

be held 37 days after the publication of this notice, or the first business day thereafter. Interested parties may submit case briefs within 30 days of the date of publication of this notice. Rebuttal briefs, which must be limited to issues raised in the case briefs, may be filed not later than 35 days after the date of publication of this notice. The Department will issue the final results of this administrative review, which will include the results of its analysis of issues raised in any such comments, within 120 days of publication of the preliminary results.

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 and notice are in accordance with sections 751(a)(1) and 777(I)(1) of the Act.

Dated: December 1, 2003.

James J. Jochum,

Assistant Secretary for Import Administration.

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DEPARTMENT OF COMMERCE

International Trade Administration

[A-549-817]

Certain Hot-Rolled Carbon Steel Flat Products From Thailand: Preliminary Results and Partial Rescission of Antidumping Duty Administrative Review

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

EFFECTIVE DATE: December 8, 2003.

FOR FURTHER INFORMATION CONTACT: Michael Ferrier at (202) 482-1394 or Abdelali Elouaradia at (202) 482-1374, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Ave, NW., Washington, DC 20230.

SUMMARY: The Department of Commerce ("the Department") is conducting an administrative review of the antidumping duty order on certain hot-

rolled carbon steel flat products from Thailand ("hot-rolled steel") manufactured/exported by Sahaviriya Steel Industries Public Company Limited ("SSI"). The period of review ("POR") covers the period May 3, 2001, through October 31, 2002. We have preliminarily determined that SSI did not make sales of the subject merchandise at less than normal value ("NV") (*i.e.*, they made sales at zero or *de minimis* dumping margins). If these preliminary results are adopted in the final results of this administrative review, we will instruct the U.S. Customs and Border Protection ("CBP") to liquidate appropriate entries without regard to antidumping duties. We invite interested parties to comment on these preliminary results. We request parties who submit argument in these proceedings to submit with the argument (1) a statement of the issues and (2) a brief summary of the argument.

SUPPLEMENTARY INFORMATION:

Background

On November 29, 2001, the Department published the antidumping duty order on hot-rolled steel (*see Antidumping Duty Order: Certain Hot-Rolled Carbon Steel Flat Products From Thailand*, 66 FR 59562) ("HRC Order"). On November 1, 2002, the Department published a notice of opportunity to request an administrative review for this order covering the period May 3, 2001, through October 31, 2002 (*see Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review*, 67 FR 66612). On November 27, 2002, SSI requested a review in accordance with 19 CFR 351.213(b)(2) of the Department's regulations, and the petitioners requested reviews of SSI, Nakornthai Strip Mill Public Co., Ltd. ("Nakornthai"), and Siam Strip Mill Public Co., Ltd. ("Siam Strip") under 19 CFR 351.213(b)(1) of the Department's regulations. The petitioners are Nucor Corporation, National Steel Corporation, and United States Steel Corporation. On November 29, 2002, Siam Strip submitted a letter to the Department stating that they did not sell, ship, or export subject merchandise to the United States during the POR. The Department initiated these reviews on December 26, 2002 (*see Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 67 FR 78772).

On January 6, 2003, the Department issued the antidumping duty questionnaire to SSI, Nakornthai, and Siam Strip. On January 10, 2003,

petitioners filed a letter requesting that the Department verify the questionnaire responses filed by SSI, Nakornthai, and Siam Strip. On February 19, 2003, SSI filed its section A response. On February 26, 2003, SSI filed its sections B and C responses and on March 5, 2003, SSI filed its section D response. Petitioners filed comments on SSI's section A through D responses on the following dates: March 6, 2003, for section A; March 12, 2003, for sections B and C; and March 20, 2003 for section D. On March 20, 2003, and May 12, 2003, SSI filed comments in response to petitioners' comments. SSI filed its supplemental responses on the following dates: April 15, 2003, for supplemental section A, April 22, 2003, for supplemental section D, and April 15, 2003, for supplemental sections B and C. Petitioners filed additional comments on SSI's supplemental sections A through C responses on April 24, 2003, and May 7, 2003. On May 7, 2003, SSI submitted minor corrections to the data provided in its questionnaire responses. Petitioners filed cost verification comments on May 12, 2003, and May 14, 2003, and sales verification comments on June 10, 2003. SSI filed its third supplemental response with the Department on May 22, 2003. On July 7, 2003, the Department extended the deadline for the preliminary results of this administrative review to no later than December 1, 2003 (*see Notice of Extension of Time Limit for Preliminary Results of Antidumping Duty Administrative Review: Certain Hot-Rolled Carbon Steel Flat Products from Thailand*, 68 FR 40243). On October 6, 2003, SSI submitted additional minor corrections to the data provided in its questionnaire responses. As requested, on October 14, 2003, SSI submitted a revised version of its COP/CV database and a revised sales data base on November 18, 2003.

