

Manufacturer/exporter	Weighted average margin (percentage)
TKN .....	3.59

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 pursuant to 19 CFR 351.310(d). Interested parties may submit case briefs no later than 30 days after the date of publication of these preliminary results of review. Rebuttal briefs, limited to issues raised in the case briefs, may be filed no later than 35 days after the date of publication of this notice. Parties who submit 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 these administrative reviews, 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 Customs 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 for each importer. These rates will be assessed uniformly on all entries the respective importers made during the POR if these preliminary results are adopted in the final results of review. The Department will issue appropriate appraisal instructions directly to Customs within fifteen days of publication of the final results of review.

Furthermore, the following deposit requirements will be effective upon completion of the final results of this administrative review for all shipments of S4 in coils from Germany entered, or withdrawn from warehouse, for

consumption on or after the publication date of the final results of this administrative review, as provided by section 751(a)(1) of the Tariff Act:

(1) The cash deposit rates for TKN will be the rates established in the final results of review;

(2) If the exporter is not a firm covered in this review or the less-than-fair-value (LTFV) investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and

(3) If neither the exporter nor the manufacturer is a firm covered in this or any previous review conducted by the Department, the cash deposit rate will be the "all others" rate of 13.48 percent from the LTFV investigation (see *Notice of Amended Final Determination of Antidumping Duty Investigation: Stainless Steel Sheet and Strip in Coils from Germany*, 67 FR 15178 (March 29, 2002)).

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

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

Dated: July 31, 2003.

**Joseph A. Spetrini,**

*Acting Assistant Secretary for Grant Aldonas,  
Under Secretary.*

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## 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 from respondents ThyssenKrupp Mexinox S.A. de C.V. (Mexinox S.A.) 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 imports of subject merchandise from Mexinox S.A. during the period July 1, 2001 to June 30, 2002.

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. Bureau of Customs and Border Protection (Customs) to assess antidumping duties based on the difference between the constructed export price (CEP) and 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, (2) a brief summary of the argument, and (3) a table of authorities.

**EFFECTIVE DATE:** August 7, 2003.

**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:**

##### **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 1, 2002, the Department published the *Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity To Request Administrative Review*, of, *inter alia*, stainless steel sheet and strip in coils from Mexico for the period July 1, 2001 through June 30, 2002 (67 FR 44172).

In accordance with 19 CFR 351.213(b)(1), Mexinox requested that we conduct an administrative review. On August 27, 2002, we published in the **Federal Register** a notice of initiation of this antidumping duty administrative review covering the period July 1, 2001 through June 30, 2002. See *Initiation of Antidumping and Countervailing Duty Administrative Reviews and Requests for Revocation in Part*, 67 FR 55000 (August 27, 2002).

On September 5, 2002, the Department issued an antidumping duty questionnaire to Mexinox. Mexinox submitted its response to section A of the questionnaire on October 10, 2002 and its response to sections B through E of the questionnaire on November 5, 2002. On January 16, 2003, the Department issued a supplemental questionnaire for sections D and E, to which Mexinox responded on February 14, 2003. The Department issued a second supplemental questionnaire for sections D and E on February 20, 2003, and Mexinox filed its response to that supplemental questionnaire on March 4, 2003. On February 19, 2003, the Department issued a supplemental questionnaire for sections A and B and on March 3, 2003 issued a supplemental questionnaire for section C. Mexinox responded to both of these supplemental questionnaires on April 1, 2003. Finally, the Department issued a second supplemental questionnaire for sections A through C on April 15, 2003; Mexinox submitted its response on April 23, 2003.

Because it was not practicable to complete this review within the normal time frame, on February 11, 2003, we published in the **Federal Register** our notice of the extension of time limits for this review (68 FR 6892). This extension established the deadline for these preliminary results as July 31, 2003.

