

provided for convenience and customs purposes, the written description of the scope of this proceeding is dispositive. In order to be excluded from the antidumping duty order, garlic entered under the HTSUS subheadings listed above that is (1) mechanically harvested and primarily, but not exclusively, destined for non-fresh use or (2) specially prepared and cultivated prior to planting and then harvested and otherwise prepared for use as seed must be accompanied by declarations to U.S. Customs and Border Protection (CBP) to that effect.

### Background

The Department of Commerce (the Department) is conducting this review of Linyi Sanshan Import & Export Trading Co., Ltd. (Linyi Sanshan) in accordance with section 751(a)(2)(B) of the Tariff Act of 1930, as amended (the Act). On May 3, 2004, the Department published the preliminary results of the new shipper review of the antidumping duty order on fresh garlic from the People's Republic of China (PRC) with respect to Linyi Sanshan. See *Fresh Garlic from the People's Republic of China: Preliminary Results of Antidumping Duty New Shipper Reviews*, 69 FR 24123 (*Preliminary Results*). We invited parties to comment on the *Preliminary Results* but received no comments with respect to Linyi Sanshan. Therefore, we have determined that no changes to the preliminary results are warranted for these final results.

### Separate Rates

In the *Preliminary Results* we determined that Linyi Sanshan did not qualify for a separate rate and is deemed to be covered by the PRC-wide rate. See *Preliminary Results*, 69 FR 24125. We have not received any information since the issuance of the *Preliminary Results* that provides a basis for reconsideration of this determination.

### The PRC-Wide Rate and Use of Facts Otherwise Available

The information Linyi Sanshan submitted for this new shipper review could not be verified because the company chose not to participate in the verification. Linyi Sanshan's decision not to participate in the verification prevented the Department from checking the accuracy of the information that it submitted; therefore, the Department considers Linyi Shanshan to have hindered the calculation of an accurate dumping margin and impeded the proceeding. Accordingly, as adverse facts available pursuant to sections 776(a)(2)(C) and (D)

and 776(b) of the Act and reflecting the determination that Linyi Sanshan is not eligible for a separate rate, we have assigned the PRC-wide rate of 376.67 percent to Linyi Sanshan. For detailed information on the Department's corroboration of this rate see the *Preliminary Results* at 24125.

We have not received any information since the issuance of the *Preliminary Results* that provides a basis for reconsideration of this determination.

### Final Results of New Shipper Review

We find that a dumping margin of 376.67 percent exists for the period November 1, 2002, through April 30, 2003, for shipments of fresh garlic from the PRC grown and exported by Linyi Sanshan Import & Export Trading Co., Ltd., as part of the PRC entity.

### Assessment Rates and Cash-Deposit Requirements

The Department will determine, and CBP shall assess, antidumping duties on all appropriate entries. We will issue appropriate assessment instructions directly to CBP within 15 days of publication of these final results of review.

The following cash-deposit requirements will be effective upon publication of these final results of new shipper review for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided by section 751(a)(2)(C) of the Act: (1) For subject merchandise exported by Linyi Sanshan Import & Export Trading Co., Ltd., the cash-deposit rate will be the PRC-countrywide rate, which is 376.67 percent; (2) for all other PRC exporters of subject merchandise which have not been found to be entitled to a separate rate, the cash-deposit rate will be the PRC-countrywide rate which is 376.67 percent; and (3) for all non-PRC exporters of subject merchandise, the cash-deposit rate will be the rate applicable to the PRC exporter which supplied that exporter. These deposit requirements shall remain in effect until publication of the final results of the next administrative review.

### Notification to Interested Parties

Bonding is no longer permitted to fulfill security requirements for shipments from Linyi Sanshan of fresh garlic from the PRC entered, or withdrawn from warehouse, for consumption in the United States on or after the publication of this notice in the **Federal Register**.

This notice serves as a final reminder to importers covered by this

determination 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 Department's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of doubled antidumping duties.

We are issuing and publishing the final results of this new shipper review in accordance with sections 751(a)(2)(B) and 777(i) of the Act and 19 CFR 351.214(i)(1).

Dated: June 22, 2004.

**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: Final Results of Antidumping Duty Administrative Review

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

**ACTION:** Notice of Final Results of Antidumping Duty Administrative Review.

**SUMMARY:** On December 23, 2003, the Department of Commerce (the Department) published the preliminary results of the administrative review of the antidumping duty order on certain hot-rolled carbon steel flat products (HRS) From India. The review covers HRS exported to the United States by Essar Steel Co., Ltd. (Essar) during the period May 3, 2001, through November 30, 2002. Based on our analysis of the comments received, we have made changes in the margin calculation. The final weighted-average dumping margin for the reviewed firm is listed below in the section entitled "Final Results of Review."

**EFFECTIVE DATE:** June 28, 2004.

**FOR FURTHER INFORMATION CONTACT:** Kevin Williams or Howard Smith, 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) 482-2371 or (202) 482-5193, respectively.

#### SUPPLEMENTARY INFORMATION:

##### Background

On December 23, 2003, the Department published in the **Federal Register** the preliminary results of this administrative review of the antidumping duty order on HRS from India. See *Certain Hot-Rolled Carbon Steel Flat Products From India: Preliminary Results and Rescission in Part of Antidumping Duty Administrative Review*, 68 FR 74209 (December 23, 2003).