Partial Rescission

On January 22, 2002, Nakornthai submitted a statement that it had no sales to the United States during the POR. On January 24, 2002, Siam Strip submitted a similar statement. The Department conducted a query of CBP data on entries of hot-rolled steel from Thailand made during the POR, and confirmed that these companies made no entries during this period. Therefore, we preliminarily determine to rescind these reviews with respect to Nakornthai and Siam Strip in accordance with section 351.213 (d)(3) of the Department's regulations.

Scope of the Review

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

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

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

All products that meet the physical and chemical description provided

above are within the scope of this review unless otherwise excluded. The following products, by way of example, are outside or specifically excluded from the scope of this review:

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

The merchandise subject to this review is classified in the HTSUS at subheadings: 7208.10.15.00, 7208.10.30.00, 7208.10.60.00, 7208.25.30.00, 7208.25.60.00, 7208.26.00.30, 7208.26.00.60, 7208.27.00.30, 7208.27.00.60, 7208.36.00.30, 7208.36.00.60, 7208.37.00.30, 7208.37.00.60, 7208.38.00.15, 7208.38.00.30, 7208.38.00.90, 7208.39.00.15, 7208.39.00.30, 7208.39.00.90, 7208.40.60.30, 7208.40.60.60, 7208.53.00.00, 7208.54.00.00, 7208.90.00.00, 7211.14.00.90, 7211.19.15.00, 7211.19.20.00, 7211.19.30.00, 7211.19.45.00, 7211.19.60.00, 7211.19.75.30, 7211.19.75.60, and 7211.19.75.90. Certain hot-rolled carbon steel flat products covered by this review, including: vacuum degassed fully stabilized; high strength low alloy; and the substrate for motor lamination steel may also enter under the following tariff numbers: 7225.11.00.00, 7225.19.00.00, 7225.30.30.50, 7225.30.70.00, 7225.40.70.00, 7225.99.00.90, 7226.11.10.00, 7226.11.90.30, 7226.11.90.60, 7226.19.10.00, 7226.19.90.00, 7226.91.50.00, 7226.91.70.00, 7226.91.80.00, and 7226.99.00.00. Subject merchandise

may also enter under 7210.70.30.00, 7210.90.90.00, 7211.14.00.30, 7212.40.10.00, 7212.40.50.00, and 7212.50.00.00. Although the HTSUS subheadings are provided for convenience and CBP purposes, the written description of the merchandise under review is dispositive.

Period of Review

The POR is May 3, 2001, through October 31, 2002.

Verification

As provided in section 782(i) of the Tariff Act of 1930, as amended (“the Act”), we verified cost of production from May 26, 2003, through May 30, 2003, and sales information from October 27, 2003, through November 1, 2003, using standard verification procedures, including an examination of relevant sales, cost, financial records, and selection of original documentation containing relevant information. Our verification results are outlined in the public versions of the verification reports and are on file in the Department’s Central Records Unit located in Room B–099 of the main Department of Commerce Building, 14th Street and Constitution Avenue, NW., Washington, DC.

Affiliated Party Issue

On March 12, 2003, and May 6, 2003, the petitioner submitted comments alleging that SSI and one of its U.S. customers, a trading company, were affiliated under section 771(33) of the Act. Because of this alleged affiliation, the petitioner claims that the prices from this alleged affiliated customer to the first unaffiliated customers in the U.S. should be used.

