

Due to the premature liquidation of entries, the Department is considering whether to allocate the total antidumping duties over the remaining unliquidated entries, if the Department calculates an above *de minimis* weighted-average dumping duty margin in the final results of review. We invite interested parties to comment on this proposal.

Cash-Deposit Requirements

Further, the following deposit requirements will be effective upon publication of the notice of final results of administrative review for all shipments of cut-to-length carbon steel plate entered, or withdrawn from warehouse, for consumption on or after the date of publication, as provided by section 751(a)(1) of the Act: (1) The cash-deposit rate for MS Galati will be the rate established in the final results of review, except if the rate is less than 0.50 percent and, therefore, *de minimis* within the meaning of section 351.106(c)(1) of the Department's regulations, in which case the cash deposit rate will be zero; (2) for previously reviewed or investigated companies not mentioned above, the cash-deposit rate will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review, a prior review, or the less-than-fair-value ("LTFV") investigation but the manufacturer is, then the cash-deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and (4) if neither the exporter nor the manufacturer is a firm covered in this review, a prior review, or the LTFV investigation, the cash deposit rate will be 75.04 percent, the "country-wide" rate established in the less-than-fair-value investigation. These deposit requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

Schedule for Final Results of Review

The Department will disclose calculations performed for these preliminary results of review within five days of the date of publication of this notice in accordance with section 351.224(b) 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. See section 351.309(c)(ii) of the Department's regulations. Rebuttal briefs and rebuttals to written comments are limited to issues raised in such briefs or comments and may be filed no later than five days

after the time limit for filing the case briefs or comments. See section 351.309(d) of the Department's regulations. Parties submitting arguments in this proceeding 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. Case and rebuttal briefs and comments must be served on interested parties in accordance with section 351.303(f) of the Department's regulations.

Any interested party may request a hearing within 30 days of publication of this notice in accordance with section 351.310(c) of the Department's regulations. Unless otherwise specified, the hearing, if requested, will be held two days after the date for submission of rebuttal briefs, or the first business day thereafter. Individuals who wish to request a hearing must submit a written request within 30 days of the publication of this notice in the **Federal Register** to the Assistant Secretary for Import Administration, U.S. Department of Commerce, Room 1870, 14th Street and Constitution Avenue, NW, Washington, DC 20230. Requests for a public hearing should contain: (1) The party's name, address, and telephone number; (2) the number of participants; and (3) to the extent practicable, an identification of the arguments to be raised at the hearing. If a hearing is held, an interested party may make an affirmative presentation only on arguments included in that party's case brief and may make a rebuttal presentation only on arguments included in that party's rebuttal brief. Parties should confirm by telephone the time, date, and place of the hearing within 48 hours before the scheduled time. The Department will issue the final results of this review, which will include the results of its analysis of issues raised in the briefs, not later than 120 days after the date of publication of this notice.

Notification to Importers

This notice also serves as a preliminary reminder to importers of their responsibility under section 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 these review periods. 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 this notice are published in accordance with

sections 751(a)(1) and 777(I)(1) of the Act.

Dated: August 31, 2006.

David M. Spooner,

Assistant Secretary for Import Administration.

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DEPARTMENT OF COMMERCE

International Trade Administration

(A-428-816)

Certain Cut-to-Length Carbon Steel Plate from Germany: Notice of Preliminary Results of Antidumping Duty Administrative Review

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

SUMMARY: In response to a request from Nucor Corporation (the petitioner), the Department of Commerce (the Department) is conducting an administrative review of the antidumping duty order on certain cut-to-length carbon steel plate (CTL Plate) from Germany for the period of review (POR) August 1, 2004, through July 31, 2005. This review covers AG der Dillinger Huttenwerke, manufacturer of the subject merchandise, and its U.S. affiliate, Arcelor International America, LLC (AIA) (collectively, Dillinger).

We preliminarily determine that during the POR, Dillinger did not make sales of subject merchandise at less than normal value (NV) (*i.e.*, sales were made at *de minimis* dumping margins). If these preliminary results are adopted in the final results of this administrative review, we will instruct U.S. Customs and Border Protection (CBP) to liquidate appropriate entries without regard to antidumping duties.

Interested parties are invited to comment on these preliminary results. Parties who submit comments in this segment of the proceeding should also submit with them: (1) A statement of the issues and (2) a brief summary of the comments. Further, parties submitting written comments are requested to provide the Department with an electronic version of the public version of any such comments on diskette.

EFFECTIVE DATE: September 11, 2006.

