

by Taifeng, the cash deposit rate will continue to be the PRC-wide rate (*i.e.*, 376.67 percent); and (3) for subject merchandise exported by Qingdao Camel, Qingdao Saturn, QXF, Longtai, and XuZhou Simple, but manufactured by any other party, the cash deposit rate will be the PRC-wide rate (*i.e.*, 376.67 percent).

Further, the following cash deposit requirements will be effective upon publication of the final results of the administrative review for shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results, as provided by section 751(a)(2)(C) of the Act: (1) For subject merchandise exported by Dongyun, Sunny, Trans-High, and Shanyang Freezing, the cash-deposit rate will be that established in these final results of review; (2) for previously reviewed or investigated companies not listed above that have separate rates, FHTK, Ever-Best, Hongda, Linshu Dading Ziyang and Ever-Rich, the cash-deposit rate will continue to be the company-specific rate published for the most recent period; (3) for all other PRC exporters of subject merchandise, including Qingyuan, which have not been found to be entitled to a separate rate, the cash-deposit rate will be the PRC-wide rate of 376.67 percent; (4) for all non-PRC exporters of subject merchandise, the cash-deposit rate will be the rate applicable to the PRC exporter that supplied that exporter. These deposit requirements shall remain in effect until publication of the final results of the next administrative review.

#### Notification to Importers

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.

This administrative review, the new shipper reviews and this notice are in accordance with sections 751(a)(1), 751(a)(2)(B), and 777(i) of the Act, and 19 CFR 351.213(g), 351.214(h) and 352.221(b)(4) of the Department's regulations.

Dated: November 30, 2006.

**David M. Spooner,**

*Assistant Secretary for Import Administration.*

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## DEPARTMENT OF COMMERCE

### International Trade Administration

**A-421-807**

#### **Certain Hot-Rolled Carbon Steel Flat Products from the Netherlands; Preliminary Results of Antidumping Duty Administrative Review**

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

**SUMMARY:** In response to requests from Nucor Corporation, Mittal Steel USA ISG Inc. (Mittal) and United States Steel Corporation (USS) (collectively, petitioners), the Department of Commerce (the Department) is conducting an administrative review of the antidumping duty order on certain hot-rolled carbon steel flat products (hot-rolled steel) from the Netherlands. This administrative review covers imports of subject merchandise from Corus Staal BV (Corus Staal). The period of review (POR) is November 1, 2004, through October 31, 2005.

We preliminarily determine that sales of hot-rolled steel from the Netherlands in the United States have been made below normal value (NV). 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 based on the difference between the export price (EP) or constructed export price (CEP) and NV. Interested parties are invited to comment on these preliminary results. Parties who submit argument in this proceeding 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:** December 11, 2006.

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

David Cordell or Robert James, Antidumping and Countervailing Duty Operations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230, telephone: (202) 482-0408 or (202) 482-0649, respectively.

#### **SUPPLEMENTARY INFORMATION:**

## Background

On November 29, 2001, the Department published the antidumping duty order on 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). Subsequently, on December 23, 2003, the order was amended. See *Notice of Amended Antidumping Duty Order; Certain Hot-Rolled Carbon Steel Flat Products From The Netherlands*, 68 FR 74214 (December 23, 2003).

On November 1, 2005, the Department published the opportunity to request administrative review of, *inter alia*, hot-rolled steel from the Netherlands for the period November 1, 2004 through October 31, 2005. See *Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review*, 70 FR 65883 (November 1, 2005).

In accordance with 19 CFR 351.213(b)(1), on November 30, 2005, petitioners requested that we conduct an administrative review of sales of the subject merchandise made by Corus Staal, a producer and exporter of the subject merchandise.<sup>1</sup> On December 22, 2005, the Department published in the **Federal Register** a notice of initiation of this antidumping duty administrative review covering the period November 1, 2004, through October 31, 2005. See *Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in Part*, 70 FR 76024 (December 22, 2005).

On January 3, 2006, the Department issued its antidumping duty questionnaire to Corus Staal. Corus Staal submitted its response to sections A, B, C, D, and E of the questionnaire on February 9, 2006.

On January 23, 2006, USS requested that the Department determine whether antidumping duties have been absorbed during the period of review by the respondent Corus Staal. On January 24, 2006, the Department issued a letter inviting Corus Staal to submit on the record evidence that unaffiliated purchasers will pay the antidumping duties that may be assessed on entries during the period of review. On February 9, 2006, Corus Staal submitted its response to the Department's letter.

On January 31, 2006, Corus Staal requested the Department to excuse certain affiliates, Corus Vlietjonge BV, Ijzerleeuw BV and Multisteel, from reporting home market sales. On August 1, 2006, the Department granted Corus's

<sup>1</sup> Nucor, Mittal Steel USA, and United States Steel Corporation each submitted a separate request for review.

request not to report downstream home market sales by these three companies.