SSI and company A (the identity of this other company is business proprietary and can not be disclosed in this public notice) are owners in a number of other ventures (*e.g.*, Thai Cold Rolled Steel and Thai Coated Rolled Steel) and, therefore, the petitioner claims that SSI and company A are affiliated. Company A also is one of two companies that jointly control the U.S. customer. Petitioner claims that because: (1) SSI is affiliated with company A via their involvement in other ventures, and (2) company A is in a position to control the U.S. customer, the Department should find that SSI and the U.S. customer are affiliated and that their relationship has the potential to impact the product under investigation.

The petitioner also emphasizes that the characteristics of SSI’s and company A’s relationship indicate that there is affiliation based on, for example, the long term capital investment of both

companies in the other ventures and inter-company business relationships (e.g., SSI sells subject merchandise to Thai Cold Rolled and company A acts as SSI's selling arm for some of its non-subject merchandise).

SSI claims that it is not affiliated with company A pursuant to Section 771(33)(F) nor the U.S. customer, a trading company, and thus it did not supplement its U.S. sales data with the sales made by the U.S. trading company to the next unaffiliated customer. SSI claims that it did not commonly control Thai Cold Rolled Steel with company A nor was it required to sell subject merchandise to Thai Cold Rolled Steel and that Thai Cold Rolled Steel has other suppliers. Additionally, SSI points out that it does not have ownership in company A nor in the U.S. customer, and that there are no common family members, officers or director, partner or employer/employee relationships between SSI and company A or the U.S. customer.

In this case, the Department preliminarily does not find that SSI and the U.S. customer were affiliated, because the nature of the relationship between SSI and company A, one of the two owners of the U.S. customer, with respect to non-subject merchandise did not have the potential to impact decisions concerning the production, pricing or cost of the subject merchandise.

Fair Value Comparisons

To determine whether sales of subject merchandise were made in the United States at less than fair value, we compared the export price (EP) or constructed export price (CEP) to the NV, as described in the "Export Price and Constructed Export Price" and "Normal Value" sections of this notice. In accordance with section 777A(d)(1)(A)(i) of the Act, we calculated EPs and compared these prices to weighted-average normal values or CVs, as appropriate.

Export Price

In accordance with section 772 of the Act, we calculated either an EP or a CEP, depending on the nature of each sale. Section 772(a) of the Act defines EP as the price at which the subject merchandise is first sold by the foreign exporter or producer before the date of importation to an unaffiliated purchaser in the United States, or to an unaffiliated purchaser for exportation to the United States. We have preliminarily determined that all of SSI's U.S. sales during the POR were EP sales.

We calculated EP based on prices charged to the first unaffiliated U.S. customer, which was a trading company in this case. We used the final contract date as the date of sale as determined by the Department in the original investigation. We based EP on the packed CFR prices to the first unaffiliated purchasers outside Thailand. We made deductions for movement expenses in accordance with section 772(c)(2)(A) of the Act, including: foreign inland freight and foreign brokerage and handling.

Duty Drawback

Section 772(c)(1)(B) of the Act provides that EP shall be increased by "the amount of any import duties imposed by the country of exportation which have been rebated, or which have not been collected, by reason of the exportation of the subject merchandise to the United States." The Department determines that an adjustment to U.S. price for claimed duty drawback is appropriate when a company can demonstrate that (1) there is a sufficient link between the import duty and the rebate, and (2) there are sufficient imports of the imported material to account for the duty drawback received for the export of the manufactured product (the "two pronged test"). See *Rajinder Pipes Ltd. v. United States*, 70 F. Supp. 2d 1350, 1358 (CIT 1999). See also *Certain Welded Carbon Standard Steel Pipes and Tubes from India: Final Results of New Shippers Antidumping Duty Administrative Review*, 62 FR 47632 (September 10, 1997) and *Federal Mogul Corp. v. United States*, 862 F. Supp. 384, 409 (CIT 1994).

