

Notification to Interested Parties

This notice also serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO, in accordance with 19 CFR 351.305 and as explained in the APO. Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

This notice is in accordance with section 777(i)(1) of the Tariff Act of 1930, as amended and 19 CFR 251.213(d)(4).

Dated: May 29, 2009.

John M. Andersen,

Acting Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

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DEPARTMENT OF COMMERCE

International Trade Administration

[C-423-809]

Stainless Steel Plate in Coils from Belgium: Preliminary Results of Countervailing Duty Administrative Review

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

SUMMARY: The Department of Commerce is conducting an administrative review of the countervailing duty order on stainless steel plate in coils from Belgium for the period January 1, 2007, through December 31, 2007. We preliminarily find that ArcelorMittal Stainless Belgium N.V. ("AMS Belgium") did not receive any countervailable subsidies in this review and its rate is, consequently, zero. Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: June 4, 2009.

FOR FURTHER INFORMATION CONTACT: David Layton or Alexander Montoro, AD/CVD Operations, Office 1, Import Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-0371 and (202) 482-0238, respectively.

SUPPLEMENTARY INFORMATION:

Background

On May 11, 1999, the Department of Commerce ("the Department")

published a countervailing duty order ("CVD") on stainless steel plate in coils ("SSPC") from Belgium. *See Notice of Amended Final Determinations: Stainless Steel Plate in Coils from Belgium and South Africa; and Notice of Countervailing Duty Orders: Stainless Steel Plate in Coils from Belgium, Italy and South Africa*, 64 FR 25288 (May 11, 1999) ("CVD Order"). On March 11, 2003, as a result of litigation, the Department published an amended CVD order on stainless steel plate in coils from Belgium. *See Notice of Amended Countervailing Duty Orders: Certain Stainless Steel Plate in Coils From Belgium, Italy, and South Africa*, 68 FR 11524 (March 11, 2003). On May 5, 2008, the Department published a notice of "Opportunity to Request Administrative Review" for this CVD order. *See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity To Request Administrative Review*, 73 FR 24532 (May 5, 2008). On June 2, 2008, we received a request for review from Ugine & ALZ Belgium ("U&A Belgium"), a Belgian producer of SSPC.¹ In accordance with 19 CFR 351.221(c)(1)(i), we published a notice of initiation of the review on July 1, 2008, covering the period January 1, 2007 through December 31, 2007. *See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Requests for Revocation in Part*, 73 FR 37409 (July 1, 2008).

On August 18, 2008, we issued CVD questionnaires to the Government of Belgium ("GOB"), the Commission of the European Union ("EC"), and U&A Belgium. We received responses to these questionnaires on October 15, 2008, from the EC and on October 22, 2008, from the GOB and AMS Belgium (formerly U&A Belgium). On January 28, 2009, we issued supplemental questionnaires to the GOB and AMS Belgium. We received responses for the supplemental questionnaires from both the GOB and AMS Belgium on March 4, 2009. On April 16, 2009, we issued a second supplemental questionnaire to AMS Belgium, and we received its response on April 22, 2009. On May 4, 2009, we issued a second supplemental questionnaire to the GOB. On May 8, 2009, the GOB requested an extension to

¹ The review was originally requested by U&A Belgium. The company previously known as U&A Belgium stated in questionnaire responses that its name changed to ArcelorMittal Stainless Belgium ("AMS Belgium") during the period of review ("POR") pursuant to the merger of Mittal Steel NV with Arcelor S.A. completed on November 11, 2007. *See* AMS Belgium Questionnaire Response dated October 22, 2008 ("AMS QR") at page 1, footnote 1, and page 4, footnote 2.

file its supplemental response, which we granted. *See* Memorandum from Susan Kuhnback to file, entitled "SSPC from Belgium – Meeting with GOB," May 20, 2009.

On January 28, 2009, we extended the time limit for the preliminary results in this review until June 1, 2009. *See Stainless Steel Plate in Coils From Belgium: Extension of Time Limit for Preliminary Results of the Countervailing Duty Administrative Review*, 74 FR 4940 (January 28, 2009).

Scope of the Order

The products covered by the order are imports of certain stainless steel plate 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 plate products are flat-rolled products, 254 mm or over in width and 4.75 mm or more in thickness, in coils, and annealed or otherwise heat treated and pickled or otherwise descaled. The subject plate may also be further processed (e.g., cold-rolled, polished, etc.) provided that it maintains the specified dimensions of plate following such processing. Excluded from the scope of the order are the following: (1) plate not in coils, (2) plate that is not annealed or otherwise heat treated and pickled or otherwise descaled, (3) sheet and strip, and (4) flat bars.