On April 7, 2006, the Department issued a supplemental section A, B and C questionnaire, to which Corus Staal responded on April 28, 2006. On May 4, 2006, the Department issued a section D supplemental questionnaire. Corus Staal responded on May 25, 2006. On June 16, USS submitted comments on Corus Staal's April 7, 2006, response. On June 27, 2006, the Department issued a second section A, B and C supplemental questionnaire and on June 28, 2006 the Department issued a section D supplemental. Corus Staal filed a response to these supplementals on July 14, 2006. On June 30, 2006, Corus Staal filed quantity and value reconciliations as requested in section A of the questionnaire and on July 25, 2006, Corus Staal filed its 2005 annual report. On September 8, 2006 and September 27, 2006, Corus filed its responses to the Department's third and fourth section D supplemental questionnaires, which the Department had issued on August 14, 2006, and September 6, 2006. Mittal provided comments on the section D supplemental questionnaires on June 29, August 11, August 18, September 27 and October 20, 2006.

On March 6, 2006, Mittal filed comments concerning Corus's utilization of simplified reporting for the merchandise further manufactured by its U.S. affiliates, Thomas Steel Strip (Thomas Steel) and Hille & Mueller USA, Inc. (HMU). On March 13, 2006, Corus responded to Mittal's request that the Department require Corus to supply a section E response for these sales. On March 22, March 27, April 7, April 28, May 12, May 16, May 17, May 22 and May 24, 2006, both Mittal and Corus made numerous submissions on this topic, each of which is reviewed in the Department's June 15, 2006, memorandum to preliminarily accept Corus's simplified reporting for Thomas Steel and HMU in this segment of the proceeding. See Memorandum to Richard Weible, Office Director 7 from David Cordell, Case Analyst, and Robert James, Program Manager, regarding Certain Hot-Rolled Carbon Steel Flat Products from the Netherlands: "Simplified Reporting" and Value Added in the United States by Thomas Steel, dated June 15, 2006. On June 23, 2006, Mittal responded to the Department's preliminary decision to accept Corus's "simplified reporting," arguing that the law precludes the Department from relying on the dumping margin to be determined for imports of Corus's non-further-manufactured imports as a reasonable

surrogate for the dumping margin for its further-manufactured imports. On August 14, 2006, Mittal submitted further comments on this issue. Mittal reiterated its contentions concerning Corus Staal's simplified reporting and went on to argue that there is not substantial evidence on the record to show the value added in the United States by Thomas Steel and HMU exceeds substantially the value of the imported subject merchandise. On August 23, 2006, Corus responded to Mittal's comments, rebutting Mittal's arguments about the value added in the United States. According to Corus, Mittal has raised no new issues, Corus has reported its value added data in a manner consistent with the Department's reporting methodologies, and the value added on Corus's sales of steel that is further manufactured in the United States exceeds the statutory and regulatory standards for relying on simplified reporting.

On October 20, 2006, Mittal submitted comments in response to Corus's fourth supplemental section D questionnaire. Mittal asked the Department to obtain additional information from Corus on the steel produced by the conventional hot-rolling plant (HRM) and steel produced in a Direct Sheet Plant (DSP). The Department addresses this issue in section E of the NV section of this Notice: Price-to-Price Comparisons, below. On November 13, 2006, Mittal submitted pre-preliminary determination comments to which Corus Staal responded on November 21, 2006.

Because it was not practicable to complete this review within the normal time frame, on July 12, 2006, we published in the **Federal Register** our notice of extension of time limit for this review. See *Certain Hot-Rolled Carbon Steel Flat Products from the Netherlands; Antidumping Duty Administrative Review; Extension of Time Limit*, 71 FR 39304 (July 12, 2006). This extension established the deadline for these preliminary results as November 30, 2006.

#### Period of Review

The POR is November 1, 2004, through October 31, 2005.

#### Scope of the Review

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 millimeters (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 review. Specifically included within the scope of this 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 this order, regardless of definitions in the Harmonized Tariff Schedule of the United States (HTS), 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 this order unless otherwise excluded. The following products, by way of example, are outside or specifically excluded from the scope of this order:

- Alloy hot-rolled steel products in which at least one of the chemical elements exceeds those listed above (including, *e.g.*, ASTM specifications A543, A387, A514, A517, A506).

- Society of Automotive Engineers (SAE)/American Iron and Steel Institute (AISI) grades of series 2300 and higher.
- Ball bearings steels, as defined in the HTS.
- Tool steels, as defined in the HTS.
- Silico-manganese (as defined in the HTS) 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 HTS.

The merchandise subject to this order is classified in the HTS 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 flat-rolled carbon steel flat products covered by this 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 HTS subheadings are provided for convenience and customs purposes, the written description of the scope of this order is dispositive.