FOR FURTHER INFORMATION CONTACT: Stephanie Moore or Dennis McClure, AD/CVD Operations, Office 3, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230;

telephone: (202) 482-3692 or (202) 482-5973, respectively.

SUPPLEMENTARY INFORMATION:

Background

On August 19, 1993, the Department published in the **Federal Register** the antidumping duty order on CTL Plate from Germany. *See Antidumping Duty Orders and Amendments to Final Determinations of Sales at Less Than Fair Value: Certain Hot-Rolled Carbon Steel Flat Products, Certain Cold-Rolled Carbon Steel Flat Products, Certain Corrosion-Resistant Carbon Steel Flat Products, and Certain Cut-to-Length Carbon Steel Plate From Germany*, 58 FR 44170 (August 19, 1993).

On August 1, 2005, the Department published a notice of opportunity to request an administrative review of the antidumping duty order on CTL Plate from Germany. *See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review*, 70 FR 44085 (August 1, 2005). On August 31, 2005, we received a request for review from Nucor Corporation (the petitioner), in accordance with 19 CFR 351.213(b)(1). On September 28, 2005, the Department published the notice of initiation of this antidumping duty administrative review covering the period August 1, 2004, through July 31, 2005. *See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in Part*, 70 FR 56631 (September 28, 2005).

On October 14, 2005, the Department issued its questionnaire to Dillinger. Dillinger's responses to Sections A through D of the Department's questionnaire were received on December 5 and 8, 2005. On January 11, 2006, the petitioner filed comments on Dillinger's questionnaire response. On January 12, 2006, the Department issued a supplemental questionnaire to Dillinger with regard to its corporate structure and organization. On January 18, 2006, Dillinger submitted its supplemental response. On January 27, 2006, the Department instructed Dillinger to report its U.S. sales on a constructed export price (CEP) basis. On March 3, 2006, Dillinger submitted its supplemental response to the Department's request for CEP sales data. For further discussion, see *Affiliation and Collapsing* section below.

The Department issued a supplemental sales questionnaire on January 17, 2006. Dillinger submitted its supplemental response on February 16, 2006. The Department issued an additional supplemental cost questionnaire on January 24, 2006. Dillinger submitted its response to the

Department's supplemental cost questionnaire on February 24, 2006. On March 13, 2006, the petitioner submitted comments on Dillinger's Sections A, B, C, and D supplemental responses. On March 16, and July 20, 2006, the Department issued additional supplemental questionnaires. Dillinger submitted supplemental responses on April 3 and 14, 2006, and on July 27, 2006, respectively. Dillinger submitted its sales reconciliation on May 2 and 9, 2006.

On April 6, 2006, the Department published an extension of time limits for the preliminary results of the antidumping duty administrative review extending the time limits to August 31, 2006. *See Certain Cut-to-Length Steel Plate From Germany: Extension of Time Limits for the Preliminary Results of Antidumping Duty Administrative Review*, 71 FR 17438 (April 6, 2006). From May 15 through 19, 2006, the Department conducted a verification of Dillinger's cost response. On June 28, 2006, the Department issued its verification report. On August 15, 2006, the petitioner submitted pre-preliminary comments on the sales and cost responses. We address the issues raised by the petitioner in the *Normal Value and Cost of Production* sections below.

Period of Review

The POR covered by this review is August 1, 2004, through July 31, 2005.

Scope of the Order

This order covers hot-rolled carbon steel universal mill plates (*i.e.*, flat-rolled products rolled on four faces or in a closed box pass, of a width exceeding 150 millimeters but not exceeding 1,250 millimeters and of a thickness of not less than 4 millimeters, not in coils and without patterns in relief), of rectangular shape, neither clad, plated, nor coated with metal, whether or not painted, varnished, or coated with plastics or other nonmetallic substances; and certain hot-rolled carbon steel flat-rolled products in straight lengths, of rectangular shape, hot rolled, neither clad, plated, nor coated with metal, whether or not painted, varnished, or coated with plastics or other nonmetallic substances, 4.75 millimeters or more in thickness and of a width which exceeds 150 millimeters and measures at least twice the thickness, as currently classifiable in the Harmonized Tariff Schedule of the United States (HTSUS) under item numbers 7208.40.3030, 7208.40.3060, 7208.51.0030, 7208.51.0045, 7208.51.0060, 7208.52.0000,

7208.53.0000, 7208.90.0000, 7210.70.3000, 7210.90.9000, 7211.13.0000, 7211.14.0030, 7211.14.0045, 7211.90.0000, 7212.40.1000, 7212.40.5000, 7212.50.0000. Included in the order are flat-rolled products of non-rectangular cross-section where such cross-section is achieved subsequent to the rolling process (*i.e.*, products which have been "worked after rolling") for example, products which have been beveled or rounded at the edges. Excluded from this order is grade X-70 plate. Also excluded is certain carbon cut-to-length steel plate with a maximum thickness of 80 mm in steel grades BS 7191, 355 EM, and 355 EMZ, as amended by Sable Offshore Energy Project specification XB MOO Y 15 0001 types 1 and 2.