During the POR, SSI received duty drawback for its U.S. sales and for certain sales in the home market that were exported from Thailand as non-subject merchandise by unaffiliated further manufacturers and produced from SSI hot-rolled coil. Under the Thai Board of Investment ("BOI") duty drawback scheme, SSI applies to the BOI for a duty exemption for the imported slab with the BOI maintaining a running tally of SSI's requests for slab exemptions. When SSI intends to export, it again applies to the BOI requesting a duty exemption for the exported material. During verification, the Department found that SSI maintains its duty exemption records on a FIFO (first in first out) basis. SSI noted that it applies for the BOI import surcharge exemption when the company expects export sales. Additionally, we noted that when SSI submits its application for duty drawback, SSI is not required by the Thai government to link the specific imported slab to the

specific exported hot-rolled coil. The Department concludes that for SSI's U.S. sales, the company uses a methodology consistent with Department practice for applying its duty drawback received upon export of subject merchandise to the United States. See *Far East Mach. II*, 12 CIT at 975, 699 F.Supp. at 312; see also *Final Determination of Sales at Less Than Fair Value: Oil Country Tubular Good from Korea*, 60 FR 33561 (June 28, 1995). SSI meets the second criterion of the two-pronged test for its U.S. sales, as all of SSI's hot-rolled steel is made from imported slab. With respect to the duty drawback SSI received from certain home market sales that were ultimately exported, SSI received duty drawback from the BOI when the exporting company applied for the duty drawback. SSI stated that only one of its home market customers applied to the BOI for the import duty exemption. For this company, SSI applied the amount of drawback it received from the BOI over all of SSI's home market sales to this company. SSI stated that it is unable to determine which sales of hot-rolled coil it made to this further processor were destined for the export market versus the home market. Verification confirms SSI's assertion about the inability to directly link SSI's hot-rolled coil to the further manufactured product, but the Department believes that SSI's domestic customer has an adequate link to the BOI drawbacks for the following reasons. First, SSI stated that this customer applies for duty drawback in the same manner as SSI. Second, SSI's accounting records demonstrate that the company records in its accounting system these duty drawbacks in a similar manner as its U.S. market drawbacks. Thus, the Department finds that there is a sufficient link for SSI's local export sales. Since SSI received this duty drawback from its slab imports, the second criterion of the two pronged test for these local export sales is the same as SSI's direct U.S. sales: all of SSI's hot-rolled steel is made from imported slab. For these preliminary results, the Department is adding the duty drawback as reported by SSI to normal value.

Normal Value

After testing home market viability and whether home market sales were at below-cost prices, the Department calculated NV as noted in the "Price-to-Price Comparisons" and "Price-to-CV Comparison" sections of this notice.

A. Home Market Viability

In determining that there was 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 equal to or greater than five percent of the aggregate volume of U.S. sales), the Department 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)(C) of the Act. Since 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, the Department determined that the home market was viable for SSI. Therefore, the Department has based NV on home market sales in the usual commercial quantities and in the ordinary course of trade.

On February 14, 2003, petitioners alleged that a particular market situation existed in Thailand during the POR that does not permit a proper comparison with the export price or constructed export price and, therefore, normal value should be calculated based on prices to a third country. On March 4, 2003, SSI responded to petitioners February 14, 2003, letter urging the Department to reject petitioners' claim of a particular market situation in Thailand during the POR. On March 17, 2003, petitioners responded to SSI's March 4, 2003, response. On March 20, 2003, the Department issued a supplemental questionnaire to SSI regarding the alleged particular market situation. SSI filed its supplemental response on March 28, 2003. On April 24, 2003, petitioners filed additional comments and requested that the Department obtain third country sales information from SSI for calculating normal value. On June 10, 2003, the Department issued a second supplemental questionnaire to SSI regarding the particular market situation. SSI filed its response on June 20, 2003. The Department issued a decision memorandum to interested parties stating that a particular market situation did not exist during the POR in Thailand (*see Memorandum For Barbara Tillman, Acting Deputy Assistant Secretary for Import Administration, Group III, From Richard O. Weible, Director, Office 8, August 22, 2003*). The Department concluded that there was insufficient information to suggest that a particular market situation exists, whereby prices for the domestic like product are not

competitively set. We have preliminary determined that there is not a particular market situation in Thailand that would prevent a proper comparison with the export price or constructed export price. Therefore, the Department did not request SSI to report sales to its largest third country market.

