

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 an argument in these proceedings are requested to submit with the argument (1) a statement of the issue, (2) a brief summary of the argument and (3) a table of authorities. Further, we would appreciate it if parties submitting written comments would provide the Department with an additional copy of the public version of any such comments on diskette. The Department will issue final results of this administrative review, including the results of our analysis of the issues in any such written comments or at a hearing, within 120 days of publication of these preliminary results.

The Department shall determine, and 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completion of the final results of this administrative review for all shipments of S4 in coils from Germany entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of this administrative review, as provided by section 751(a)(1) of the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 29, 2004.

Jeffrey A. May,

Acting Assistant Secretary for Import Administration.

[FR Doc. 04-18038 Filed 8-5-04; 8:45 am]

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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 requests from respondent ThyssenKrupp Mexinox S.A. de C.V. (Mexinox S.A.) and Mexinox USA, Inc. (Mexinox USA) (collectively, Mexinox) and petitioners,¹ 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 administrative review covers imports of subject merchandise from Mexinox S.A. during the period July 1, 2002 to June 30, 2003.

We preliminarily determine that sales of S4 in coils from Mexico have been

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

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 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 6, 2004.

FOR FURTHER INFORMATION CONTACT:

Deborah Scott or Robert James, AD/CVD Operations, Enforcement Office 6, 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, 2002 through June 30, 2003 (68 FR 39511).

In accordance with 19 CFR 351.213(b)(1), Mexinox and petitioners requested that we conduct an administrative review. On August 22, 2003, we published in the **Federal Register** a notice of initiation of this antidumping duty administrative review covering the period July 1, 2002, through June 30, 2003. *See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in Part*, 68 FR 50750 (August 22, 2003).

On September 15, 2003, the Department issued an antidumping duty questionnaire to Mexinox. Mexinox submitted its response to section A of the questionnaire on October 14, 2003, and its response to sections B through E of the questionnaire on November 20, 2003.² On March 1, 2004, the

² Section A of the questionnaire requests general information concerning a company's corporate structure and business practices, the merchandise

Continued

Department issued a supplemental questionnaire for sections A, B, and C, to which Mexinox responded on March 30, 2004. On March 29, 2004, the Department issued a supplemental questionnaire for section D, as well as for sections C and E pertaining to an affiliated U.S. reseller, Ken-Mac Metals, Inc. (Ken-Mac). Mexinox responded to this supplemental questionnaire on April 27, 2004. The Department issued a second supplemental questionnaire for sections A through D on June 17, 2004; Mexinox submitted its response on July 6, 2004. Finally, on July 13, 2004, the Department issued a third supplemental questionnaire for sections A through E, to which Mexinox responded on July 16, 2004.

Because it was not practicable to complete this review within the normal time frame, on February 12, 2004, we published in the **Federal Register** our notice of the extension of time limits for this review. See *Stainless Steel Sheet and Strip in Coils from Mexico; Antidumping Duty Administrative Review; Extension of Time Limit*, 69 FR 6941 (February 12, 2004). This extension established the deadline for these preliminary results as July 30, 2004.

Period of Review

The period of review (POR) is July 1, 2002 through June 30, 2003.

Scope of the Order

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 currently classifiable in the

under review that it sells, and the manner in which it sells that merchandise in all of its markets. Section B requests a complete listing of all home market sales, or, if the home market is not viable, of sales in the most appropriate third-country market (this section is not applicable to respondents in non-market economy cases). Section C requests a complete listing of U.S. sales. Section D requests information on the cost of production of the foreign like product and the constructed value of the merchandise under review. Section E requests information on further manufacturing.