These HTSUS item numbers are provided for convenience and customs purposes. The written descriptions remain dispositive.

Affiliation and Collapsing

Dillinger argues that it is not affiliated with its U.S. distributor, AIA, a wholly-owned Arcelor S.A. entity, and reported its U.S. sales on an export price (EP) basis. Dillinger claims that it does not have any direct business relationships with Arcelor S.A. Rather, all of Dillinger's business relationships with Arcelor S.A. are indirect through Arcelor subsidiaries. *See Dillinger's* January 18, 2006, supplemental questionnaire response at page 4. Dillinger states that it is not under common control with another person (AIA) by a third person (Arcelor, S.A.). Therefore, Dillinger argues that it is not affiliated with AIA. Furthermore, Dillinger claims that the Department previously found Dillinger and Arcelor not to be affiliated companies.

Section 771(33) of the Tariff Act of 1930, as amended (the Act), describes affiliated persons, in part, as "two or more persons directly or indirectly controlling, controlled by, or under common control with, any person." *See* Section 771(33)(F) of the Act. Moreover, the statute provides that "a person shall be considered to control another person if the person is legally or operationally in a position to exercise restraint or direction over the other person." *See* Section 771(33) of the Act.

In the investigation and first review, the Department treated Dillinger's U.S. sales as EP sales (*formerly* purchase price sales).¹ In the second review, we

¹ Notice of Final Determinations of Sales at Less Than Fair Value: Certain Hot-Rolled Carbon Steel Flat Products, Certain Cold-Rolled Carbon Steel Flat Products, Certain Corrosion-resistant Carbon Steel Flat Products and Certain Cut-to-Length Carbon

reversed our decision and considered the U.S. sale as a CEP sale. In that review, we determined that Francosteel (now AIA) acted as more than a processor of sales documents and a communications link between the unrelated U.S. customers and Dillinger. We also found that Francosteel played a major role in negotiating and bringing about the sale, from the bidding stage through the final contract.²

This review reflects a manufacturer and reseller who are indirectly under the common control of another company, and therefore, affiliated under section 771(33)(F) of the Act. Based on record evidence, we preliminarily find that Dillinger and AIA are under the common control of Arcelor, S.A., pursuant to section 771(33)(F) of the Act for several reasons.

First, Arcelor, S.A. owns a majority share of Dillinger Hutte Saarstahl AG (DHS) Holding. DHS, in turn, owns 95.28 percent of Dillinger.³ Furthermore, Arcelor, S.A. controls 99.98 percent of capital in Dillinger's U.S. affiliate, AIA.⁴ This scenario is similar to *Canned Pineapple Fruit*, where the Department found that TPC, MIC and Princes were under the common control of MC and, therefore, affiliated, under section 771(33)(F) of the Act.⁵ This scenario is also similar to *Porcelain-on-Steel Cookware*, where Cinsa and ENASA were considered to be under common control of their parent company.⁶ Furthermore, although Arcelor, S.A.'s indirect ownership in Dillinger is slightly greater than 50 percent, the legislative history makes clear that one of the Department's goals is to broaden its ability to analyze commercial relationships for the purposes of dumping analysis, which are consistent with economic realities. See *Statement of Administrative Action* (SAA) accompanying the Uruguay Round Agreements Act, H. Doc. No.

316, 103d Cong., 2d Session, Vol. 1, (1994) at 838. Moreover, the legislative history also makes clear that the statute does not require majority ownership for a finding of control, but rather encompasses both legal and operational control. See SAA at 838.⁷ In this review, the economic reality demonstrates a common control of Dillinger and AIA.