B. Arm's Length Sales

SSI reported that during the POR, it made sales in the home market to affiliated and unaffiliated end users and distributors/retailers. SSI reported the downstream sales of its affiliated reseller of the foreign like product and SSI's sales to its affiliated customers who consumed the hot-rolled steel in the production of non-subject merchandise. If any sales to affiliated customers in the home market were not made at arm's length prices, we excluded those sales from our analysis because we considered them to be outside the ordinary course of trade. To test whether these sales were made at arm's-length prices, we compared on a model-specific basis the starting prices of sales to affiliated and unaffiliated customers, net of all billing adjustments, early payment discounts, movement charges, direct selling expenses, and home market packing. Where prices to the affiliated party fell, on average, between 98 percent and 102 percent, inclusive, of sale prices of the same or comparable merchandise sold by that exporter or producer to all unaffiliated customers, we determined that sales made to the related party were at arm's length. *See Antidumping Proceedings: Affiliated Party Sales in the Ordinary Course of Trade*, 67 FR 69186 (November 15, 2002). We performed the arm's length test on the sales to SSI's affiliated customers who consumed the hot-rolled steel. We excluded sales to those customers who failed the arm's length test. In our home market NV calculation, we have included SSI's reported downstream sales.

C. Cost of Production Analysis

The Department initiated a sales below cost investigation to determine in fact whether the respondent made home market sales during the POR at prices below their cost of production (COP) within the meaning of section 773(b) of the Act. Based on the fact that the Department had disregarded sales in the less than fair value investigation because they were made below the COP, the Department has reasonable grounds, in accordance with section 773(b)(2)(A)(ii) of the Act, to believe or suspect that respondent made home market sales in this review at prices

below the cost of producing the merchandise.

In accordance with section 773(b)(3) of the Act, we calculated COP based on the sum of SSI's cost of materials and fabrication for the foreign like product, plus an amount for home market SG&A, interest expenses, and the cost of all expenses incidental to placing the foreign like product in condition packed ready for shipment.

We used the information from SSI's section D questionnaire and supplemental questionnaire responses to calculate COP, except in the following adjustment. First, we revised the company's reported general and administrative ("G&A") expenses to exclude foreign exchange gains and losses. Second, we revised the company's reported financial expenses to include the total net consolidated foreign exchange gain. In addition, we revised the company's reported financial expenses to exclude gains from investments in affiliated parties. For further discussion of these adjustments, *see Memorandum to Neal Halper, from Mark Todd, regarding Cost of Production and Constructed Value Calculation Adjustments for the Preliminary Results*, dated December 1, 2003.

We compared the weighted-average COP to home market sales prices of the foreign like product, as required under section 773(b) of the Tariff Act. In determining whether to disregard home market sales made at prices less than the COP, we examined whether such sales were made (i) in substantial quantities over an extended period of time, and (ii) at prices which permitted the recovery of all costs within a reasonable period of time. On a product-specific basis, we compared COP to home market prices, less any applicable movement charges, billing adjustments, taxes, and discounts and rebates.

Pursuant to section 773(b)(2)(C)(i) of the Act, where less than twenty percent of SSI's sales of a given product were at prices less than the COP, we did not disregard any below-cost sales of that product because we determined that the below-cost sales were not made in "substantial quantities." Where 20 percent or more of a respondent's sales of a given product during the POR were at prices less than the COP, we determined such sales to have been made in substantial quantities, in accordance with section 773(b)(2)(C)(i) of the Act, within an extended period of time, in accordance with section 773(b)(2)(B) of the Act. In such cases, pursuant to section 773(b)(2)(D) of the Act, we also determined that such sales were not made at prices which would

permit recovery of all costs within a reasonable period of time. Therefore, we disregarded the below-cost sales. Where all sales of a specific product were at prices below the COP, we disregarded all sales of that product and relied on sales of similar merchandise to match.

The results of our cost test for SSI indicated that for certain comparison market models, more than 20 percent of the sales of the model were at prices below COP 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 therefore excluded these below-cost sales from our analysis and used the remaining sales as the basis for determining NV.

Constructed Value

In accordance with section 773(e)(1) of the Act, we calculated constructed value ("CV") based on the sum of respondent's cost of materials, fabrication, SG&A, including interest expenses, and profit. In accordance with section 773(e)(2)(A) of the Act, we based SG&A and profit on the amounts incurred and realized by SSI in connection with the production and sale of the foreign like product in the ordinary course of trade for consumption in the foreign country. We used the CV data SSI supplied in its section D questionnaire and supplemental questionnaire responses with the exception of the adjustments to COP noted above.