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 sulfide 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."³

Certain electrical resistance alloy steel is also excluded from the scope of this order. This product is defined as a non-magnetic stainless steel manufactured to American Society of Testing and Materials (ASTM) specification B344 and containing, by weight, 36 percent nickel, 18 percent chromium, and 46 percent iron, and is most notable for its resistance to high temperature corrosion. It has a melting point of 1390 degrees Celsius and displays a creep rupture limit of 4 kilograms per square millimeter at 1000 degrees Celsius. This steel is most commonly used in the production of heating ribbons for circuit breakers and industrial furnaces, and in rheostats for railway locomotives. The product is currently available under proprietary trade names such as "Gilphy 36."⁴

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."⁵

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).⁶ 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."⁷

Duty Absorption

On September 22, 2003, petitioners requested that the Department determine whether antidumping duties had been absorbed during the POR by the respondent. Section 751(a)(4) of the Tariff Act of 1930, as amended (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 Mexinox S.A. sold subject merchandise to unaffiliated customers in the United States through an importer that is affiliated (*i.e.*, Mexinox USA), and because this review was initiated four years after the publication of the order, we will make a duty absorption determination in this segment of the proceeding within the meaning of section 751(a)(4) of the Act.

In its March 1, 2004 supplemental questionnaire, the Department requested evidence from the respondent to demonstrate that unaffiliated U.S. purchasers will pay any antidumping duties ultimately assessed on entries during this POR. In its March 30, 2004 supplemental questionnaire response at

page 2, Mexinox stated it "does not believe that there is any basis for concluding that its affiliate Mexinox USA has 'absorbed' antidumping duties in this review or will do so after they are assessed as a result of this review," but requested that the Department provide clarification regarding the types of documents or data that could be submitted as evidence that unaffiliated purchasers ultimately will pay the antidumping duties assessed on entries during the POR. On July 16, 2004, we issued a clarification letter to Mexinox and requested that Mexinox provide any such evidence by July 23, 2004. None was provided.

In determining whether antidumping duties have been absorbed by the respondent during the POR we presume that the duties will be absorbed for those sales that have been made at less than normal value (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. Given that Mexinox did not provide any evidence on the record showing that unaffiliated purchasers will pay the full duty ultimately assessed on the subject merchandise, and despite its claim that duty absorption did not occur, we preliminarily find that antidumping duties have been absorbed by Mexinox S.A. on U.S. sales made through its affiliated importer, Mexinox USA.

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 to unaffiliated customers. Mexinox USA also made sales of subject merchandise during the POR to an affiliated company, Ken-Mac, which in turn resold the subject merchandise to unaffiliated customers in the United States. See Mexinox's October 14, 2003 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 the foreign like product and other merchandise in the home market. Mexinox reported that sales through

³ "Arnokrome III" is a trademark of the Arnold Engineering Company.

⁴ "Gilphy 36" is a trademark of Imphy, S.A.

⁵ "Durphynox 17" is a trademark of Imphy, S.A.

⁶ This list of uses is illustrative and provided for descriptive purposes only.

⁷ "GIN4 Mo," "GIN5" and "GIN6" are the proprietary grades of Hitachi Metals America, Ltd.

Mexinox Trading during the POR represented less than five percent of Mexinox's total sales of the foreign like product in the home market. *See, e.g.,* Mexinox's October 14, 2003 questionnaire response at A-4 and its July 6, 2004 supplemental questionnaire response at Attachment B-43. Because Mexinox Trading's sales of the foreign like product were less than five percent of home market sales of the foreign like product, in accordance with 19 CFR 351.403(d), we did not require Mexinox to report downstream sales by Mexinox Trading to the first unaffiliated customer. This treatment is consistent with that employed in past administrative reviews of S4 in coils from Mexico. *See, e.g., Stainless Steel Sheet and Strip in Coils from Mexico; Final Results of Antidumping Duty Administrative Review*, 69 FR 6259 (February 10, 2004) (*S4 in Coils from Mexico 2001-2002 Final Results*).