### 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

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

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 of 1930, as amended (the Tariff Act), we verified information provided by Mexinox using standard verification procedures such as the examination of relevant sales and financial records, on-site inspection of the manufacturer's facilities, and selection of original documentation containing relevant information. Our verification results are outlined in the public and proprietary versions of the cost and sales verification reports, which are on file in the Central Records Unit of the Department in room B-099 of the main Commerce building.

### Sales Made Through Affiliated Resellers

#### A. U.S. Market

Mexinox USA, a wholly-owned subsidiary of Mexinox S.A., sold subject merchandise in the United States. During the POR, Mexinox USA made sales of subject merchandise to an affiliated company, Ken-Mac Metals, Inc. (Ken-Mac), who in turn resold the subject merchandise to unaffiliated customers in the United States. See Mexinox's October 10, 2002 questionnaire response at A-11. Thus, in addition to Mexinox USA's sales to unaffiliated customers, we have included in our preliminary margin calculation resales of Mexinox subject merchandise made through Ken-Mac.

#### B. Home Market

Mexinox Trading, S.A. de C.V. (Mexinox Trading), a wholly-owned subsidiary of Mexinox S.A., sells both subject and non-subject merchandise in

the home market. Mexinox reported that sales through Mexinox Trading represented less than five percent of Mexinox's total sales of subject merchandise in the home market. See, e.g., Mexinox's October 10, 2002 questionnaire response at A-4 and its April 1, 2003 supplemental questionnaire response at Attachment B-21. Because Mexinox Trading's sales of subject merchandise were less than five percent of home market subject merchandise sales, and because these sales passed the Department's arm's-length test, pursuant to section 351.403(d) of the Department's regulations, we permitted Mexinox to report its sales to Mexinox Trading rather than require it to report downstream sales by Mexinox Trading to the first unaffiliated customer. This treatment is consistent with that employed in past administrative reviews of stainless steel sheet and strip in coils from Mexico. See, e.g., *Stainless Steel Sheet and Strip in Coils from Mexico; Final Results of Antidumping Duty Administrative Review*, 68 FR 6889 (February 11, 2003), as amended, *Notice of Amended Final Results of Antidumping Duty Administrative Review: Stainless Steel Sheet and Strip in Coils from Mexico*, 68 FR 13686 (March 20, 2003).

### 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 CEP to the NV, as described in the "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 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 (19 CFR 351.401(i)). Mexinox stated 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. See, e.g., Mexinox's October 10, 2002 questionnaire response at A-34 and A-39. In our February 19, 2003 supplemental questionnaire, we 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. In response, Mexinox provided analyses

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

<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.

for its U.S. and home market sales showing how often changes in price and quantity occurred between order date and invoice date. *See* Mexinox's April 1, 2003 supplemental questionnaire response at Attachment A-21 and Mexinox's April 23, 2003 supplemental questionnaire response at Attachment A-28. Based on our analysis of the information submitted by Mexinox, we have preliminarily determined the date of invoice is the appropriate date of sale because record evidence indicates that in a number of instances the price and quantity changed between the date of the order acceptance and the date of invoice. Therefore, we find 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 Mexinox S.A. 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. We relied on nine characteristics to match U.S. sales of subject merchandise to comparison sales of the foreign like product (listed in order of preference): (1) Grade; (2) cold/hot rolled; (3) gauge; (4) surface finish; (5) metallic coating; (6) non-metallic coating; (7) width; (8) temper; and (9) edge trim. Where there were no sales of identical merchandise in the home market to compare to U.S. sales, we compared U.S. sales to the next most similar foreign like product on the basis of the 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 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 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 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 (*i.e.*, the CEP offset provision).