The merchandise subject to the order is currently classifiable in the Harmonized Tariff Schedule of the United States ("HTSUS") at subheadings: 7219.11.00.30, 7219.11.00.60, 7219.12.00.05, 7219.12.00.06, 7219.12.00.20, 7219.12.00.21, 7219.12.00.25, 7219.12.00.26, 7219.12.00.50, 7219.12.00.51, 7219.12.00.55, 7219.12.00.56, 7219.12.00.65, 7219.12.00.66, 7219.12.00.70, 7219.12.00.71, 7219.12.00.80, 7219.12.00.81, 7219.31.00.10, 7219.90.00.10, 7219.90.00.20, 7219.90.00.25, 7219.90.00.60, 7219.90.00.80, 7220.11.00.00, 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, 7220.90.00.10, 7220.90.00.15, 7220.90.00.60, and 7220.90.00.80. Although the HTSUS subheadings are provided for convenience and customs purposes, the Department's written description of the scope of the order remains dispositive.

Period of Review

The period for which we are measuring subsidies, *i.e.*, the POR, is

January 1, 2007, through December 31, 2007.

Changes in Ownership

In the CVD investigation that resulted in the order, we examined a single producer/exporter of the subject merchandise, ALZ N.V. ALZ N.V. was owned by Sidmar N.V. *See Final Affirmative Countervailing Duty Determination; Stainless Steel Plate in Coils from Belgium*, 64 FR 15567 (March 31, 1999) (“SSPC from Belgium Investigation”); *See also Stainless Steel Plate in Coils From Belgium: Final Results of Countervailing Duty Administrative Review*, 66 FR 45007 (August 27, 2001), and accompanying Issues and Decision Memorandum (“SSPC from Belgium First Review”).

In the most recent review, we recognized that Sidmar N.V. had transferred its shares in ALZ N.V. to Arcelor S.A., which was formed in the 2002 merger of Sidmar N.V.’s parent, Arbed S.A., with Aceralia and Usinor S.A., and the company formerly named ALZ N.V. had become U&A Belgium. *See Stainless Steel Plate in Coils From Belgium: Preliminary Results of Countervailing Duty Administrative Review*, 73 FR 32303 (June 6, 2008); unchanged in *Stainless Steel Plate in Coils from Belgium: Final Results of Countervailing Duty Administrative Review*, 73 FR 75673 (December 12, 2008) (“2006 SSPC Final”).

In the current POR, U&A Belgium changed its name to AMS Belgium. AMS Belgium is wholly owned by ArcelorMittal S.A. as a result of the November 13, 2007, merger of Arcelor S.A. and Mittal Steel N.V.

Effective June 30, 2003, the Department adopted a new methodology for analyzing privatizations in the CVD context. *See Notice of Final Modification of Agency Practice Under Section 123 of the Uruguay Round Agreements Act*, 68 FR 37125 (June 23, 2003). The Department’s methodology is based on a rebuttable “baseline” presumption that non-recurring, allocable subsidies continue to benefit the subsidy recipient throughout the allocation period (which normally corresponds to the average useful life (“AUL”) of the recipient’s assets). *Id.*, at 37127. However, an interested party may rebut this baseline presumption by demonstrating that, during the allocation period, a change in ownership occurred in which the former owner sold all or substantially all of a company or its assets, retaining no control of the company or its assets, and that the sale was an arm’s length transaction for fair market value. *Id.*

As explained above, AMS Belgium’s ownership changed during the AUL period as a result of various mergers. However, AMS Belgium has not attempted to rebut the Department’s baseline presumption that the non-recurring, allocable subsidies received prior to any changes in ownership continue to benefit the company throughout the allocation period. *See* AMS QR at page 13.

Allocation Period and Attribution

In prior reviews, the Department attributed subsidies received by Sidmar N.V. to ALZ N.V., in accordance with 19 CFR 351.525(b)(6)(iii), because ALZ N.V. was a fully consolidated subsidiary of Sidmar N.V.

In *SSPC from Belgium Investigation*, in accordance with a U.S. Court of International Trade (“CIT”) decision, we calculated company-specific allocation periods for non-recurring subsidies using company-specific AUL data. *See British Steel plc v. United States*, 929 F. Supp. 426, 439 (CIT 1996). We determined that the AUL for ALZ N.V. was 15 years, and that the AUL for Sidmar N.V. was 19 years. *See SSPC from Belgium Investigation*, 64 FR at 15568.