### Affiliated-Party Sales

During the POR, Corus Staal sold the foreign like product to several affiliated resellers in the home market. These include Namascor BV (Namascor), a service center wholly owned by Corus Staal, and Laura Metaal Holding BV (Laura), a manufacturer and service center in which Corus Staal's parent company, Corus Nederland BV, has a shareholder interest. For purposes of our analysis, we utilized Namascor's and Laura's sales to unaffiliated customers and, where Laura consumed the subject merchandise purchased from Corus Staal in its manufacturing operations, we utilized Corus Staal's sales to Laura. In addition, Corus Staal sold the foreign like product to affiliated companies Corus Vlietjonge BV (Vlietjonge),<sup>2</sup> a service center, Ijzerleeuw BV (Ijzerleeuw) and Multisteel. Vlietjonge is affiliated with Corus Staal through the former British Steel companies, whose parent, British Steel PLC, merged with Koninklijke Hoogovens NV (now Corus Nederland BV) in October 1999 to form the Corus Group PLC. Vlietjonge has a financial interest in Ijzerleeuw, but has no reported management or operational control over Ijzerleeuw. Multisteel is a business unit of Corus Service Center Maastricht, which is a steel service center that Corus states almost exclusively sells cold-rolled steel products. In a letter dated January 31, 2006, Corus Staal requested an exemption from reporting downstream sales by Vlietjonge, Ijzerleeuw and Multisteel because of the nature and quantity of the products sold. On August 1, 2006, the Department excused Corus Staal from reporting downstream sales by Vlietjonge, Ijzerleeuw and Multisteel because of the reasons set out in the Department's letter to Corus Staal, dated August 1, 2006. See Letter from Robert James, Program Manager, to Corus Staal dated August 1, 2006. Therefore, we have used Corus Staal's home market sales to Vlietjonge, Ijzerleeuw and Multisteel and applied our arm's-length test to these sales.

In the U.S. market, Corus Staal sold subject merchandise to Thomas Steel, a further manufacturer of battery-quality hot band steel, who in turn also shipped a small portion of this material to HMU, after further processing the product. Thomas Steel is wholly owned by Corus USA Inc., which in turn is wholly owned by Corus Staal's parent company, Corus Nederland BV. Claiming the value-added in the United

<sup>2</sup> Namascor also resold some of the foreign like product to Vlietjonge.

States by Thomas Steel exceeded substantially the value of the subject merchandise as imported, Corus Staal utilized the "simplified reporting" option for the merchandise further processed by Thomas Steel.

Pursuant to section 772(e) of the Tariff Act of 1930, as amended (the Act), when the subject merchandise is imported by an affiliated person and the value added in the United States by the affiliated person is likely to exceed substantially the value of the subject merchandise, we will determine the CEP for such merchandise using the price of identical or other subject merchandise, if there is a sufficient quantity of sales to provide a reasonable basis for comparison and we determine that the use of such sales is appropriate. If there is not a sufficient quantity of such sales or if we determine that using the price of identical or other subject merchandise is not appropriate, we may use any other reasonable basis to determine the CEP. See, e.g., *Preliminary Results and Rescission in Part of Antidumping Duty Administrative Review: Gray Portland Cement and Clinker From Mexico*, 67 FR 57379, 57381 (September 10, 2002) (unchanged for final results, 68 FR 1816 (January 14, 2003)). Consistent with the Department's regulations, we have determined for these preliminary results that the estimated value added in the United States by Thomas Steel accounted for at least 65 percent of the price charged to the first unaffiliated customer for the merchandise as sold in the United States, and therefore, the value added is likely to exceed substantially the value of the subject merchandise. We have also preliminarily determined there is a sufficient quantity of sales remaining to provide a reasonable basis for comparison. See Memorandum to Richard Weible, Office Director 7 from David Cordell, Case Analyst, and Robert James, Program Manager, regarding "Simplified Reporting" and Value Added in the United States by Thomas Steel," dated June 15, 2006.

### Duty Absorption

On January 23, 2006, USS requested that the Department determine whether antidumping duties had been absorbed during the POR by the respondent. Section 751(a)(4) of the Act provides for the Department, if requested, to determine, during an administrative review initiated two or four years after the publication of the order, whether antidumping duties have been absorbed by a foreign producer or exporter, if the subject merchandise is sold in the United States through an affiliated importer. Because Corus Staal BV sold

to unaffiliated customers in the United States through itself as the importer of record, and because this review was initiated four years after the publication of the order, we have made a duty absorption determination in this segment of the proceeding in accordance with section 751(a)(4) of the Act.

