. See *Antidumping Proceedings: Affiliated Party Sales in the Ordinary Course of Trade*, 67 FR 69186 (November 15, 2002). We included in our NV calculations those sales to affiliated parties that were made at arm's length prices.

3. *Cost of Production (COP) Analysis*

In the investigation of HRS from India, the most recently completed segment of this proceeding, the Department disregarded Essar's home market sales that failed the cost test. See *Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Certain Hot-Rolled Carbon Steel Flat Products From India*, 66 FR 22157 (May 3, 2001) (a portion of Essar's home market sales continued to be disregarded in the final determination). Accordingly, pursuant to section 773(b)(2)(A)(ii) of the Act, the Department, initiated a COP investigation of Essar for purposes of this administrative review. We conducted the COP analysis as described below.

A. Calculation of COP

In accordance with section 773(b)(3) of the Act, we calculated the weighted-average COP, by model, for the POR based on the sum of materials and fabrication costs, G&A expenses, and packing costs. We relied on Essar's cost data, as submitted, except as noted below:

1. Essar purchased iron-ore pellets, an input used to manufacture the merchandise under review, from an affiliated party, Hy-Grade Pellets Limited (Hy-Grade), at a price below Hy-Grade's COP. Pursuant to section 773(f)(3) of the Act, we adjusted the reported per-unit cost of iron-ore pellets to reflect Hy-Grade's COP.
2. We disallowed Essar's reported scrap offset because the offset was based, in part, on sales of scrap to affiliated parties.
3. As indicated in the "Use of Partial Adverse Facts Available" above, we based Essar's G&A expenses on adverse facts available and made an adverse adjustment to Essar's manufacturing overhead expenses and financial expenses. See Facts Available Memorandum.

For further information regarding each of the above adjustments, see the calculation memorandum from Timothy P. Finn, Senior Import Compliance Specialist, to the File, dated December 15, 2003, on file in the CRU.

B. Test of Comparison Market Sales Prices

As required under section 773(b) of the Act, we compared the adjusted weighted-average COPs to home market sales of the foreign like product, in order to determine whether these sales had been made at prices below the COP within an extended period of time in substantial quantities, and whether such prices were sufficient to permit the recovery of all costs within a reasonable period of time. On a model-specific basis, we compared the adjusted COPs to home market prices, less any applicable movement charges and direct and indirect selling expenses.

C. Results of the COP Test

Pursuant to section 773(b)(2)(C) of the Act, if less than 20 percent of Essar's sales of a given product were made at prices below the COP, we did not disregard any below-cost sales of that product because the below-cost sales were not made in "substantial quantities." If 20 percent or more of Essar's sales of a given product during the POR were made at prices below the COP, we determined that such sales were made in substantial quantities

within an extended period of time (*i.e.*, a period of one year). Further, because we compared prices to POR-average costs, we determined that the below-cost prices would not permit recovery of all costs within a reasonable time period, and thus, we disregarded the below-cost sales in accordance with sections 773(b)(1) and (2) of the Act.

We found that for certain products, Essar made home market sales at prices below the COP within an extended period of time in substantial quantities. Further, we found that these sales prices did not permit the recovery of costs within a reasonable period of time. Therefore, we excluded these sales from our analysis in accordance with section 773(b)(1) of the Act.

D. Calculation of CV

In accordance with section 773(e)(1) of the Act, we calculated CV by adding together Essar's materials, fabrication, selling and G&A expenses and interest expenses and profit. In accordance with section 773(e)(2)(A) of the Act, we based selling and G&A expenses and profit on the amounts incurred by Essar in connection with the production and sale of the foreign like product in the ordinary course of trade, for consumption in the home market.

4. *Calculation of NV*

We calculated NV from ex-factory prices to unaffiliated customers in the home market. These prices include charges for packing. We made deductions from the starting price, when appropriate, for discounts and rebates, and movement expenses and domestic brokerage and handling. See section 773(a)(6)(B)(ii) of the Act. In accordance with section 773(a)(6)(A) and (B) of the Act, we added U.S. packing costs to, and deducted home market packing costs from, the starting price. In addition, in accordance with section 773(a)(6)(C)(iii) of the Act, we made circumstance of sale (COS) adjustments to the starting price by deducting direct selling expenses incurred on home market sales from the starting price and adding U.S. direct selling expenses to the starting price.