Second, Dillinger has explained that it used only one commissioned selling agent in the United States for its U.S. sales and it provided a copy of the commissions agreement.⁸ Consistent with our determination in the *Second Review of CTL Plate*, we continue to determine that AIA plays a major role in negotiating and bringing about the sale, from the bidding stage through the final contract, and acts as more than a processor of sales documents and a communications link between the unrelated U.S. customer and Dillinger. We also preliminarily find that Dillinger's relationship to AIA is similar to the circumstances in *Furfuryl Alcohol*, where there was an exclusive sales agreement and the agent participated in the price and sales negotiations.⁹

Finally, Dillinger's normal business practice demonstrates that it is affiliated with AIA. As discussed above, AIA was the only commissioned selling agent during the POR. In addition, both Dillinger and AIA's financial statements are consolidated into Arcelor, S.A.'s financial statements. One of the criteria Arcelor, S.A. uses to determine consolidation is that the group holds significant influence if the group holds 20 percent or more of the voting rights.¹⁰ In other words, the controlling entity within a consolidated group has the ultimate power to determine the capital structure and financial costs of each member in the group. As stated in *Industrial Nitrocellulose*, we cannot ignore the fact that the company is operating as a larger entity with the support (direct or indirect) to which it is entitled from the group.¹¹ Therefore,

for the above-mentioned reasons, we are treating AIA as an affiliate of Dillinger and treating the U.S. sales as CEP sales.

Product Comparisons

In accordance with section 771(16) of the Act, we considered all CTL Plate produced by Dillinger, covered by the scope of the order, and sold in the home market during the POR to be foreign like products for the purpose of determining appropriate product comparisons to CTL Plate sold in the United States.

Where there were no sales in the ordinary course of trade 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 listed in Appendix V of the Department's antidumping questionnaire. In making the product comparisons, we matched foreign like products based on the physical characteristics reported by the respondent.

Fair Value Comparisons

To determine whether sales of CTL Plate by Dillinger to the United States were made at less than NV, we compared the CEP to the NV, as described in the *Constructed Export Price* and *Normal Value* sections of this notice. In accordance with section 777A(d)(2) of the Act, we calculated monthly weighted-average prices for NV and compared these to individual U.S. transactions.

Constructed Export Price

We calculated the price of U.S. sales based on CEP, in accordance with section 772(b) of the Act. The Act defines the term "constructed export price" as "the price at which the subject merchandise is first sold (or agreed to be sold) in the United States before or after the date of importation by or for the account of the producer or exporter of such merchandise or by a seller affiliated with the producer or exporter, to a purchaser not affiliated with the producer or exporter, as adjusted under subsections (c) and (d) of this section." In contrast, section 772(a) of the Act defines "export price" as "the price at which the subject merchandise is first sold (or agreed to be sold) before the date of importation by the producer or exporter of the subject merchandise outside of the United States to an unaffiliated purchaser in the United States or to an unaffiliated purchaser for

Steel Plate From Germany, 58 FR 37136 (July 9, 1993); *Certain Cut-To-Length Carbon Steel Plate From Germany: Final Results of Antidumping Duty Administrative Review*, 61 FR 13834 (March 28, 1996).

² *Certain Cut-to-Length Carbon Steel Plate From Germany: Final Results of Antidumping Duty Administrative Review*, 62 FR 18390, 18391 (April 15, 1997) (*Second Review of CTL Plate*).

³ Dillinger's January 18, 2006, supplemental response at 1.

⁴ Dillinger's April 14, 2006, supplemental response at 201 of Appendix SA-3.

⁵ *Notice of Final Results of Antidumping Administrative Review, Rescission of Administrative Review in Part, and Final Determination to Revoke Order in Part: Canned Pineapple Fruit from Thailand*, 67 FR 76718 (December 13, 2002) (*Canned Pineapple Fruit*).

⁶ *Certain Porcelain-on-Steel Cookware From Mexico: Final Results of Antidumping Duty Administrative Review*, 62 FR 42496, 42497 (August 7, 1997) (*Porcelain-on-Steel Cookware*).

⁷ *Notice of Preliminary Determination of Sales at Less Than Fair Value: Stainless Steel Sheet and Strip in Coils from Italy*, 64 FR 116, 119 (January 4, 1999) (unchanged in *Notice of Final Determination of Sales at Less Than Fair Value: Stainless Steel Sheet and Strip in Coils From Italy*, 64 FR 30750, 30760 (June 8, 1999)).

⁸ Dillinger's December 8, 2006, response at C-28.

⁹ *Notice of Final Results of Antidumping Duty Administrative Review: Furfuryl Alcohol from the Republic of South Africa*, 62 FR 61084, 61088 (November 14, 1997) (*Furfuryl Alcohol*).

¹⁰ Note 2, item 3, to Arcelor, S.A. 2005 Consolidated Financial Statements in Appendix SA-8 of AIA's April 14, 2006, supplemental response.