In determining whether the antidumping duties have been absorbed by the respondent during the POR, we presume the duties will be absorbed for those sales that have been made at less than NV. This presumption can be rebutted with evidence (e.g., an agreement between the affiliated importer and unaffiliated purchaser) that the unaffiliated purchaser will pay the full duty ultimately assessed on the subject merchandise. See, e.g., *Certain Stainless Steel Butt-Weld Pipe Fittings from Taiwan: Preliminary Results of Antidumping Duty Administrative Review and Notice of Intent to Rescind*, 70 FR 39735, 39737 (July 11, 2005). On January 24, 2006, the Department invited evidence from Corus Staal to demonstrate that its U.S. purchasers will pay any antidumping duties ultimately assessed on entries during the POR. In its response, submitted on February 9, 2006, Corus Staal argued that the Department's decision to initiate a duty absorption inquiry is contrary to law as Corus Staal is both the producer and exporter and cannot be affiliated with itself as the importer. Furthermore, Corus Staal argued that the evidence it has submitted shows Corus Staal "passes along, and its unaffiliated U.S. customers pay, the costs associated with antidumping duties on subject merchandise."

Corus Staal claims it has negotiated terms with its customers intending to pass dumping duties on to its customers. Corus, however, concedes that "these provisions do not allow for the retroactive collection of any additional antidumping duties ultimately assessed on the subject merchandise." See Corus Staal's response dated February 9, 2006 at page 9. Furthermore, Corus Staal failed to provide an agreement between Corus Staal and its unaffiliated purchaser stating the unaffiliated purchaser will pay the full duty ultimately assessed on the subject merchandise. With respect to Corus's claim that Corus Staal is both the producer and exporter and cannot be affiliated with itself as the importer, the Department notes that the Court of International Trade (CIT) addressed this issue when it decided "Commerce's interpretation of 'affiliated' to include exporters importing through themselves has been found to be a permissible

construction of the statute." See *Corus Staal BV v. United States*, Slip Op. 06-112 at note 10 (CIT July 25, 2006) citing *Agro Dutch Indus., Ltd. v. United States*, Slip. Op. 06-40, 2006 WL 785463 at 13 (CIT March 28, 2006) in which the CIT stated:

Commerce's interpretation of subsection 1675(a)(4) appears to be a reasonable, common-sense solution to what Congress attempted to accomplish with its enactment. This conclusion is inherent from the statute's focus—upon duty absorption in the foreign producer or exporter—and therefore even if the meaning of "affiliate" were clear, and resort to legislative history unnecessary, to find that the statute does not address the circumstance of the foreign producer or exporter itself acting as the importer of record would result in an apparent absurdity.

Therefore, because Corus Staal did not rebut the duty absorption presumption with evidence that the unaffiliated purchaser will pay the full duty ultimately assessed on the subject merchandise, we preliminarily find that antidumping duties have been absorbed by Corus Staal on all U.S. sales made through its importer of record, namely Corus Staal.

#### Fair Value Comparisons

To determine whether sales of hot-rolled steel from the Netherlands to the United States were made at less than fair value, we compared the EP or CEP to the NV, as described in the "Export Price and Constructed Export Price" and "Normal Value" sections of this notice, below. In accordance with section 777A(d)(2) of the Act, we compared the EPs and CEPs of individual U.S. transactions to monthly weighted-average NVs.

#### Product Comparisons

In accordance with section 771(16) of the Act, we considered all products produced by the respondent, covered by the descriptions in the "Scope of the Review" section of this notice, to be foreign like products for the purpose of determining appropriate product comparisons to U.S. sales of hot-rolled steel from the Netherlands.

We have relied on the following 11 criteria to match U.S. sales of subject merchandise to comparison market sales of the foreign like product: whether painted or not, quality, carbon content level, yield strength, thickness, width, whether coil or cut-to-length sheet, whether temper rolled or not, whether pickled or not, whether mill or trimmed

edge, and whether the steel is rolled with or without patterns in relief.

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, January 3, 2006, questionnaire.

#### Export Price and Constructed Export Price

Section 772(a) of the Act defines EP as "the price at which the subject merchandise is first sold (or agreed to be sold) before the date of importation by the producer or exporter of the subject merchandise outside of the United States to an unaffiliated purchaser in the United States or to an unaffiliated purchaser for exportation to the United States, as adjusted under subsection (c)." Section 772(b) of the Act defines CEP as "the price at which the subject merchandise is first sold (or agreed to be sold) in the United States before or after the date of importation by or for the account of the producer or exporter of such merchandise or by a seller affiliated with the producer or exporter, to a purchaser not affiliated with the producer or exporter, as adjusted under sections 772(c) and (d)."

Corus Staal reported each of its U.S. sales of subject merchandise as EP transactions. However, after reviewing the evidence on the record of this review, we have preliminarily determined, as we did in the 2002-2003 review, that certain of Corus Staal's reported EP transactions are properly classified as CEP sales because these sales occurred after importation. This determination is consistent with section 772(c) and (d) of the Act.

During the POR, Corus Staal executed all agreements with U.S. customers, and amendments related to those agreements, in the Netherlands. See Corus Staal's February 9, 2006, questionnaire response (February 9, 2006 QR) at 23, note 18. In addition, Corus Staal also served as the importer of record for these sales of subject merchandise entered during the POR.