In the Department's September 5, 2002 questionnaire, 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) direct shipments (*i.e.*, products produced to order) and (2) sales through inventory. *See, e.g.*, Mexinox's October 10, 2002 questionnaire response at A-21 to A-22. Within both channels of distribution, Mexinox S.A. made sales to both retailers and end users. For both channels of distribution, Mexinox S.A. performed similar selling functions such as pre-sale technical assistance, inventory maintenance, freight and delivery arrangements, and after-sales warranty services. *See, e.g., Id.* at Attachment A-4-C. Because channels of distribution do not qualify as separate LOTs when the selling functions performed are sufficiently similar, we determined one LOT exists for Mexinox's home market sales. *See, e.g., Certain Stainless Steel Butt-Weld Pipe Fittings From Taiwan: Final Results and Final Rescission in Part of Antidumping Duty Administrative Review*, 67 FR 78417 (December 24, 2002).

For the U.S. market, Mexinox reported one LOT, the CEP LOT. Sales made through this LOT consisted of merchandise produced to order that was sold directly to unaffiliated U.S. customers ("direct shipments"), sales made from the stock of finished goods held at the Mexican factory in San Luis Potosi to unaffiliated U.S. customers ("SLP stock sales"), and sales made through Mexinox USA's inventory. *See, e.g.*, Mexinox's October 10, 2002 questionnaire response at A-22. When we compared CEP sales (after deductions made pursuant to section 772(d) of the Tariff Act) to home market sales, we determined there were fewer customer sales contacts, technical services, inventory maintenance, and warranty services performed for CEP

sales. *See, e.g., Id.* at A-31 and Attachments A-4-B and A-4-C. In addition, the differences in selling functions performed for home market and CEP transactions indicate home market sales involved a more advanced stage of distribution than CEP sales. *See, e.g., Id.* at A-25 to A-27. In the home market, Mexinox S.A. 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.*). *See Id.*

Based on our analysis of the selling functions performed for the CEP LOT and the home market LOT, we determined that the 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; thus, 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 of home market sales 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 amount of the CEP offset 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 USA), Mexinox reported U.S. sales through one other channel of distribution: CEP sales through its affiliated reseller Ken-Mac. For purposes of this preliminary determination, we treated this channel of distribution as equivalent to the level of trade of other CEP sales.

### Constructed Export Price

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 billing adjustments, discounts and rebates, and commissions, 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: foreign inland freight, foreign brokerage and handling, inland insurance, U.S. customs duties, U.S. inland freight, U.S. brokerage, U.S. warehousing expenses. As further directed by 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 (*i.e.*, credit costs, warranty expenses, and another expense not subject to public disclosure), 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 the 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 U.S. affiliated reseller Ken-Mac 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, we relied upon the further manufacturing information provided by Mexinox.

### Normal Value

#### A. Selection of Comparison Market

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 the home market was viable. *See, e.g.*, Mexinox's April 1, 2003 supplemental questionnaire response at Attachment A-1 (quantity and value chart).

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

Sales to affiliated customers in the home market not made at arm's-length prices are excluded from our analysis because we consider them to be outside the ordinary course of trade. *See* 19 CFR 351.102(b). To test whether 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 sales made to the affiliated party were at arm's length. *See* 19 CFR 351.403(c).<sup>6</sup> 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 whether 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 *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. For these preliminary results, we found that none of Mexinox's affiliated home market customers failed our arm's-length test.

#### C. Cost of Production Analysis

Because we disregarded sales of certain products made at prices below the cost of production (COP) in the most recently completed review of S4 in coils from Mexico (*see Stainless Steel Sheet and Strip in Coils from Mexico; Final Results of Antidumping Duty Administrative Review*, 67 FR 6490 (February 12, 2002), as amended, *Notice of Amended Final Results of*

*Antidumping Duty Administrative Review: Stainless Steel Sheet and Strip in Coils from Mexico*, 67 FR 15542 (April 2, 2002)), 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.