In response to the Department's invitation to comment on the preliminary results of this review, we received written comments on January 22 and 23, 2004, from petitioners<sup>1</sup> and the respondent. On January 29, 2004, we received rebuttal comments from petitioners and the respondent. The Department received a request for a public hearing from Nucor which was later withdrawn; therefore no public hearing was held. On April 27, 2004, the Department extended the deadline for the final results until June 20, 2004. See *Certain Hot-Rolled Carbon Steel Flat Products From India: Extension of Time Limit for Final Results of Antidumping Duty Administrative Review*, 69 FR 22761 (April 27, 2004).

The Department has conducted this administrative review in accordance with section 751 of the Tariff Act of 1930, as amended (the Act).

##### 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 currently classifiable 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 subject to review is dispositive.

##### Period of Review

The period of review (POR) is May 3, 2001, through November 30, 2002.

##### Analysis of Comments Received

All issues raised in the case briefs submitted by Essar and petitioners are contained in the *Issues and Decision Memorandum* from Jeffery A. May, Deputy Assistant Secretary, to James J. Jochum, Assistant Secretary for Import Administration (*Issues and Decision Memorandum*). The *Issues and Decision Memorandum* is dated concurrently with this notice and hereby adopted by this notice. A list of the issues which the parties have raised is attached to this notice as an appendix. Parties can find a complete discussion of all issues

<sup>1</sup> Petitioners in this case are United States Steel Corporation and Nucor Corporation.

raised in this administrative review, and the corresponding recommendations, in the *Issues and Decision Memorandum* which is on file in the Central Records Unit, room B-099 of the main Department of Commerce building. In addition, a complete version of the *Issues and Decision Memorandum* can be accessed directly on the Web at <http://ia.ita.doc.gov/frn>. The paper copy and electronic version of the *Issues and Decision Memorandum* are identical in content.

**Changes Since the Preliminary Results**

Based on our analysis of comments received, we made the following changes in the comparison and margin calculation programs.

1. We increased Essar's cost of manufacturing by the amount of power costs deferred during the POR.
2. We increased Essar's export price by the amount of the countervailing duty imposed to offset the export subsidy found in the companion final results of the countervailing duty review of HRS. See *Final Results of Countervailing Duty Administrative Review: Certain Hot-Rolled Carbon Steel Flat Products from India* 69 FR 26549 (May 13, 2004).
3. We corrected ministerial errors related to the major input rule and commission offset.

**Final Results of Review**

Exporter/manufacturer	Margin (percent)
Essar Steel Co., Ltd .....	0.00

**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 zero; (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.<sup>2</sup> 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). These deposit requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

**Assessment**

The Department will determine, and CBP will assess, antidumping duties on all appropriate entries of subject merchandise in accordance with these final results. The Department will issue assessment instructions directly to CBP within 15 days of publication of these final results of review. The Department will direct CBP to assess the resulting assessment rate against the entered customs values of the subject merchandise on each of the importer's entries during the review period.

**Reimbursement of Duties**

This notice also serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties or countervailing 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 or countervailing duties occurred and the subsequent increase in antidumping duties by the full amount of the antidumping and/or countervailing duties reimbursed.

**Administrative Protective Orders**

This notice also serves as a reminder to parties subject to administrative protective orders (APOs) of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305, which continues to govern business proprietary information in this segment of the proceeding. Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations

<sup>2</sup> The "all others" cash deposit rate, applied by U.S. Customs and Border Protection (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.

and terms of an APO is a violation which is subject to sanction. We are issuing the review results and publishing this notice in accordance with sections 751(a)(1) and 777(i)(1) of the Act. Dated: June 21, 2004. James J. Jochum, Assistant Secretary for Import Administration.

**Appendix—Issues in Decision Memorandum**

- Comment 1: Whether the Department Should Base Essar's Dumping Margin on Total Adverse Facts Available.
- Comment 2: Whether the Adverse Inferences Made With Respect to Essar in the Preliminary Results of Review are Sufficiently Adverse.
- Comment 3: Whether Essar Under-Reported its Interest Expense.
- Comment 4: Whether the Department Should Increase Essar's U.S. Price by the Amount of Duty Drawback Claimed.
- Comment 5: Whether Essar Under-Reported its Electricity Expense.
- Comment 6: Ministerial Errors.

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**DEPARTMENT OF COMMERCE**

**International Trade Administration [A-427-001]**

**Sorbitol from France: Final Results of Expedited Sunset Review of Antidumping Duty Order**

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

**ACTION:** Notice of Final Results of the Second Expedited Sunset Review of Antidumping Duty Order on Sorbitol from France.

**SUMMARY:** On February 2, 2004, the Department of Commerce ("the Department") published the notice of initiation of the second sunset review of the antidumping duty order on sorbitol from France (69 FR 4921) pursuant to section 751(c) of the Tariff Act of 1930, as amended ("the Act"). On the basis of the notice of intent to participate and adequate substantive comments filed on behalf of domestic interested parties and inadequate response from respondent interested parties, we determined to conduct an expedited (120-day) sunset review. As a result of this review, we find that revocation of the antidumping duty order would be likely to lead to continuation or recurrence of dumping at the levels listed below in the section entitled "Final Results of Review." **EFFECTIVE DATE:** June 28, 2004.