However, in the case of "just in time" (JIT) sales to one unaffiliated customer, the invoice was issued after the subject merchandise had entered the United States. In its response to the Department's section C questionnaire, dated February 9, 2006, Corus Staal stated that due to a cancellation by the JIT customer, Corus found it necessary to sell certain steel to another customer in the United States. In exhibit C-26 of its April 28, 2006, supplemental response, Corus provided both the

invoices and the frame agreements governing this transaction. Because Corus and its unaffiliated customer did not agree on the price and quantity terms until the invoice was issued, the JIT sales fail to meet the criteria for EP sales which arise where the “the first sale to an unaffiliated person occurs before the goods are imported into the United States.” See the Department’s January 4, 2006, Questionnaire at I–7.

Additionally, we do not agree with Corus Staal’s claim that the relevant frame agreement governs the sale between the JIT customer and Corus, because, as the aforementioned JIT sale demonstrates, an order was cancelled after importation and sold to another customer in the United States. Furthermore, in this review, Corus Staal has maintained it is upon invoicing “that the final quantity, price and product sold are ultimately determined.” See Corus Staal’s February 9, 2006, QR at C–19. Corus Staal further argues “until this point, both the customer and Corus can and do make changes that affect the price and quantity of the product shipped and/or the product supplied. Therefore, there is no date other than the invoice date that better reflects the time at which the material terms of a transaction are fixed.” *Id.* at C–20. Furthermore, Corus reiterated its position in its supplemental response when it stated “for the POR, use of invoice date most accurately reflects commercial reality as to the time that the sale took place and at which the material terms of sale become final and fixed. Use of any earlier date would ignore the many subsequent changes in terms prior to invoicing and shipping.” See Corus Staal’s April 28, 2006, SQR at 21.

Thus, Corus Staal’s responses indicate that the invoice date is the appropriate date to use in determining when a sale or agreement of sale first occurs, as changes often do occur between the frame agreement and the date of invoice. See Corus Staal’s April 28, 2006 SQR at 21. Therefore, the Department does not find that the frame agreement is the governing document in determining when a sale is agreed upon or when it is executed. The statute defines EP sales as those where the goods are “first sold (or agreed to be sold) before the date of importation” and because the material terms of sale are fixed in the invoice, which is issued by Corus after importation, it is clear that in the case of the JIT sales, the sales do not meet the criterion of having been made before importation.

Furthermore, the CIT recently decided this issue in the second administrative

review of this proceeding when it held that:

turning to the application of the law to the facts of this case, Commerce properly applied the definition of ‘sold (or agreed to be sold)’ to the case at hand. As the material terms of the sale or agreement to sell were not fixed until the final invoice, Commerce could properly conclude that the final invoices determined when a sale or agreement to sell first occurred. It follows that the sale or agreement to sell occurred after importation in the United States. Therefore, Commerce correctly classified the JIT transactions as CEP transactions pursuant to 19 U.S.C. § 1677a(a) and (b). See *Corus Staal BV v. United States*, Slip Op. 06–112 at 20 (*Corus Staal*) (CIT July 25, 2006).

In accordance with the CIT’s recent decision in *Corus Staal*, the Department has preliminarily determined the sales classified as JIT sales should continue to be reclassified as CEP sales for the purposes of this review. The price and quantity were not fixed until the invoice to the U.S. customer was issued as evidenced in the example of one order to the JIT customer, which was cancelled after importation and where such goods were then resold to another U.S. customer. Furthermore, the goods in JIT inventory are physically in the United States when the invoices containing the fixed price and quantity terms to the unaffiliated customers are issued. The Department determines such sales are CEP sales because section 772(b) of the Act defines CEP as “the price at which the subject merchandise is first sold (or agreed to be sold) in the United States before or after the date of importation by or for the account of the producer or exporter of such merchandise or by a seller affiliated with the producer or exporter, to a purchaser not affiliated with the producer or exporter.” EP sales are clearly defined as taking place “before the date of importation” whereas CEP sales are defined as taking place “before or after the date of importation”.

With respect to the remainder of Corus Staal’s reported EP sales (*i.e.*, those sales to unaffiliated U.S. customers made between November 1, 2004 and October 31, 2005), we have continued to classify these as EP transactions because the contracts governing these sales were signed by Corus Staal in the Netherlands, and because such sales were invoiced before importation.

For those sales which we are classifying as EP transactions, we calculated EP in accordance with

section 772(a) of the Act. We based EP on the packed, delivered, duty paid prices for export to end users and service centers in the U.S. market. We adjusted gross unit price for billing errors, freight revenue, and early payment discounts, where applicable. We also made deductions for movement expenses in accordance with section 772(c)(2)(A) of the Act; these included, where appropriate, foreign inland freight, foreign brokerage and handling, international freight, marine insurance, U.S. customs duties, U.S. inland freight, U.S. brokerage expenses, and U.S. warehousing expenses.