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 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 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. *See* 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 date of shipment and invoicing, these terms were subject to change. *See, e.g.,* Mexinox's October 14, 2003 questionnaire response at A-39 and A-44. In our March 1, 2004 supplemental questionnaire, we requested that Mexinox provide additional information concerning the nature and frequency of price and quantity changes occurring between the date of the sales order and date of invoice. In response, Mexinox provided analyses 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 March 30, 2004 supplemental questionnaire response at Attachment A-22. 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. Our use of invoice date as the date of sale is consistent with past administrative reviews of S4 in coils from Mexico. *See, e.g., S4 in Coils from Mexico 2001-2002 Final Results.*

Product Comparisons

In accordance with section 771(16) of the 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 September 15, 2003, questionnaire.

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 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 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 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 the Department's September 15, 2003 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 manufactured to order) and (2) sales through inventory. *See, e.g.,* Mexinox's October 14, 2003 questionnaire response at A-25. 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.,* Mexinox's March 30, 2004 supplemental questionnaire response at Attachment A-21-A. 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. Sales made through this LOT also included CEP sales made through Mexinox USA's affiliated reseller, Ken-Mac. *See, e.g.,* Mexinox's October 14, 2003 questionnaire response at A-26 to A-27. When we compared CEP sales (after deductions made pursuant to section 772(d) of the 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-35 to A-36 and Attachments A-4-B and A-4-C and

Mexinox's March 30, 2004 supplemental questionnaire response at Attachment A-21-A. 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 id.* 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 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 LOT 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 LOTs. 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 LOT of home market sales is at a more advanced stage than the LOT of the CEP sales, a CEP offset is appropriate in accordance with section 773(a)(7)(B) of the 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 Act. We applied the CEP offset to NV, whether based on home market prices or CV.

Constructed Export Price

We calculated CEP in accordance with section 772(b) of the 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 Act; these included, where appropriate: foreign inland freight, foreign brokerage and handling, inland insurance, ocean freight,⁸ U.S. customs duties, U.S. inland freight, U.S. brokerage, and U.S. warehousing expenses. As further directed by 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 (*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 Act, and added duty drawback to the starting price in accordance with section 772(c)(1)(B) of the 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 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 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 27, 2004 supplemental questionnaire response at Attachment A-28 (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 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 Antidumping Proceedings: Affiliated Party Sales in the Ordinary Course of Trade*, 67 FR 69186, 69194 (November 15, 2002). 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 review of S4 in coils from Mexico (*see S4 in Coils from Mexico 2000-2001 Final Results*), 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 Act. Therefore, pursuant to section 773(b)(1) of the Act, we initiated a COP investigation of sales by Mexinox.

To calculate COP, in accordance with sections 773(f)(2) and (3) of the Act, we adjusted Mexinox's reported raw material costs (major input rule). *See* the Department's Preliminary Analysis Memorandum from Deborah Scott to the File dated July 30, 2004 (Preliminary Analysis Memorandum) for more information regarding this adjustment. We also recalculated Mexinox's general and administrative (G&A) and interest expenses as described in the Preliminary 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 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 Act, to determine whether these sales had been made at prices below the COP. On a

⁸This expense was incurred on sales to Puerto Rico.

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 Act, whether, within an extended period of time, such sales were made in substantial quantities; and 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 the 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 Mexinox 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 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 the 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 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 Act, we calculated CV based on the sum of Mexinox's material and fabrication costs, SG&A expenses, profit, and U.S. packing costs. We calculated the COP component of CV 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.

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 interest revenue, where appropriate. We made deductions, where appropriate, for foreign inland freight, insurance, handling, and warehousing, pursuant to section 773(a)(6)(B) of the 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 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 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 Act.

F. Price-to-CV Comparisons

In accordance with section 773(a)(4) of the 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 Act.

Facts Available

In accordance with section 776(a)(1) of the Act, for these preliminary results we find it necessary to use partial facts available in those instances where the respondent did not provide certain information necessary to conduct our analysis.