In the first administrative review, the Department adopted new CVD regulations, which were applicable to the review, and determined to use a 15-year AUL for the review including any new subsidies received by Sidmar N.V. *See SSPC from Belgium First Review*, and accompanying Issues and Decision Memorandum at Comment 2. *See* 19 CFR 351.524(d)(2). However, with respect to non-recurring subsidies received prior to the first administrative review which had already been countervailed and allocated based on an allocation period established in *SSPC from Belgium Investigation*, we continued to allocate those non-recurring subsidies over 19 years for Sidmar N.V. As we noted at the time, this methodology was consistent with our approach in *Certain Carbon Steel Products from Sweden: Final Results of Countervailing Duty Administrative Review*, 62 FR 16549 (April 7, 1997) and *Certain Pasta From Italy: Final Results of the Third Countervailing Duty Administrative Review*, 66 FR 11269 (February 23, 2001) and accompanying Issues and Decision Memorandum at “Allocation Period.” *See SSPC from Belgium First Review*, and accompanying Issues and Decision Memorandum at Comment 2.

In the current administrative review, AMS Belgium has not commented on the Department’s use of the 15-year AUL period or the use of a 19-year AUL for

Sidmar N.V.’s non-recurring subsidies received by the company in the investigation. For the preliminary results, we are using a 15-year AUL for AMS Belgium, in accordance with 19 CFR 351.524(d)(2). The subsidy benefits previously found to have been received by Sidmar N.V. in the investigation and allocated over the 19-year AUL have been fully allocated and, therefore, are not included in the CVD rate established in this review.

Analysis of Programs

I. Programs Preliminarily Determined Not to Have Been Used or Not to Have Provided Benefits

We examined the following programs and preliminarily determine that AMS Belgium did not apply for or receive benefits under these programs during the POR:

A. Government of Belgium Programs

1. Subsidies Provided to Sidmar that are Potentially Attributable to ALZ N.V.:
 - a. Water Purification Grants
 2. Societe Nationale pour la Reconstruction des Secteurs Nationaux
 3. Regional Subsidies under the 1970 Law Investment and Interest Subsidies
 4. Regional Subsidies under the Economic Expansion Law of 1970
 - a. Expansion Real Estate Tax Exemption
 - b. Accelerated Depreciation
 5. Reduced Social Security Contributions Pursuant to the Maribel Scheme (Article 35 of the Law of June 29, 1981)
 6. 1987 ALZ Common Share Transaction Between the GOB and Sidmar (also identified as 1985 ALZ Share Subscriptions and Subsequent Transactions in the CVD Order)
 7. Industrial Reconversion Zones:
 - a. Alfin
 - b. Albufin
 8. Belgian Industrial Finance Company (“Belfin”) Loans
 9. Societe Nationale de Credite a l’Industrie (“SNCI”) Loans
 10. Conversion of Sidmar’s Debt to Equity (OCPC-to-PB) in 1985
 11. SidInvest Conditional Refundable Advances

B. Government of Flanders Programs

1. Regional subsidies under the 1970 Law
 - a. Corporate Income Tax Exemption
 - b. Capital Registration Tax Exemption
 - c. Government Loan Guarantees
 - d. 1993 Expansion Grant
2. Special Depreciation Allowance

3. Preferential Short-Term Export Credit
4. Interest Rate Rebates

C. Programs of the European Commission

1. ECSC Article 54 Loans and Interest Rebates
2. ECSC Article 56 Conversion Loans, Interest Rebates and Redeployment Aid
3. European Social Fund Grants
4. European Regional Development Fund Grants
5. Resider II Program

II. Issues for Which More Information is Required

On May 4, 2009, the Department sought information from the GOB concerning a research and development program administered by the Institute for the Promotion of Innovation by Science and Technology in Flanders. See March 4, 2009 AMS Belgium supplemental questionnaire response at pages 12–14 and Appendices S–5 and S–12 through S–17. In the previous review, the Department stated that it would defer examination of this program until a future review. See *2006 SSPC Final*, and accompanying “Issues and Decision Memorandum for the Final Results of the Eighth (2006) Administrative Review of the Countervailing Duty Order on Stainless Steel Plate in Coils from Belgium” in the “Analysis of Programs” section. On May 8, 2009, the GOB requested, and we granted, an extension to file its supplemental response on this program. As a result, we will not receive the GOB’s supplemental response until after the preliminary results of this review are issued.