Currency Conversion

Pursuant to section 773A(a) of the Act, we converted foreign currencies into U.S. dollars using 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 this review, we preliminarily determine that the following weighted-average percentage

margin exists for the period May 3, 2001, through November 30, 2002:

Manufacturer/Exporter	Margin (percent)
Essar Steel Ltd.	0.00

The Department will disclose the calculations used in its analysis to parties to this proceeding within five days of the publication date of this notice. See 19 CFR 351.224(b). Any interested party may request a hearing within 30 days of the publication date of this notice. See 19 CFR 351.310(c). If requested, a hearing will be held 44 days after the date of publication of this notice, or the first workday thereafter. Interested parties may submit case briefs within 30 days of the date of publication of this notice. See 19 CFR 309(c). Rebuttal briefs, limited to issues raised in the case briefs, may be filed not later than 7 days after the deadline for filing case briefs. See 19 CFR 309(d). Parties who submit written arguments are requested to submit with each argument: (1) a statement of the issue, (2) a brief summary of the argument and (3) a table of authorities. Further, we request that parties submitting written comments provide the Department with an additional copy of the public version of any such comments on a diskette. The Department will publish the notice of the final results of this administrative review, which will include the results of its analysis of issues raised in any written comments or hearing, within 120 days from the publication date of this notice.

Assessment Rate

Upon completion of this administrative review, the Department will determine, and CBP shall assess, antidumping duties on all appropriate entries. In accordance with 19 CFR 351.212(b)(1), we have calculated an importer-specific assessment rate for merchandise subject to this review. If the importer-specific assessment rate is above *de minimis*, we will instruct CBP to assess the importer-specific rate uniformly on all entries made during the POR. The Department will issue appropriate assessment instructions directly to the CBP within 15 days of publication of the final results of review. If these preliminary results are adopted in the final results of review, we will direct CBP to assess the resulting assessment rates against the entered customs values for the subject merchandise on each of the importers' entries during the review period.

Cash Deposit Requirements

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 established in the final results of this review (except that if the rate is *de minimis*, i.e., less than 0.5 percent, no cash deposit rate will be required); (2) for previously investigated or reviewed 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 38.72 percent, which is the "all others" rate established in the LTFV investigation.¹ See *Amended Final Determination*. 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 administrative review and this notice are in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: December 15, 2003.

James J. Jochum,

Assistant Secretary for Import Administration.

[FR Doc. E3-00613 Filed 12-22-03; 8:45 am]

BILLING CODE 3510-DS-S

¹The "all others" cash deposit rate, applied by CBP, is reduced to account for the export subsidy rate found in the countervailing duty investigation. The adjusted "all others" rate is 23.87 percent.

DEPARTMENT OF COMMERCE

International Trade Administration

[A-421-807]

Notice of Amended Antidumping Duty Order; Certain Hot-Rolled Carbon Steel Flat Products From The Netherlands

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

ACTION: Notice of amended antidumping duty order.

SUMMARY: On November 29, 2001, the Department of Commerce (the Department) published the antidumping duty order on certain hot-rolled carbon steel flat products (hot-rolled steel) from the Netherlands. See *Antidumping Duty Order: Certain Hot-Rolled Carbon Steel Flat Products From the Netherlands*, 66 FR 59565 (November 29, 2001). As a result of the Court of International Trade's (the Court's) decisions in *Corus Staal BV, et al. v. United States*, 283 F. Supp. 2d 1357 (CIT 2003) (*Corus Staal BV III*) and *Corus Staal BV, et al. v. United States*, 279 F. Supp. 2d 1363 (CIT 2003) (*Corus Staal BV II*), we are publishing this notice of amended antidumping duty order.

FOR FURTHER INFORMATION CONTACT: Deborah Scott (202) 482-2657 or Robert James at (202) 482-0649, Antidumping and Countervailing Duty Enforcement Group III, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

EFFECTIVE DATE: December 23, 2003.

SUPPLEMENTARY INFORMATION:

Scope of the Order

For purposes of this order, the products covered are certain hot-rolled carbon steel flat products of a rectangular shape, of a width of 0.5 inch or greater, neither clad, plated, nor coated with metal and whether or not painted, varnished, or coated with plastics or other non-metallic substances, in coils (whether or not in successively superimposed layers), regardless of thickness, and in straight lengths, of a thickness of less than 4.75 mm and of a width measuring at least 10 times the thickness. Universal mill plate (i.e., flat-rolled products rolled on four faces or in a closed box pass, of a width exceeding 150 mm, but not exceeding 1250 mm, and of a thickness of not less than 4.0 mm, not in coils and without patterns in relief) of a thickness not less than 4.0 mm is not included within the scope of this order.