¹¹ *Industrial Nitrocellulose From the United Kingdom: Final Results of Antidumping Duty Administrative Review*, 67 FR 77747, 77749

(December 19, 2002) (*Industrial Nitrocellulose*) (citing *Notice of Final Determination of Sales at Less Than Fair Value: Structural Steel Beams from South Africa*, 67 FR 35485, 35487 (May 20, 2002)).

exportation to the United States, as adjusted under subsection (c) of this section.”

In determining whether to classify U.S. sales as either EP or CEP sales, the Department must examine the totality of the circumstances surrounding the U.S. sales process, and assess whether the reviewed sales were made “in the United States” for purposes of section 772(b) of the Act. As preliminarily determined by the Department in the *Affiliation and Collapsing* section above, AIA is affiliated with Dillinger, the producer and exporter, and sells to the purchaser in the United States. Furthermore, in the instant case, the record establishes that Dillinger's affiliate in the United States (1) took title to the subject merchandise and (2) invoiced and received payment from the unaffiliated U.S. customers for its sales of the subject merchandise to those U.S. customers. Thus, the Department has determined that these U.S. sales should be classified as CEP transactions.

Where appropriate, pursuant to sections 772(c)(2) and (d) of the Act, we made deductions from the starting price for early payment discounts, inland freight plant to port, inland insurance, brokerage and handling in home market, brokerage and handling in the United States, international freight, marine insurance, other U.S. transportation expenses, U.S. customs duties, credit expenses, inventory carrying costs incurred in the United States, and other indirect selling expenses in the country of manufacture and the United States associated with economic activity in the United States. Pursuant to section 772(d)(3) of the Act, we made an adjustment for CEP profit.

Normal Value

Based on a comparison of the aggregate quantity of home market and U.S. sales, we determined that the quantity of the foreign like product sold in the exporting country was sufficient to permit a fair comparison with the sales of the subject merchandise to the United States, pursuant to section 773(a) of the Act. Therefore, in accordance with section 773(a)(1)(B)(i) of the Act, we based NV on the price at which the foreign like product was first sold for consumption in the home market, in the usual commercial quantities and in the ordinary course of trade.

Where appropriate, we deducted rebates, inland freight, inland insurance, and packing. Additionally, we made adjustments to NV, where appropriate, for credit expenses and billing adjustments. We did not allow adjustments for commissions because Dillinger did not provide

documentation to support its claim that the commissions were at arm's length. See Section 773(a)(6)(B) and (C) of the Act and the Preliminary Sales Calculation Memorandum to the File, dated August 31, 2006, which is on file in the Central Records Unit (CRU), Room B-099 of the main Department building.

We also increased NV by U.S. packing costs in accordance with section 773(a)(6)(A) of the Act. We made adjustments to NV for differences in cost attributable to differences in physical characteristics of the merchandise, pursuant to section 773(a)(6)(C)(ii) of the Act. In accordance with the Department's practice, where all contemporaneous matches to a U.S. sales observation resulted in difference-in-merchandise adjustments exceeding 20 percent of the cost of manufacturing of the U.S. product, we based NV on constructed value. See Policy Bulletin, Number 92.2, *Difmer 20 Percent Rule*, July 29, 1992.

For purposes of calculating the NV, section 771(16) of the Act defines “foreign like product” as merchandise which is either (1) identical or (2) similar to the merchandise sold in the United States. When there are no identical products sold in the home market, the products which are most similar to the product sold in the U.S. are identified. For the non-identical or most similar products which are identified based on the Department's product matching criteria, an adjustment is made to the home market sales price to account for the actual physical differences between the products sold in the United States and the home market. See section 773(a)(6)(C)(ii) of the Act and 19 CFR 351.411.

Level of Trade

In accordance with section 773(a)(1)(B) of the Act, we determined NV based on sales in the comparison market at the same level of trade (LOT) as the CEP sales. Because all sales in the comparison market were compared at the same LOT as the CEP sales, we did not make a LOT adjustment or CEP offset under section 773(a)(7).

For a detailed description of our LOT methodology and a summary of company-specific LOT findings for these preliminary results, see the August 31, 2006, Preliminary Sales Calculation Memorandum, which is on file CRU.

Cost of Production

In the most recently completed segment of the proceeding, the Department found that Dillinger made

sales in the home market at prices below the cost of producing the merchandise and excluded such sales from the calculation of NV. See *Second Review of CTL Plate*. Therefore, the Department determined that there were reasonable grounds to believe or suspect that Dillinger made sales of CTL Plate in Germany at prices below the cost of production (COP) in this administrative review. See section 773(b)(2)(A)(ii) of the Act. As a result, the Department initiated a COP inquiry for Dillinger.