To calculate COP, in accordance with section 773(f)(3) of the Tariff Act, we revised Mexinox's reported raw material costs to reflect certain adjustments to the COP and transfer price. *See* the Department's "Cost of Production and Constructed Value Adjustments for the Preliminary Results" (COP Analysis Memorandum) dated July 31, 2003 for more information regarding these adjustments. We also recalculated Mexinox's general and administrative (G&A) and interest expenses as described in the COP Analysis Memorandum. We added the revised material costs to the respondent's reported cost of 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 then computed weighted-average COPs during the POR, and 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, 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 net of billing adjustments, discounts and rebates, and any applicable movement charges.

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 less than 20 percent of the respondent's home market sales of a given model (*i.e.*, CONNUM) were at prices below the COP, we did not disregard any below-cost sales of that model because we determined that the below-cost sales were not made within an extended period of time and in "substantial quantities." Where 20 percent or more of the respondent's home market sales of a given model were at prices less than COP, we

<sup>6</sup> Because this review was initiated before November 23, 2002, the 99.5 percent test applies to this review. *See Antidumping Proceedings: Affiliated Party Sales in the Ordinary Course of Trade*, 67 FR 69186, 69197 (November 15, 2002).

disregarded the below-cost sales because: (1) They were made within an extended period of time in "substantial quantities," in accordance with sections 773(b)(2)(B) and (C) of the Tariff Act, and (2) based on our comparison of prices to the weighted-average COPs for the POR, they were at prices which would not permit the recovery of all 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 for home market sales of certain models, less than twenty percent of the sales of those models were at prices below the COP. We therefore retained all such sales in our analysis and used them as the basis for determining NV. Our cost test also indicated that for certain models, more than 20 percent of the home market sales of those models were sold at prices below COP within an extended period of time and were at prices which would not permit the recovery of all costs within a reasonable period of time. Thus, in accordance with section 773(b)(1) of the Tariff Act, we excluded these below-cost sales from our analysis and used the remaining above-cost sales as the basis for determining NV.

#### 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 (revised to reflect certain adjustments to the COP and transfer price—see the Department's COP Analysis Memorandum dated July 31, 2003), 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 we determined to be at arm's length. We made adjustments for billing adjustments, discounts, and rebates, 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 (*i.e.*, difmer) 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. As noted in the "Level of Trade" section of this notice, we also made an adjustment 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. Where we compared CV to CEP, we deducted from CV the weighted-average home market direct selling expenses.

#### 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 July 1, 2001 through June 30, 2002:

Manufacturer/Exporter	Weighted Average Margin (percentage)
ThyssenKrupp Mexinox S.A. de C.V.	7.43

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 case briefs, rebuttal briefs, and written comments would provide the Department with an additional copy of the public version of any such argument on diskette. The Department will issue final results of this administrative review, including the results of our analysis of the issues in any such case briefs, rebuttal briefs, and written comments or at a hearing, within 120 days of publication of these preliminary results.

The Department shall determine, and Customs 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 Customs 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, 2003.

**Joseph A. Spetrini,**

*Acting Assistant Secretary for Grant Aldonas, Under Secretary.*

[FR Doc. 03-20181 Filed 8-6-03; 8:45 am]

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## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-427-814]

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

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

**ACTION:** Notice of Preliminary Results in the Antidumping Duty Administrative Review of Stainless Steel Sheet and Strip in Coils from France

**SUMMARY:** In response to requests from Ugine S.A. ("Ugine"), respondent, and Allegheny Ludlum, AK Steel Corporation (formerly Armco, Inc.), North American Stainless, Butler-Armco Independent Union, Zanesville Armco Independent Organization Inc., and the United Steelworkers of America, AFL-CIO/CLC, collectively, ("the Petitioners"), the U.S. Department of Commerce ("Department") is conducting an administrative review of the antidumping duty order on stainless steel sheet and strip in coils ("SSSS") from France for the period July 1, 2001 through June 30, 2002. The Department preliminarily determines that a dumping margin exists for Ugine's sales of SSSS in the United States. If these preliminary results are adopted in our final results of this administrative review, we will instruct the U.S. Bureau of Customs and Border Protection

("Customs") to assess antidumping duties on entries of Ugine's merchandise during the period of review. The preliminary results are listed in the section titled "Preliminary Results of Review," *infra*.