For CEP sales, we calculated price in conformity with section 772(b) of the Act. We based CEP on the packed, delivered, duty paid prices to unaffiliated purchasers in the United States. Where applicable, we made adjustments to gross unit price for billing errors, freight revenue, and early payment discounts. We also made deductions for movement expenses in accordance with section 772(c)(2)(A) of the Act; these included, where appropriate, foreign inland freight, foreign brokerage and handling, international freight, marine insurance, U.S. customs duties, U.S. inland freight, U.S. brokerage expenses, and U.S. warehousing expenses. In accordance with section 772(d)(1) of the Act, we deducted those selling expenses associated with economic activities occurring in the United States, including direct selling expenses (imputed credit, warranty, *etc.*), inventory carrying costs, and indirect selling expenses. For CEP sales, we also made an adjustment for profit in accordance with section 772(d)(3) of the Act.

#### Level of Trade

In accordance with section 773(a)(1)(B)(i) of the Act, to the extent practicable, we determine NV based on sales in the comparison market at the same level of trade (LOT) as the EP/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 constructed value (CV), that of the sales from which we derive selling, general, and administrative (SG&A) expenses and profit. For EP, the LOT is also the level of the starting price sale, which is usually from the exporter to the importer. For CEP, it is the level of the constructed sale from the exporter to the importer, after adjustments under section 772(d) of the Act.

To determine whether NV sales are at a different LOT than EP/CEP sales, we examine stages in the marketing process and selling functions along the chain of

distribution between the producer and the 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 at different levels of trade in the home country, we make a LOT adjustment under section 773(a)(7)(A) of the 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 Act (*i.e.*, the CEP offset provision).

In implementing these principles in the instant review, we obtained information from Corus Staal about the marketing stages involved in its reported U.S. and home market sales, including a description of the selling activities performed by Corus Staal and the level to which each selling activity was performed for each channel of distribution. In identifying LOTs for U.S. CEP sales, we considered the selling functions reflected in the starting price after any adjustments under section 772(d) of the Act.

In the home market, Corus Staal reported two channels of distribution (sales by Corus Staal and sales through its affiliated service centers Namascor and Laura) and three customer categories (end users, steel service centers, and trading companies). *See, e.g.*, Corus Staal's February 9, 2006, QR at A-21. For both channels of distribution in the home market, Corus Staal performed similar selling functions, including strategic and economic planning, advertising, freight and delivery arrangements, technical/warranty services, and sales logistics support. The remaining selling activities performed did not differ significantly by channel of distribution, with the exception of market research and research and development activities, which were performed only by Corus Staal. *See* Corus Staal's February 9, 2006, QR at Exhibit A-8 and pages A-21 through A-44. Because the selling activities among the channels of distribution are sufficiently similar, we find that one LOT exists for Corus Staal's home market sales.

In the U.S. market, Corus Staal reported a single channel of distribution for its sales of subject merchandise during the POR. For EP sales made directly to U.S. customers, Corus Staal reported two customer categories, end users and steel service centers. *See, e.g.*, Corus Staal's February 9, 2006, QR at A-23. Corus noted that it shipped subject merchandise to one affiliated customer

in the United States, Thomas Steel, which in turn shipped a small portion of this material, after further processing, to HMU. *See Id.* at A-24. However, as explained elsewhere in this notice, Thomas Steel and HMU provided data in simplified reporting format and thus detailed information was not provided on Thomas Steel's sales activities. Corus notes that it treats Thomas Steel in the same manner as all unaffiliated U.S. customers for all purposes. *See Id.* at A-44.

As noted in the "Export Price and Constructed Export Price" section of this notice, we have preliminarily determined that certain of Corus Staal's reported EP transactions (*i.e.*, sales where invoicing took place after date of entry) are properly classified as CEP sales.

As to these Corus Staal sales to customers in the United States which we have reclassified as CEP transactions, we considered whether such sales were made at the same level of trade. Comparing the selling activities performed and services offered by Corus Staal on its CEP sales to customers in the United States to those activities performed on its home market sales, we found there to be few differences in the selling functions performed by Corus Staal on its sales to customers in the United States and those performed for sales in the home market. For example, on sales to both home market customers and to U.S. customers, Corus Staal provided similar strategic and economic planning, freight and delivery services, technical/warranty assistance, research and development, and sales logistics support. *See, e.g.*, Corus Staal's February 9, 2006, QR at pages A-22 through A-60. As a result, we preliminarily find that there is not a significant difference in selling functions performed in the U.S. and home markets on these sales. Thus, for those sales which we have preliminarily determined are CEP sales, we find that Corus Staal's home market sales and sales to customers in the United States were made at the same LOT. Accordingly, no LOT adjustment or CEP offset adjustment to NV is warranted for these CEP sales.