A. Calculation of COP

In accordance with section 773(b)(3) of the Act, we calculated a weighted-average COP based on the sum of the cost of materials and fabrication for the foreign like product, plus amounts for general and administrative (G&A) expenses, selling expenses, packing expenses, and interest expenses.

B. Cost Methodology

We relied on the COP data submitted by Dillinger in its cost questionnaire response except in the specific instances where, based on our review of the submissions and our verification findings, we believe that an adjustment is required, as discussed below. See also Memorandum to Neal Halper, “Cost of Production and Constructed Value Calculation Adjustments for the Preliminary Results - AG der Dillinger Huttenwerke” dated August 31, 2006, which is on file in the CRU.

- (1) We increased Dillinger's cost of manufacturing under section 773(f)(2) of the Act (*i.e.*, transactions disregarded rule) for scrap purchased from an affiliated party at less than market value.
- (2) We increased Dillinger's cost of manufacturing under section 773(f)(3) of the Act (*i.e.*, major input rule) for coke purchased from a affiliated parties at less than market value.
- (3) We revised Dillinger's G&A expense rate calculation to include the year-end inventory adjustments recorded in the company's audited financial statements.
- (4) We revised Dillinger's non-consolidated financial expense rate to reflect a rate calculated on the company's highest level of consolidated financial statements.

C. Test of Home-Market Prices

In determining whether to disregard home-market sales made at prices below the COP, as required under sections 773(b)(1)(A) and (B) of the Act, we compared the weighted-average COP figures to home-market sales of the foreign like product and we examined

whether (1) within an extended period of time, such sales were made in substantial quantities, and (2) such sales were made at prices which permitted the recovery of all costs within a reasonable period of time. On a product-specific basis, we compared the COP to the home-market prices, less any applicable movement charges, indirect selling expenses, commissions, and rebates.

D. Results of COP Test

Pursuant to section 773(b)(2)(C) of the Act, where less than 20 percent of a respondent'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 within an extended period of time, in accordance with sections 773(b)(2)(B) and (C) of the Act. Because we compared prices to the POR-average COP, we also determined that such sales were not made at prices which would permit recovery of all costs within a reasonable period of time, in accordance with section 773(b)(2)(D) of the Act. Therefore, we disregarded the below-cost sales.

Arm's-Length Sales

Dillinger reported sales of the foreign like product to affiliated resellers/service centers.¹² The Department calculates NV based on a sale to an affiliated party only if it is satisfied that the price to the affiliated party is comparable to the price at which sales are made to parties not affiliated with the producer or exporter, *i.e.*, sales at arm's length. *See* 19 CFR 351.403(c).

To test whether these sales were made at arm's length, we compared the starting prices of sales to affiliated and unaffiliated customers net of all movement charges, direct selling expenses, discounts and packing. In accordance with the Department's current practice, if the prices charged to an affiliated party were, on average, between 98 and 102 percent of the prices charged to unaffiliated parties for merchandise identical or most similar to that sold to the affiliated party, we

considered the sales to be at arm's-length prices and included such sales in the calculation of NV. *See* Antidumping Proceedings: Affiliated Party Sales in the Ordinary Course of Trade, 67 FR 69186 (November 15, 2002); and 19 CFR 351.403(c). Conversely, where all sales to the affiliated party did not pass the arm's-length test, all sales to that affiliated party were excluded from the NV calculation. In this instant case, none of the sales to the affiliated resellers/service centers passed the arm's-length test.

Currency Conversion

For purposes of these preliminary results, we made currency conversions in accordance with section 773A(a) of the Act, based on the official exchange rates published by the Federal Reserve Bank.

Preliminary Results of the Review

As a result of this review, we preliminarily find that the following weighted-average dumping margins exist:

Producer/Manufacturer	Weighted-Average Margin
Dillinger	0.16% (<i>i.e.</i> , <i>de minimis</i>)

The Department will disclose calculations performed within five days of the date of publication of this notice to the parties of this proceeding in accordance with 19 CFR 351.224(b). Interested parties may submit case and rebuttal briefs. Case briefs must be submitted within 30 days after the date of publication of this notice, and rebuttal briefs, limited to arguments raised in case briefs, must be submitted no later than seven days after the time limit for filing case briefs. Parties who submit arguments are requested to submit with the argument (1) a statement of the issue, and (2) a brief summary of the argument. Further, parties submitting written comments are requested to provide the Department with an additional copy of the public version of any such comments on a diskette. An interested party may request a hearing within 30 days of publication of these preliminary results. *See* 19 CFR 351.310(c). Any hearing, if requested, ordinarily will be held two days after the due date of the rebuttal briefs. 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, or at a hearing, if requested, within 120 days of publication of these preliminary results.