In our September 15, 2003 questionnaire at G-6, we requested that Mexinox provide sales and cost data for all affiliates involved with the production or sale of the merchandise under review during the POR in both the home and U.S. markets. In its October 14, 2003 questionnaire response at A-2, Mexinox indicated its affiliated reseller, Ken-Mac, sold subject merchandise in the United States during

the POR. In its November 20, 2003 submission, Mexinox provided data related to Ken-Mac's resales of subject merchandise to unaffiliated customers in the United States. At pages 37-38 of its April 27, 2004 supplemental questionnaire response, Mexinox indicated Ken-Mac was unable to confirm the origin of some of the stainless steel material it sold during the POR. Therefore, Mexinox reported data on these particular resales through Ken-Mac in a separate database. *See id.* at Attachment KMC-13. Because of the unknown origin of certain of Ken-Mac's resales of subject merchandise, Mexinox has, in effect, not provided all the information necessary to complete our analysis.

Since Mexinox has not provided all of the information necessary to perform our analysis, we have preliminarily determined that, pursuant to section 776(a)(1) of the Act, it is appropriate to use the facts otherwise available in calculating a margin on Ken-Mac's "unattributable" sales. Section 776(a)(1) of the Act provides that the Department will, subject to section 782(d) of the Act, use the facts otherwise available in reaching a determination if "necessary information is not available on the record." Hence, for these preliminary results, we have calculated a margin on Ken-Mac's "unattributable" resales by applying the overall margin calculated on all other sales/resales of subject merchandise to the weighted-average price of Ken-Mac's "unattributable" sales. This methodology is consistent with that employed in past administrative reviews of S4 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) (*S4 in Coils from Mexico 2000-2001 Final Results*). However, prior to applying the overall margin calculated on other sales/resales of subject merchandise to Ken-Mac's "unattributable" sales, we determined, based on the relative percentage (by volume) of subject stainless steel merchandise that Ken-Mac purchased during the POR from Mexinox and other vendors,⁹ the quantity of each "unattributable" transaction that could be allocated reasonably to subject stainless steel merchandise purchased

⁹Mexinox provided this information in its April 27, 2004 supplemental questionnaire response at Attachment KMC-14.

from Mexinox. We note that for these preliminary results we have not used an adverse inference, as provided under section 776(b) of the Act, to calculate a margin on Ken-Mac's "unattributable" sales.

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 following weighted-average dumping margin exists for the period July 1, 2002 through June 30, 2003:

Manufacturer/exporter	Weighted average margin (percent)
ThyssenKrupp Mexinox S.A. de C.V	5.97

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 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 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.

Upon completion of this administrative review, the Department

shall determine, and CBP 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 CBP 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 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 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, or the LTFV investigation 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 Act.

Dated: July 29, 2004.

Jeffrey A. May,

Acting Assistant Secretary for Import Administration.

[FR Doc. 04-18039 Filed 8-5-04; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[A-570-887]

Notice of Antidumping Duty Order: Tetrahydrofurfuryl Alcohol From The People's Republic of China

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

SUMMARY: Pursuant to section 736(a) of the Tariff Act of 1930, as amended, the Department of Commerce ("the Department") is issuing an antidumping duty order on Tetrahydrofurfuryl Alcohol from The People's Republic of China.

EFFECTIVE DATE: August 6, 2004.

FOR FURTHER INFORMATION CONTACT: Catherine Bertrand, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482-3207.

Scope of Order

The product covered by this order is tetrahydrofurfuryl alcohol (C₅H₁₀O₂) ("THFA"). THFA, a primary alcohol, is a clear, water white to pale yellow liquid. THFA is a member of the heterocyclic compounds known as furans and is miscible with water and soluble in many common organic solvents. THFA is currently classifiable in the Harmonized Tariff Schedules of the United States ("HTSUS") under subheading 2932.13.00.00. Although the HTS subheadings are provided for convenience and for customs purposes, the Department's written description of the merchandise subject to the order is dispositive.

Background

In accordance with section 735(a) of the Act, the Department made its final determination that THFA from the People's Republic of China ("PRC") is being sold at less than fair value. See *Notice of Final Determination of Sales at Less Than Fair Value: Tetrahydrofurfuryl Alcohol From The People's Republic of China*, 69 FR 34130 (June 18, 2004).