Price-to-Price Comparisons

We compared SSI's U.S. sales with contemporaneous sales of the foreign like product in the comparison market. We considered identical hot-rolled products based on the following model-match characteristics: whether or not painted, quality, carbon content, yield strength, thickness, width, coil versus cut-to-length, temper rolled, pickled, edge trim, and patterns in relief. We used a 20 percent DIFMER cost deviation cap as the maximum difference in cost allowable for similar merchandise, which we calculated as the absolute value of the difference between the U.S. and comparison market variable costs of manufacturing divided by the total cost of manufacturing of the U.S. product. In accordance with the Department's practice, where all contemporaneous matches to a U.S. sale observation resulted in DIFMER adjustments exceeding 20 percent of the COM of the U.S. product, we based NV on CV.

For those product comparisons for which there were sales at prices at or above the COP, we based NV on the

home market prices to home market customers. We made adjustments, where appropriate, for physical differences in the merchandise in accordance with section 773(a)(6)(C)(ii) of the Act. In accordance with section 773(a)(6)(A) and (B), we deducted home market packing costs and added U.S. packing costs. In addition, we made adjustments for differences in circumstance of sale, as appropriate.

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 contemporaneous comparison market match for the U.S. sale. We calculated CV based on the cost of materials and fabrication employed in producing the subject merchandise, SG&A, interest expense and profit. In accordance with section 773(e)(2)(A) of the Act, we based SG&A expenses, interest and profit on the amounts SSI incurred and realized in connection with the production and sale of the foreign like product in the ordinary course of trade for consumption in Thailand. For selling expenses, we used the weighted-average home market selling expenses. Where appropriate, we made COS adjustments to CV in accordance with section 773(a)(8) of the Act and 19 CFR 351.410 of the Department's regulations.

Currency Conversion

We made currency conversions into U.S. dollars, where appropriate, in accordance with Section 773A(a) of the Act, based on the exchange rates in effect on the dates of the U.S. sales as certified by the Federal Reserve Bank.

Level of Trade

In accordance with section 773(a)(1)(B) 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 transaction or constructed export price (CEP) transaction. The LOT in the comparison market is the LOT of the starting-price sales in the comparison market or, when NV is based on CV, the LOT of the sales from which we derive SG&A expenses and profit. With respect to U.S. price for EP transactions, the LOT is also that of the starting-price sale, which is usually from the exporter to the importer. For CEP, the LOT is that of the constructed sale from the exporter to the importer.

To determine whether comparison market sales are at a different LOT from U.S. sales, we examined 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, the Department makes a LOT adjustment in accordance with section 773(a)(7)(A) of the Act. 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 affects price comparability, the Department adjusts NV under section 773(A)(7)(B) of the Act (the CEP offset provision). See *Notice of Final Determination of Sales at Less Than Fair Value: Certain Cut-to-Length Carbon Steel Plate from South Africa*, 62 FR 61731 (November 19, 1997).

SSI claimed one LOT in the U.S. market and two LOTs in the home market: LOT 1 includes sales through unaffiliated trading companies and direct sales to end-users and LOT 2 includes sales through affiliated trading companies and to service centers. SSI claimed that all U.S. sales are at the same LOT as LOT 1 in the home market. SSI reported four channels of distribution for home market sales made through LOT 1 and LOT 2. The first channel of distribution was sales made through unaffiliated trading companies with two customer categories (*i.e.*, unaffiliated end-users and service centers). The second channel of distribution was sales made through affiliated trading companies with two customer categories (*i.e.*, unaffiliated end-users and service centers). The third channel of distribution was direct sales with two customer categories (*i.e.*, affiliated and unaffiliated end-users and service centers). The fourth channel of distribution was direct sales with one customer category (*i.e.*, affiliated end-users or resellers). In analyzing SSI's selling activities for its home market and U.S. market, we determined that essentially the same services were provided for both markets. Due to the proprietary nature of the levels of these selling activities, for further analysis, see *Memorandum To The File, From Michael Ferrier, regarding Administrative Review of the Antidumping Duty Order on Certain Hot-Rolled Carbon Steel Flat Products from Thailand; Preliminary Results Analysis for SSI*, December 1, 2003. Therefore, based upon this information, we have preliminarily determined that the LOT for all EP sales is the same as the LOT for all sales in the home

market. Accordingly, because we find the U.S. sales and home market sales to be at the same LOT, no LOT adjustment under section 773(a)(7)(A) of the Act is warranted for SSI.