Finally, for those sales which we are continuing to classify as EP, we compared the selling activities performed and services offered by Corus Staal on its sales to unaffiliated customers in the United States to those activities performed on its home market sales, we found there to be few differences in the selling functions performed by Corus Staal. Thus, we find that Corus Staal's home market sales and sales to unaffiliated customers in

the United States were made at the same LOT. Accordingly, no LOT adjustment is necessary.

## 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 Act. Because the respondent's aggregate volume of home market sales of the foreign like product was greater than five percent of its aggregate volume of U.S. sales for the subject merchandise, we determined that the home market was viable. *See, e.g.*, Corus Staal's February 9, 2006 QR at Attachment A-2 and Corus Staal's July 14, 2006 SQR at Attachment A-35.

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

Corus Staal reported sales in the home market to affiliated resellers and end-users. 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). Prior to performing the arm's-length test on Corus Staal's sales to affiliated customers, we aggregated multiple customer codes reported for individual affiliates in order to treat them as single entities. *See Antidumping Proceedings: Affiliated Party Sales in the Ordinary Course of Trade*, 67 FR 69186, 69194 (November 15, 2002) (*Modification to Affiliated Party Sales*). To test whether the sales to affiliates were made at arm's-length prices, we compared, on a model-specific basis, the starting prices of sales to affiliated and unaffiliated customers net of all direct selling expenses, discounts and rebates, movement charges, and packing. Where prices to the affiliated party were, on average, within a range of 98 to 102 percent of the price of identical or comparable merchandise to the unaffiliated parties, we determined that the sales made to the affiliated party were at arm's length. *See Modification to Affiliated Party Sales* at 69187-88. In accordance with the Department's practice, we only included in our margin analysis those sales to affiliated parties that were made at arm's length.

### 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 segment of the proceeding at the time of initiation of this review, *i.e.*, the 2002–2003 review of hot-rolled steel from the Netherlands (see *Certain Hot-Rolled Carbon Steel Flat Products from the Netherlands; Final Results of Antidumping Duty Administrative Review*, 70 FR 18366 (April 11, 2005)), we have reasonable grounds to believe or suspect that Corus Staal made sales of the foreign like product at prices below the COP, as provided by section 773(b)(2)(A)(ii) of the Act. Therefore, pursuant to section 773(b)(1) of the Act, we initiated a COP investigation of sales by Corus Staal.

In accordance with section 773(b)(3) of the Act, we calculated the weighted-average COP for each model based on the sum of Corus Staal's material and fabrication costs for the foreign like product, plus amounts for SG&A and packing costs. The Department relied on the COP data reported by Corus Staal.

For a list of the product characteristics considered in our analysis, see the section "Product Comparisons" above. We compared the weighted-average COP figures to the home market sales prices of the foreign like product as required under section 773(b) of the Act, to determine whether these sales had been made at prices below COP. On a product-specific basis, we compared the COP to home market prices net of billing adjustments, freight revenue, certain minor processing expenses, 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 Act whether, within an extended period of time, such sales were made in substantial quantities and whether such sales were made at prices which did not permit the recovery of all costs within a reasonable period of time in the normal course of trade. Pursuant to section 773(b)(2)(C) of the Act, where less than 20 percent of the respondent's home market sales of a given model 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 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 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 Act.

Our cost test for Corus Staal revealed that for home market sales of certain models, less than 20 percent of the sales of those models were at prices below the COP. We retained all such sales in our analysis and used them as the basis for determining NV. Our cost test also indicated that for other models sold by Corus Staal, 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. In accordance with section 773(b)(1) of the 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 (CV)

While in this preliminary determination no sales are compared to CV, we nevertheless calculated CV in accordance with section 773(e) of the Act. We based CV on the sum of the Corus Staal's material and fabrication costs, SG&A expenses, profit, and U.S. packing costs. We calculated the COP component of CV and weight-averaged the CVs reported for identical products produced in both the conventional hot-rolling mill and direct sheet plant as described above in the "Cost of Production Analysis" section of this notice. In accordance with section 773(e)(2)(A) of the 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. For selling expenses, we used the actual weighted-average home market direct and indirect selling expenses.

### E. Price-to-Price Comparisons

We relied on our model match criteria in order to match U.S. sales of subject merchandise to comparison sales of the foreign like product based on the reported physical characteristics of the subject merchandise. 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 following characteristics and

reporting instructions listed in the Department's questionnaire. These characteristics are: painted, quality, carbon, yield strength, thickness, width, cut-to-length vs coil, temper rolled, pickled, edge trim, and patterns in relief. See section 771(16) of the Act.