**EFFECTIVE DATE:** August 7, 2003.

**FOR FURTHER INFORMATION CONTACT:**

Cheryl Werner, Enforcement Group III, Import Administration, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW., Washington, DC 20230; telephone: 202-482-2667.

#### Background

On July 27, 1999, the Department published in the **Federal Register** the amended final determination and antidumping duty order on SSSS from France. *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 France*, 64 FR 40562 (July 27, 1999) ("*Antidumping Duty Order*"). On March 19, 2002, the Department published in the **Federal Register** the amended final results of the first antidumping duty administrative review of SSSS from France. *See Notice of Amended Final Results of Antidumping Duty Administrative Review: Stainless Steel Sheet and Strip in Coils from France*, 67 FR 12522 (March 19, 2002). On January 28, 2003, the Department published in the **Federal Register** the amended final results of the second antidumping duty administrative review of SSSS from France. *See Notice of Amended Final Results of Antidumping Duty Administrative Review: Stainless Steel Sheet and Strip in Coils from France*, 68 FR 4171 (January 28, 2003).

On July 1, 2002, 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 France for the period July 1, 2001, through June 30, 2002. *See Notice of Opportunity to Request Administrative Review of Antidumping Duty or Countervailing Duty Order, Finding, or Suspended Investigation*, 67 FR 44172 (July 1, 2002).

On July 31, 2002, Ugine, a French producer and exporter of subject merchandise, and the Petitioners requested that the Department conduct a review of Ugine's sales or entries of merchandise subject to the Department's antidumping duty order on SSSS from France. On August 27, 2002, in accordance with section 751(a) of the Act, the Department published in the **Federal Register** a notice of initiation of

this antidumping duty administrative review for the period July 1, 2001 through June 30, 2002. *See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Requests for Revocation in Part*, 67 FR 55000 (August 27, 2002).

On October 7, 2002, Ugine reported in its response to Section A of the Department's questionnaire, that it made sales of subject merchandise to the United States during the POR. On October 22, 2002, Ugine submitted translations of financial statements that it had submitted in its October 7, 2002, response. On October 28, 2002, Ugine submitted its responses to Section B, C, D, and E of the Department's questionnaire. On December 10, 2002, Ugine submitted its cost reconciliation. On December 20, 2002, the Department issued a supplemental questionnaire for Sections A, B, and C of Ugine's questionnaire responses. On January 30, 2003, Ugine submitted its responses to the supplemental Sections A, B, and C questionnaire. On March 3, 2003, the Department issued a supplemental questionnaire for Sections D and E of Ugine's questionnaire responses, and Ugine submitted its response on April 3, 2003. On March 25, 2003, the Department issued a successorship questionnaire to Ugine. On April 15, 2003, Ugine submitted its response to the successorship questionnaire. On April 23, 2003, the Department requested Ugine submit Imphy Ugine Precision's ("IUP's"), an affiliate of Ugine, cost reconciliation as well as downstream sales of its affiliates. On April 30, 2003, the Department issued a second supplemental questionnaire for Sections A, B, and C, and on May 14, 2003, the Department issued a second supplemental questionnaire for Sections D and E. On May 21, and May 27, 2003, Ugine submitted its response to the second supplemental questionnaire for Sections A, B, and C. On May 29, 2003, the Department issued a supplemental questionnaire concerning Ugine's successorship response. On June 2, 2003, Ugine submitted its sales reconciliation. On May 28, and June 4, 2003, Ugine submitted its response to the second supplemental questionnaire for Sections D and E. On June 11, 2003, Ugine submitted its response to the supplemental questionnaire on successorship.

On March 27, 2003, the Department extended the time limit for the preliminary results of the antidumping duty administrative review. *See Notice of Extension of Time Limit of the Preliminary Results of Antidumping Duty Administrative Review: Stainless*