Assessment Rate

Pursuant to 19 CFR 351.212(b), the Department calculated an assessment rate for each importer of the subject merchandise. Upon issuance of the final results of this administrative review, if any importer-specific assessment rates calculated in the final results are above *de minimis* (*i.e.*, at or above 0.5 percent), the Department will issue appraisal instructions directly to CBP to assess antidumping duties on appropriate entries by applying the assessment rate to the entered value of the merchandise. For assessment purposes, we calculated importer-specific assessment rates for the subject merchandise by aggregating the dumping margins for all U.S. sales to each importer and dividing the amount by the total entered value of the sales to that importer. In instances where entered value was not reported, we calculated importer-specific assessment rates by aggregating the dumping margins calculated for all of the U.S. sales examined and divided this amount by the total quantity of the sales examined. To determine whether the duty assessment rates were *de minimis*, in accordance with the requirement set forth in 19 CFR 351.106(c)(2), we calculated importer-specific *ad valorem* ratios based on estimated entered values. The Department will issue appropriate assessment instructions directly to CBP within 15 days of publication of the final results of review.

Cash Deposit Requirements

To calculate the cash deposit rate for each producer and/or exporter included in this administrative review, we divided the total dumping margins for each company by the total net value for that company's sales during the review period.

The following deposit rates will be effective upon publication of the final results of this administrative review for all shipments of CTL Plate from Germany entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided by section 751(a)(2)(C) of the Act: (1) The cash deposit rate for Dillinger will be the rate established in the final results of this review, except if the rate is less than 0.5 percent and, therefore, *de minimis*, the cash deposit will be zero; (2) for previously reviewed or investigated companies not listed above, the cash deposit rate will continue to be the company-specific rate published for the most recent final results in which that manufacturer or exporter participated; (3) if the exporter is not a firm covered in these reviews, a prior

¹² We note that sales from Dillinger to its affiliated resellers/service centers constitute less than 5 percent of Dillinger's total sales in the foreign market and we did not require it to report the sales from its affiliated resellers/service centers to the unaffiliated customers. *See* 19 CFR 351.403(d).

review, or the original less than fair value investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent final results for the manufacturer of the merchandise; and (4) if neither the exporter nor the manufacturer is a firm covered in these or any previous review conducted by the Department, the cash deposit rate will be 36.00 percent, the "All Others" rate established in the underlying investigation.¹³ These cash deposit requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

Notification to Importers

This notice serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f)(2) 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.

These preliminary results of this administrative review are issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act and 19 CFR 351.221(b)(4).

Dated: August 31, 2006.

David M. Spooner,

Assistant Secretary for Import Administration.

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DEPARTMENT OF COMMERCE

International Trade Administration

A-552-801

Certain Frozen Fish Fillets from the Socialist Republic of Vietnam: Preliminary Results of Antidumping Duty Administrative Review

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

SUMMARY: The Department of Commerce (the "Department") is conducting an administrative review of the

antidumping duty order on certain frozen fish fillets from the Socialist Republic of Vietnam ("Vietnam"). See *Notice of Antidumping Duty Order: Certain Frozen Fish Fillets from the Socialist Republic of Vietnam*, 68 FR 47909 (August 12, 2003) ("Order"). We preliminarily find that QVD Food Company Ltd. ("QVD") sold subject merchandise at less than normal value ("NV") during the period of review ("POR"), August 1, 2004, through July 31, 2005. If these preliminary results are adopted in our final results of review, we will instruct U.S. Customs and Border Protection ("CBP") to assess antidumping duties on all appropriate entries.

EFFECTIVE DATE: September 11, 2006.

FOR FURTHER INFORMATION CONTACT: Julia Hancock, AD/CVD Operations, Office 9, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-1394.