As indicated earlier, on October 20, 2006, Mittal asked the Department to obtain additional information from Corus on products produced by the DSP mill and hot-rolled mill to ensure that the Department calculates the most accurate margin possible. However, the Department has already addressed this issue in the 2001–2002 administrative review of this case where the Department determined "because the information on the record does not establish sufficient differences in physical characteristics between conventional hot-rolled mill and DSP products, we have not made any changes to our model match criteria for these final results." See *Certain Hot-Rolled Carbon Steel Flat Products from the Netherlands; Final Results of Antidumping Duty Administrative Review*, 70 FR 18366 (April 11, 2005) and the accompanying Issues and Decisions Memorandum at Comment 1. The Department has no information on the record of this proceeding, other than Mittal's October 20, 2006, submission, that would support the Department reexamining our model match criteria for this preliminary determination.

We calculated NV based on prices to unaffiliated customers or prices to affiliated customers we determined to be at arm's length. We adjusted gross unit price for billing adjustments, early payment discounts, rebates, freight revenue, interest revenue and tolling revenues, where appropriate. We made deductions, where appropriate, for foreign inland freight and warehousing, pursuant to section 773(a)(6)(B) of the 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 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 Act and 19 CFR 351.410. We made COS adjustments for imputed credit expenses, warranty expenses, and credit insurance. 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 Act.

### F. Price-to-CV Comparisons

In accordance with section 773(a)(4) of the Act, we base NV on CV if we are unable to find a home market match of

such or similar merchandise. Where appropriate, we make adjustments to CV in accordance with section 773(a)(8) of the Act. Where we compare CV to CEP, we deduct from CV the weighted-average home market direct selling expenses. However, in this review we have preliminarily found contemporaneous matches for all U.S. sales, and therefore, have not based NV on CV.

#### 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 Act.

#### Preliminary Results of Review

As a result of our review, we preliminarily determine the weighted-average dumping margin for the period November 1, 2004, through October 31, 2005, to be as follows:

Manufacturer / Exporter	Margin (percent)
Corus Staal BV (Corus Staal) .....	2.52

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

#### Assessment Rates

Upon completion of this administrative review, the Department will determine, and CBP shall assess, antidumping duties on all appropriate entries. The Department intends to issue assessment instructions to CBP 15 days after the date of publication of the final results of review.

The Department clarified its "automatic assessment" regulation on May 6, 2003. See *Notice of Policy Concerning Assessment of Antidumping Duties*, 68 FR 23954 (May 6, 2003) (*Assessment-Policy Notice*). This clarification will apply to entries of subject merchandise during the period of review produced by Corus Staal BV for which Corus Staal BV did not know that the merchandise it sold to an intermediary (e.g., a reseller, trading company, or exporter) was destined for the United States. In such instances, we will instruct CBP to liquidate unreviewed entries at the 2.59 percent all-others rate established in the original less than fair value (LTFV) investigation, if there is no rate for the intermediary involved in the transaction. See the *Assessment-Policy Notice* for a full discussion of this clarification.

Furthermore, the following deposit requirements will be effective upon completion of the final results of this administrative review for all shipments of the subject merchandise 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 Act: (1) the cash deposit rate for the reviewed company will be the rate established in the final results of the administrative review (except that no deposit will be required if the rate is zero or *de minimis*, i.e., less than 0.5 percent); (2) if the exporter is not a firm covered in this review, or the original LTFV investigation, but the manufacturer is, the cash deposit rate will be that 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 review, any previous reviews, or the LTFV investigation, the cash deposit rate will be 2.59 percent, the "all others" rate established in the LTFV investigation. See *Antidumping Duty Order: Certain Hot-Rolled Carbon Steel Flat Products from the Netherlands*, 67 FR 59565 (November 29, 2001).

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 Act.

Dated: November 30, 2006.

**David M. Spooner,**

*Assistant Secretary for Import Administration.*

[FR Doc. E6-20923 Filed 12-8-06; 8:45 am]

Billing Code: 3510-DS-S

#### DEPARTMENT OF COMMERCE

##### International Trade Administration

[A-475-828, A-557-809, A-565-801]

#### Continuation of Antidumping Duty Orders: Stainless Steel Butt-Weld Pipe Fittings from Italy, Malaysia, and the Philippines

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

**SUMMARY:** As a result of the determinations by the Department of Commerce (the Department) and the International Trade Commission (the Commission) that revocation of these antidumping duty orders would be likely to lead to continuation or recurrence of dumping and material injury to an industry in the United States, pursuant to section 751(c) of the Tariff Act of 1930, as amended (the Act), the Department hereby orders the continuation of the antidumping duty orders on stainless steel butt-weld pipe fittings from Italy, Malaysia, and the Philippines. The Department is publishing notice of the continuation of these antidumping duty orders.

**EFFECTIVE DATE:** December 11, 2006.

**FOR FURTHER INFORMATION CONTACT:** Deborah L. Scott or Robert James, AD/CVD Operations, Office 7, or Dana Mermelstein, AD/CVD Operations, Office 6, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Ave., NW, Washington, DC 20230; telephone: (202) 482-2657, 482-0649, or (202) 482-1391, respectively.

#### SUPPLEMENTARY INFORMATION:

##### Background

On January 3, 2006, the Department initiated and the Commission instituted