Preliminary Results of Review

As a result of our review, we preliminarily determine the weighted-average dumping margin for the period May 5, 2001, through October 31, 2002, to be as follows:

Manufacturer/Exporter	Margin (percent)
Sahaviriya Steel Industries Public Company Limited	0.00

The cash deposit rates for Siam Strip and Nakornthai will continue to be the cash deposit rate established in the original investigation. *See HRC Order.*

Article VI.5 of the General Agreement on Tariffs and Trade (GATT 1994) prohibits assessing dumping duties on the portion of the margin attributable to an export subsidy. In this case, the product under investigation is subject to a countervailing duty investigation. *See Notice of Final Affirmative Countervailing Duty Determination: Certain Hot-Rolled Carbon Steel Flat Products from Thailand*, 66 FR 50410 (October 3, 2001).

Therefore, for all entries of hot-rolled steel from Thailand entered, or withdrawn from warehouse, for consumption on or after the date on which the order in the companion countervailing duty investigation is published in the **Federal Register**, we will request for duty deposit purposes that the CBP deduct the portion of the margin attributable to export subsidies as determined in the countervailing duty investigation. Since SSI received a zero margin for this administrative review, no adjustment for export subsidies is necessary.

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) of the Department's regulations. An interested party may request a hearing within 30 days of publication. *See* CFR 351.310(c) of the Department's regulations. 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) of the Department's regulations. 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. The Department will issue the final results of this administrative review, 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.

Upon completion of the 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) of the Department's regulations, we have calculated 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 quantity of the sales used to calculate those duties. This rate will be assessed uniformly on all entries of merchandise of that manufacturer/exporter made during the POR. To determine whether the duty assessment rate was *de minimis*, in accordance with the requirement set forth in 19 CFR 351.106(c)(2) of the Department's regulations, we calculated ad valorem ratios based on the EPs. We will instruct CBP to liquidate without regard to antidumping duties any entries for which the assessment rate is *de minimis* (*i.e.*, less than 0.50 percent), pursuant to 19 CFR 351.106(c)(2) of the Department's regulations. The Department will issue appropriate appraisement instructions directly to CBP upon completion of the review.

Furthermore, the following deposit requirement will be effective upon completion of the final results of this administrative review for all shipments of hot-rolled steel from Thailand 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 administrative review, except if the rate is less than 0.50 percent and, therefore, *de minimis* within the meaning of 19 CFR 351.106 of the Department's regulations, the cash deposit will be zero; (2) for merchandise exported by manufacturers or exporters not covered in this review but covered in the original less-than-

fair-value (LTFV) investigation or a previous review, the cash deposit will continue to be the most recent rate published in the final determination or final results for which the manufacturer or exporter received a company-specific rate; (3) if the exporter is not a firm covered in this review, or the original investigation, but the manufacturer is, the cash deposit rate will be that established for the manufacturer of the merchandise in the final results of this review, or the LTFV investigation; and (4) if neither the exporter nor the manufacturer is a firm covered in this review or any previous reviews, the cash deposit rate will be 3.86 percent, the "all others" rate established in the LTFV investigation (*see HRC Order*).

This deposit requirement, when imposed at the final results, shall remain in effect until publication of the final results of the next administrative review.

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f) of the Department's regulations 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: December 1, 2003.

James J. Jochum,
Assistant Secretary for Import
Administration.

[FR Doc. 03-30388 Filed 12-5-03; 8:45 am]

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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.

ACTION: Notice of preliminary results of antidumping duty administrative review.

SUMMARY: In response to requests from Nucor Corporation and Bethlehem Steel Corporation, National Steel Corporation,