SUPPLEMENTARY INFORMATION:

Case History

General

On August 1, 2005, the Department published a notice of opportunity to request an administrative review on the antidumping duty order on certain frozen fish fillets from Vietnam. See *Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity To Request Administrative Review*, 70 FR 44085 (August 1, 2005). On August 26, 2005, we received a request for review from Phan Quan Trading Co., Ltd. ("Phan Quan"). On August 31, 2005, we received requests for review from An Giang Agriculture and Foods Import-Export Company ("Afiex"); Vinh Hoan Company, Ltd. ("Vinh Hoan"); Can Tho Agricultural and Animal Products Import Export Company ("Cataco"); QVD; and Nam Viet Company, Ltd. ("Navico"). Also on August 31, 2005, we received a request from Catfish Farmers of America and individual U.S. catfish processors ("Petitioners") to conduct an administrative review of twenty-nine Vietnamese exporters and/or producers.¹ Petitioners' August 31,

2005, administrative review request included Phan Quan, Afiex, Vinh Hoan, Cataco, QVD and Navico. On September 28, 2005, the Department initiated this administrative review, covering the aforementioned twenty-nine companies. See *Initiation of Antidumping and Countervailing Duty Administrative Reviews and Requests for Revocation in Part* ("Initiation Notice"), 70 FR 56631 (September 28, 2005).

Quantity and Value ("Q&V") Questionnaires

On September 14, 2005, the Department issued questionnaires requesting the total quantity and value of subject merchandise exported to the United States during the POR to all 29 companies subject to the administrative review. On September 28, 2005, a memorandum to the file was placed on the record by the Department noting that Federal Express ("Fed Ex") tracking confirmed that the Q&V questionnaires were delivered to all 29 companies. See *Memorandum to the File, through Cindy Robinson, Acting Program Manager, from Julia Hancock, Case Analyst, Subject: Certain Frozen Fish Fillets from the Socialist Republic of Vietnam ("Vietnam"): Initial Questionnaires Timeline*, (September 28, 2005).

On September 20, 2005, Vietnam Fish-One submitted a letter to the Department stating that it made no shipments of subject merchandise to the United States during the POR. On September 30, 2005, QVD, Vinh Hoan, Cafatex, and Navico submitted Q&V responses. On October 1, 2005, Danang, Mekonimex, Thanh Viet, Phu Thanh, and Afiex submitted Q&V responses. Also, on October 3, 2005, Agifish and Cataco submitted Q&V responses.

On October 5 and 6, 2005, the Department sent a letter to five companies (*i.e.*, Danang, Mekonimex, Thanh Viet, Phu Thanh, and Afiex), requesting that each company resubmit their Q&V response because: (1) Danang failed to answer all questions from the

Factory ("Duyen Hai"); (11) Gepimex 404 Company ("Gepimex"); (12) Hai Vuong Co., Ltd. ("Hai Vuong"); (13) Kien Giang Ltd. ("Kien Giang"); (14) Mekong Fish Company ("Mekonimex"); (15) Navico, which also requested a review; (16) Phan Quan, which also requested a review; (17) Phu Thanh Frozen Factory ("Phu Thanh"); (18) Phuoc My Seafoods Processing Factory ("Phuoc My"); (19) QVD, which also requested a review; (20) Seaprodex Saigon; (21) Tan Thanh Loi Frozen Food Co., Ltd. ("Tan Thanh Loi"); (22) Thangloi Frozen Food Enterprise ("Thangloi Frozen Food"); (23) Thanh Viet Co., Ltd. ("Thanh Viet"); (24) Thuan Hung Co., Ltd. ("Thuan Hung"); (25) Tin Thinh Co., Ltd. ("Tin Thinh"); (26) Viet Hai Seafood Company Limited ("Vietnam Fish-One"); (27) Vifaco; (28) Vinh Hoan, which also requested a review; and (29) Vinh Long Import-Export Company ("Vinh Long").

¹³ *Antidumping Duty Orders and Amendments to Final Determinations of Sales at Less Than Fair Value: Certain Hot-Rolled Carbon Steel Flat Products, Certain Cold-Rolled Carbon Steel Flat Products, Certain Corrosion-Resistant Carbon Steel Flat Products, and Certain Cut-To-Length Carbon Steel Plate From Germany*, 58 FR 44170 (August 19, 1993).

¹ Petitioners requested a review on the following companies: (1) Afiex, which also requested a review; (2) An Giang Agriculture Technology Service Company ("ANDESCO"); (3) An Giang Fisheries Import and Export Joint Stock Company ("Agifish"); (4) Anhaco; (5) Bamboo Food Co., Ltd. ("Bamboo Food"); (6) Binh Dinh Import Export Company ("Binh Dinh"); (7) Cataco, which also requested a review; (8) Can Tho Animal Fishery Products Processing Export Enterprise ("Cafatex"); (9) Da Nang Seaproducts Import-Export Corporation ("Danang"); (10) Duyen Hai Foodstuffs Processing