After reviewing the documentation receive to date, we have determined that we do not have sufficient information to make a finding regarding this program at this time. After we receive the GOB’s supplemental questionnaire response, we intend to issue an interim analysis providing preliminary findings with respect to this program so that parties will have the opportunity to comment.

Preliminary Results of Review

We preliminarily find that AMS Belgium, the only producer/exporter subject to this administrative review, had no countervailable subsidies during the POR. Therefore, for the period January 1, 2007, through December 31, 2007, we preliminarily determine the net subsidy rate for AMS Belgium to be 0.00 percent *ad valorem*. Consequently, if these preliminary results are adopted in our final results of this review, the Department will instruct U.S. Customs

and Border Protection (“CBP”) to liquidate shipments of SSPC by AMS Belgium² entered or withdrawn from warehouse, for consumption from January 1, 2007, through December 31, 2007, without regard to countervailing duties. See 19 CFR 351.106(c)(1). We intend to issue these instructions 15 days after publication of the final results of this review.

The final results of this review shall be the basis for future deposits of estimated duties. If the cash deposit rate calculated in the final results is zero or *de minimis*, no cash deposit will be required. The cash deposit requirement, when imposed, shall remain in effect until further notice.

We will instruct CBP to continue to collect cash deposits for non-reviewed companies covered by the order at the most recent company-specific rate applicable to the company. Accordingly, the cash deposit rate that will be applied to non-reviewed companies covered by the order will be the rate for that company established in the investigation or most recent administrative review. The “all others” rate shall apply to all non-reviewed companies that have not received an individual rate.

Public Comment

Interested parties may submit written arguments in case briefs no later than one week after the issuance of the interim analysis. See 19 CFR 351.309(c). Rebuttal briefs, limited to issues raised in case briefs, may be filed no later than five days after the date of filing the case briefs. See 19 CFR 351.309(d). Parties who submit briefs in this proceeding should provide a summary of the arguments not to exceed five pages and a table of statutes, regulations, and cases cited. See 19 CFR 351.309(c)(2) and (d)(2). Copies of case briefs and rebuttal briefs must be served on interested parties in accordance with 19 CFR 351.303(f).

² During the current review AMS Belgium has placed the following information on the record. In 2006, U&A Belgium’s parent company, Arcelor S.A., agreed to merge with Mittal Steel N.V. This merger was completed on November 13, 2007. As a result of this merger, U&A Belgium became AMS Belgium on November 13, 2007. The Department has reviewed the information provided by AMS Belgium with regard to the merger and evaluated the company and its affiliates for receipt of countervailable subsidies. In addition, we have reviewed entry data provided by CBP to confirm that U&A Belgium is the only manufacturer of subject merchandise exported from Belgium during the POR. For countervailing duty review purposes, we will consider U&A Belgium to be AMS Belgium for cash deposit purposes. Since the merger happened during the POR, we will issue assessment instructions for both U&A Belgium and AMS Belgium.

Interested parties may request a hearing within 30 days after the date of publication of this notice. See 19 CFR 351.310(c). Unless otherwise specified, the hearing, if requested, will be held two days after the scheduled date for submission of rebuttal briefs. See 19 CFR 351.310(d)(1).

The Department will publish a notice of the final results of this administrative review within 120 days from the publication of these preliminary results. See section 751(a)(3)(A) of the Tariff Act of 1930, as amended (“Act”).

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

Dated: May 28, 2009.

Ronald K. Lorentzen,

Acting Assistant Secretary for Import Administration.

[FR Doc. E9–13066 Filed 6–3–09; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[C–552–805]

Polyethylene Retail Carrier Bags from the Socialist Republic of Vietnam: Postponement of Preliminary Determination in the Countervailing Duty Investigation

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

EFFECTIVE DATE: June 4, 2009.

FOR FURTHER INFORMATION CONTACT: Gene Calvert or Jun Jack Zhao, AD/CVD Operations, Office 6, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, DC 20230; telephone: (202) 482–3586 and (202) 482–1396, respectively.

SUPPLEMENTARY INFORMATION:

Background

On April 20, 2009, the Department of Commerce (the Department) initiated the countervailing duty investigation of polyethylene retail carrier bags from the Socialist Republic of Vietnam. See *Polyethylene Retail Carrier Bags from Vietnam: Initiation of Countervailing Duty Investigation and Request for Public Comment on the Application of the Countervailing Duty Law on Imports From the Socialist Republic of Vietnam*, 74 FR 19064 (April 27, 2009). Currently, the preliminary determination is due no later than June 24, 2009.